

“A”

Recommended Findings

**PLANNING COMMISSION HEARING – AUGUST 16, 2017
RECOMMENDED FINDINGS**

**SADDLEBACK CELLARS
USE PERMIT #P16-0066-MOD & VARIANCE #P16-00267
7802 MONEY ROAD, OAKVILLE, 94562
APN 031-040-002**

ENVIRONMENTAL DETERMINATION:

The Planning Commission (Commission) has received and reviewed the proposed Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Planning Commission has read and considered the Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. The Negative Declaration is based on independent judgment exercised by the Planning Commission.
3. The Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building, and Environmental Services Department, 1195 Third Street, Room 210, Napa, California.
5. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
6. There is no evidence, in considering the record as a whole that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
7. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5

VARIANCE REQUIRED FINDINGS:

The Commission has reviewed the above-described variance request and, in accordance with the requirements of Napa County (NCC) Section 18.128.060, makes the following findings. That:

8. The procedural requirements set forth in Chapter 18.128 of the Napa County Code have been met.

Analysis: The variance application has been filed and notice and public hearing requirements have been met. The hearing notice was posted on July 26, 2017 and copies were forwarded to property owners within 1000 feet of the subject parcel and all other

interested parties. The CEQA public comment period ran from July 26, 2017 to August 15, 2017.

9. Special circumstances exist applicable to the Property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Analysis: The subject property is located within a designed 100-year FEMA Flood Zone of the Napa River. An unnamed intermittent blue line stream traverses across the property immediately east of the subject winery building, approximately 200 feet east of Money Road. Conn Creek is the northern boundary of the property. There are County and Federal regulations in place which would allow the construction of a winery addition in a flood hazard area, but the construction regulations would require the elevation of the pad of the building addition or require a specially engineered building design for a water-tight building below the base flood level. A use permit was approved to establish the subject winery on this property in 1984, prior to the adoption of the Winery Definition Ordinance (WDO). The last use permit modification request was approved in 1988. NCC Section 18.104.230(A)(2) requires a 300 foot setback for wineries located contiguous to any public road, and Section 18.104.230(B) provides that any winery existing on the date of adoption of the WDO may expand within the minimum setback specified in subsection A. But, expansions may be permitted within the minimum setback area only if the expansion is placed no closer to the centerline of the right-of-way than the nearest point of the existing structure to which the expansion is attached. Any new freestanding structure shall comply with the setback provisions of subsection A of this section, and be located 300 feet from the road.

The applicant is requesting a modification of the use permit to increase the approved 8,000 gallon/year production capacity, increase visitation to 15 daily visitors and add five (5) marketing events. The existing approved winery building is located ± 86 feet from the centerline of Money Road and ± 25 feet from the top of the drainage channel located north of the winery. Currently, the winery has only one (1) restroom and it is not ADA accessible. The interior of the building is fully programmed for winery production, administration and visitation; there is insufficient area within the building footprint to construct the required ADA accessible bathroom. Therefore, the applicant proposes to construct the restroom addition on the south side of the winery, ± 75 feet from the centerline of the road. Because the addition will be closer to the road than the existing winery, a variance from the 300 foot setback requirement is needed. The project also includes a covered trash enclosure adjacent to the restroom; however, as the enclosure is not a part of the processing, staff does not consider it subject to the winery setback requirements, and in its screened location, an appropriate site.

The intermittent stream traverses 25 feet from the winery, 200 feet from Money Road. NCC Section 18.108.025 would prevent the construction of a building addition within the 35 foot stream setback. With a 6 ½ foot setback from the property line along the northwestern side of the building, there is no room for the attachment of the building, and construction within the 20 foot side yard setback would not be permitted. Since all winery production activities occur on the southeastern side of the building, building an addition on that side of the building would not be possible, thus the construction of a freestanding restroom would be necessary. The freestanding restroom would be required to comply with the 300 foot winery setback, and, since the intermittent stream traversing the project site adjacent to the winery building is located ± 200 feet from the road, the freestanding restroom must be constructed

on the north side of the stream. Such location would not only be inconvenient and inconsistent with the intent of an ADA accessible restroom, access to such restroom would require the construction of a bridge over the drainage course and paving across the vineyards. Such improvements would result in the removal of vines and the introduction of additional impervious surfaces within the flood hazard area. Therefore, the useful area of development is located within the area of the property between the road and the intermittent stream.

With the 200 year flood hazard zone and the location of Napa River floodway to the west, much of the development along Money Road is located very close to the road. Swanson Winery located at 7711 Money Road was approved for a variance of the winery road setback to avoid construction within the Napa River floodway located on the west side of its property. Other wineries nearby and within the AP zoning district have adequate acreage to cluster the winery development area away from the floodways and creeks traversing through this area and are not limited by the physical constraints imposed by the drainage courses surrounding the project site.

10. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.

Analysis: The property is located within the AP zoning district, which allows wineries, and accessory uses are permitted upon approval of a conditional use permit. The property is developed with an existing, operating 8,000 gallon winery approved in 1988. The winery was constructed prior to adoption of ADA accessibility requirements and the existing restroom does not provide adequate accessibility. With the increase in employees and visitation, the winery needs to provide such accessibility. As noted above, without grant of a variance the restroom would need to be constructed within the existing winery building or somewhere adjacent to the outside adjacent production area. The applicant has stated that the interior of the building is fully programmed for winery production, administration and visitors. No allowance was made for an additional restroom and there is insufficient area within the building footprint to construct an ADA accessible restroom. In addition, construction of an addition on the southeastern side of the building would not be possible because the access driveway to the outdoor working area would be obstructed.

The property is located within the Agricultural Preserve Zoning District, where under NCC Section 18. 16.030, winery uses are permitted, including tours and tastings, upon grant of a use permit. As discussed in the special circumstances finding, the approval of this variance would allow the construction of the 100 sq. ft. building addition within the setback, to construct the required ADA accessible restroom to serve the visitors and the employees. Further, the granting of this variance would not confer a special privilege as the Commission has previously granted variances to allow the construction of wineries, including winery expansions, within roadway setbacks on properties with the same zoning and substantially similar property characteristics. Additionally, the grant of this variance would not confer a special privilege as the subject parcel has already been developed with permitted commercial activities within the 300' setback requirements and now the applicant wants to only expand 100 sq. ft. of building within a previously disturbed area. No vineyards will be removed, and the view of the building from the street will be filtered by existing tree and vineyards.

11. Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: The granting of the variance to the winery road setback (± 75 feet instead of the required 300 foot winery setback from Money Road) will not adversely affect the health or safety of persons residing or working in the neighborhood of the property.

Various County departments have reviewed the Project and commented regarding water, waste water disposal, access, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the Project to assure protection of public health and safety.

12. Grant of the variance in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, where grant of the variance cannot satisfy the criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080, substantial evidence has not been presented demonstrating that the grant of the variance might cause a significant adverse effect on any underlying groundwater basin or area which does not overlay an identified groundwater basin.

Analysis: According to Napa County environmental resource mapping (Water Deficient Areas/Storage Areas), the subject property is not located in a “groundwater deficient area” as identified in NCC Section 13.15.010. Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is, for purposes of the application of the County’s Groundwater Conservation Ordinance, assumed not to have a significant effect on groundwater levels. The 16.96 acre parcel is located on the valley floor in an area that has an established acceptable water use criteria of 1.0 acre foot per acre per year. A Water Availability Analysis-Tier One Study was prepared and submitted with the application utilizing the Napa County’s Guidelines for Estimating Non-residential Water Use for specified land. Utilizing these guidelines, the study calculates that the Napa County Allowable Water Allotment for the property is 16.96 AF/YR, determined by multiplying the acreage of the parcel by the one (1) AF/YR fair share water use factor. The analysis indicated that the existing total water demand is 7.79 AF/YR. The analysis concluded that the projected water demand from the project is 7.99 AF/YR. Annual water demand for this parcel would increase 0.2 af/yr, from 7.79 af/yr. to 7.99 af/yr. It is noted that an indicated increase in domestic landscaping irrigation is shown in the report. The calculations are based upon the County’s Estimated Water Use Guidelines, and reflect a conservative estimate, a calculation based upon the increase in production. Based on the figures shown in the analysis, the project would remain below the established fair share for groundwater use on the parcel. The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.

USE PERMIT REQUIRED FINDINGS:

The Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code Section 18.124.070 and makes the following findings. That:

13. The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the property.

Analysis: The project is consistent with AP zoning district regulations. A winery (as defined in NCC Section 18.08.640) and uses in connection with a winery (see NCC Section 18.16.030) are permitted in an AP zoned district with an approved use permit. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code) as applicable.

14. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code (Use Permits) have been met.

Analysis: The use permit modification application has been filed, noticed and public hearing requirements have been met. The hearing notice was posted on July 26, 2017 and copies were forwarded to property owners within 1000 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from July 26, 2017 to August 15, 2017.

15. The granting of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Various County departments have reviewed the project and commented regarding water, waste water disposal, traffic and access, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the ongoing protection of the public health and safety.

16. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan.

Analysis: The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan. The WDO was established to protect agriculture and open space and to regulate winery development and expansion in a manner that avoids potential negative environmental effects. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the applicable provisions of the Napa County Zoning Ordinance (Title 18, Napa County Code).

This proposal is consistent with the *Napa County General Plan 2008*. The subject parcel is located on land designated Agricultural Resource (AR) on the County's adopted General Plan Land Use Map. This project is comprised of an agricultural processing facility (winery), along with wine storage, bottling, and other WDO-compliant accessory uses as outlined in and limited by the approved project scope. (See Attachment B, Conditions of Approval.) These uses fall within the County's definition of agriculture and thereby preserve the use of agriculturally designated land for current and future agricultural purposes.

General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guides the County to "preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County." General Plan Agricultural Preservation and Land Use Goal AG/LU-3 states the County should, "support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands."

As approved here, the use of the property for the “fermenting and processing of grape juice into wine” (NCC Section 18.08.640) supports the economic viability of agriculture within the county consistent with General Plan Agricultural Preservation and Land Use Policy AG/LU-4 (“The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/ open space...”). Policy AG/LU-8 also states, “The County’s minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units and General Plan Economic Development Policy E-1 (The County’s economic development will focus on ensuring the continued viability of agriculture...). Approval of this project furthers these key goals.

The General Plan includes two complimentary policies requiring that new wineries, “...be designed to convey their permanence and attractiveness.” (General Plan Agricultural Preservation and Land Use Policy AG/LU-10 and General Plan Community Character Policy CC-2). The proposed winery, to the extent that it will be publicly visible, will convey permanence and attractiveness, incorporating a “living wall” of vines on the exterior of the winery buildings.

Agricultural Policy AG/LU-13 of the County General Plan recognizes wineries, and any use clearly accessory to a winery, as agriculture. The Land Use Standards of the General Plan Policy AG/LU-2 list the processing of agricultural products as one of the general uses recognized by the AR land use designations. The proposed project allows for the continuation of agriculture as a dominant land use within the county and is consistent with General Plan Agricultural Policy AG/LU-13.

The project is also consistent with General Plan Conservation Policy CON-53 and CON-55, which require that applicants, who are seeking discretionary land use approvals, prove the availability of adequate water supplies, which can be appropriated without significant negative impacts on shared groundwater resources. As analyzed below, the proposed winery will not interfere substantially with groundwater recharge based on the criteria established by Napa County Public Works Department.

Finally, the “Right to Farm” is recognized throughout the General Plan and is specifically called out in Policy AG/LU-15 and in the County Code. “Right to Farm” provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa County’s adopted General Plan reinforces the County’s long-standing commitment to agricultural preservation, urban centered growth, and resource conservation. On balance, this project is consistent with the General Plan’s overall policy framework and with the Plan’s specific goals and policies.

17. The proposed use would not require a new water system or improvements causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under NCC Section 13.15.070 or Section 13.15.080.

Analysis: The project is consistent with General Plan Conservation Policies CON-53 and CON-55, which require that applicants, who are seeking discretionary land use approvals, prove that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources. The subject project is located in the Napa Valley Floor-Napa Subarea. Tier 1 Water Availability Analysis was prepared and submitted with the project 16.96 (APN: 031-040-002), which stated that the

Allowable Water Allotment for the property is 16.96 acre-feet per year (af/yr), calculated by multiplying its 16.96 acre size by a one acre feet per year per acre fair share water use factor. Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is, for purposes of the application of the County's Groundwater Conservation Ordinance, assumed not to have a significant effect on groundwater levels.

The subject property is not located in a "groundwater deficient area" as identified in NCC Section 13.15.010. The Water Demand Calculations submitted for the project placed water demand for existing uses on the property at 7.79 af/yr (winery processing, 0.29 af/yr; employees, 0.10 af/yr; customers, 0.05 af/yr; domestic landscaping irrigation, 0.07 af/yr; ±14.0 ac vineyard, 7.28 af/yr). The proposed project water demand is projected as 7.99 (winery processing, 0.52 af/yr; employees, 0.10 af/yr; visitors, 0.05; events (4 /year), 0.04; events (1/year), 0.002 af/yr; domestic landscaping, 0.12 af/yr; vineyard 7.16 af/yr. Annual water demand for this parcel would increase 0.2 af/yr, from 7.79 af/yr. to 7.99 af/yr. It is noted that an indicated increase in domestic landscaping irrigation is shown in the report. The calculations are based upon the County's Estimated Water Use Guidelines, and reflect a conservative estimate, a calculation based upon the increase in production. Based upon the original calculations, the project would be below the established threshold for groundwater use on the property. The County is not aware of, nor has it received any reports of, groundwater shortages near the project area. The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.