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Recommended Findings

Shed Creek Winery Use Permit P16-00327 and
Use Permit Exception to the Conservation Regulations P17-00178
Planning Commission Hearing November 15, 2017

**PLANNING COMMISSION HEARING – NOVEMBER 15, 2017
RECOMMENDED FINDINGS**

**SHED CREEK WINERY
USE PERMIT P14-00346
USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS P17-00178
EXCEPTION TO THE NAPA COUNTY ROAD AND STREET STANDARDS
80 GRAPEVINE LANE, GORDON VALLEY
APN 033-170-002**

ENVIRONMENTAL:

The Planning Commission (Commission) has received and reviewed the proposed Mitigated 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 Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP) prior to taking action on said Mitigated Negative Declaration and the proposed project.
2. The Mitigated Negative Declaration and MMRP are based on independent judgment exercised by the Planning Commission.
3. The Mitigated Negative Declaration and MMRP were prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment provided that measures to mitigate potentially significant impacts to transportation are incorporated into the project approval.
5. 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.
6. 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 & Environmental Services Department, 1195 Third Street, Room 210, Napa, California.

EXCEPTION TO CONSERVATION REGULATIONS:

7. Roads, driveways, buildings and other man-made structures have been designed to complement the natural landform and to avoid excessive grading.

Analysis: Napa County Engineering Services staff, Conservation staff, and the Fire Marshal met onsite with the applicant to review the existing road and discuss proposed areas of improvements. The driveway improvements are proposed to be directly adjacent to the existing driveway and include widening of the driveway to the edge of the existing shoulder and resurfacing with gravel. Restricting work to the existing shoulders will reduce grading in undisturbed areas and encroachment onto creek banks. No new road development is proposed.

8. Primary and accessory structures employ architectural and design elements which in total serve to reduce the amount of grading and earthmoving activity required for the project, including the following elements: a) multiple-floor levels which follow existing, natural slopes; b) foundation types such as poles, piles, or stepping levels which minimize cut and fill and the need for retaining walls; c) fence lines, walls, and other features which blend with the existing terrain rather than strike off at an angle against it.

Analysis: The existing development that will be used for the winery, including the barn, a portion of the covered concrete patio, and the gravel pad, are located within the 45 foot creek setback. Improvements to these areas would be limited to the existing development footprint and thus minimize grading and earthmoving activities. A new restroom and cleaning room will be constructed on top of an existing gravel pad. Proposed improvements that require new ground disturbing activity, including placement of water tanks, installation of the wastewater system equipment, and paving of an accessible parking space, will take place to the east of the existing barn, outside of the minimum creek setback.

No new structures are proposed as part of the road improvements. The exception to the RSS includes not widening the existing, northern bridge in order to reduce potential impacts caused by replacing the footings, including removal of large oak trees and grading within the stream bed.

9. The development project minimizes removal of existing vegetation, incorporates existing vegetation into the final design plan, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects.

Analysis: The existing road runs along the creek and is surrounded by numerous trees on both sides. The road improvements have been designed to avoid impacts to existing trees; no tree removal is planned for the road improvements. Tree and vegetation trimming and maintenance is proposed to improve site distance and emergency equipment clearance. No tree removal is proposed around the existing structures to be used for the winery.

10. Adequate fire safety measures have been incorporated into the design of the proposed development.

Analysis: The project includes a request for an exception to the RSS in order to reduce potential impacts to the creek. The existing roadway configuration and proposed improvements in the request, subject to recommended conditions of approval by Engineering Services Division, will serve as an alternate method by which adherence to the RSS may be achieved and will provide the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public. See Engineering Services Division memorandum dated October 25, 2017, for further analysis and proposed conditions. The Fire Marshal has reviewed the overall project and recommends approval as conditioned.

11. Disturbance to streams and watercourses shall be minimized, and the encroachment if any, is the minimum necessary to implement the project.

Analysis: The first 0.25 mile of Grapevine Lane is directly adjacent to Gordon Valley Creek and is within the creek setback. The remaining 0.55 mile of the road is relatively straight along the eastern side of the creek, with the creek coming in close proximity at two locations.

The driveway improvements are proposed to be directly adjacent to the existing driveway and includes widening of the driveway to the edge of the existing shoulder and resurfacing with gravel.

Napa County staff from the Engineering Services and Conservation Division, along with the Fire Marshal met onsite with the applicant to review the road and discuss proposed areas of improvements. The proposed improvements have been determined to be the minimum necessary to achieve the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment, and protecting the life, safety and welfare of the public.

12. The project does not adversely impact threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the county's environmental sensitivity maps.

Analysis: The road has been in use, serving residences and agricultural uses, for several decades. The proposed improvements will be constructed within the previously disturbed areas along the existing road shoulders. County Geographic Information System data do not indicate presence of any sensitive species or sensitive species' habitat along the existing road. Riparian areas comprised of Valley oaks, were identified along the creek. Road work along the road is limited to the existing road shoulders and no tree removal is proposed.

13. An erosion control plan, or equivalent NPDES stormwater management plan, has been prepared in accordance with Section 18.108.080 and has been approved by the director or designee.

Analysis: The proposed road improvements have been designed in accordance with the County-applicable, Bay Area Stormwater Management Agencies Association (BASMAA) Post-Construction Manual. The guidance in this manual is intended to ensure that stormwater runoff generated from a development is treated before the runoff enters the storm drain system, and that the quantity of post-construction stormwater runoff does not exceed the quantity of runoff generated by the pre-construction condition of a site.

Thus, the proposed system is designed to manage both the quantity and quality of stormwater runoff before discharge of the runoff into Gordon Valley Creek. The project's stormwater quality measures have been reviewed by the County's Engineering Division staff, who recommend approval of the project subject to conditions.

EXCEPTION TO THE ROAD AND STREET STANDARDS:

The Commission has reviewed the requested Road and Street Standards (RSS) Exception request in accordance with RSS Section 3 and makes the following findings:

14. The exception will preserve unique features of the natural environment which includes, but is not limited to, steep slopes, heritage oak trees, or other trees of at least 6"dbh and found by the decision-maker to be of significant importance, but does not include manmade environmental features such as vineyards, rock walls, ornamental or decorative landscaping, fences or the like.

Analysis: The Exception request is proposed in order to minimize environmental impacts by reducing minimizing grading in a creek setback, on creek bank slopes, and to preserve

mature native trees that would otherwise have to be removed. These exceptions have been reviewed by the County Engineering Services Division and the Fire Marshal. As stated in the Engineering Services Division memoranda, dated October 25, 2017, it has been determined that the requested Exception will preserve unique features in the natural environment and staff is recommending approval of the request.

15. Grant of the RSS Exception will provide the same overall practical effect as the Standards do in providing defensible space, and does not adversely affect the life, safety, and welfare of the public or persons coming to the property.

Analysis: The existing roadway configuration and proposed improvements in the request, subject to recommended conditions of approval by Engineering Services Division, will serve as an alternate method by which adherence to the RSS may be achieved and will provide the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public. See Engineering Services Division memorandum dated October 25, 2017, for further analysis and proposed conditions.

USE PERMIT:

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

16. The Commission has the power to issue a Use Permit under the Zoning Regulations in effect as applied to the property.

Analysis: The winery is located on property within the AW (Agricultural Watershed) Zoning District. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.20.030) are permitted in the AW District with an approved use permit. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

17. The procedural requirements for a Use Permit set forth in Chapter 18.124 of the Napa County Code (zoning regulations) have been met.

Analysis: The Use Permit application has been appropriately filed and notice and public hearing requirements have been met. The hearing notice and intent to adopt a Mitigated Negative Declaration were posted on October 25, 2017, and copies were forwarded to property owners within 1,000 feet of the subject property and all other interested parties. The public comment period ran from October 25, 2017, through November 14, 2017.

18. The grant of the Use Permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Granting the Use Permit for the project as proposed and conditioned will not adversely affect the health, safety or welfare of the County. Various County divisions and departments have reviewed the project and commented regarding modifications to the existing road and driveway, grading, drainage, the proposed septic system, parking, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project. The existing roadway configuration and proposed improvements

in the request, subject to recommended conditions of approval by Engineering Services Division, will serve as an alternate method by which adherence to the RSS may be achieved and will provide the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public.

19. 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 and any applicable specific plan.

Analysis: Compliance with the Zoning Ordinance

The project is consistent with the regulations of the AW District in which the property is located. Wineries are conditionally permitted uses in the AW District (Napa County Code Section 18.20.030), and the existing site improvements currently comply with the development regulations of the AW District, including the minimum road and property line setbacks, the 35-foot maximum building height, and maximum lot coverage standards as prescribed in County Code Sections 18.104.010, 18.104.220 and 18.104.230. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

Analysis: Consistency with the General Plan

As proposed and as conditioned, the requested Major Modification is consistent with the overall goals and objectives of the General Plan (2008). The General Plan land use designation for the subject parcel is split-designated Agricultural Resource (AR) and Agriculture, Watershed and Open Space (AWOS).

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 Goal AG/LU-3 states that 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.” Goal AG/LU-3 and Policy AG/LU-2 recognize wineries as agricultural uses.

The approved use of the property for fermenting and processing of grape juice into wine supports the economic viability of agriculture within the County, consistent with Goal AG/LU-3 and Policy AG/LU-4 (“The County will reserve agricultural lands for agricultural use including land used for grazing and watershed/open space...”). By permitting the winery, the proposed Use Permit supports the economic viability of both the vineyard and agricultural product processing uses on the property, consistent with Economic Development Goal E-1 and Policy E-1.

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.

20. That the proposed use would not require a new water system or improvement 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 §'s13.15.070 or 13.15.080 of the County Code.

Analysis: 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 that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources. For this project CMP Civil Engineering prepared a Water Availability Analysis (November 2, 2015; revised May 27, 2016) to determine the estimated water use of the existing development and proposed project and a Ground Water Recharge Calculations analysis (May 27, 2016). The project is located in an area denoted as "All Other Areas" as described in the Napa County Water Availability Analysis, requiring a Tier 1 and Tier 2 analysis.

Existing water usage consists of a main residence, second dwelling, 38 acres of vineyards, and an 0.15 acre orchard, and was estimated at 27.90 acre-feet of water per year. The proposed winery is estimated to use approximately 0.23 acre-feet of water per year, inclusive of 0.08 acre-feet of water per year for processing and 0.15 acre-feet of water per year for domestic and landscaping. The analysis estimates approximately 0.08 acre-feet of water per year to be available as recycled process wastewater. Following installation of the winery, the removal of some orchard area, and the re-use of recycled water, estimated water use on the property is 27.89, resulting in a near balance of water use.

The analysis also prepared a groundwater recharge calculation based on the local precipitation, local evaporation transpiration, and run-off. Total annual ground water recharge for the 287 acre parcel was calculated at 173.77 acre-feet per year. Although there is a near balance in the proposed water use, the new water use that would be associated with the winery 0.23 acre feet per year and the total proposed water use of 27.89 acre-feet of water per year, is less than the calculated 173.77 acre feet per year recharge. Therefore the project further complies with the Napa County Water Availability Analysis requirements. The proposed Use Permit is consistent with General Plan Goals CON-10 and CON-11, as well as the policies mentioned above that support reservation and sustainable use of groundwater for agricultural and related purposes.

Applicable Napa County General Plan goals and policies:

Goal AG/LU-1: Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.

Goal AG/LU-3: Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.

Policy AG/LU-2: "Agriculture" is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Agriculture also includes farm management businesses and farm worker housing.

Policy AG/LU-4: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.

- Policy AG/LU-8: The County's minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units.
- Policy AG/LU-15: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a "right to farm"), even though established urban uses in the general area may foster complaints against those agricultural practices. The "right to farm" shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2.
- Goal CON-10: Conserve, enhance and manage water resources on a sustainable basis to attempt to ensure that sufficient amounts of water will be available for the uses allowed by this General Plan, for the natural environment, and for future generations.
- Goal CON-11: Prioritize the use of available groundwater for agricultural and rural residential uses rather than for urbanized areas and ensure that land use decisions recognize the long-term availability and value of water resources in Napa County.
- Policy CON-53: The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval. Depending on the site location and the specific circumstances, adequate demonstration of availability may include evidence or calculation of groundwater availability via an appropriate hydrogeologic analysis or may be satisfied by compliance with County Code "fair-share" provisions or applicable State law. In some areas, evidence may be provided through coordination with applicable municipalities and public and private water purveyors to verify water supply sufficiency.
- Policy CON-55: The County shall consider existing water uses during the review of new water uses associated with discretionary projects, and where hydrogeologic studies have shown that the new water uses will cause significant adverse well interference or substantial reductions in groundwater discharge to surface waters that would alter critical flows to sustain riparian habitat and fisheries or exacerbate conditions of overdraft, the County shall curtail those new or expanded water uses.
- Policy CON-77: All new discretionary projects shall be evaluated to determine potential significant project-specific air quality impacts and shall be required to incorporate appropriate design, construction, and operational features to reduce emissions of criteria pollutants regulated by the state and federal governments below the applicable significance standard(s) or implement alternate and equally effective mitigation strategies consistent with BAAQMD's air quality improvement programs to reduce emissions. In addition to these policies, the County's land use policies discourage scattered development which contributes to continued dependence on the private automobile as the only means of convenient transportation. The

County's land use policies also contribute to efforts to reduce air pollution.

Policy CON-81: The County shall require dust control measures to be applied to construction projects consistent with measures recommended for use by the BAAQMD [Bay Area Air Quality Management District].

Policy CON-87: The County shall promote solid waste source reduction, reuse, recycling, composting and environmentally-safe transformation of waste. The County shall seek to comply with the requirements of AB [Assembly Bill] 939 with regard to meeting state mandated targets for reductions in the amount of solid waste generated in Napa County.

Goal E-1: Maintain and enhance the economic viability of agriculture.

Policy E-1: The County's economic development will focus on ensuring the continued viability of agriculture in Napa County.

Policy SAF-20: All new development shall comply with established fire safety standards. Design plans shall be referred to the appropriate fire agency for comment as to:

- 1) Adequacy of water supply.
- 2) Site design for fire department access in and around structures.
- 3) Ability for a safe and efficient fire department response.
- 4) Traffic flow and ingress/egress for residents and emergency vehicles.
- 5) Site-specific built-in fire protection.
- 6) Potential impacts to emergency services and fire department response.