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Recommended Findings

**PLANNING COMMISSION HEARING JANUARY 17, 2018
RECOMMENDED FINDINGS**

**CALDWELL VINEYARDS MAJOR MODIFICATION
USE PERMIT MAJOR MODIFICATION #P17-00074-MOD
270 KREUZER LANE, NAPA 94558
APN: 045-310-056 and 045-310-055**

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 included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

EXCEPTION TO ROAD AND STREET STANDARDS:

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

8. The exception will preserve unique features of the natural environment which includes, but is 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 man made environmental features such as vineyards, rock walls, ornamental or decorative landscaping, fences or the like.

Analysis: The shared private lane currently provides access to a few residences and vineyard developments as well as Caldwell Vineyard Winery. The existing paved private lane is approximately $\frac{3}{4}$ of a mile long and varies from 14 feet to 24 feet, with an average longitudinal slope of less than 18%. There are constraints from existing topographical features, steep slopes, and setback from the natural water course as allowed by the RSS Section 3, (d)i and (d)ii.

9. Grant of the Road and Street Standards 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 improvements achieves the same overall practical effect of the Napa County RSS by providing defensible space and consideration toward life, safety and public welfare by providing horizontal and vertical vegetation management along the entire length of the private lane and around any existing and proposed structures to create defensible space and improvements to the existing private lane to bring the majority of the road into compliance with the Napa County RSS with the exception of the 680 foot section for access which will have a varied roadway width between 14 to 20 feet. Mitigation along this stretch includes an existing fence on the east side of the driveway to protect vehicles from the steep cliff, proposed reflector signs to serve as a warning to vehicles of drain inlets on the west side of the road, and two 20-foot inter-visible section of road throughout this section which allows vehicles to pass each other.

USE PERMIT MODIFICATION 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:

10. 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 AW (Agricultural Watershed) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Section 18.20.030) are permitted in an AW 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.

11. 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 December 27, 2017 and on January 5, 2018, 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 December 27, 2017 to January 16, 2018.

12. 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.

13. 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 Winery Definition Ordinance (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 Agriculture, Watershed & Open Space (AWOS) 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.

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-21 list the processing of agricultural products as one of the general uses recognized by the AWOS land use designation. 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.

14. 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 Napa County Code Section 13.15.070 or Section 13.15.080.

Analysis: The subject property is located in a “groundwater deficient area” as identified in Section 13.15.010 of the Napa County Code. 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 project is located within the MST in an area that has an established acceptable water use criteria of 0.3 acre foot per acre per year or no net increase, whichever is less. Because the project well is not located in the MST, these standards do not apply to the project.

A Water Availability Analysis was prepared for the project (CMP Civil Engineering & Land Surveying, January 20, 2017). The well serving the project is located on the winery parcel, APN: 045-310-056, a ±42.96 acre parcel, and located outside of the Milliken-Sarco-Tulucay (MST). The well also serves parcel APN: 045-310-055, a ±40.11, planted in the estate grape source vineyards supplying the winery. The project well is not located within the MST, but the winery and the vineyards are physically located in the mapped MST. Determining the total water demand based on multiple contiguous parcels is acceptable, however, to protect future property owners, certain safeguards must be in place to ensure that the water allotment and transfer between parcels is clearly documented and recorded. The Environmental Health Division has included a condition that any wells located on parcel APN: 045-310-055 cannot be used as a back-up source for the winery, since the construction standards do not meet the requirements for a well serving a small public water system required for the winery, and since such well would be located in the MST deficient groundwater basin.

The analysis calculates that the Napa County Allowable Water Allotment for the 83.07 acres is 24.92 af/yr, determined by multiplying the total acreage of the two parcels utilizing the well by the 0.3 af/yr fair share water use factor for land within the MST. The analysis indicates that the existing total water demand is 17.14 af/yr (25,000 gallon winery processing = .32 af/yr, employees (3) = .04 af/yr; visitors (8/day) = .03 af/yr; marketing visitors (270/yr) = .002; vineyard (\pm 30.32 ac) = 9.10 af/yr; vineyard heat protection = 7.58 af/yr; domestic landscaping .08 af/yr). The analysis indicates that the projected water demand is 17.47 af/yr (winery process =.54 af/yr; employees (6 FT/6 PT) = .17 af/yr; visitors (60/day) = .07 af/yr; marketing visitors (1040/yr) = .01 af/yr; vineyard (\pm 30.32 ac) = 9.10 af/yr; vineyard heat protection = 7.58 af/yr; and domestic landscaping .08 af/yr. As a result of the foregoing, annual water demand for this parcel would increase 0.33 af/yr, from 17.14 af/yr. to 17.47 af/yr. Based on the figures shown in the engineer's report, the project would remain below the established fair share for groundwater use on the parcel of 24.92 af/yr, but does not meet the MST "no net increase" standard, however, this standard is not required to be met, since the well is outside the MST.

Based upon the County's Water Availability Guidelines, a Tier 2 Well and Spring Evaluation was conducted to determine whether a potential impact may occur. The Tier 2 well and spring interference criterion are presumptively met if there are no non-project wells within 500 feet of the existing well and no natural springs in use for domestic or agricultural use located within 1500 feet of the existing well. The WAA included the Tier 2 analysis and found that there are no wells located within 500 feet of the existing well utilized by the project winery and vineyards and no springs are located in within 1500 feet. Based on the Tier 2 well and spring interference criteria being satisfied, the project will have a less than significant effect on groundwater sources.

The proposed winery water use is less than the property's estimated annual groundwater recharge of 24.92 af/yr. Thus, the proposed Use Permit Major Modification is consistent with General Plan Goals CON-10 and CON-11, as well as the policies mentioned above that support preservation and sustainable use of groundwater for agricultural and related purposes. The WAA calculations demonstrated that the project will not have a significant impact on groundwater supply and recharge rates. The project will not require a new water system or other improvements and will not have an impact on local groundwater.