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Recommended Findings

**PLANNING COMMISSION HEARING – AUGUST 1, 2018
RECOMMENDED FINDINGS**

**Maxville Lake Winery Major Modification Use Permit
Application Number P17-00225-MOD & Use Permit Conservation Regulation Request
Application Number P18-00189-UP
4105 Chiles Pope Valley Road, St. Helena, California
APN# 025-020-023**

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 is based on independent judgment exercised by the Planning Commission.
3. The Mitigated Negative Declaration was 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 biological resources, transportation/traffic, and tribal cultural resources 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 site of this proposed project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
7. 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, Second Floor, Napa, California.

PLANNING AND ZONING ANALYSIS:

EXCEPTION TO CONSERVATION REGULATIONS:

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

Analysis: The design of the driveway utilizes an existing gravel roadway alignment and previously approved culvert. The existing unimproved roadway follows existing topography

and would require minimal grading to improve to County standards. Proposed widening for this unimproved roadway would occur away from Maxwell Creek.

9. 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 proposed driveway is designed to minimize cut and fill and the need for structural support. The driveway involves cuts to a maximum fill of four feet and generally conforms to the existing terrain.

10. 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: As illustrated on the submitted plans, up to 10 oak trees may be removed as part of the proposed project. According to the biological resources assessment the final location and extent of the septic system disposal area has the potential to impact less than 0.1 acre of the approximately 7.3 acres of blue oak woodland at the project site (WRA Environmental Consultants, 2017). Impacts will be less than significant with the implementation of mitigation measures BIO-7 and BIO-8 consistent with General Plan Policy CON-24(c) which requires the provision of replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio when retention of existing vegetation is found to be infeasible. All disturbed areas will be seeded and mulched.

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

Analysis: The proposed new access driveway will be improved to County standards for a two-way commercial roadway. Required fire protection water storage tanks, fire pumps, and turnaround areas will also be installed.

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

Analysis: Encroachment with the stream setback is limited to the area required to improve the roadway to County standards utilizing the existing unimproved gravel roadway alignment and culvert. The existing gravel road to be improved to County standards as a new access driveway to Chiles Pope Valley Road crosses over an intermittent stream via an existing culvert and is directly adjacent to a seasonal wetland. As shown on UPEX1 prepared by Summit Engineering on September 14, 2017 (Attachment K), approximately 120 lineal feet of the proposed driveway will encroach within the County Conservation Regulation required 55 foot intermittent stream and seasonal wetlands setback. These areas could potentially be impacted by construction activities as a result of potential accidental discharge during paving activities. However, implementation of mitigation measures BIO-5 and BIO-6 below will reduce potentially significant impacts to a level of less than significant. According to the biological resources assessment, "because the project footprint will avoid directly impacting wetlands and waters, and the implementation of the mitigation and avoidance measures

discussed [below], the project would result in a less than significant impact to wetlands and waters in the Project Area.” (WRA Environmental Consultants, 2017. If the seasonal wetlands or intermittent stream are filled or otherwise modified, a potential impact will occur subject to regulation by the U.S. Army Corps of Engineers, Regional Water Quality Control Board, and California Department of Fish and Wildlife.

As required by MM BIO-5, to avoid potentially impacting seasonal wetlands and the intermittent stream, all road paving within 50 feet of the intermittent stream and seasonal wetlands shall be conducted during the dry season of May 1 to October 15 to minimize water quality impacts. Prior to construction, the delineated wetland boundary shall be demarcated in the field and an erosion control silt fence shall be installed between the edge of the delineated wetland boundary and the road to ensure all construction activities avoid the wetland, and no accidental discharge occurs. Mitigation Measure BIO-6 requires that if any placement of fill within the seasonal wetlands or intermittent stream identified in the *Biological Resources Assessment Maxville Lake Winery and Vineyard Permit Modification Project Napa County, California*, is proposed, consultation and permitting must be obtained from the U.S Army Corps of Engineers, Regional Water Quality Control Board, and California Department of Fish and Wildlife prior to and during the construction. Although the driveway will be within the required stream setback, the project will not result in any impacts to the stream.

13. 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: According to the *Biological Resources Assessment Maxville Lake Winery and Vineyard Permit Modification Project Napa County, California* prepared by WRA Environmental Consultants, four sensitive biological plant communities were identified within the project area and no special-status plants occur within the project area. Two special-status plants were observed in the rare plant survey and one special-status plant has the potential to occur in habitat surveyed at the property. However, the project area does not contain habitat for these three special-status plants, and would therefore have no impact on special-status plants. A total of 14 special-status wildlife species, five of which were observed present, and nine of which have a moderate, or high potential to occur in the project area. No federal or state listed species were observed within the project area during the conducting of these surveys. Possible habitat occurs for the following special-status bird species: White-tailed Kite; yellow warbler; Nuttall’s woodpecker, loggerhead shrike; oak titmouse; and purple martin. Eight special-status species of bat have been observed or have the potential to occur in the project area and include: pallid bat; hoary bat; silver-haired bat; long-eared bat; Yuma myotis, Townsend’s big-eared bat, western red bat; and fringed myotis. Implementation of mitigation measures BIO-1, BIO-2, BIO-3 and BIO-4 will reduce potentially significant impacts to a level of less than significant.

14. 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: A Stormwater Control Plan for a Regulated Project has been prepared in accordance with Section 18.108.080 and approved by the Director or designee.

USE PERMIT:

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

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

Analysis: The project is consistent with the Agricultural Watershed (AW) zoning district regulations. 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.

16. 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 Major Modification and Conservation Regulations Exception application have 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 June 29, 2018, and copies were forwarded to appropriate persons on the mailing list. The public comment period ran from June 29, 2018 to July 31, 2018.

17. 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 Major Modification 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 site access, upgrading the existing wastewater disposal system, parking, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to ensure the protection of the public health, safety, and welfare.

18. 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 AW zoning district regulations. 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 subject to an approved use permit. The proposed project includes interior remodeling of an existing building and cave as well as the addition of a new separate driveway and will comply with the development standards of the AW District. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

Analysis: Compliance with the General Plan

As proposed and as conditioned, the requested Use Permit 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 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 allowing the expansion of the existing agricultural use, the requested Use Permit Major Modification 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.

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-24(c): Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including one or more of the following:

c) Provide replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible.

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-54: The County shall maintain or enhance infiltration and recharge of groundwater aquifers by requiring all projects in designated groundwater deficient areas as identified in the County's groundwater ordinance (County Code Chapter 13.15) be designed (at minimum) to maintain a site's predevelopment groundwater recharge potential, to the extent feasible, by minimizing impervious surfaces and promoting recharge (e.g., via the use of water retention/detention structures, use of permeable paving materials, bio-swales, water gardens, cisterns, and other best management practices).

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-60.5 All aspects of landscaping from the selection of plants to soil preparation

and the installation of irrigation systems should be designed to reduce water demand, retain runoff, decrease flooding, and recharge groundwater.

Policy CON-72: The County shall seek to reduce the energy impacts from new buildings by applying Title 24 energy standards as required by law and providing information to the public and builders on available energy conservation techniques, products, and methods available to exceed those standards by 15 percent or more.

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].

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.

19. 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 Sections 13.15.070 or 13.15.080 of the County Code.

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 project is categorized as “all other areas” based upon current County Water Availability Analysis policies and therefore water use criteria is parcel specific based upon a Tier 2 analysis. A Tier 2 analysis was completed by Summit Engineering on August 31, 2017 which included a parcel specific recharge evaluation. According to the recharge evaluation, the property yields “734.6 AF during an average year and 399.9 AF during a 10-year drought from rain.” (Summit Engineering, 2017)

The applicant submitted a Tier 2 Water Availability Analysis (WAA) completed by Summit Engineering on August 31, 2017 showing the projected water use for the project plus existing demand is 42.6 AF/YR. The anticipated total overall water demand for the project site would be 42.6 AF/YR representing a 3.8 AF/YR increase of the existing water demand of 38.8 AF/YR. The parcel water demand can be met with the existing project wells. The estimated groundwater demand of 42.6 AF/YR, represents an increase of 3.8 AF/YR over the existing condition. “Total annual water demand at Maxville Lake Winery, associated with the proposed increase in production capacity to 240,000 gallons of wine per year, is estimated to be 35% of the total water availability (Per Napa County Phase I Water Availability Analysis method) for the parcel; therefore, the demand should be met with existing Well 01 in combination with two new wells 03 and 04, operating for 8 hours per day at 21 gpm combined capacity.” (Summit Engineering, 2017) Therefore, the project is considered not to have a potential to significantly impact groundwater resources. Because the projected water demand for the project is below the estimated water availability acre feet per year for the parcel, the requested 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. The project will not require a new water system or other improvements and will not have a negative impact on local groundwater. The project is also consistent with General Plan Conservation Policy CON-54 because it minimizes impervious surfaces and utilizes bio swales to aid in maintaining the site’s predevelopment groundwater recharge potential.