

“A”

## Recommended Findings

**PLANNING COMMISSION HEARING AUGUST 15, 2018  
RECOMMENDED FINDINGS**

**BENESSERE VINEYARD WINERY MAJOR MODIFICATION  
USE PERMIT MAJOR MODIFICATION #P16-00432-MOD  
4038 BIG RANCH RD, NAPA, 94558  
APN: 036-190-007**

**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 requested Road and Street Standards (RSS) Exception request in accordance with RSS Section (3) Exception to Standards and Section (5) Local Responsibility Area Exception and makes the following findings.

8. Analysis: The Exception request is to allow the existing gate to remain at 20 feet wide instead of the required 22 feet. The subject parcel falls entirely within the Local Responsibility Area (LRA) and is not designated as being in a Very High Fire Hazard Severity Zone (VHFHSZ). The improvement achieves the same overall practical effect of the RSS by providing defensible space and consideration toward life, safety and public welfare by providing permanent measures such as horizontal and vertical vegetation

management shall be implemented 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 driveway to bring the entirety of the road excluding the gate into compliance with the RSS. This exception has been reviewed by the County Engineering Services Division and the Fire Marshal. As stated in the Engineering Services Division Memorandum, dated April 9, 2018, it has been determined that the requested Exception will provide safe access for emergency apparatus, safe civilian evacuation, and the avoidance of delays in emergency response based on the demands of the property.

#### **EXCEPTION TO CONSERVATION REGULATIONS:**

The following findings must be made in order for the Commission to grant an exception to the Conservation regulations in the form of a use permit pursuant to County Code Section 18.108.040(A) for structural and road development projects.

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

Analysis: The project proposes the construction of additional pavement to increase the width of an existing access road, to meet the requirements of the County RSS. Such improvements will be in conformance with the existing road grade, the cut and fill at the curve will be balanced on the site, and there will be no retaining walls required. Therefore, no significant grading will be required for this project.

10. 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 project will have minimal construction activities, limited to improvements to the existing access roadway to increase the width of the road; access improvements for a deck located over an existing carport; and the laying of gravel to create an outdoor patio space. The carport deck and the gravel patio are not located within the stream setbacks. The existing access driveway, located within a portion of the stream setback, will not require the construction of any retaining walls to increase the width of the road. Therefore, there are no structures proposed as part of this project.

11. The development 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 proposal and associated earthwork will not involve the removal of any native trees or shrubs. The work will occur within or on generally disturbed ground.

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

Analysis: This exception has been reviewed by the County Engineering Services Division and the Fire Marshal. As stated in the Engineering Services Division Memorandum, dated April 9, 2018, it has been determined that the requested Exception will provide safe access for emergency apparatus, safe civilian evacuation, and the avoidance of delays in emergency response based on the demands of the property. The subject parcel falls entirely within the Local Responsibility Area (LRA) and is not designated as being in a Very High Fire Hazard Severity Zone (VHFHSZ).

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

Analysis: The Napa River located to the northeast of the existing access driveway and all improvements will be located to the west of the existing access driveway, and will not disturb the river to implement the project. The applicant is required to submit a Notice of Intent (NOI) for a Storm Water Pollution Prevention Plan permit (SWPPP) from the Regional Water Quality Control Board for pre & post construction activities, as well as, obtain a grading permit from the Engineering Services Division to ensure that no excessive run-off occurs during pre/post construction. Review and approval by the Division of Engineering of the grading and improvement plans will ensure that no there is no potential for significant on- or off-site erosion, impact to siltation, or flooding.

14. 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: There are no threatened or endangered plants or animal habitats as designed by state or federal agencies with jurisdiction or as identified on the County's environmental sensitivity maps and the biological analysis that was performed. The project would not require the removal of any riparian vegetation for the road improvements, and will occur on previously disturbed lands.

15. 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: Project specifications have been submitted and approved by the Engineering Division, as conditioned.

#### **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:

16. 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 (Agricultural Preserve) 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 18.16.030) 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.

17. 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 June 27, 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 June 27, 2018, to July 17, 2018.

18. 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, safety, and welfare.

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.

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 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.

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 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.

20. 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 not 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. Based on the submitted *Phase One* water availability analysis, the ±42.61 acre valley floor-area parcel has a water availability calculation of 42.61 acre feet per year (af/yr), which is arrived at by multiplying its approximately 42.61 acre size by a one acre foot per year per acre fair share water use factor. The Water Demand Calculations submitted for the project placed water demand for existing uses on the property (winery-0.61 af/yr; winery domestic and landscaping-0.11 af/yr; residential-0.70 af/yr; and vineyards irrigation and heat protection (29.5 acres)) at 17.65 af/yr. The proposed winery project places the new demand for the parcel property (winery-0.68 af/yr; winery domestic and landscaping-0.11 af/yr; residential-0.70 af/yr; and vineyard irrigation and heat protection (29.4 acres-removal for road improvements)-16.23 af/yr) at 17.81 af/yr. Based upon this figure, the project would be well below the established threshold for groundwater use on the property and is projected to increase by 0.18 af/yr. 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.