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Recommended Findings

**PLANNING COMMISSION HEARING – MARCH 6, 2019
RECOMMENDED FINDINGS**

**Darms Lane Winery
Use Permit Application No. P16-00017 & Viewshed Application No. P18-00152
1150 Darms Lane
APN's 034-190-034 & 035**

ENVIRONMENTAL:

The Planning Commission (Commission) has received and reviewed the proposed Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program (MMRP) 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 MMRP prior to taking action on said Mitigated Negative Declaration and MMRP and the proposed project.
2. The Mitigated Negative Declaration and MMRP is based on independent judgment exercised by the Planning Commission.
3. The Mitigated Negative Declaration and MMRP 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.
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:

VIEWSHED:

The Commission shall make the following findings prior to approving projects under the Napa County's Viewshed Protection Program that are not subject to the program's administrative review and approval process (18.106.050(B)):

8. The project as designed or modified is consistent with Chapter 18.108, *Conservation Regulations*, of the code.

Analysis: Access and siting of the proposed winery takes advantage of an existing access road to reduce overall grading and vegetation removal associated with roads. The winery has been sited in an area of previous development of the existing home, garage and associated improvements to reduce overall grading and vegetation removal. Caves are also proposed to further reduce building area and grading. Approximately nine trees would be removed and three trees would be transplanted to facilitate construction of the winery. Approximately 26 new trees are proposed to screen the predominant portions of the new buildings and to comply with the screening requirements of the Viewshed Protection Program. In conjunction with the Use Permit and Viewshed applications, the Engineering Services Division has conditioned the submittal of a storm water pollution prevention plan and incorporation of best management practices, as necessary. Plans will be reviewed by staff to meet all the requirements and intent pursuant to Chapter 18.108.

9. If the highest point of the proposed project is located more than 25 vertical feet below a major or minor ridgeline, that measures have been included in the project to reduce its visual impact on the major or minor ridgeline through use of existing natural vegetation, landscaping, topographical siting, architectural design, and color tone; or if the highest point of the proposed structure is within 25 vertical feet of a major or minor ridgeline, that the existing vegetation, proposed landscaping, topographical siting, architectural design, and color tone screen the predominant portion of the proposed structures.

Analysis: The proposed winery is located more than 25 vertical feet below the top of the hillside or minor ridgeline. The winery is approximately 160 above mean sea level (msl). The nearest hillside located on the project site is approximately 90 feet above the proposed winery. Ridgeines to north and west range between 325 to 825 feet above msl. Measures have been included in the project to reduce its visual impact on surrounding ridgelines including a cave area that reduces the overall floor area that would otherwise be required above ground, architectural details (varying exterior treatments) and design features (such as varying wall and roof heights) to break up and reduce the visual mass of the facility and to add visual interest. The development utilizes grey and dark grey color tones and natural materials (wood siding and stone) to blend with the surrounding environment. A landscape plan is also included and the planting of additional vegetation will ensure substantial visual screening of the project from Highway 29.

10. The proposed structures, access roads and other site improvements are sited and designed to minimize adverse effects on views from designated public roads.

Analysis: As noted above, the access and siting of the proposed winery takes advantage of the existing access drive to reduce overall grading and vegetation removal associated with roads. The proposed production building is over 3,200 feet from Highway 29 reducing its visibility and prominence from the road. There is also existing vegetation between Highway 29 and the proposed winery. The winery and has been oriented to run parallel to existing contours to reduce overall grading and fill slopes. The building includes architectural details (varying exterior treatments) and design features (such as varying wall and roof heights) to break up and reduce the visual mass of the facility and to add visual interest. The development utilizes earth-tone colors and natural materials (wood siding and stone) to blend with the surrounding environment. Furthermore, a majority of the winery's processing and production operations will occur within the caves, further reducing the visual prominence of the production building.

11. The proposed structures, access road and other site improvements, including earthmoving or grading, and benches or shelves minimize the removal of vegetation.

Analysis: The proposed winery will require the removal of nine trees and the relocation of three trees. The larger intact woodland located behind the building and the majority of existing vineyard in the foreground will be retained and will continue to provide a more prominent visual resource related to vegetation.

12. The siting and design of site improvements and access roads minimize grading and alteration of natural landforms and topography;

Analysis: Access and siting of the proposed winery takes advantage of the existing access drive to reduce overall grading and vegetation removal associated with roads. The winery facility has been sited in the area of the existing residence, barn and associated improvements and has been oriented to run parallel to existing contours to reduce overall grading and fill slopes. The design of the facility has reduced grading and alterations to landforms to the maximum extent practical.

13. A landscape and/or vegetation retention plan in conformance with the Design Manual has been submitted and approved for the site that would provide maximum screening from designated public roads through preservation of existing vegetation and the planting of new vegetation and provide for defensible space in conformance with state law.

Analysis: A landscape plan is included as part of the proposed project. The plan is in conformance with the Design Manual as it provides supplemental screening vegetation located in front of the buildings where existing vegetation is sparse, to obscure the project as viewed from Highway 29. Additionally, the building's location would avoid the larger intact woodland located behind the building (where slopes increase) that provides the prominent visual resource related to vegetation.

14. The proposed structures and associated improvements substantially conform to the Design Manual in order to reduce their visual impact on the views of major and minor ridgelines as viewed from any designated public road and unique topographic or geologic features as viewed from any county road. The following landforms will be considered to be unique topographic or geologic features for the purposes of this subsection: Mt. St. Helena, Stag's Leap, Calistoga Palisades, Round Hill, Mt. George and Mt. St. John, all of which are not applicable to this site.

Analysis: The proposed winery and associated improvements substantially conform to the criteria and requirements detailed in the Viewshed Protection Design Manual, in that: the siting of the winery is well below surrounding ridgelines; fill slopes have been contoured to resemble natural terrain; the building includes design features such as articulated walls, varying wall treatments, and wood and stone exteriors; the winery and has been oriented to run parallel to existing grade to reduce overall grading; existing vegetation to remain and proposed vegetation would screen the winery; the siting and design takes advantage of the existing development (i.e. the access drive and home site) to reduce overall grading and vegetation removal; and the winery development utilizes earth-tone colors and natural materials (wood and stone) to blend with the surrounding environment. Furthermore, a

majority of the winery's processing and operations will occur within the caves, further reducing the visual prominence of the winery.

USE PERMIT:

The Commission has reviewed the use permit 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 Preserve (AP) 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 18.16.030) 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 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 February 13, 2019, and copies were forwarded to property owners within 1,000 feet of the subject parcel, as well as other interested parties. The public comment period ran from February 13, 2019 to March 5, 2019.

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 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, wastewater disposal, 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 AP 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 18.16.030) are permitted in the AP District subject to an approved use permit. The proposed project will comply with the development standards of the AP 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 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 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. Approximately 13.58 acres of the 49.26 acre site is located within the Valley Floor, which has an established acceptable water use criteria of 1.0 acre foot per acre per year based upon current County Water Availability Analysis (WAA) policies. Based upon those criteria, the Allowable Water Allotment for the area of the project site located within the Valley Floor is 13.58 acre-feet per year, determined by multiplying the 13.58 acre Valley Floor area by a one acre foot per acre per year fair share water use factor. The remainder of the site, totaling approximately 35.68 acres, is within the hillside area or an area otherwise categorized as “all other areas” by the County WAA Guidance Document. Property located within “all other areas” requires a Tier 1 analysis which is intended to estimate annual groundwater recharge during average and dry years. A Tier 1 analysis was completed by Bartelt Engineering, dated December 2018, (revised). According to the analysis, the estimated annual amount of infiltration for the property is approximately 7.43 acre-feet per year for a normal year and 4.61 acre-feet per year for a dry year. The available water for the project site is the combination of the allowable water allotment for the area located in the Valley Floor, which is 13.58 acre-feet per year, and the groundwater recharge for the area located in “all other areas.” Therefore, the total amount of water available for the project site would be 18.19 acre-feet per year for a dry year and 21.02 acre-feet per year for a normal year.

As noted above, the applicant submitted a Tier 1 Water Availability Analysis (WAA) completed by Bartelt Engineering showing the projected overall water demand for the project site of 8.0 AF/YR (6.31 AF/YR for the vines and 1.69 AF/YR for the winery) representing a 0.5 AF/YR increase of the existing water demand of 7.5 AF/YR. 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.