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Recommended Findings

**PLANNING COMMISSION HEARING – OCTOBER 2, 2019
RECOMMENDED FINDINGS**

**SCARLETT WINERY
USE PERMIT P16-0428-UP
1052 PONTI ROAD, ST. HELENA
ASSESSOR PARCEL NO. 030-280-010**

ENVIRONMENTAL:

The Planning Commission (Commission) has received and reviewed the proposed Mitigated Negative Declaration and Mitigation Monitoring Program 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 Program (MMRP) prior to taking action on said Mitigated Negative Declaration and the proposed project.
2. The Mitigated Negative Declaration and MMRP is based on independent judgement 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.

USE PERMIT:

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:

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

Analysis: The project is consistent with the AP (Agricultural Preserve) and AW (Agricultural Watershed) 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 Sections 18.16.30 and 18.20.030) are permitted in the AP and AW Districts 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.

9. 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 was posted and published in the Napa Valley Register on September 12, 2019. Copies were forwarded to property owners within 1,000 feet of the subject parcel, as well as other interested parties. Furthermore, the hearing notice was posted on September 11, 2019 on the subject property and at the northwest corner of Ponti Road and Skellenger Lane. The CEQA comment process runs from September 12, 2019 to October 1, 2019.

10. The granting 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 as proposed and conditioned will not affect the health, safety or welfare of the County. Various County divisions and departments have reviewed the project and commented regarding waste disposal and water demands. Conditions are recommended which will incorporate these comments into the project to assure the protection of the public health, safety, and welfare.

11. 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 proposed use is consistent with the regulations of the AP and AW Districts in which the property is located. Wineries are conditionally permitted uses in the AP and AW Districts (Napa County Code Sections 18.16.030 and 18.20.030), and the existing site improvements currently comply with the development regulations of the AP and AW District, including the minimum setbacks for winery buildings, 35-foot maximum building height, maximum 25 percent lot coverage standards, minimum parcel size, and seventy-five percent grape source rule as prescribed in County Code Sections 18.104.010, 18.104.220, 18.104.230, 18.104.240, and 104.250B. 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 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 Agriculture Resource (AR) and Agriculture, Watershed & Open Space (AWOS).

General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guide 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 proposed 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 authorizing a winery at the project site the requested Use Permit supports the economic viability of both the vineyard use 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-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-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.

12. That the proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on an 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. Groundwater extraction for the winery and residence would be from a well located on the Valley Floor area, the Valley Floor screening criteria of one acre-foot of water per acre of land was used for the 47.17-acre property generating a water use availability of 47.17 acre-feet per year (AF/YR). It should be noted that the remaining 0.71 acres of the parcel lies in an area physically separated from the rest of the parcel by Silverado Trail and is effectively disconnected from the proposed parcel. Therefore, the parcels allowable water allotment analysis means the calculation is a conservative assessment - 47.17 AF/YR versus 47.88 AF/YR. According to the Napa County Watershed Information & Conservation Council, the subject parcel is primarily located in the St. Helena Groundwater Subarea of Napa County. The Napa County Groundwater Monitoring Program tested wells in this area in 2014 and 2015. The observed groundwater depth in these wells ranged from 44 feet to 240 feet below ground surface. Ground elevations range from 90 feet to 150 feet, mean sea level. The groundwater availability in this subarea is reported to be stable and as the well for this project is on the valley floor, a recharge analysis was not conducted. The proposed water demand for the project is estimated at 29.40 AF/YR (primary residence – 0.75 AF/YR, secondary residence – 0.30 AF/YR, vineyard irrigation – 18.20 AF/YR, vineyard frost protection - 9.10 AF/YR and proposed winery – 1.05 AF/YR)

representing a 0.15 AF/YR decrease of the existing water demand of 29.55 AF/YR (primary residence – 0.75AF/YR, secondary residence – 0.30 AF/YR, vineyard irrigation – 19 AF/YR and vineyard frost protection - 9.50 AF/YR). The parcel water demand can be met with the two existing project wells.

The proposed project would not result in a substantial increase the demand of ground water supplies or interfere with groundwater recharge or lowering of the local groundwater level. According to Napa County environmental resource mapping (Water Deficient Areas/Storage Areas), the project site is not located within a water deficient area and the County is not aware of, nor has it received any reports of groundwater deficiencies in the area. Because the projected water demand for the project is below the estimated groundwater 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.