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Recommended Findings

**PLANNING COMMISSION HEARING – SEPTEMBER 2, 2020
RECOMMENDED FINDINGS**

**Balloons Above The Valley
Use Permit P19-00303-UP
5360 Washington Street, Napa
APN: 036-130-029-000**

ENVIRONMENTAL:

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. 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, geology and soil and transportation 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:

HOT AIR BALOON LAUNCHING SITE:

In addition to the findings required in Section 18.124.070, the approving agency must make all of the following findings prior to issuance of a use permit for a hot air balloon launching site:

8. The proposed launch site is located more than five hundred feet from any off-site residence or if the launch site is proposed within five hundred feet of any off-site residence, the permittee has submitted written consent to the planning department from the owners or

residents of any off-site residence within five hundred feet stating that they have no objection to the proposed launch site;

Analysis: The applicant submitted written consent from the owners and residents of off-site residences within 500 feet.

9. The permittee has submitted a signed statement which acknowledges that the permittee: (1) has read the county's adopted code of conduct; (2) agrees that all users of the launch site will be bound by the county's adopted code of conduct; and (3) certifies that all activities within the last year at any other sites operated by the permittee have complied with the county's adopted code of conduct;

Analysis: The applicant submitted the signed statement. Staff has reviewed comments and complaints regarding the balloon company's operations over the past year (January 2019 – August 2020) and determined that the company is in good standing with the County.

10. The permittee has provided written authorization from either the property owner where the launch site is proposed or the property owner's authorized agent together with a statement from the property owner or the property owner's authorized agent confirming that balloon launchings will not interfere or conflict with any existing or planned agricultural uses on the property;

Analysis: The applicant owns the property at 5360 Washington Street. The applicant/owner has confirmed that there is no existing agricultural use on the property and that the authorization of hot air balloon launching will not interfere or conflict with any planned agricultural uses on the property.

11. The site is proposed for use only between the hours of five-thirty a.m. and nine-thirty a.m.;

Analysis: The Use Permit would approve access to the site beginning at 6:00 a.m. with launches to occur no sooner than 7:00 a.m. Operations would conclude by 9:30 a.m.

12. The permittee has provided the planning department with a certificate of insurance naming the county and the property owner as additional insureds on the personal injury/property damage insurance in an amount acceptable to the county's risk manager and which is consistent with the county's corporation yard license requirements currently existing or as amended;

Analysis: The applicant submitted the certificate of insurance. The document was reviewed by the County Risk and Emergency Services Manager and was determined to be sufficient.

13. The permittee has provided a list of intended landing areas that are both reasonable given the launch location and prevailing winds and permitted or allowed; and

Analysis: The applicant submitted a list which includes the following locations - Combs Brothers Vineyards; Napa Valley Wine Train; Alston Park; Napa County Airport; Sonoma Sky Park; Steve Moles Property; and O'Brian Vineyards.

14. The permittee and each balloon operator utilizing the permittee's launch site agree to conduct their operations so as to remain in good standing with the county. For purposes of this section, "in good standing with the county" means that within the last twelve-month period, the county has not received more than three verified complaints or a number of verified complaints equivalent to three percent of the total number of launches, whichever is greater. All complaints must be: (1) submitted on a form provided by the planning department for verification; and (2) submitted by a property owner or resident who has certified that the permittee or a balloon operator using the permittee's launch site has landed on the property owner's or resident's property without permission.

Analysis: The PBES Staff (Code Enforcement and Planning Divisions) has reviewed comments and complaints regarding the balloon company's operations over the past year (January 2019 – August 2020) and determined that the company is in good standing with the County. The applicant agrees to conduct their operations so as to remain in good standing.

USE PERMIT:

The Commission has reviewed the use permit 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: Hot air balloon launches are permitted in any zoning district upon grant of a Use Permit. The applicant has made the additional findings required in 18.104.400 Hot air balloon launching site – Findings.

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 noticed and public hearing requirements have been met. The hearing notice and intent to adopt a Negative Declaration were posted on August 12, 2020, and copies were forwarded property owners within 1,000 feet of the subject parcel and all other interested parties. The public comment period ran from August 12, 2020 through September 1, 2020.

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 regarding site access, utility usage, 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. The project will not alter the physical site or impact natural resources.

In regards to general fire safety, the applicant notes that all equipment trucks and passenger vehicles are equipped with fire extinguishers that are inspected and certified by the Napa City Fire Department. Each employee is trained and updated monthly on fire prevention and

company emergency procedures. Additionally, every balloon is also equipped with fire extinguishers. All passengers are given pre-flight safety instructions and must agree to follow them and their pilot's directions before the launches can take place.

A noise study prepared by RGD Acoustical was completed December 31, 2019, to evaluate the potential noise impacts. The study determined that launches beginning after 7:00 a.m. will not conflict with the requirements of Napa County Code Section 8.16 Noise Control Regulations. The Use Permit would allow access to the site beginning at 6:00, but would not permit launches to begin until 7:00 a.m.

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

In 2006, the Napa County Board of Supervisors approved Ordinance #1276, which permitted hot air balloon launchings in any zoning district upon grant of a Use Permit (County Code Section 18.120.010.B.16).

The project is consistent with the AP zoning district regulations. While hot air balloons are not directly related to agriculture, the use of the site for launches does not prohibit future agricultural use of the property. The site is currently a residential property and conducts hot air balloon launchings in compliance with Administrative Permit P19-00235. There is no active agricultural use on the property at this time. The project does not include physical improvements that would convert the land to non-agricultural use or exclude future agricultural use on the property.

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).

Napa County's adopted General Plan reinforces the County's long-standing commitment to agricultural preservation, urban center 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. Specific General Plan policies which will be achieved through the proposed Use Permit have been outlined in a General Plan Consistency Memorandum and provided as an attachment to the Staff Report.

Agricultural Preservation and Land Use Element goals and policies promote agriculture and related activities as the primary land uses in Napa County. While hot air balloons are not directly related to agriculture, the use of the site for launches does not prohibit future agricultural use of the property. The site is currently a residential property and conducts hot air balloon launchings in compliance with Administrative Permit P19-00235. There is no active agricultural use on the property at this time. The project does not include physical improvements that would convert the land to non-agricultural use or exclude future agricultural use on the property.

Conservation Element goals and policies intend to conserve resources by determining the most appropriate use of land, matching land uses and activities to the land's natural suitability, and minimizing conflicts with the natural environment and the agriculture it supports. Additionally, the

County shall require that all discretionary projects consider and address impacts to the environment and avoid impacts. As noted in the Initial Study Negative Declaration, no significant impacts were identified. The project does not include physical improvements that would conflict with the natural environment.

Community Character Element goals and policies intend to preserve, improve, and provide visual access to the beauty of Napa County and retain the character and natural beauty of Napa County through the preservation of open space. Hot air balloons provide an opportunity for residents and visitors to view the open space and natural resources of the County. As previously discussed, the project does not propose any physical improvements on the site and all temporary equipment is immediately removed from the site following launches. This element also contains goals and policies for the County's standards for maximum exterior noise levels as established and enforced in the County's Noise Ordinance. As discussed in more detail in the noise section below, the applicant conducted a noise study, which determined that the proposed operation would be compliant with the Noise Ordinance (County Code Section 8.16).

Recreation and Open Space Element goals and policies state that recreation is one of the appropriate and desirable uses of open space. Recreational facilities and improvements on open space lands should be the minimum necessary to achieve recreation objectives and be limited in density, intensity, need for public services, impacts on the natural environment, growth inducement, and impacts on neighboring properties. Recreational uses on lands designated for agriculture should be encouraged only where those uses will not deplete or degrade natural resources on which nearby or on-site agriculture depends, and will not adversely affect the commencement, intensification, or continuation of local agricultural activity. There are no physical improvements proposed on the site and there will be no use of the on-site residence, residential infrastructure, or groundwater.

Economic Development Element goals and policies include promoting a diversity of business opportunities that do not conflict with agriculture and recognizing the beneficial economic impact of tourism activities in the County. Hot air balloon launches are a well-known tourist activity in Napa and provide an opportunity for visitors to view the developed and natural resources of the County. As discussed above, the continued use of the site for launches will not conflict with existing agriculture, nor exclude future agricultural use of the property. Additionally, the County values currently operating businesses within the county and promotes business retention. This permit would expand the existing operations of balloon launches at the site in terms of number of launch days per year.

19. That the proposed use will 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 will 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 will not utilize onsite water resources, and therefore will not have an impact on groundwater.