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CEQA Memo



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David Morrison
Director

MEMORANDUM

To:	Planning Commission	From:	Don Barella, PBES
Date:	October 3, 2018	Re:	#P18-00172-UP / Avina Swimming Pool Use Permit Exception to Conservation Regulations CEQA Exemption Determination 1115 Petra Drive, Assessor Parcel #039-112-011

Background

Pursuant to Section 303 of Napa County’s Local Procedures for Implementing the California Quality Act (CEQA), the Planning Division has prepared this environmental evaluation for the proposed Exception to the Conservation Regulations Use Permit Application (File No. P17-00172-UP).

The project involves replacement of an existing rear yard deck and landscaping improvements with a new swimming pool, deck, hardscape and landscape improvements for an existing residential property located at 1115 Petra Drive. The rear of this property backs onto Soda Creek. Napa County Conservation Regulations (NCC 18.108) establishes setback requirements between developed areas and streams. Both the existing and proposed improvements lie within the required stream setback, however, the existing home and improvements were legally established several decades before adoption of the stream setback requirements and thus constitute pre-existing legal nonconformities. Replacement of the existing improvements with the new swimming pool and associated yard improvements triggers an exception to the Conservation Regulations (in the form of a use permit). This use permit is a discretionary action before the Planning Commission, and therefore is subject to CEQA.

Existing Setting

The 0.39 acre subject property is located on the south side of Petra Drive amongst several other approximately 0.5 acre parcels from the Soda Creek Subdivision created in 1950. This property contains a single family residence (circa 1964) and associated accessory use improvements including rear yard deck, landscaping and hardscape. The parcel is generally level, but the rear yard (facing to the south) is located along the northern bank of Soda Creek, with the rear property line extending approximately to the centerline of the creek. Approximately 30 ft. to 60 ft. of the lot nearest the rear lot line lies within the defined bed and bank of the creek under the jurisdiction of the California Department of Fish and Wildlife (DFW). Within the bed and bank near the low water flow line are gabion retaining walls installed at some point when the property was under prior ownership (likely 20 or more years ago). There is no record of permitting of these features. Several other Petra Drive properties contain similar features, which are common on smaller rural parcels abutting stream channels such as this. Much of the defined bed and bank contains invasive non-native blackberry but native vegetation is found throughout the channel in the general vicinity.

Residential rear yard site improvements existing between the top of the bank and rear wall of the house. A very small portion of the legally established existing deck overhangs the top of bank. There are numerous mature native and non-native trees located within the bed and bank and along the top of the bank generally aligning with the perimeter of the site and surrounding properties. The riparian corridor within the defined bed and bank contains significant tree cover

and a well-established understory. A large vineyard is located immediately south of the creek, with the vineyard access road set generally at the top of the southern bank. There is approximately 10 ft. to 15 ft. of vertical drop, and 50 ft. to 100 ft. of horizontal width to the overall creek channel in the vicinity of this project.

CEQA Exemption Criteria and Analysis

The proposed swimming pool and associated deck and landscape improvements will be located in a portion of the .39 acre property that presently contains a deck and landscape improvements. All improvements will occur outside of the defined bed and bank within areas that have previously been improved with residential features. Portions of new (and existing) landscaped extends to the top of bank, but the proposed swimming pool will be approximately 10 ft. from the top of bank.

Article 19 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA Guidelines) establishes a list of classes of projects that are categorically exempt from the provisions of CEQA. This project qualifies as an exempt activity under three sections of Article 19: CCR §15301 (Class 1, Minor Alteration to Existing Facilities), §15303 (Class 3, New Construction or Conversion of Small Structures), which exempts construction of swimming pools; and §15304 (Class 4, Minor Alterations to Land), which exempts minor trenching where the surface is restored. The project site is not located on any of the lists of hazardous material sites compiled pursuant to Government Code Section 65962.

Under CEQA Guidelines Section 15300.2, Class 3 and 4 Categorical Exemptions cannot be used if the project substantially affects mapped or designated environmentally sensitive areas or resources. Class 1 Exemptions are permissible within mapped and designated environmentally sensitive areas. Soda Creek is mapped as an environmentally sensitive resource (source: Napa County Geographic Information System including California Natural Diversity Database layer). It is a substantial water course that feeds into the Napa River a short distance downstream from the project site. The stream corridor contains some native flora and fauna, and is designated as a critical linkage riparian corridor. The stream is classified as habitat for steelhead trout, a Federally-listed threatened species under the Endangered Species Act. In addition, the general vicinity is mapped as potentially sensitive to archaeological resources, and is locally designated within a study area for groundwater resources.

The project does not result in substantial effects to mapped or designated environmentally sensitive areas or resources. No native trees or native vegetation will be removed to construct the project. No work will be performed within the defined bed and bank of the creek other than the removal of the small portion of deck which can be accomplished without entering the bed and bank. DFW has reviewed the proposal and issued a determination (attached) that the project complies with State environmental protection requirements for the stream and sensitive species including steelhead trout, and is exempt from DFW permitting. Cultural resources have previously been evaluated in association with vineyard/winery development on the south side of the creek, and this subject property was not identified as a potential location for archaeological resources. Groundwater use associated with the project will nominally increase with the addition of the pool, but will remain well within 'fair-share' use levels for the basin. Initial filling of the pool will be from trucked-in potable water. The site is located outside of the Milliken-Sarco-Tulocay water deficient basin which is approximately 1 mile to the east, and the overall area surrounding this property is actively being monitored by the County.

Based on the proposed project as described above, the Avina Swimming Pool and Yard Improvements Use Permit Exception to Conservation Regulations request meets the criteria for eligibility as a Class 1, Class 3 and Class 4 Categorical Exemption from CEQA.