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Recommended Findings

**PLANNING COMMISSION HEARING – OCTOBER 16, 2019
RECOMMENDED FINDINGS**

**ENVY WINES WINERY
MAJOR MODIFICATION P18-00071-MOD
1170 TUBBS LANE, CALISTOGA
ASSESSOR PARCEL NO. 017-210-027**

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 judgement 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.
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.

EXCEPTION TO ROAD AND STREET STANDARDS:

8. 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.

The Exception request is to allow the project to seek an exception to the RSS from the commercial driveway width standard (20.0 feet wide driveway) for the initial 200 foot section of driveway that is contained within a flag lot configuration and has physical constraints (existing building on neighboring property) restricting widening. The project is also seeking an exception to the 50.0 foot standard horizontal curve inside turning radius at road station 2+50, which is where the property transitions from a flag lot to an open parcel. The subject parcel and access drive falls entirely within the Local Responsibility Area (LRA) and is not designated as being in a Very High Fire Hazard Severity Zone (VHFHSZ). Engineering Division staff has reviewed the Road Exception Request letter prepared by Madrone Engineering dated June

21, 2019 with the applicant's authorized agents, Engineering staff and the Fire Marshal's office. With respect to Section (3) & Section (5) of the RSS as adopted by Resolution No. 2017-156 by the Board of Supervisors on September 26, 2017, the Engineering Division and the Fire Marshal's office have determined the following: Unlike exceptions within the SRA or for property located within the VHFHSZ, exceptions for property located completely within the LRA may be permitted when they do not provide the same overall practical effect as the SRA Fire Safe Regulations. However the exception request must provide measures which provide safe access for emergency apparatus, safe civilian evacuation, and the avoidance of delays in emergency response based on the demands of the property. As proposed, the exception request areas meet the above by providing an 18.0 feet wide driveway with a clear line of site and existing gravel shoulder which provides adequate area for vehicles to pass each other on the road if necessary. The area with an inside radius of 25 feet is significantly wider than the minimum standard and has been simulated by Madrone Engineering that a Napa County Fire Truck can navigate the turn safely in each direction. The road will be improved to the RSS at all other areas

MAJOR MODIFICATION:

The Commission has reviewed the major modification request in accordance with the requirements of the Napa County Code Section 18.124.070 and makes the following findings:

9. 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) 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) are permitted in the AP District with an approved use permit and/or modification. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

10. 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 Major Modification 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 25, 2019. Copies were forwarded to property owners within 1,000 feet of the subject parcel, as well as other interested parties. The CEQA comment period runs from September 25, 2019 to October 15, 2019.

11. 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 of the Major Modification 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.

12. 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 District in which the property is located. Wineries are conditionally permitted uses in the AP District (Napa County Code Sections 18.16.030), and the existing site improvements currently comply with the development regulations 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: Consistency with the General Plan

As proposed and as conditioned, the requested Major Modification 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).

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 modification to the winery at the project site the requested Use Permit continues to support the economic viability of 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.

13. 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. A Tier I Water Availability Analysis (WAA), dated February 2018, was prepared by Madrone Engineering to determine the estimated water use of the existing development, the proposed project and water availability. There are three (3) wells for project use. One well (well #1) is permitted as a source for a transient, non-community water system, and the other wells are used for vineyard irrigation. All wells are on a neighboring parcel (APN: 017-210-009), and both wells are connected to Envy Wines via an existing well and utility easement. The winery parcel is on the Valley Floor and subject to the Valley Floor screening criteria of one acre-foot of water per acre of land and a Tier 1 analysis. Therefore, based upon the parcel's acreage of 18.75, the total allowable water usage is 18.75 acre-feet per year (AF/YR). The parcel water demand can be met with the existing project well (Well #1). This well, per a well yield test completed in 2009, has a reliable pumping capacity of 50 gallons per minute (gpm). Based upon the WAA, the projected water use of 4.821 AF/YR equates to an average of 4,300 gallons per day. At a constant rate of 3.0 gpm (only 6% of Well #1 capacity), approximately 4,300 gallons of water would be available each day. Given this condition, project water use is well within the physical capabilities of Well #1. Based on the WAA prepared for the project, existing water use for the parcel is 3.477 AF/YR (Vineyard - 1.80 AF/YR, Process Water - 1.075 AF/YR, Domestic/Landscaping - 0.471 AF/YR, Employees - 0.028 AF/YR, Visitors - 0.100 AF/YR, Marketing - 0.003 AF/YR) and the proposed water use would be 4.821 AF/YR (Vineyard - 1.80 AF/YR, Process Water - 2.15 AF/YR, Domestic/Landscaping - 0.721 AF/YR, Employees - 0.028 AF/YR, Visitors - 0.100 AF/YR, Marketing - 0.022 AF/YR) resulting in an increase of 1.344 AF/YR. 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 major modification 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.