



Agenda Date: 1/10/2006
Agenda Placement: 8J
Set Time: 11:00 AM PUBLIC HEARING
Estimated Report Time: 10 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Cathy Gruenhagen for Hillary Gitelman - Director
Conservation, Development & Planning

REPORT BY: John McDowell, Program Planning Manager, 299-1354

SUBJECT: Director of Conservation, Development and Planning requests amendment of an Easement Deed and approval of a Variance and Major Use Permit Modification to allow expansion of the Sawyer Winery located at 8350 St. Helena Highway, Rutherford.

RECOMMENDATION

Director of Conservation, Development and Planning requests the Board conduct a public hearing on amendment of an Easement Deed, and approval of a Variance and Major Use Permit Modification and take the following actions at the conclusion of the hearing:

1. Make the following Environmental Determinations:
 - a. Find that the Board of Supervisors has read and considered the Mitigated Negative Declaration prior to taking action on said Mitigated Negative Declaration;
 - b. Find that the Mitigated Negative Declaration is based on independent judgment by the Board of Supervisors;
 - c. Find that the Mitigated Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act;
 - d. Find that there is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment;
 - e. Find that the Clerk of the Board of Supervisors is the custodian of the records of the proceedings on which this decision is based. (The records are located at the Office of the Napa County Clerk of the Board, 1195 Third Street, Suite 310, Napa, California);
 - f. Find that considering the record as whole there is no evidence that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends;
 - g. Adopt the Mitigated Negative Declaration;
 - h. Adopt the attached Mitigation Monitoring and Reporting Program;
2. Approve and authorize the Chair of the Board to execute an amendment to Easement Deed and Agreement #1997-003190;
3. Approve Variance P04-0540-VAR based on findings 10-14 of the attached August 17, 2005 Planning Commission Staff Report and subject to the conditions of approval attached thereto; and
4. Approve a Major Modification to Use Permit P04-0539-MOD based on findings 15-19 of the attached August 17, 2005 Planning Commission Staff Report and subject to the conditions of approval attached thereto.

EXECUTIVE SUMMARY

On August 17, 2005, the Planning Commission conducted a public hearing to consider the proposed expansion to the Sawyer Winery located on Highway 29 south of Rutherford. The proposal included a variance request to the 600 ft. winery setback from a major road, and a major modification to the use permit to increase production and building size. This item is subject to Board of Supervisors' review because the project includes modification of an Easement Deed and Agreement executed in 1997 between the property owner and the County in which the property owner agreed to never seek expansion of the facility. Only the Board of Supervisors has the authority to enter into and subsequently modify or eliminate easements held on behalf of the County. Consequently, in accordance with County Code, the Board is the final decision-maker on the associated variance and major use permit modification request. The Planning Commission unanimously recommended that the easement deed be amended and approval of the expansion and variance. It is recommended that the Board of Supervisors amend the easement deed and approve the variance and use permit.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration Prepared. According to the Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, potentially significant environmental impacts in the following areas: Traffic. The project site is not located on any of the lists of hazardous waste sites enumerated under Government code section 65962.5.

BACKGROUND AND DISCUSSION

In 1996, the Planning Commission approved a use permit and variance authorizing establishment of a 10,000 gal/year winery in a 7,000 sq. ft. building. A condition of approval of the use permit and one of the findings in support of the "special circumstances" for grant of the variance to allow an existing barn to be used as the winery was the requirement that Sawyer record an agreement against the property which restricted the size of the winery to 7,000 sq. ft. and 10,000 gal/year of production, in perpetuity. That condition was satisfied in 1997 when the County and Sawyer entered into and recorded Easement Deed and Agreement No. 1997-003190.

The applicant is now requesting approval of a major modification to its use permit and existing winery to increase building size, winery capacity, and tours, tasting and marketing events. A 12,786 sq. ft. addition is proposed to the existing 7,830 sq. ft. winery building plus a covered crush pad between the buildings. Capacity will increase from 10,000 gal/year to 20,000 gal/year. Weekly, by appointment visitation will increase from an average of 25 persons per week to 350 persons per week. Marketing events will be increased as noted in the section above. The applicant is also requesting approval of a variance to allow the proposed addition (located to the rear of the existing building) to be constructed within the 600 ft. front yard winery setback. A new variance is required because the original variance only applied to the specific project approved in 1996.

The proposal also includes a request that the Board of Supervisors amend or rescind the existing easement deed voluntarily granted to the County which restricts the size/structure/gallonage of the winery in perpetuity to that which

was originally approved in 1996. Only the Board of Supervisors has the authority to rescind an easement or to amend to an existing easement. Therefore, in accordance with County Code Section 18.124.010, when the Board of Supervisors has decision-making authority over one element of a proposed project, the Planning Commission assumes an advisory roll on the use permit modification and variance request and is responsible for making a recommendation on the project to the Board of Supervisors.

On August 17, 2005, the Planning Commission conducted a public hearing on the proposal. Testimony was given by County staff and the applicant's representative, but no members of the general public spoke on the matter. At the conclusion of the hearing, the Planning Commission unanimously recommended amendment of the easement deed and approval of the variance and use permit modification to the Board of Supervisors. The Planning Commission's recommendation was that the easement deed be amended as originally proposed by the applicant. Subsequent to the Planning Commission's recommendation, the applicant's representative introduced the concept of eliminating the easement entirely. Since the Planning Commission did not make a recommendation on eliminating the easement deed altogether, if the Board desires to rescind the easement, the matter should be referred to the Planning Commission for recommendation prior to the Board's action. The applicant's representative has indicated a preference to completely eliminate the easement, but will accept a modified easement.

Lastly, the modification will recognize two existing elements of the project previously not incorporated in the use permit as follows: 1) The approved use permit was for an approximate 7,000 sq. ft. winery. The existing building is actually 7,830 square feet. The building was built in conformance with the approved building plans, and this modification clarifies that existing condition. 2) The existing tasting room was approved as a barrel storage area. The County has no record of this area being converted to a tasting room. This modification would recognize that past undocumented conversion.

SUPPORTING DOCUMENTS

- A . Representative's Letter Requesting Change of Easement Deed and Agreement
- B . Easement Deed and Agreement
- C . August 17, 2005 Planning Commission Staff Report
- D . Initial Study/Mitigated Negative Declaration
- E . Recommended Conditions of Approval
- F . Mitigation Monitoring Program
- G . Variance and Major Modification Application
- H . Site Map, Site Plan and Elevations

CEO Recommendation: Approve

Reviewed By: Andrew Carey