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Agenda Date: 8/11/2020
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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Laura Anderson for Jeffrey Brax - County Counsel
County Counsel
REPORT BY: Laura Anderson, Deputy County Counsel - 259-8252
SUBJECT: Mathew Bruno Wines Tasting Room Appeal Findings of Fact

RECOMMENDATION

County Counsel requests consideration and adoption of a Resolution of Findings of Fact and Decision on Appeal filed by Grape Lane Association, c/o REB Engineering, to a decision by the Napa County Planning Commission on December 4, 2019 to approve Use Permit No. P17-00387-UP for the Mathew Bruno Wines Tasting Room to allow a wine bar with wine storage, tasting, retail sales and marketing events on a re-purposed single-family residential property. In addition to renovation of the historic residential structure, on-site construction for the Project would include planting of new landscaping; installation of seven paved, on-site parking stalls; installation of a new, on-site wastewater treatment system; and construction of a wraparound porch, also to be used for wine tasting. Off-site modifications would include widening of the asphalt-paved surface of the northern portion of Grape Lane immediately adjacent to the Project site, and installation of a mid-block pedestrian crossing on Rutherford Road. The proposal also includes a public road exception to the requirement under the Napa County Road and Street Standards to install a left turn lane in the right-of-way of Rutherford Road at its intersection with Grape Lane. The proposed Project site is a 0.38-acre parcel located at 1151 Rutherford Road/ State Route 128, Napa (Assessor's Parcel No. 030-160-007).

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Negative Declaration (ND). According to the proposed ND, the project would not have a significant impact on the environment. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

EXECUTIVE SUMMARY

At the appeal hearing on June 23, 2020, the Board heard and considered evidence submitted from Appellant, the Applicant, Staff and members of the public regarding the appeal. After considering all of the evidence presented, the Board closed the public hearing and adopted a motion of intent to deny the appeal filed by Appellant to a decision by the Napa County Planning Commission on December 4, 2019 to approve Use Permit No. P17-00387

for the Mathew Bruno Wines Tasting Room, and uphold the Planning Commission's approval of the Project subject to the revised Conditions of Approval (COA).

The Board directed Staff to return on August 11, 2020, with a Resolution of Findings of Fact and Decision on Appeal (the Resolution) and revised COA. Staff has prepared a proposed Resolution that reflects the Board's intent as expressed on June 23, 2020, which was shared with Appellant's and Applicant's respective counsel. Applicant's counsel and Staff believe the Resolution and revised COA accurately reflect the Board's intent. Appellant's counsel has concerns about the waiver language in COA Nos. 6.16 (a) and 9.5. The public comment is limited to whether or not the proposed Resolution accurately reflects the Board's intent as expressed on June 23rd.

PROCEDURAL REQUIREMENTS

1. Staff Report.
2. Chair invites Appellant, the Applicant and interested parties to comment on the proposed findings.
3. Motion, second, discussion and vote on the findings.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Effective and Open Government

ENVIRONMENTAL IMPACT

According to the proposed Revised Negative Declaration, the proposed project would not have any potentially significant environmental impacts. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5. Pursuant to State CEQA Guidelines Section 15270 (a), CEQA does not apply to projects which the public agency rejects or disapproves.

BACKGROUND AND DISCUSSION

At the appeal hearing on June 23, 2020, the Board heard and considered evidence submitted from Appellant, the Applicant, Staff and members of the public regarding the appeal. After considering all of the evidence presented, the Board closed the public hearing and adopted a motion of intent to deny the appeal filed by Appellant, approve Use Permit No. P17-00387 and uphold the Planning Commission's approval of the project subject to revised COA.

Staff has revised the COA in **Attachment B** as follows:

Project Scope 1.11 and 1.12 have been deleted at the direction of the Board. These project components were volunteered by the Applicant at the Planning Commission hearing and included in the Project Scope. These features are not a requirement of the County and are more appropriately handled privately between the parties.

COA No. 4.12 (d): The word "regular" in connection with business operations was vague. Since there is no proposed kitchen and no proposed cooking of food on-site, the last sentence of the condition was deleted entirely.

COA No.4.12 (j): The word "screen" was inadvertently omitted and is now included.

COA No. 4.12 (k), (l) and (m): These operational features are in the Project Scope but have also been inserted here since they concern the Project's operational requirements.

COA No. 6.5: This condition was revised to require that project features follow the Historic Resource Assessment recommendations.

COA No. 6.16 (a) and 9.9: These conditions were revised per the Board's direction to delete the mid-block crosswalk volunteered by the applicant and to include waiver of the condition if the applicant is unable to procure an encroachment permit.

COA No. 9.5: This condition was revised per the Board's direction to require the Caltrans encroachment permit include a right turn lane. If the applicant is unable to procure an encroachment permit for the right turn lane, the requirement is waived.

Misc.: Staff also made other clerical, non-substantive revisions to the conditions for consistency and to correct the formatting. A redlined version of the revised COA is attached as **Attachment C**.

The Board directed Staff to return on August 11, 2020, with a Resolution of Findings of Fact and Decision on Appeal. Staff has prepared a proposed Resolution that reflects the Board's intent as expressed on June 23, 2020, which was shared with Appellant's and Applicant's respective counsel in advance of today's meeting. Applicant's counsel concurs with the proposed Resolution and the revised COA. Appellant's counsel expressed concerns regarding the waiver language in COA Nos. 6.16 (a) and 9.5. Staff attempts to alleviate Appellant's counsel's concerns were unsuccessful. Staff and Applicant's counsel believe the revised COA accurately reflect the Board's intent. The public hearing is closed. Public comment is limited to whether or not the proposed Resolution accurately reflects the Board's intent as expressed on June 23rd. Staff believes the Resolution accurately reflects the Board's intent and recommends that that the Board adopt the Resolution with the revised COA.

SUPPORTING DOCUMENTS

- A . Resolution of Findings and Decision on Appeal
- B . Revised COA (Clean)
- C . Revised COA (Redline)

CEO Recommendation: Approve

Reviewed By: Helene Franchi