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Agenda Date: 1/18/2017

Agenda Placement: 9C

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: Charlene Gallina for David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: Wyntress Balcher, Planner II - 707 299-1351

SUBJECT: Laura Michaels Wines Use Permit Modification #P16-00033 and Variance #P16-00288

RECOMMENDATION

LAURA & MICHAEL SWANTON / LAURA MICHAEL WINES / USE PERMIT MAJOR MODIFICATION NO. P16-00033- MOD & VARIANCE NO. P16-00288-VAR

CEQA Status: Consideration and possible adoption of a Categorical Exemptions pursuant to the California Environmental Quality Act (CEQA) Section 15301, Class 1: Existing Facilities; Section 15303 Class 3: New Construction or Conversion of Small Structures; Section 13504 Class 4: Minor Alterations to Land; and, Appendix B, Class 3 #10 of the Napa County's Local Procedures for Implementing the California Environmental Quality Act. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Request: Approval of a Major Modification to an existing 5,000 gallon winery (Use Permit #U-467980) to expand the existing winery and operations to: 1) construct a 50 sq. ft. free-standing ADA accessible restroom; 2) construct one (1) ADA accessible parking space; 3) allow one (1) part-time employee; 4) allow wine tasting by appointment only for 12 visitors per day and a maximum of 84 visitors per week; 5) allow a marketing program for 6 marketing events per year for 30 guests and one (1) event per year for a maximum of 75 guests; 6) relocate the existing parking spaces to the opposite side of the existing parking lot; 7) add visitation hours of 10:00 AM to 4:30 PM; and, 8) to allow on- premises consumption of wine in the tasting room, lawn, deck area, and in the existing seating area outside the tasting room accordance with Business and Professions Code Sections 23358, 23390 and 2.3396.5 (AB 2004- Evans Bill). The proposal also includes Variance request #P16-00288, pursuant to Napa County Code Section 18.104.230 (B), to allow construction of the new free-standing accessory restroom building \pm 94 feet from Lake County Highway (State Highway 29), in lieu of the required minimum 600-ft winery setback. The project is located on a \pm 3.23 acre parcel on the east side of Lake County Highway (State Highway 29), approximately 800 feet north of its intersection with Silverado Trail in the Calistoga area. The General Plan Land Use designation is Agriculture, Watershed and Open Space, and the property is zoned Agricultural Watershed (AW); 2250 Lake County Highway, Calistoga, APN: 017-230-009.

Staff Recommendation: Find the project Categorically Exempt from CEQA, approve the Variance request, and approve the Use Permit Modification, as conditioned.

Staff Contact: Wynress Balcher, Planner II, (707) 299-1351 or wynress.balcher@countyofnapa.org

Applicant Contact: Jeremy Sill; R.S.A, 1515 Fourth St. Napa; (707) 252-4966; jsill@RSACivil.com

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Find the project Categorically Exempt from CEQA based on Findings 1-3 of Exhibit A; and,
2. Approve Variance request #P16-00288-VAR based upon proposed Findings 4 through 8 of Exhibit A;
3. Approve a Use Permit #P16-00033-MOD based upon proposed Findings 9 through 13 of Exhibit A; and subject to the recommended conditions of approval in Exhibit B.

Discussion:

The applicant voluntarily submitted this use permit application, stating that it has come to their attention that a use permit for a tasting was not issued for this property. The existing 5,000 gallon winery was originally approved by Use Permit #U-46980 in 1980, allowing the use of an existing barn as a winery. The approval was for a family operated winery and no employees or visitation was approved. No restroom facilities were included in the application, nor approved. This project requests approval of a Major Modification to expand the existing winery and operations.

Staff finds the proposed project consistent with the Napa County Zoning Ordinance and applicable General Plan Policies and recommends approval of the project, subject to the proposed conditions based upon the following reasons: 1) the winery is an existing facility currently operated by the residents of the parcel, consistent with the approved use permit U-467980; 2) the project proposes to add tours and tasting by appointment only, consistent with the Napa County Code; 3) There are minimal physical changes proposed with the construction of a free-standing restroom structure, improvements to the existing access driveway and parking lot and the existing septic system. Furthermore, the variance proposes approval for a very small structure located behind the existing residence, hidden from view of the highway. Although unapproved tastings are occurring at the winery the applicant has filed a use permit to add such use, and the larger events occurring at the winery have been held with the approval of Temporary Event Licenses. Based upon these findings, staff recommends approval of this project proposal.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and possible adoption of a Categorical Exemptions Class 1, Class 3 and Class 4. It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Section 15301 Class 1: Existing Facilities, Section 15303; Section 15304, Class 4 Minor Alterations to land and Appendix B, Class 3: New Construction or Conversion of Small Structures, #10 of the Napa County's Local Procedures for Implementing the California Environmental Quality Act]. This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5. Attachment "E" is a CEQA memo that provides justification for the use of a Categorical Exemption.

BACKGROUND AND DISCUSSION

Owner: Laura and Michael Swanton, 250 Lake County Highway, Calistoga, CA; 707-942-9251; laura@zahtilavineyards.com

Representative: Jeremy Sill, RSA, 1515 Fourth St. Napa, CA 707-252-3301, jsill@rsacivil.com

Zoning District: Agricultural Watershed (AW)

General Plan Designation: Agriculture, Watershed and Open Space (AWOS)

Filed: May 27, 2016

Resubmittal: November 18, 2016

Completed: December 13, 2016

Parcel Size: ±3.23 acres

Existing Development: A 5,000 gallon winery authorized without visitation or marketing; a single family residence; and 1.5 acre vineyard.

Vineyard Acreage (Existing): ±1.5 acres

Vineyard Acreage (Proposed): No Change

Winery Characteristics:

Winery Size (Approved): 600 sq. ft .

Winery Size (Existing): ±2,285 sq. ft.: Production facility=±2043 sq. ft. (barrel storage-648 s. ft.; covered fermentation /crush pad-649 sq. ft.; covered storage-167 sq. ft.; uncovered work area – 419 sq. ft.; storage container -160 sq. ft.) and Accessory Use= 242 sq. ft. (tasting room)

Winery Size (Proposed): ±2,335 sq. ft.: Production facility=±2043 sq. ft. (barrel storage-648 sq. ft.; covered fermentation /crush pad-649 sq. ft.; covered storage-167 sq. ft.; uncovered work area – 419 sq. ft.; storage container -160 sq. ft.) and Accessory Use= 292 sq. ft. (tasting room and restroom)

Production Capacity (Approved): 5,000 gallons

Production Capacity (Proposed): No change

Development Area (Existing): ±2,908 sq. ft.

Development Area (Proposed): ±3,046 sq. ft.

Winery Coverage (Existing): 13930 sq. ft., .32 acres or 10%

Winery Coverage (Proposed): ±13,980 sq. ft., .32 acres or 10%

(Maximum 25% or 15 acres)

Accessory/Production Ratio (Existing): 2,043 sq. ft. production/242 sq. ft. accessory uses = 12%

Accessory/Production Ratio (Proposed): 2,043 sq. ft. production/292 sq. ft. accessory uses=14%; 510 sq. ft. outside porch for tasting=39% ratio

(Maximum 40% allowed)

Number of Employees (Approved): None (resident owner operated)

Number of Employees (Existing): Resident owner- operated with one (1) part-time employee and 8 seasonal vineyard employees assist on an ad hoc basis

Number of Employees (Proposed): Resident owner- operated with one (1) part-time employee and 8 seasonal vineyard employees assist on an ad hoc basis

Visitation (Approved): None

Visitation (Existing): 12/day; max 84 per week

Visitation (Proposed): 12/day; max 84 per week

Marketing Program (Approved): None

Marketing Program (Existing): 2-3 Events per year since 2003 with approved Temporary Event

Marketing Program (Proposed): 6 marketing events/year for up to 30 guests and one event per year for 75 guests. The smaller event will occur on a deck adjacent to residence; the large event will occur on a lawn area south of the residence.

Days and Hours of Operation (Approved): Unspecified

Days and Hours of Operation (Existing): 10:00 AM - 4:30 PM (visitation); 7:00 am – 5:00 pm (production)

Days and Hours of Operation (Proposed): 10:00 AM - 4:30 PM (visitation); 7:00 AM – 5:00 PM (production)

Parking (Existing): 11

Parking (Proposed): 12 (addition of one ADA Accessible space)

Setbacks (Required): 600 feet from Lake County Highway/State Highway 29

Setbacks (Existing): winery is ± 73 feet from Lake County Highway/State Highway 29; A variance has been requested to allow the proposed detached restroom ±94 feet from highway.

Adjacent General Plan Designation/Zoning District/Land Use:

North: Agricultural Resource (AR)/Agricultural Watershed(AW)/PG & E power station

South: Agriculture, Watershed and Open Space/Agricultural Watershed (AW)/Residential

West: City of Calistoga/Residential

East: Agricultural Resource (AR)/Agricultural Preserve (AP)/ vacant-open space

Wineries in the Vicinity (located within 1 mile of the project):

Refer to Attachment K.

Parcel History:

The original 5,000 gallon winery was established with the approval of Use Permit #U-467980 by the Planning Commission on June 4, 1980. On appeal, the approval was upheld by the Board of Supervisors on August 26, 1980. The Department of Public Works had filed an appeal of the Commission's approval of the project, which allowed an 11-foot driveway width, in conflict with the Napa County Road and Street Standards. The Board upheld

the driveway reduction, but added a condition that the winery permit did not include tours and tastings. The winery was approved to utilize an existing ± 600 sq. ft. barn with no additional building construction. No employees were proposed in the original application and the owners stated they were the sole operators. The property changed hands in 1999, with the current owners continuing the same family run winery operations with no employees.

The applicant voluntarily submitted this use permit application on May 27, 2016, stating that it had come to their attention that a use permit for a tasting room was not issued for this property. They are requesting approval for their existing tasting room and would like to establish a Visitation/Marketing Plan. The applicant believes that the no tours and tastings condition was placed on this winery because of the 11 ft. width of the driveway. They have subsequently increased the width of the driveway to 35 feet. The applicant states that there is no public restroom at the winery and is requesting approval for the construction of a 50 sq. ft. free-standing restroom, adjacent to the winery and behind their residence. The current winery is operated by the two owners, one part-time employee to help in the tasting room during the week, and the winery will utilize eight (8) seasonal vineyard employees to help in the barrel room on an ad hoc basis.

The winery has been hosting tours and tastings and has voluntarily submitted this use permit application to add tours and tastings to their use permit for 12 visitors per day; maximum 84 per week. The driveway width identified in the appeal of the original use permit has been increased to 35 feet and its width is not in conflict with the Road and Street Standards. The applicants proposed to amend the application to add a marketing program for seven marketing events per year. The winery had hosted various events per year, approved under the County's Temporary Event permits.

Code Compliance History:

There are no open or pending code violations for the subject site. On December 6, 2002, the applicant was advised by the County that the Winery's Use permit did not allow for the public event the winery participated in, and was advised a Temporary Event License would be required if public events were to occur at the winery. For several years since then, the applicant has received Temporary Event Licenses for various events at the winery, including their annual member's event. As for existing tasting activities, the applicant/new owners discovered that the winery did not have approval for tastings and voluntarily brought in a use permit modification.

Discussion Points:

Setting – The ± 3.23 acre parcel is located at 400 MSL, the on the Calistoga USGS Quad, northeast of the City of Calistoga city boundary. Development on the property includes the winery building and associated open and covered work areas; a residence, a well house, a paved parking 11-space parking lot and a 1.6 acre vineyard. The winery building is located less than 100 feet from the centerline of the highway. The property has frontage on Lake County Rd (State Highway 29) and is partially obscured by trees and plantings. To the west of the project site is the boundary of the city of Calistoga with residential uses. The closest residence, located within the city limits is approximately 200 feet from the winery building.

Tours & Tasting/Marketing Events – The applicant has voluntarily submitted the subject use permit to add the 12 visitors/day tour and tastings occurring at the winery to the existing use permit and to establish a Marketing Program. There have been various events which have occurred at the winery, however, they have been approved by the County's Temporary Event Licenses. The marketing program proposes 6 marketing events for up to 30 people and one large event for up to 75 people. The small events will occur on the deck adjacent to the residence and the large annual event for 75 people would occur on the lawn, south of the residence. As shown in Attachment M, the requested visitation and marketing program is higher than the average and median visitation and marketing program levels for similar production size winery facilities. However, the proposed visitation and marketing program is consistent with the anticipated visitation and marketing program levels permitted under the County's small winery Categorical Exemption criteria. Therefore, staff has no concerns regarding the requested visitation

and marketing program.

Variance Request - The applicants propose to construct a 50 sq. ft. ADA compliant, free-standing restroom to serve the visitors, and to add an ADA compliant parking space, as required by the California Building Code. The proposed location is between the existing residence and the winery building. The proposed restroom location is 94 feet from Lake County Highway (State Highway 29). Napa County Code Section 18.104.230 (B) states: "Any winery existing on the date of adoption of the ordinance codified in this section may expand within the minimum setback specified in subsection A of this section. Notwithstanding the previous sentence, expansions may be permitted within the minimum setback area only if the expansion is placed no closer to the centerline of the right-of-way than the nearest point of the existing structure to which the expansion is attached. Any new freestanding structure shall comply with the setback provisions of subsection A of this section". The winery setback for a State Highway is 600 feet.

The applicants have indicated that restroom cannot be attached to the winery building because all four walls of the winery building are used for winery production purposes: the east wall is the doorway to the tasting room and barrel room; the north wall faces an in-place concrete ramp to access the crush pad; the west wall is the crush pad; and the south wall houses the mechanical equipment for the HVAC for the barrel room, as well as, the compressor for the crush. The original ± 600 sq. ft. barn was utilized for barrel storage, case goods storage and tasting room. Production activities occur on covered pads adjacent to the building. Furthermore, the parcel is less than 600 feet in depth, and the construction of a free-standing winery addition would not be permitted. Please refer to the last three graphics included with the staff report (Attachment J).

Traffic & Parking - A focused Traffic Analysis was prepared for Laura Michael Wines by Dalene J. Whitlock, W-Trans, dated May 14, 2016. The report was reviewed by the Department of Public Works who found the analysis acceptable and concurred with the assumptions made, the methods used in the analysis, and the conclusions reached. The study utilizes the County's Trip Generation Sheet, which provides generation characteristics of wineries in the County. Employee trip generation calculations are based upon daily arrival, departure, and lunch trips. The proposed 12 daily visitors, there would generate nine (9) daily trips per day on weekdays and six (6) daily trips on weekends. The traffic generation number for this small winery is significantly less than 40 vehicle trips per day. The daily trip generations for the PM peak hour are calculated as 5 trips. On weekends, however, utilizing the trip generation calculations, eight (8) PM peak hour trips would result.

The applicants reside at the winery and operate the winery, generating 10 daily residential trips. The owners use eight (8) seasonal vineyard employees to help with the work in winery barrel room on an ad hoc basis; but since they are not full or part time employees of the winery, their trips are not included in the winery traffic generation counts. Wine tastings are occurring currently and there is one (1) part-time employee assisting in the tasting room. The Traffic Analysis noted that the tasting room has been in operation for some time; has been operating at the same visitation level as proposed; and the requested marketing events have occurred in the past. The Traffic Analysis concluded that the change in the Use Permit reflects no actual new traffic and the project trip generation for this small winery would be zero (0) and would not add any additional trips on the street system above the current levels. The Napa County General Plan identifies that this section of Highway 29 is projected to operate at LOS C under build-out of the Plan. It is also noted that the project traffic comprises a 0.2 percent of current traffic volumes, so it is substantially less than the one-percent increase that is allowed under county policy.

Groundwater Availability - A Tier One water availability analysis (WAA) was prepared by RSA (dated May 19, 2016) for the project parcel. The Tier 1 analysis detailed the existing and proposed groundwater demands and indicated that the groundwater recharge for the subject 3.23 acre parcel located on the Valley floor would be 3.23 AF/YR. Napa County has established a water availability threshold of 3.23 AF/YR for this parcel, which is calculated by applying a rate of 1.0 AF/YR multiplied by the acreage of the parcel. The water use for the property is currently 1.64 AF/YR (residence = .75 af/yr.; vineyard irrigation = .75 af/yr.; winery process water = .08 af/yr.; landscaping = .03 af/yr.; domestic water .04 af/yr.). The projected water use with the new bathroom will be 1.69 AF/YR (residence = .75 af/yr.;

vineyard irrigation = .75 af/yr.; winery process water = .08 af/yr.; landscaping = .03 af/yr.; domestic water .09 af/yr.), resulting in an increase of .05 AF/YR. As estimated, the overall water demand of 1.69 AF/YR is less than the threshold established for the parcel.

Greenhouse Gases/Climate Action Plan - The County requires project applicants to consider methods to reduce Green House Gas (GHG) emissions consistent with Napa County General Plan Policy CON-65(e), which requires GHG review of discretionary projects. The applicant has completed the Department's Best Management Practices Checklist for Development Projects, which is attached to this report as part of the application materials. The applicant proposes to incorporate GHG reduction methods including: continuation of a Transportation Demand Management Plan with bicycle riding incentives and bus transportation for large marketing events; exceed Title 24 energy efficiency standards built to CALGREEN Tier 1; energy conserving lighting; energy star roof; water efficient fixtures; recycling 75% of all waste; composting; implement a sustainable purchasing and shipping programs; public transportation accessibility on The Vine Route 10 and the Yountville Trolley; intent to become a Certified "Napa Green Land"; use of recycled materials; education to staff and visitors on sustainable practices; use of 70%-80% cover crop; and to retain biomass removed via pruning and thinning by chipping the materials and reusing it rather than burning on site.

Public Comments - No public comments have been received.

Decision Making Options:

As noted in the Executive Summary Section above, staff is recommending approval of the project with conditions of approval as described in Option 1 below. Decision making options also include a reduced visitation/marketing alternative and no project alternative.

Option 1 - Approve Applicant's Proposal (Staff Recommendation)

Disposition - This option would result in approval of a Variance for the construction of a required ADA compliant restroom building and formal authorization of a tours and tastings and a marketing program and the addition of other very minor site improvements. Staff has determined that there is sufficient amount of water to accommodate visitation and marketing activities at the project site. Although the requested number of guests per year for the visitation are well above the median and average amount compared to wineries of similar production levels, the proposed visitation and marketing program is consistent with the anticipated visitation and marketing program levels permitted under the County's small winery Categorical Exemption criteria. Staff is recommending in favor of approval for the following reasons: 1) the winery is an existing small winery and is not seeking substantial expansion of the facilities, only seeking compliance with the California Building Code; 2) proposal includes substantial greenhouse gas offset features and is a Napa Valley certified Green Winery; 3) there will be no new traffic impacts; 4) there are no viewshed issues; and 5) there is direct access from State Highway 29 (Lake County Highway). Considering all of the enumerated reasons, staff finds that the project meets all County Code requirements and complies with General Plan Policies. Staff supports this option based on the reasons discussed above.

Action Required - Follow proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. This option has been analyzed for its environmental impacts, which were found to be categorically exempt. .

Option 2 - Reduced Visitation/Marketing Alternative

Disposition - This option could result in a potential decrease in the proposed visitation and marketing program.

Action Required - Follow the proposed actions listed in the Executive Summary and amend scope and project

specific conditions of approval to reduce the permitted visitation and marketing events. If major revisions to the conditions of approval are required, the item will need to be continued to a future date.

Option 3 - Deny Proposed Project

Disposition - In the event the Commission determines that the project does not, or cannot meet the required findings for the granting of the variance and the Use Permit Modification, Commissioners should identify what aspect or aspects of the project are in conflict with the required findings. State Law requires the Commission to adopt findings, based on the General Plan and County Code, setting forth why the proposed Use Permit Modification is not being approved. Based on the administrative record as of the issuance of this staff report, there does not appear to be any evidence supporting denial of the project.

Action Required - Commission would take tentative motion to deny the project and remand the matter to staff for preparation of required findings to return to the Commission on a specific date.

Option 4 - Continuance Option

The Commission may continue an item to a future hearing date at its own discretion.

SUPPORTING DOCUMENTS

- A . Recommended Findings
- B . Recommended Conditions of Approval and Final Agency Approval Memos
- C . Previous Project Conditions
- D . CEQA Memorandum
- E . Use Permit Application Packet
- F . VARIANCE APPLICATION
- G . Water Availability Analysis
- H . Wastewater Feasibility Study
- I . Traffic Study
- J . Graphics
- K . Winery Comparison Analysis

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina