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Agenda Date: 1/20/2010

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning

REPORT BY: Trish Hornisher, PLANNER III - 299-1349

SUBJECT: Kitchak Winery Use Permit, Variance and Request for Exception to Napa County Road & Street Standards

RECOMMENDATION

KITCHAK WINERY / PETER & PATRICIA KITCHAK– USE PERMIT & VARIANCE REQUEST (#P09-00148-UP & #P09-00149-VAR) & A REQUEST FOR AN EXCEPTION TO NAPA COUNTY ROAD & STREET STANDARDS

CEQA Status: Categorically Exempt pursuant to Section 15303 and 15305 of the California Environmental Quality Act (Class 3 – New Construction or Conversion of Small Structures and Class 5 – Minor Alteration in Land Use Limitations) and Appendix B, Class 3 (New Construction or Conversion of Small Structures Item #10: Small Wineries) of the Napa County’s Local Procedures for Implementing the California Environmental Quality Act.

Request: (A) Approval of a Use Permit to establish a new 5,000 gallon per year winery to include: (1) conversion of an existing 2,048 square foot, single-story, residential garage for use as a winery production / wine tasting retail sales building for a winery totaling 2,048 square feet; (2) a 300 square foot uncovered crush pad; (3) a 400 square foot uncovered hospitality patio; (4) one full-time and two part-time employees; (5) six parking spaces; (6) tours and tasting by appointment only with a maximum of 12 visitors per day (84 visitors per week max.); (7) a marketing plan with: six 20-person promotional events with catered meals per year; four 30-person release events per year; No Tours & Tasting Appts or Marketing Events to be held on the same day and will hold no Temporary Events; (8) installation of a hold and haul winery process wastewater system; (B) Approval of a Variance from the winery road setback requirements of Napa County Code Section 18.104.230 (A)(2) to allow a winery structure to be constructed 196 feet from the centerline of a private easement serving two parcels where 300 feet is required. (C) A request for an Exception to the Napa County Road and Streets Standards to allow a reduced winery road width from Hardman Avenue to the proposed winery structure (20 foot width required). The winery project is located on an 14.77 acre parcel on the north side Hardman Avenue approximately 1,500 feet east of its intersection with Silverado Trail within an AP (Agricultural Preserve) zoning district. (Assessor’s Parcel #: 039-190-038). 1094 Hardman Avenue, Napa.

Staff Recommendation: Find the project Categorical Exempt from CEQA and approve the Use Permit and Variance with the proposed conditions of approval. Staff does not recommend approval of the Road Exception.

Staff Contact: Patricia Hornisher 299-1349 or thornish@co.napa.ca.us

EXECUTIVE SUMMARY

Proposed Action:

That the Planning Commission:

1. Finds the project Categorically Exempt from the provisions of CEQA as set forth in finding 1 of Exhibit A;
2. Approves Variance #P09-00149-VAR based on the attached findings 2-6 of Exhibit A;
3. Approves Use Permit #P09-00148-UP for Kitchak Winery based on findings 7-11 of Exhibit A and subject to the attached Conditions of Approval (Exhibit B); and,
4. Denies the requested Exception to the County Road and Street Standards for a reduced winery road width.

Discussion:

The applicant requests approval of a Variance and a Use Permit to establish a new 5,000 gallon per year winery within an existing 2,048 square foot detached residential garage which is proposed to be converted into a wine production, tasting and marketing facility. The applicant also requests an Exception to the Napa County Road and Street Standards to allow a reduced road width for winery access road from Hardman Avenue to the proposed winery structure. The project involves a single 14.77 acre "flag-lot" parcel located on the north side of Hardman Avenue approximately one and a half miles northeast of the City of Napa. A portion of Lake Cynthia covers 3.8 acres of the central portion of the parcel with approximately six acres of producing vines established on the north and south sides of the reservoir. The remainder of the parcel is developed with the existing main residence, detached garage and access road. A Variance is requested because the existing garage structure, now proposed to become the winery building, encroaches 103 feet into the required 300 foot road setback for wineries. Staff is recommending approval of the Use Permit and Variance but does not recommend approval for the Road Exception because not any of the required findings can be made under the current County Road and Street Standards to support an Exception for a reduced winery road width.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is Categorically Exempt pursuant to Section 15303 and 15305 of the California Environmental Quality Act (Class 3 – New Construction or Conversion of Small Structures and Class 5 – Minor Alterations in Land Use Limitations) and Appendix B, Class 3 (New Construction or Conversion of Small Structures Item #10: Small Wineries) of the Napa County's Local Procedures for Implementing the California Environmental Quality Act.

BACKGROUND AND DISCUSSION

Owner: Peter & Patricia Kitchak

Applicant: Peter Kitchak

Representative (Project Manager): Peter Kitchak

Zoning: AP (Agricultural Preserve)

General Plan Designation: AR (Agricultural Resource)

Filed: March 30, 2009 / Resubmitted: November 19, 2009 / Complete for CEQA Review: November 19, 2009

Building Size: 2,048 square feet (with an additional 300 square foot outdoor crush pad)

Production Capacity: 5,000 gallons per year

Visitation: A maximum of 12 visitors per day with no more than 84 persons during a seven days/week operation

Marketing: Six promotional tasting events per year with catered meals with a maximum of 20-persons per event; four release events per year with a maximum of 30 persons per event; No tours and tastings, promotional events or release events will take place on the same day. No Napa Valley Wine Auction events and no temporary events will be held.

Number of Employees: One full-time and two additional part-time employees during harvest season.

Days and Hours of Operation: 10:00 AM to 4:00 PM, seven days a week.

Parking: 6 parking spaces, including one ADA-accessible space

Adjacent Zoning / Land Use:**North**

AW / AP - Agricultural-Vineyard (159 acres) / Winery

South

AW - Rural Residential & Rural Residential with vineyard (Two parcels: 4.52 & 4.62 Acres)

East

AP – Agricultural-Vineyard with rural residential (12.62 Acres)

AW - Rural Residential (Two parcels: 6.24 & 1.27 Acres)

West

AP – Agricultural Vineyard with Rural Residential and Winery (14.55 Acres)

AW - Rural Residential with vineyard (Three parcels: approx. 2 Acres each)

Nearby Wineries (within one mile of the project site):

Razi Winery - 3106 Silverado Trail- Approved 08/03/1988 - 20,000 gal/yr - 1,600 sq. ft. - 50 By Appt Visitors/Wk

Reynolds Winery – 3260 Silverado Trail – Approved 06/27/2007 - 20,000 gal/yr – 7,800 sq. ft. - 70 By Appt

Visitors/Wk

Silverado Hill Cellars – 3105 Silverado Trail - Approved 06/06/1977 – 200,000 gal/yr – 27,454 sq. ft. - 420 Appt
Visitors/wk Luna Vineyards – 2921 Silverado Trail – Approved 05/17/1978 - 150,000 gal/yr – 16,752 sq. ft. – 420 By
Appt Visitors/Wk

Judd's Hill Winery - 2332 Silverado Trail - Approved 10/15/2003 - 30,000 gal/yr - 5,608 sq. ft. - 28 By Appt
Visitors/Wk

William Hill Winery - 1761 Atlas Peak Road - Approved 07/01/1987 - 335,000 gal/yr - 38,000 sq ft - 50 By Appt
Visitors/Wk

Property History:

February 2007

The Planning Department approves a Variance in association with the proposed new residence and garage to allow portions of the landscaping pad grading and planting area to encroach 35 feet into the required 55 foot stream setback (per Conservation Regulations.)

August 2008

Building Department issues a final Certificate of Occupancy for the new approximately 7,000 square foot residence and a final for a detached 2,048 square foot garage. The detached garage is where the winery is currently proposed.

April 2009

Applicant submits application for a winery use permit with winery setback variance.

November 2009

Application deemed complete.

Code Compliance History:

Based on a review of the County Planning and Building files, there have been no complaints or code compliance issues filed against this property.

Discussion Points:

I. Preliminary Environmental Evaluation

State CEQA Class 3 & 5 exemptions allow for new construction of limited small new facilities and minor alterations to land use such as Lot Line Adjustments and Variances. Likewise, Napa County's local procedures for implementing CEQA have found certain projects have no significant effect on the environment and thus, also qualify for a categorical exemption. The Napa County Class 3 exemption includes projects such as the construction and operation of small wineries that: are less than 5,000 sq. ft. (excluding caves); will produce less than 30,000 gallons of wine per year; and, will generate less than 40 vehicle trips per day and 5 peak hour trips except during marketing events. Marketing events are limited to: no more than ten, 30 person marketing events per year; no more than one, 100 person Wine Auction event; and, no temporary events. As previously outlined in the project Recommendation section, this project falls well below these criteria.

In addition, Staff reviewed the project description against various environmental source materials including the Napa County Environmental Resource Mapping System (GIS) as they pertained to the project area. While the review determined certain archaeological and landslide areas are in proximity to the project site, the project itself is simply a change in use from an existing residential car garage to a winery production building with no modifications to this structure or major changes to the existing site. Since no other environmental concerns were

found, the project is expected to have no significant effect on the environment.

Therefore, pursuant to Sections 15061 (b) (2), 15300.4, and 15022 (a) (1) (C) of the State CEQA Guidelines, staff determined the project qualifies as Categorical Exempt under a: Class 3 (New Construction or Conversion of Small Structures); and a Class 5 (Minor Alterations in Land Use Limitations); as well as a Class 3 (New Construction or Conversion of Small Structures) under Appendix B, Item #10: Small Wineries of, *The Napa County Local Procedures for Implementing the California Environmental Quality Act*.

II. Variance

The applicant is requesting approval of a Variance to the required 300 foot road setback from private roads for wineries. If approved in its existing location, the proposed winery structure will be set back 196 feet from the centerline of the existing driveway. The applicant has stated that the 114 foot encroachment into the setback is necessary because the neighbor to the east has obtained an easement to use the road located on the Kitchak's property to access his property. The neighbor's driveway entrance is at the terminus of the easement. If the neighbor had a separate driveway, there would be no need for the Variance. Because the project parcel is a flag lot and the main access is shared by the neighboring property owner (and also encumbered on the east and west side by other property owners), construction of a new access is not feasible. Thus, staff believes exceptional circumstances apply because of the shape and location of the property that do not apply to other properties for which strict application of the zoning district regulations would deprive the property of the privileges enjoyed by other properties in the same zoning designation.

As discussed in the applicant's variance application, the Variance is necessary for the property owner to preserve and enjoy substantial property rights under the AP zoning district. The Kitchak's would like to establish a winery as a conditional use as permitted under this zoning district. The current layout of the parcel does not permit relocating the existing proposed winery building to another location because Lake Cynthia envelopes nearly one-third of the 14.77 acres and, aside from the existing residential developed area, the remainder is planted with existing vineyard. Lake Cynthia also requires a 55 foot creek setback from the top of bank under the Conservation Regulations. Relocating the winery building so that it meets the required road setback would then cause the structure to encroach within the required creek setback from Lake Cynthia. Relocating the structure to the north or south of the lake would require producing vineyards to be removed and thus present a hardship for the established farm operation and future wine production.

The applicant states the existing site, which is just above the south bank of Lake Cynthia, is the best suited location for the proposed winery structure and that approval of the Variance in this location will not adversely affect the health or safety of persons residing or working in the neighborhood of the property. The existing structure is centrally located to the vineyard roads that now traverse the parcel and allow for optimum farming. Only a small amount of existing vineyard and domestic plants, now growing immediately adjacent to the easement, will be removed to allow for widening to the standard winery road width. The applicant has already landscaped the project site but will be required to provide permanent screening around any visible industrial portions of the winery development site as a condition of approval. In addition, wine production and visitation is minimal thereby limiting traffic impacts to nearby neighbors.

Staff believes the Variance findings for the conversion of the garage structure to a winery building in the existing location can be made since the property has unique considerations due to its shape, location and unique environmental constraints as discussed above. Granting the Variance will not adversely affect the public health, safety and welfare citizens of Napa County.

III. Exception to Napa County Road and Street Standards:

The applicant requests an Exception to Section 3 of the Napa County Road and Street Standards which requires a minimum 18 foot driveway width with 2 foot shoulders on each side for any commercial development. Based on

the site plan scale, the existing main driveway easement (flag portion) is approximately 800 feet long (application states 600 ft.) and consists of two concrete strips running the full length. The outside edge of the strips measures 12 feet wide with a 3 foot shoulder on each side. Italian Cypress trees are planted on each side within the shoulders for the full length of the driveway. Near the entrance to the winery/residence, the driveway turns west and narrows to 10 feet wide with 2 foot shoulders on each side for approximately 190 feet. Cypress and Olive Trees are planted along each side of this portion of the driveway. These improvements were installed with the construction of the new residence between 2007 and 2009.

The Exception is requested to avoid removal of mature, domestic Cypress trees and Olive Trees. While staff is sympathetic to the applicant's request, trees planted for decorative landscaping do not meet any of the required findings under Napa County's Exception to Standards Section 3 (D) which shall include any one of the following: 1) - to preserve unique features of the environment...Exception does not include man made environmental features, decorative landscaping, fences...etc.; 2) - to accommodate physical site limitations such as grade differentials; or, 3) - to accommodate other limiting factors - such as historical or legal constraints. Because a finding cannot be made, the involved County Departments cannot recommend approval of the Exception as requested. Public Works and the Napa County Fire Marshall have also stated that since the no physical or environmental constraints have been demonstrated, they recommend a condition to improve the existing road to the current standard width of 18 feet with 2 foot shoulders from the County maintained road to the winery site. Staff concurs all conditions of approval including the road improvements be completed in accordance with County standards prior to issuance of the Certificate of Occupancy by the Building Inspection Division for the change in use from a residential garage to the winery use.

IV. Viewshed Regulations

This project is not located on slopes of 15% or greater and is therefore not subject to the Viewshed Ordinance.

V. Winery Design and Aesthetics

The existing detached garage proposed for conversion to a winery is currently 23 feet in height. It is a single story barn-like structure totaling 2,048 sq.ft. The building was originally constructed with stone veneer and has double sliding, arched wooden doors and timber headers at the window openings. The roof consists of clay roof tiles. A 300 square foot crush pad will be constructed on the south side of the winery. Public Works and Environmental Management will require it to be covered. Minimal alterations to the structure are necessary to convert the garage to a winery. Floor drains already exist in the building.

The interior of the structure is an open bay with areas on the floor plan designated for production, fermentation, storage, a lab, shipping and receiving, an ADA employee restroom and a 70 sq. ft. tasting bar and retail sale area at the southeast corner of the building. Only 3.41 percent of the areas are devoted to accessory use. The winery development area is well under 25%. The proposed winery development is considered by staff to blend well with its natural surroundings and will convey "permanence and attractiveness" as required by General Plan Policies AG/LU-10 and CC-2 and meet the requirements of the Winery Definition Ordinance.

VI. Archaeological Resources and Geologic Hazards

The Napa County Environmental Sensitivity Maps show an archaeological site and a geologic slide area in proximity to the project site. However, since no modification to the existing structure is proposed, no environmental impact will result and no surveys are required. Staff strongly recommends however, that a survey of the property be required should any modifications be requested in the future. The Building Inspection Division will require a geotechnical report consistent with the proposed change in occupancy for this project. They will require the report to be included with a complete set of building plans in accordance with the current California Building Code.

VII. Utilities and Service Systems

The proposed winery domestic and process wastewater systems are described in full in the submitted "Hold and Haul" Feasibility Study submitted by Douglas Sterk, P.E., dated 3/31/09 (See attachment.) The existing system

constructed for the new residence is a subsurface drip dispersal system. Mr. Sterk states it is oversized for the new home leaving an excess capacity of 250-gal/day. The domestic waste produced by the winery will be treated and disposed using the excess capacity of the new system. The winery process wastewater will be provided for by a "Hold and Haul" contract with East Bay MUD. The report states winery waste will be collected treated and stored for vineyard irrigation use. A five acre septic reserve area could be provided on-site for this purpose. The Department of Environmental Management has reviewed the proposed septic feasibility report and will require that all their conditions of approval be met prior to issuance of any grading or building permit.

VIII. Groundwater Availability

Water for the proposed winery and existing vineyards, orchard and residence will be supplied by one existing on-site well and one water storage tank for fire protection with a minimum of 12,000 gallons. The Phase 1 Water Availability Analysis was submitted by the applicant. The analysis states this project is located on the Valley Floor of the Napa Valley which has an established acceptable water use criteria of 1.0 acre feet per acre per year. Therefore, the water use threshold for this 14.77 acre parcel is 14.77 acre feet per year. The report indicates that the estimated water demand for the site will be 2.88 a/f of water per year including: 0.13 af/yr for winery production, 1.8 af/yr for existing vineyards, 0.2 af/yr for landscaping, 0.75 af/yr for domestic use (main residence). This represents an increase of 0.13 a/f/year over existing uses which now total 2.75 af/yr. Public Work's Groundwater comments the increase is well below the total water use threshold for this property as currently established by Napa County and requires no further analysis.

IX. State Water Rights

Lake Cynthia covers an approximately 3.88 acre portion of the property. As stated by the applicant, the Lake is subject to a State Water Resources Board License for Diversion and Use of Water License #5267. It grants William Hill Napa, Inc. and Anthony & lone Cataldo (owners) rights to divert up to 100 acre feet annually for the sole purpose "necessary to keep the reservoir full by replacing water lost by evaporation and seepage". No rights are granted to William Hill Napa, Inc. or its owners for use of the water for irrigation purposes. Kitchak Winery has no right to use or divert the water nor any right to direct water run-off into the Lake. Any such action would be a violation of State Water Rights regulations. The existing roads along the levee have been historically used for farming the existing on-site vineyards. They will not be improved or used to any greater extent than previously used.

X. Fire Protection

The applicant indicates one 12,000 gallon water tank will be located on the east side of the proposed winery for fire protection as required by CDF. 60% of the tank will be located below ground; the remaining portion above ground will be required to be screened from the neighboring property.

XI. Winery Operation and Traffic Loads

The applicant notes tours and tasting appointments and marketing events will not occur on the same day. Thus, based on the application submittal, the maximum trip generation per day will be 6 for employees, 6 for support staff and either 10 for tours and tasting visitors or 21 for event visitors whichever is planned. Either scenario is well within the less than 40 vehicle trips per day allowed under the local CEQA implementing procedures criteria for small wineries. Staff notes the applicant has attempted to limit traffic trip concerns especially at peak hour since, according to the project description, no trips will occur during peak hours because the winery hours of operation terminate at 4 pm. Additionally, events will not take place at the same time as tours and tastings. Event arrivals and departures are conditioned to occur before or after peak hours. Production is a nominal 5,000 gallons per year with approximately six acres of the grapes (~4,800 gallons) being estate grown - a factor which will reduce truck traffic on and off-site during harvest. If a winery sign is erected, the County code limits signage wording regarding visitation to, "By Appointment Only" which will also help deter drop-in traffic. Finally, under the local regulations for small wineries, no temporary events can be held at the winery. Public Works Transportation Engineer has stated that Hardman Avenue currently has a Level of Service A. Traffic Volumes resulting from the proposed project are negligible.

XII. City of Napa comments

The County has received no comments from the City of Napa Planning and Building Director.

XIII. Contact with Neighbors

The applicant has sent a letter discussing his plans for the new winery to all surrounding neighbors and welcomed discussion regarding any of the neighbor's concerns. (See letter sent to surrounding neighbors attached.) As of the date of this report, no inquiries have been received by the Planning Department regarding this project.

Consistency with Standards:

Zoning

The project is consistent with AP (Agricultural Preserve) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Section 18.16.030) are permitted in the AP district with an approved use permit. This application complies with the Winery Definition Ordinance and the setbacks (pending a Variance approval) and other requirements of the Zoning Code.

Building Division Requirements

The Building Division recommends approval with standard conditions. Please see their December 24, 2009 memo.

Fire Department Requirements

The Fire Department recommends approval of the requested winery use permit with conditions of approval noting access requirements and recommends a standard winery road width. See December 29, 2009 memo for Use Permit and Variance.

Public Works Department Requirements

The Public Works Department recommends approval with conditions of approval under their memo dated January 8, 2010, and their memo dated January 8, 2010, for Groundwater. No approval for an Exception to Napa County Road and Street Standards is recommended.

Environmental Management Department Requirements

The Department recommends provided all conditions of approval are satisfied. Please see their memo of December 18, 2009.

Sheriff's Department Requirements

The Sheriff's Department has reviewed this application and has no comment.

SUPPORTING DOCUMENTS

- A . Exhibit A - Proposed Variance & Use Permit Findings
- B . Exhibit B - Proposed Scope & Conditions of Approval
- C . Department Comments (Building, Env. Mgmt, CDF, Sheriff)
- D . Department Comments (Public Works, Groundwater)
- E . All Application Materials (Including Neighbor Ltrs & Greenhouse Gas Checklist)
- F . Correspondence to Commissioners
- G . Presentation Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell