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Agenda Date: 10/19/2016

Agenda Placement: 9A

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: Dana Ayers, Planner III - (707) 253-4388

SUBJECT: Jessel Gallery and Prime Solum Tasting Room & Barrel Storage - Use Permit Application #P12-00194 - UP

RECOMMENDATION

DOLORES R. BULLER TRUST / JESSEL GALLERY AND PRIME SOLUM TASTING ROOM & BARREL STORAGE – USE PERMIT APPLICATION #P12-00194-UP

CEQA Status: Consideration and possible adoption of a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP). According to the proposed MND, the project would not have a significant environmental impact after implementation of a mitigation measure related to potential Transportation/Traffic impacts. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

Request: Approval of a Use Permit (P12-00194 – UP) in order to: 1) legitimize the existing art studio, gallery and retail store offering wine tasting, retail art and wine sales, events and art classes (Jessel Gallery); 2) allow wine barrel storage, events, wine tasting, retail and wholesale sale of wine, and retail sale of food, art and antiques (Prime Solum Tasting Room); and 3) recognize an existing apartment residence as an accessory dwelling unit on the upper floor of the building currently occupied by Jessel Gallery. If approved, all activities would occur within and adjacent to two existing buildings located near the southern property line of the 6.65-acre property located north of Monticello Road, at 1019 Atlas Peak Road (Assessor's parcel number 039-320-008), in the CL (Commercial Limited) District.

Staff Recommendation: Adopt the MND and MMRP and approve the requested Use Permit, as conditioned.

Staff Contact: Dana Ayers, Planner III; phone number (707) 253-4388 or email address dana.ayers@countyofnapa.org

Applicant Contacts: George Monteverdi, Principal, Monteverdi Consulting, phone number (707) 761-2516 or email address George@MonteverdiConsulting.com; David Knitter, Knitter & Knitter, LP, phone number (707) 969-8880 or

email address DaveK@KnitterLaw.com

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) prepared for the proposed project, as set forth in Findings 1 through 7 of Attachment A; and
2. Approve Use Permit Application No. P12-00194, based on Findings 8 through 12 of Attachment A, and subject to the recommended Conditions of Approval (Attachment B).

Discussion:

The applicant requests a Use Permit to allow establishment of a wine tasting room with barrel storage (no production), and to recognize existing, previously unpermitted art gallery and residential uses on a portion of the property located at 1019 Atlas Peak Road. Proposed improvements associated with the use permit request also include paved and striped parking stalls, new trees and landscaping, and stormwater quality preservation measures (trash enclosure and bioretention areas) that would enhance the public's convenience in the use of the property while adding elements to the property that show consideration for the environment. Staff believes the necessary findings can be made and supports approval of the Use Permit request, as the requested uses are consistent with the zoning of the property and with various General Plan policies in support of preservation of existing residences, reutilization of historic structures, and promotion of the arts and wine culture of Napa Valley.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and possible adoption of a MND and MMRP. According to the proposed MND and MMRP, the proposed project would have no potentially significant environmental impacts with inclusion of a mitigation measure related to off-site multimodal transportation improvements. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Property Owner: Dolores R. Buller Trust

Property Owner's Representative: David Knitter, Knitter & Knitter, LP, 190 S. Orchard Avenue, Suite C-200, Vacaville; phone number (707) 969-8880 or email address DaveK@KnitterLaw.com

Applicants: Bill Hill, Managing Member, Prime Solum, LLC, phone number (707) 226-0770 or email address

bill.hill@PrimeVinePartners.com ; Dolores R. Buller Trust, P.O. Box 737, Railroad Flat, California 95248

Applicants' Representatives: George Monteverdi, Principal, Monteverdi Consulting, phone number (707) 761-2516 or email address George@MonteverdiConsulting.com ; David Knitter, Knitter & Knitter, LP, phone number (707) 969-8880 or email address DaveK@KnitterLaw.com

Zoning: CL (Commercial Limited) District

General Plan Designation: Rural Residential

Application Filed: May 25, 2012; Amended September 9, 2015

Application Complete: June 17, 2016

Parcel Size: 6.65 acres

Existing and Proposed Use Characteristics:

Building Area –

Accessory Dwelling Unit (Existing): 1,134 square feet, plus 557 square foot, covered, outdoor deck

Accessory Dwelling Unit (Proposed): No change

Jessel Gallery Building Size (Existing): 7,079 square feet (inclusive of indoor gallery, office and retail areas and an outdoor, 197 square foot loading dock), plus 901 square feet of outdoor deck area

Jessel Gallery Building Size (Proposed): No change

Prime Solum Building Size (Existing): 4,441 square feet (inclusive of indoor storage areas and an outdoor, 186 square foot loading dock), plus 800 square feet of outdoor patio area

Prime Solum Building Size (Proposed): 4,353 square feet based on plans (inclusive of indoor storage areas), plus 3,461 square feet of outdoor, covered seating area and a 1,238 square foot, outdoor courtyard

Employees –

Jessel Art Gallery Employment (Existing): Two (2) full-time employees, one (1) part-time employee

Jessel Art Gallery Employment (Proposed): No change

Prime Solum Employment (Existing): Not applicable

Prime Solum Employment (Proposed): Two (2) full-time employees, eight (8) part-time employees

Days and Hours of Operation –

Jessel Art Gallery Hours (Existing): Daily, 10:00 a.m. to 5:00 p.m.

Jessel Art Gallery Hours (Proposed): No change

Prime Solum Hours (Existing): Not applicable

Prime Solum Hours (Proposed): Daily, 9:00 a.m. to 8:00 p.m.

Marketing/Event Program –

Jessel Art Gallery Marketing (Existing): One per month for up to 60 people (“First Monday”)

Jessel Art Gallery Marketing (Proposed): No change

Prime Solum Marketing (Existing): Not applicable

Prime Solum Marketing (Proposed): One per week for up to 125 people

Daily Visitors –

Jessel Art Gallery Visitors (Existing): Eight per day, no visitors on days of “First Monday” events

Jessel Art Gallery Visitors (Proposed): No change

Prime Solum Visitors (Existing): Not applicable

Prime Solum Visitors (Proposed): 125 per day; 10 per day on days of “First Monday” events

Adjacent General Plan Designations, Zoning Districts and Land Uses:

North: The Del Dotto Winery and tasting room and the Whetstone Wine Bar operate in two buildings located immediately north of and on the same parcel as the subject site. Whetstone Wine Bar operates in the northernmost building on the property, under an approved use permit authorized by the Planning Commission in 2013. Del Dotto Winery is permitted to operate on the ground floor of the more central building on the site, under an approved use permit granted by the Planning Commission in 1999; the winery’s operators currently have an application pending to amend their use permit to increase permitted visitation, legitimize use of the second floor of the building, and add a deli operation within a small building adjacent to the winery.

Beyond the northern property line of the subject parcel is a cluster of three single-family residential parcels ranging in size from approximately one to four acres; Milliken Creek lies further north of these residential lots. Off-site of the subject parcel, parcels to the north of the site are zoned RC (Residential Country) District and have a General Plan land use designation of Rural Residential.

West: A Napa County fire station and portion of a vacant parcel are immediately west of the subject buildings at 1019 Atlas Peak Road; two single-family residences with small vineyards are also west of the subject parcel, though more to the north of the gallery and proposed tasting room buildings. The fire station, vacant parcel and single-family residences are each on different parcels than the subject site.

The zoning of the adjacent parcels to the west of the site is RC (Residential Country) District toward the north and PD (Planned Development) District to the south. All of the parcels to the west have a General Plan land use designation of Rural Residential.

South: A substantially undeveloped parcel adjoins the southern property line of the site, on which are remnants of an unused, former distillery building similar to that occupied by Jessel Art Gallery. The remainder of the parcel is vacant. Monticello Road lies just beyond that parcel. The adjoining parcel to the south of the site is zoned PD (Planned Development) District and has a General Plan land use designation of Rural Residential.

East: The Atlas Peak Road right-of-way adjoins the western property line of the site, with the Silverado Country Club on the opposite side of the road. Residences within this portion of the Silverado Country Club neighborhood are single-family detached houses on lots that range in size from 0.2 to 0.5 acres. The zoning of the parcels to the east of the site is PD District, and the parcels have a General Plan land use designation of Urban Residential.

Parcel History:

The first structures on the subject property were built in 1885. At that time, the property encompassed 300 acres and was under the ownership of Morris Estee, a businessman, lawyer and politician whose career spanned the

late 19th century. The large stone buildings and tunnels originally served as residential and winery uses on the property, then called "Hedgeside." The winery operated on the property until Prohibition occurred in 1920. In the early 1930s, after repeal of Prohibition, the property was used as a distillery. A series of hollow clay tile industrial buildings were built in 1935 to house the growing distilling operation on the property. A metal warehouse building was built sometime later, around the early to mid-1940s (based on review of aerial photography). The distillery ceased operation on-site in 1954. The subsequent, current property owners used a portion of the site for storage associated with a hauling business and leased out other portions of the property to various tenants.

Over the years, the various buildings on the property have housed a series of compliant as well as noncompliant residential, winery and commercial operations. Today, the property's original stone buildings are occupied by Del Dotto Winery (central winery building) and the Whetstone Wine Bar (northern, formerly residential structure). The County approved use permits for the Del Dotto Winery and Whetstone Wine Bar in 1999 and 2013, respectively (Use Permits 98228 – UP, 98230 – UP and P12-00008 – UP). The Del Dotto Winery's operators have submitted a separate use permit modification request (P12-00410 – MOD) that is pending, to obtain legitimacy of currently unpermitted accessory uses on the second floor of the winery building.

The two buildings nearest the southern property line are the subject of this use permit application (P12-00194 – UP). The building near the southeastern corner of the property was constructed as part of the post-Prohibition industrial complex of buildings, and it is currently occupied by Jessel Art Gallery. The second, metal warehouse building, west of the Jessel Art Gallery, is partially occupied by a contracting business; the majority of the building, however, is vacant. This metal warehouse building is proposed for use as Prime Solum's tasting and barrel storage room.

The property is currently zoned CL (Commercial Limited) District and has been so zoned since 1985. Previously, the property spanned two zoning district boundaries, with the majority of the site zoned industrial and smaller portions at the northwestern and northeastern corners zoned residential.

Code Compliance History:

As mentioned above, the property has had a variety of compliant and non-compliant uses and activities, with records of violations dating back to the 1970s. With approval of Use Permit #P12-00008 – UP for the Whetstone Wine Bar, the use of the northernmost building on the property was brought into compliance with current zoning regulations. The central winery building has zoning approval for operation of the Del Dotto Winery and retail store (Use Permits (98228 – UP and 98230 – UP), though there is an outstanding code compliance matter related to the business' use of the second floor of the building, for which the winery operator has a pending use permit application. That matter is isolated from the request being presented to the Commission for consideration at this meeting.

Currently, the two southernmost buildings on the property are either partially vacant, as is the case for the metal warehouse building, or are occupied by the Jessel Art Gallery and accessory dwelling. The property manager reports that the residence has been in the property since the 1950s, though there are no County building permit records related to its construction. Jessel Art Gallery has occupied the property since 1984, when the industrial zoning of the property at the time allowed only agriculture, industry, and livestock feed lots as conditional or permitted uses of the property. Rezoning of the property to CL District in 1985 (Ordinance No. 807) introduced bars with up to 100 seats and art studios and galleries as conditionally permitted uses; however, County records are unclear as to why a use permit had not been required at that time or in subsequent years that the property has retained the CL District zoning. The current use permit submittal is in part responsive to a County code enforcement case that was opened in 2011 in an effort to remedy all of the then noncompliant uses on the property; Prime Solum, by contrast, is not operating on the property and is a request for use permit that was not triggered by the code enforcement matter.

Discussion Points:

1. General Plan – The property has a General Plan land use designation of Rural Residential. As described in General Plan Agriculture and Land Use policy AG/LU-35, the primary land use envisioned for properties so designated is low density residential; however, Rural Residential lands near public recreational areas that also have minimum fire hazard and are proximate to services and access roads are also potentially suitable for tourist- and resident-serving commercial development. The property is in the vicinity of the Silverado Resort, a large-scale, privately-owned but publicly-accessible hospitality business with a variety of recreational amenities including golf and tennis. The proposed project site has recently received potable water service from the city of Napa and has direct access to Atlas Peak Road. The proposed commercial uses, as tourist-serving businesses described in policy AG/LU-35, are consistent with the General Plan description of the Rural Residential land use designation. Recognition of the existing apartment unit above Jessel Gallery is likewise consistent with Housing Element goals, policies and programs in support of mixed use development and efforts to achieve preservation and code compliance, rather than removal, of existing residential units in areas where services are available (Housing Element Goal H-4 and Policy H-1a, Program H-4d).

The proposed project, which includes recognition of and allowance for continued use (art gallery) within an existing building that is potentially eligible for listing on a historic register, is consistent with Community Character goal CC-5 encouraging reuse of historic structures. Water demand generated by the requested uses would be in line with General Plan goals supporting prioritization of groundwater for agricultural purposes (Goal CON-11), as the commercial, non-agricultural uses would be served by municipal water and would reduce groundwater needs to landscape irrigation and a one-time extraction for storage of water for emergency fire suppression. Although the requested uses are non-agricultural, the operation of the wine tasting room and barrel storage in the warehouse building would support the county's agricultural activities by providing a means to sell and promote wine as an agricultural processing product of the county, consistent with General Plan Economic Development policy E-1. Operation of Jessel Gallery is also consistent with policy E-7, which "encourages a healthy and thriving arts and culture community, recognizing that it enhances the aesthetic appeal of Napa County, enriches the quality of life of all residents, and contributes to a vital economy."

Lastly, it is noted that the applicant's intent to upgrade existing plumbing fixtures in the residence and warehouse building with water-efficient ones, as well as his intent to install a roof-mounted photovoltaic array on the warehouse building, are consistent with objectives of the General Plan to retrofit existing buildings for better resource efficiency and use of renewable energy sources as a means to reduce greenhouse gas emissions (goals CON-68, CON-70 and Policy H-6d).

2. Zoning – The property is located in the CL District, where art studios/galleries, bars (tasting rooms) with up to 100 seats, and accessory residences are allowed upon Planning Commission approval of a use permit (Napa County Code Section 18.28.030). The current request for use permits for all three uses is therefore consistent with the allowed uses of the property's zoning.

3. Site and Building Improvements – The structures for which use permits are being requested under Use Permit Application #P12-00194 are existing buildings. While correction of the code compliance matter for the Jessel Art Gallery would need to include minor modifications to the building in order to provide accessibility for persons with disabilities, no building additions are for the Jessel Art Gallery building, including its attached residential unit.

For the warehouse building proposed to be occupied by Prime Solum, significant interior changes are proposed in order to accommodate the tasting room, including installation of restrooms, accessibility improvements, food preparation and service areas, plumbing fixtures and fire suppression systems, and exiting features that are appropriate for the building's proposed intensification of occupancy. The applicant also proposes to modify the exterior of the building to include two covered seating areas on the eastern and western sides of the building. The areas of these spaces would be 1,438 square feet and 2,023 square feet, respectively. The CL District includes no

minimum yards or maximum lot coverage requirements with which the additions must comply, and there are no adjoining residential uses that would dictate larger landscaped setbacks than otherwise required for the perimeter of surface parking lots (County Code Sections 18.28.050 and 18.110.050). With a height of 14 feet at their highest point, the proposed additions would be compliant with the 35-foot maximum building height required by County Code Section 18.104.010. The applicant has also proposed to install an uncovered, decomposed granite courtyard adjacent to the proposed patio on the west side of the warehouse building. This courtyard would have 1,238 square feet of area and would be used for display of art pieces and, weather permitting, seasonal outdoor seating.

On-site improvements include installation of a new septic system to serve both proposed uses. General site improvements also include construction of a trash enclosure, installation of parking lot landscaping, paving and striping for 62 vehicular parking stalls adjacent to the two buildings, and placement of bicycle racks in the proposed courtyard. Such improvements are generally consistent with County Code Sections 8.52.100 and 16.28.100 (stormwater quality preservation and management of solid waste); and Sections 18.110.030 and 18.110.040 (off-street parking, with reduction taken for shared uses as described on project plan sheet UP1.0). In order to fully comply with County Code Section 18.110.040, racks for parking of at least 10 bicycles must be included with the improvements. Additionally, while the landscape plan identifies Italian cypress trees spaced every three to five parking stalls in the parking lot (County Code Section 18.110.050.D), the proposed use of this species as a parking lot tree is challenging in terms of meeting the intent of the zoning regulations to provide shade and reduce the heat island effect of the parking lot, particularly along the southern and western property lines. Staff recommends that Italian cypress be replaced with olive or other tree species with a broader canopy. Such revision is recommended as a condition of approval of the project and would be required to be reflected on the final landscaping plans submitted prior to issuance of a building permit for the project.

4. Water Availability - The property is within the Milliken-Sarco-Tulocay (MST) water-deficient basin of the County (County Code Chapter 13.15, Map 13-1). Uses on the property (including Jessel Gallery) were previously served by an existing well on the property. Since submitting the use permit application, water to the property has been provided from the City of Napa municipal supply via a two-inch commercial service line and a six-inch service line for suppression of fire within the existing structures, in accordance with a December 2014 agreement between the property owner and City of Napa. City staff has confirmed that the City will provide ongoing water service to the gallery and tasting room uses requested under this permit application. The applicant has proposed to install a 10,000-gallon tank northwest of the warehouse building, as a means to store supplemental water for suppression of fire within the expanded areas (covered patios) of the warehouse building. This tank would be filled with water drawn from the existing on-site well.

Although the proposed project would utilize groundwater in the MST water-deficient basin, the applicant's project description explains that water drawn from the well would be limited to that used for on-site landscape irrigation and a one-time extraction to fill the tank described above. Groundwater use would therefore decrease from an historic, estimated 80,000 gallons per year for the gallery and residence, to an estimated 51,000 gallons of water per year (based on 2015 California Modified Water-Efficient Landscape Ordinance estimates for moderate water-consuming plants) for landscape irrigation plus a one-time extraction of 10,000 gallons to fill the storage tank. Thus, ongoing operations of both uses, once fully established, would require less daily groundwater extraction compared to that which was necessary for the Jessel Gallery tenant at the time of application submittal. Staff recommends that the project be conditioned to require all plants in the plant palette to be low or very-low water consumers, as well as reclaimed water-tolerant to the greatest extent possible, to further reduce estimated demand for groundwater for irrigation and to facilitate use of recycled water for landscape irrigation, should recycled water become available to the property in the future.

5. Greenhouse Gas (GHG) Reduction Strategies – The requested Use Permit includes proposed patio additions to the warehouse building on-site but otherwise, does not involve construction of any new buildings on the property; however, the applicant has indicated an intent to incorporate several sustainable design elements that would help to reduce interior temperature control and water heating demands and thereby reduce greenhouse gas emissions

related to energy use. These elements include installation of a solar water system and array of roof-top photovoltaic panels as renewable sources of energy for the warehouse building. Other measures that the applicant has expressed intent to implement, and that would reduce emissions of GHGs by reducing energy demands, include installation of an insulated “cool roof” on the proposed Prime Solum warehouse building; building improvement plans that exceed Title 24 energy efficiency standards; education to staff and visitors on sustainable practices; installation of water-efficient plumbing fixtures in the warehouse building and residence and energy-efficient lighting fixtures in the warehouse; and planting of water-efficient landscaping throughout the site.

6. Mitigated Negative Declaration – This project is subject to the requirements of the California Environmental Quality Act (CEQA). Analysis of the requested use permit concludes that no new potentially significant environmental effects would occur if the proposed project were approved, provided that the approval was conditioned to require construction of bicycle facility improvements at the project property frontage, consistent with the Napa Countywide Bicycle Plan. More specifically, the Napa Countywide Bicycle Plan, adopted by the Board of Supervisors in June 2012, identifies Atlas Peak Road for a proposed Class II bicycle facility (on-street bike lane). The requested approvals would increase automobile trips and turning movements on Atlas Peak Road, potentially creating conflicts with bicycles and drivers along the roadway. The mitigation measure identified in section XVI of the attached initial study is recommended as a condition of project approval (Condition 2 of Attachment B) in order to provide visual cues to drivers of the presence of bicycles on the roadway. The measure would also implement General Plan Policy CIR-35, which encourages public and private sector coordination in implementation of the County’s adopted bicycle facilities plan. Potential impacts in all other areas discussed in the initial study were found to be less than significant.

Decision-making Options:

Option 1: Approve Applicant’s Proposal (Staff recommended option).

This action would legitimize the currently noncompliant operation of the Jessel Gallery and accessory residence and would additionally permit operation of a 100-seat wine tasting room and barrel storage establishment. Both uses are consistent with the allowable uses of the CL zoning district in which they are located, and site improvements proposed are consistent with applicable development regulations of Title 18 (Zoning), as well as those of Titles 8 (Health and Safety) and 16 (Environment) of Napa County Code. Daily vehicle trips to the property would increase as visitation to the wine bar would occur; however, proposed site improvements also include construction of a new, paved off-street vehicle parking for patrons, with the number of stalls to be provided in accordance with minimum requirements of the Zoning Code. Approval of the proposed project would also facilitate accessibility and sustainability improvements to the buildings, including energy-efficiency and water-efficiency enhancements to the warehouse building and accessory residence, in addition to construction of a covered trash enclosure, a stormwater pollution prevention measure not currently in place on the property.

Action Required – Follow the proposed action listed in the Summary section of this staff report, amending select, Project-Specific Conditions as listed in Exhibit B, as may be appropriate, at the time the motion of approval is made.

Option 2: Reduced Project Alternative.

As the requested use permit would involve use of existing structures on a property, and proposed building additions would be limited to the covered patios on either side of the warehouse building, a reduced project alternative would most likely affect operations of either or both businesses, rather than proposed physical modifications to the site. The Commission could require modification to the businesses’ operating hours or the marketing plan of the proposed tasting room, or could require a reduction in available seating in the tasting room by excluding the proposed patios from any affirmative decision on the use permit request. Staff does not recommend this option because hours of operation of both businesses are fairly conservative, with neither business accommodating patrons earlier than 9:00 a.m. or later than 8:00 p.m., and proposed site improvements (including parking) have been designed in accordance with requirements of County Code. Based on the

administrative record as of the issuance of this staff report, there does not appear to be any evidence that suggests such limits on the proposed business operations are warranted.

Action Required – Follow proposed action listed in Executive Summary and amend scope and project specific conditions of approval to place limits on development or business operations. If major revisions of the conditions of approval are required, item will need to be continued to a future date.

Option 3: Deny the Requested Use Permit.

This action would result in vacancy of the warehouse building and ultimate closure of the Jessel Gallery at this location, as neither the existing uses nor the proposed tasting room use would have zoning clearances to occupy the site. Until new tenants were found, and appropriate permits obtained from the County, the southern portion of the parcel would be unoccupied, with the existing buildings and surroundings potentially falling into disrepair.

Action Required – In the event that the Commission determines that it cannot meet the required findings for grant of the requested Use Permit, Commissioners must articulate the basis of the conflict with the findings. The Commission would then make a tentative motion to deny the proposal and remand the matter to staff to draft the required findings of denial, based on the Commissioners' statements. Staff would return to the Commission with the findings of denial on a specified date.

Option 4: Continuance Option.

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

SUPPORTING DOCUMENTS

- A . Recommended Findings
- B . Recommended Conditions of Approval and Department Comments
- C . Initial Study/Mitigated Negative Declaration
- D . Public Comments
- E . Application Packet, P12-00194 - UP
- F . Phase One Historic Assessment of Jessel Gallery Building
- G . Septic System Feasibility Report
- H . Water Availability Correspondence
- I . Left-Turn Queue Analysis
- J . Graphics

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina