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Agenda Date: 12/17/2008

Agenda Placement: 9A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

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

REPORT BY: Mary M Doyle, Principal Planner - 299-1350

SUBJECT: Pavitt Family Vineyards - Variance #P06-01427 and Use Permit #P06-01426

RECOMMENDATION

PAVITT FAMILY VINEYARDS / SHANE & SUZANNE PAVITT - VARIANCE REQUEST #P06-01427 VAR AND USE PERMIT REQUEST #P06-01426 UP

CEQA Status: Categorically exempt pursuant to Section 15303, Class 3 ("New Construction or Conversion of Small Structures") of the California Environmental Quality Act; and Appendix B, Class 3 ("New Construction or Conversion of Small Structures Item# 10: Small Wineries") of Napa County's Local Procedures for Implementing the California Environmental Quality Act. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5

Request: (A) Approval of a variance to allow an existing 3,915 square foot, two story agricultural structure to be used as a winery to encroach 464 feet into the required winery setback of 600' from the centerline of Silverado Trail; and **(B)** Approval of a use permit for a 10,000 gallon per year winery to include the following: (1) use of the existing 3,915 square foot agricultural structure for the winery operations and activities, an administrative office and a 164 square foot laboratory; (2) new construction of a 170 square foot outdoor crush pad; (3) installation/completion of a new winery waste water system, a pretreatment with drip irrigation in the vineyard and 3 tanks totaling 30,000 gallons; (4) mobile bottling; (5) four parking spaces; (6) one full time and 2 part time employees; (7) tours and tasting by appointment only (Monday-Friday from 7 a.m.-5 p.m.) with a maximum of 10 visitors per week; (8) a marketing plan to include 8 private wine and food tastings for the wine trade with a maximum 10 people per event and one private Harvest event with a maximum of 30 guests. The project is located on a 22.84-acre parcel on the east side of Silverado Trail, approximately 600 feet north of its intersection from Dunaweal Lane within an AW (Agricultural Watershed) zoning district (Assessor's Parcel#: 020-350-026) 4640 Silverado Trail, Calistoga.

Staff Recommendation: Find the project categorically exempt and approve the variance and use permit with the proposed conditions of approval.

Staff Contact: Mary Doyle, 299-1350 or mduoye@co.napa.ca.us

EXECUTIVE SUMMARY**Proposed Action:**

1. That the Planning Commission find the project categorically exempt;
2. That the Planning Commission approve Variance #P06-01427-VAR based on findings 4-7 of Exhibit A, and
3. That the Planning Commission approve Use Permit #P06-01426-UP based on findings 8-12 of Exhibit A and subject to the attached conditions of approval (Exhibit B).

Discussion: This variance and use permit request was brought to the Planning Commission on April 2, 2008. At that time, the staff recommended denial of variance for exception to the winery setback of 600 feet from Silverado Trail in order to use an existing agriculture structure as a winery facility of the use permit. With the recommendation of denial of the variance as the first action, and therefore, no action could be taken on the winery use permit as the second action. During the public discussion, adjoining parcel neighbors voiced their concerns about the location of the agriculture structure to be used as a winery structure necessitating the variance request, the proximity of the structure to the neighbors, the winery noise should the structure become a winery and the lack of discussion by the applicants with their neighbors. After much public discussion, staff was directed to return at a future hearing with a positive recommendation on the variance and therefore action on the winery use permit could occur. In addition, the Commission requested the applicants to work with their neighbors to come to some accommodation concerning the potential noise and other issues. A noise memo and noise assessment were provided by the applicant. Some discussions were attempted by the applicants with the neighbors, however, no accommodations or resolutions transpired and the issues with the neighbors remain at an impasse.

No other changes to the variance application or use permit application have been received since the last hearing. The review/comments from other departments and agencies remain current for the proposed project as they did when written. The staff report of April 2, 2008 is available for reference.

Apart from the encroachment of 465 feet into the 600' winery setback from Silverado Trail, the proposed winery with its limited visitation and marketing would be in keeping with Winery Definition Ordinance. The existing agriculture building and the existing landscaping would be in keeping with the General Plan goal of conveying attractiveness of wineries throughout the valley.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is categorically exempt pursuant to Section 15303, Class 3 ("New Construction or Conversion of Small Structures") of the California Environmental Quality Act; and Appendix B, Class 3 ("New Construction or Conversion of Small Structures Item #10: Small Wineries") of Napa County Local Procedures for Implementing the California Environmental Quality Act. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section.

BACKGROUND AND DISCUSSION

Owner/ Applicant: Shane and Suzanne Pavitt

Zoning: Agricultural Watershed - AW

General Plan Designation: Agriculture, Watershed & Open Space - AWOS

Filed: November 11, 2006

Building size: The existing 2-story structure is 3,960 total sq. ft.

Production Capacity: 10,000 gallons per year proposed

Proposed Visitation: 4 visitors per day, 10 per week by prior appointment only

Proposed Marketing: 8 private wine events with catered food with a maximum of 10 visitors, and one private harvest event with a maximum of 30 visitors. In summary, a total of 9 events per year are proposed, having from 10 to 30 guests, event dependent.

Number of Employees: One full time employee and 2 part-time employees

Hours of Operations: 7a.m.-5 p.m. Monday -Friday

Parking: 4 on-site parking spaces

Adjacent Land Use/Zoning/Acreage:

North: AW-agriculture, rural residential 36 acres

South: AW agriculture, rural residential 22 acres

East: AP-agriculture, rural residential 69 acres

West: AW-agriculture, rural residential 55 acres

In the immediate vicinity of the proposed project with access on Silverado Trail, Dunaweal Lane or Pickett Lane are the following wineries: Araujo Estates Wines (U-01-13 for 20,000 gallon winery, by appointment only), Clos Pegase (U-698384 for 200,000 gallon winery, open to the public) and Cuvaion (built prior to the necessity of a use permit, the winery use is captured under use permit #U-517273 and various modifications for 155,048 gallon winery, open to the public).

Property History:

The following is a chronological summary of permit activities associated with the parcel:

1981: Agricultural Contract #25581-F.

2000: #B00-1429 building permit for a new agriculture building. #B00-01718 building permit for 10,500 gallon water tank (final).

2004: #04-091-ECPA, approved for 1.18 of vineyard, mostly hand farmed. #B04-00363 (re-issue of #B00-1429) agricultural building permit (final).

#P04-0423-ECPS erosion control plan structure for a driveway on slopes greater than 50% and the variance #P04-00424-VAR for earthmoving activities on slopes greater than 50% associated with residential building permits #B04-01201/02/03. #E04-00798 Septic system permit for residence.

2005: #E05-00472 well permit. #B05-00254 building permit residence entry. #B05-01170 building permit for two 10,500 gallon water tanks. #B05-01327 building permit for a modification to storage area & conservatory.

2006: #P06-01427-VAR is the current application for the Commission's consideration of a variance to allow

an existing 3,960 square foot, 2 story agricultural structure to be converted to a winery to encroach 464 feet into the 600' winery setback from Silverado Trail and #P06-01426-UP is the current application for the Commission's consideration to establish a new 10,000 gallon per year winery. No new construction is anticipated.

2007: On October 15, the applicant was cited for placing landscape fill, berm, boulders, trees and other plants into the 42' R.O.W. of Silverado Trail without an encroachment permit. Additionally, on October 22, the applicant was notified that #04-091-ECPA was not implemented as approved and that compliance was necessary within 10 days

Code Compliance History:

There have been 4 code compliance issues that have been satisfactorily resolved.

Discussion: This variance and use permit request was brought to the Planning Commission on April 2, 2008. At that time, the staff recommended denial of variance for exception to the winery setback of 600 feet from Silverado Trail in order to use an existing agriculture structure as a winery facility of the use permit. During the public discussion, adjoining parcel neighbors voiced their concerns and one neighbor who was supportive. The neighbors issues revolved around (1) the agriculture structure being built with the intention of being a winery without a first benefit of a winery use permit, (2) the location of the agriculture structure so close to Silverado Trail in the 600' winery setback, (3) the neighboring residences would have winery noise effects due to the proximity of the structure to their residence, (4) there were no discussion with the neighbors.

At the conclusion of the hearing, the Commission made a tentative motion (3-2 vote) expressing an intent to support the variance, and directed Staff to prepare findings to support the variance and to submit proposed conditions of approval for Commission consideration. The Commission also directed the applicant to attempt to work with neighbors and provide evidence of how neighbor concerns are being addressed. It is Staff's understanding that the applicants made attempts to have discussions with their neighbors. However, it appears that the issues with the neighbors remain at an impasse.

The applicants has prepared noise assessments performed by qualified noise evaluation professionals. The summary conclusions of these two noise reports are that project noise would be limited, short term and would not have an adverse effect on nearby residential land uses.

Staff does concur that the proposed 10,000 gallon winery, the limited visitation, the limited marketing events, and no amplified music would not be any different than those of other small wineries in the county.

SUPPORTING DOCUMENTS

- A . Exhibit A - Required Findings
- B . Exhibit B - Conditions of Approval
- C . Exhibit C-Cal FIRE comments
- D . Exhibit D-Public Works
- E . Exhibit E-Environmental Management comments
- F . Exhibit F-Building comments
- G . Exhibit G-Sheriff Office
- H . Exhibit H-Public comments

- I . Exhibit I-Applications and supplemental info
- J . Exhibit I-Applicant submitted slope info
- K . Exhibit K-Applicant submitted noise memo
- L . Exhibit L-Applicant submitted Noise Assessment
- M . Exhibit M-Wastewater feasibility study
- N . Exhibit N-Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell