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Agenda Date: 12/17/2008

Agenda Placement: 9C

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: John McDowell, Deputy Director - 299-1354
SUBJECT: Bennett Lane Winery Expansion - Major Modification P07-00299-MOD

RECOMMENDATION

LYNCH FAMILY VINEYARDS, LLC. / BENNETT LANE WINERY – USE PERMIT MAJOR MODIFICATION REQUEST # P07-00299-MOD

CEQA Status: Negative Declaration Prepared and attached. According to the proposed Negative Declaration, the proposed project would have no potentially significant environmental 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 Major Modification to Use Permit #92452-UP to: (1) remodel the existing approximately 8,900 square foot winery building including expansion of the offices; (2) construct a new approximately 3,650 square foot tasting room with offices; (3) construct a new approximately 5,000 square foot barrel storage building with a commercial kitchen; (4) add an enclosed courtyard between buildings (for a winery totaling approximately 17,550 square feet); (5) relocate and expand the customer parking lot to 22 parking spaces; (6) increase tours and tasting by appointment only to 32 visitors per day, with 168 visitors average per week; (7) add a marketing plan with 48 private wine, food and harvest events per year with a maximum of 40 people per event, and four industry Open House events with a maximum of 50 people per event; and (8) three Napa Valley Wine Auction related events per year with a maximum of 125 people per event. No change to the annual production limit of 50,000 gallons per year is proposed. The project is located on a 10.0 acre parcel on the northeast side of State Highway 128, approximately 1,000 feet southeast from its intersection with Bennett Lane within an AP (Agricultural Preserve) zoning district. (Assessor's Parcel #: 017-160-002). 3340 State Highway 128, Calistoga.

Staff Recommendation: Adopt negative declaration and approve project as proposed with conditions of approval.

Staff Contact: John McDowell 299-1354

EXECUTIVE SUMMARY

Proposed Action:

1. That the Planning Commission adopt the Negative Declaration for the Bennett Lane Winery Expansion, based on findings 1-6 of Exhibit A (attached); and,
2. That the Planning Commission approve Use Permit Major Modification P07-00299-MOD based on findings 7-11 of Exhibit A and subject to the attached conditions of approval (Exhibit B).

Discussion:

This item was originally heard by the Planning Commission on July 16, 2008. Included with the attachments is the staff report from that meeting which provides details on the nature of the request. This report summarizes what actions have occurred on the project since the July 16th hearing. At the July 16th hearing, it was determined that some neighbors did not receive required notice, so the item was continued for renoticing. Prior to the new hearing date of August 20, 2008, written comments were submitted that questioned the adequacy of the environmental assessment which necessitated dropping the item from that meeting so that responses could be prepared.

A revised Initial Study/Draft Negative Declaration has been prepared (and recirculated) and is attached to this report. The scope and scale of the proposed project is essentially the same as what was presented to the Commission in July, however the applicant has agreed to reductions in marketing and other changes to conditions of approval suggested by the Commission. In general, new information consists of documents prepared by neighbors, neighbor representatives, the applicant and applicant representatives concerning project issues. See attachment and the Background section of this report for additional detail.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Negative Declaration Prepared and attached. According to the proposed Negative Declaration, the proposed project would have no potentially significant environmental impacts. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5

BACKGROUND AND DISCUSSION

See attached July 16, 2008 staff report for proposed project details.

Recent Project History:

July 16, 2008 The Planning Commission conducted a public hearing and continued the item after hearing testimony from the applicant, applicant's representatives, and several neighbors and interested persons. A continuation was necessary because some of the neighbors did not receive required notice as a result of the title company certified mailing list excluding addresses for persons listed on the national no bulk-mail list.

August 18, 2008 A letter was received from Dennis Jackson, a hydrologist representing one of the adjacent neighbors, Ellis Hamilton. The letter raised issues over the adequacy of the environmental document prepared for the project.

August 20, 2008 The Planning Commission was scheduled to hear the project on this date, but at the request of the Staff and applicant, the item was dropped from the agenda so that additional information could be provided in the Negative Declaration in response to comments received.

October 7, 2008 The applicant's engineer submitted a revised water availability analysis, a stormwater technical memorandum, and a letter addressing fire water storage in response to comments received prior to the August 20th hearing.

November 26, 2008 Staff completed a revised initial study/draft negative declaration and commencing the new 20-day public comment period on November 27th.

December 4, 2008 Additional correspondence (attached) received from adjoining neighbor, Mr. Ellis Hamilton.

December 10, 2008 Applicant submitted response to Mr. Hamilton's December 4th correspondence as requested by Mr. Hamilton.

Discussion of Updated Materials:

1. Revised Conditions of Approval and Required Findings - Attached are proposed revised conditions of approval based on Commission comments from the July 16, 2008 meeting. Revisions include reduction in the number of marketing events, inclusion of a requirement that visitation not occur on days when marketing events will occur and voluntary groundwater monitoring.

2. Revised Initial Study/Draft Negative Declaration - The initial study has been augmented to provide additional information in response to comments raised by opponents to the project, and is attached to this report. In summary, additional information was provided to respond to questions raised by commenters in areas including ground water supply and demand, stormwater runoff/stream health, and fire protection. The project description was also augmented, and supplemental information from the applicant's engineer was included and is discussed below.

3. Supplemental submittal information - The project engineer has submitted four documents in response to issues raised in July and August. First is a letter from October 1, 2008 primarily addressing water needs for fire suppression. The response understates the required amount of on-site water storage. The correct amount of on-site water storage is included in the Fire Department memo of December 2, 2008 (attached). All other information contained in the letter has been reviewed by the County Fire Marshall and is considered accurate.

A second letter from the project engineer is dated October 7, 2008 and addresses erosion control, fire protection and water availability. This letter is supported by a Stormwater Technical Memorandum and revised Water Availability Analysis. The materials have been reviewed by the Fire Marshal, Environmental Management and Public Works and have been found by all County Departments to be in compliance with accepted professional standards. The applicant agrees to use required Best Management Practices to ensure that both construction and post-construction related stormwater runoff complies with local and State clean water standards. The fire suppression system will comply with standards and not compromise groundwater resources. Projected on-site ground water use has been updated and revised to account for all aspects of the current design, and the project engineer calculates that overall ground water use will actually be reduced as a result of factoring in reduced vineyards on site.

4. Response to Neighbor Concerns - At the July hearing, and in subsequent correspondence, neighbors have raised several issues generally objecting to the proposal and citing reasons why they believe an expansion should not occur. Mr Hamilton's letter of December 4, 2008 appears to summarize the majority of those concerns. Although Staff believe it is the applicant's responsibility to respond to these concerns, Staff offer the following

comments from the County perspective:

A. Aesthetics - The Commission must determine if the proposal complies with General Plan policy that wineries convey a "permanence and attractiveness" in keeping with Napa Valley's standing as a premium wine growing agricultural setting. Staff believe the project is consistent with that policy based on the proposed design when compared with past Commission and Board actions on other winery proposals.

B. Lighting - The project is required to shield and direct all exterior lighting downward and to have lighting be the minimum necessary for security. This is a standard condition of approval. County lighting standards are intended to preserve the agricultural setting.

C. Noise - As required by the proposed conditions of approval, amplified music shall not be allowed outdoors including within the enclosed courtyard.

D. Traffic - Proposed increases in visitation and marketing are not projected to degrade levels of service on Highway 128. The project has completed all Caltrans required driveway improvements. The proposed on-site circulation system has been designed to accommodate both County Fire Apparatus and trucks in compliance with County standards.

E. Completion of Caltrans Improvements/Winery production prior to completion - The Caltrans required improvements were completed in July 2006. The County understands that the previous project owner likely operated the facility in excess of the 20,000 gallon per year limit. The new owner rectified this by submitting for and obtaining approval to increase the capacity of the facility to 50,000 gallons per year.

F. Custom crush clients served prior to completion - The County does not actively monitor custom crush clients and investigates compliance on a complaint basis. The County has no prior record of complaints on the operations of this winery.

G. 75% rule compliance - The County has no records that annual compliance data was submitted to the County. The County has changed this standard condition of approval to require permittees to keep records and submit upon request. If this expansion is approved, the permittee will be subject to the new requirement.

H. Screening of industrial plants - The existing project was constructed in compliance with County standards and was granted a final occupancy. It is not an industrial plant. It is a winery, and wineries are considered by the County to be an integral component of agriculture and are not required to be screened from view of residences in agricultural areas.

I. Screening of outdoor storage - The existing operation has exceeded the areas originally considered for outdoor storage in the original permit. No complaints had previously been received concerning this, and the applicant has committed to add screening and move operations.

J. Outdoor lighting shielded - Staff has not observed the site at night for compliance with this standard. Plans submitted to the department for previous permits indicated lighting would comply with downlighting requirements.

K. Billboard and balloons - Staff has observed the use of "sandwich" board temporary signs and balloons during the processing of this application. In addition, landscaping obstructed the portion of permanent signage reading "tours and tasting by prior appointment." The landscaping has been trimmed in compliance with standards, and the permittee appears to have stopped using the temporary signage.

L. Fire storage water requirement - An updated Fire Department memo is included in the packet, and states the required water storage. The permittee will need to demonstrate compliance with the requirement in order to obtain a building permit.

M. New well for kitchen/Nearest well location - The property owner has not drilled any new wells. All wells are shown on the updated water availability analysis attached to this report. The applicant has indicated that a new well will likely be drilled.

N. Verbal Agreements/Dohring Letter - Mr. Hamilton requests a response be made by the applicant and County concerning issues raised in the August 13, 2008 letter from Paul Dohring.

1. Marketing reduction - The applicant has agreed to reduce marketing events from 48 to 24 per year, and to reduce wine auction events from 3 to 1.

2. Well monitoring - The applicant has voluntarily agreed to well monitoring, and the standard condition of approval has been augmented.

3. Groundwater analysis inadequate in environmental document - The County has augmented the analysis

and the project engineer has prepared an updated water availability analysis.

4. Drainage and sediment control - The applicant has prepared a Stormwater Technical Memorandum in response to concerns raised.

5. Trucks backing from Highway - The County has reviewed the proposed project design, and finds that the proposed driveways provide sufficient space for trucks to make all necessary on-site turning movements without the need to back in from Highway 128.

6. Signage violations - It appears all signage violations have been resolved.

7. Visitation and marketing days - The proposed conditions of approval have been changed to prohibit visitation on days when marketing is occurring.

8. Outdoor storage screening/amplified sound - The applicant has agreed to screen all outdoor storage and not use outdoor amplified music. The proposed conditions of approval address these concerns.

9. Number of personnel at winery - The applicant is required to demonstrate to the Commission's satisfaction that proposed employee levels are adequate to staff the facility for the intensity of the entitlement proposed. The proposed employee levels are consistent with those seen at other wineries of similar size with similar visitation levels. However employee levels do tend to vary widely depending on the particular use permit and how the winery conducts business.

10. County agency comments adequacy - In response to doubts raised by neighbors that various County departments had not reviewed the latest plans, updated memos from the Fire Department, Department of Environmental Management and Public Works have been completed. All Departments have found that the project, as proposed, can be constructed in compliance with County standards.

O. Water Availability - Mr. Hamilton asserts that the County regulations concerning fair share water use are outdated and suggests it is time to implement a more restrictive standard. The applicant has demonstrated that the anticipated water use for the proposed project will actually decrease slightly from the current water use. The County has received no complaints of ground water deficiencies in the area, nor generally in any of the other areas of the County subject to the 1 acre foot/acre per year standard. The County does not agree with the assertion, nor is there substantive evidence to suggest that this long-standing, successfully implemented standard has resulted in over drawing ground water resources. The County believes substantial evidence supports the continued use of this standard as reasonably balancing property needs while protecting the sustainability of the resource. Furthermore, the condition of approval related to wells provides that in the event of changed circumstances or significant new information based on substantial evidence indicates that the winery would significantly impact the groundwater basin, the Director of Environmental Management is authorized to recommend additional reasonable conditions on the permittee as necessary to protect public health, safety and welfare.

P. Parking lot drains - Parking lot drainage will be redone as part of the new project and will be subject to review and approval by the County. No subsurface drainage to the creek is proposed.

Q. Traffic safety - The County Public Works Department, includes the County's Traffic Engineer, have reviewed the project and found that it complies with County standards for safety and design. Further, given the relatively minor increase in traffic resulting from the project and given the relative low traffic volumes on Highway 128, the County has determined that the warrants for a left-turn lane have not been met. In addition, the project was referred to Caltrans, and Caltrans offered no comments on the proposal. County Public Works and Caltrans maintain a working relation and consult over necessary improvements when County-regulated facilities interface with State-regulated facilities. In this case, the existing improvements were found to comply with standards and no nexus exists to require additional improvements.

SUPPORTING DOCUMENTS

A . Exhibit A - Required Findings for Approval

B . Exhibit B - Proposed Conditions of Approval

C . Public Works Conditions - Update December 2008

D . Department of Environmental Management Comments - May 2008
E . Fire Department Memo - Update December 2008
F . Revised Initial Study/Draft Negative Declaration
G . Previous Staff Repot - July 2008
H . Previous Staff Reports and Conditions of Approval - 2003 and 1991
I . Applicant's Response to Neighbor Comments December 2008
J . Applicant Letter to Neighbors December 2008
K . Ellis Hamilton Letter December 4, 2008
L . Paul Dorhing Letter August 2008
M . Dennis Jackson Letter August 2008
N . Neighbor Photographs July 2008
O . Neighbor Correspondance July 2008
P . Public Comments Prior to July 2008 Hearing
Q . Winery Calculation Worksheet - June 2008
R . Riechers-Spence October 1, 2008 Letter
S . Riechers-Spence October 7, 2008 Letter
T . Revised Water Availability Analysis
U . Riechers-Spence Stormwater Technical Memorandum
V . Winery Sign Photo 1
W . Winery Sign Photo 2
X . Project Application and Applicant's Narrative
Y . Site Location Map and Project Plans

Napa County Planning Commission: Approve

Reviewed By: John McDowell