



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/3/2008

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: John McDowell, Deputy Director - 299-1354
SUBJECT: Laird Winery Major Modification and Rescission of Previous Major Modification

RECOMMENDATION

LAIRD FAMILY ESTATE WINERY / USE PERMIT MAJOR MODIFICATION REQUEST P08-00564-MOD AND RESCISSION OF PREVIOUSLY APPROVED USE PERMIT MAJOR MODIFICATION P07-00587-MOD

CEQA Status: Negative Declaration Prepared. 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: (A) Approval of Use Permit Major Modification P08-00564-MOD to Use Permit Nos. 97526-UP through 02193-UP to: (1) increase maximum total production capacity from 650,000 gallons per year to 900,000 gallons per year; (2) construction of a new 34,437 sq. ft. production building with an approximately 18,500 sq. ft. covered roof work area surrounding the building; (3) installation of a recessed loading dock on the east side of the new building; (4) addition of a covered outdoor work area on the east side of the existing barrel storage building; (5) construction of a new mechanical pad on the west of the existing barrel storage building; and (6) removal of the condition of approval regarding alternating proprietor/custom crush clients. **(B) Adoption of a Resolution Rescinding Approval of Use Permit Modification No. P07-00587-MOD** and the Related Negative Declaration. The project site is located on a 40.06-acre parcel on the west side of Solano Avenue approximately 700 feet north of its intersection with Oak Knoll Avenue at SR 29 within an Agricultural Preserve (AP) zoning district (Assessor's Parcel Number 034-031-031) 5055 Solano Avenue, Napa.

Staff Recommendation: Adopt new negative declaration and approve new major modification and rescind prior use permit approval and related negative declaration.

Staff Contact: John McDowell, 299-1354 and Mary Doyle, 299-1350

EXECUTIVE SUMMARY

Proposed Action:

1. That the Planning Commission adopt the Negative Declaration for the Laird Winery Expansion, based on findings 1-5 of Exhibit A; and
2. That the Planning Commission approve Major Modification P08-00564-MOD based on findings 6-10 of Exhibit A and subject to the attached conditions of approval (Exhibit B);and
3. That the Planning Commission adopt Resolution No. 08-04 (Exhibit C) Rescinding Approval of Use Permit Modification No. P07-00587-MOD and the Related Negative Declaration.

Discussion:

On March 5, 2008, the Planning Commission approved Major Modification No. P07-00587-MOD for an expansion to the Laird Winery. Subsequent to the Commission's approval and after close of the appeal period, a neighbor adjoining the project, Mr. Phillip Lamoreaux, contacted Staff and raised concerns about not receiving required public notice and expressed several objections about the project. After investigation, Planning Division Staff and County Counsel determined that minimum noticing requirements had not been met. Over the last several months, negotiations have occurred between the applicant and the neighbor in hopes that issues could be resolved without rehearing the item. At this point, issues remain and appear irreconcilable. Consequently, the Commission is now being asked to hear a new Major Modification request (P08-00564-MOD) in concert with rescinding the prior approval.

The new Major Modification request includes changes from the Major Modification considered last March. Most notably, the size of the proposed building has been increased from 30,000 sq. ft. to 34,437 sq. ft., and outdoor covered work areas have been increased from 1,260 sq. ft. to approximately 18,500 square feet.. The prior proposal had the building setback approximately 490 ft. from the Lamoreaux property line, and the revised building will be setback approximately 400 ft. from the Lamoreaux property line.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Negative Declaration Prepared. 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. A draft negative declaration/initial study has been prepared and circulated for public comments, and is attached to this staff report. The public comment period is Thursday November 13, 2008 through Tuesday December 2, 2008.

BACKGROUND AND DISCUSSION

Part A - New Major Modification Request:

The new Major Modification request consists of the following components:

- Increase wine production from 650,000 gallons per year to 900,000 gallons per year
- Construct new 34,437 sq. ft. winery production building (34 ft. in height)

- Construct approximately 18,500 sq. ft. covered outdoor work area surrounding the new production building
- Construct recessed loading dock on the east side of the new building
- Construct covered outdoor work area on the east side of the existing barrel storage building
- Add new mechanical pad on west side of the existing barrel storage building
- Remove condition of approval regarding alternating proprietor/custom crush clients

Project plans are attached to this report and include a narrative of the proposal prepared by the applicant's representative. Staff report packet materials from the March 5, 2008 hearing have also be included for reference.

Issues: The following is Staff's understanding of neighbor issues on the project.

1) Building Design and Placement - The new building will be located north and west of the existing winery structures and immediately north of an existing winery waste treatment pond. Staff believes neighbors object to the design because they feel the building is too large and too close to their properties, and they feel it would negatively affect their property values and quality of life. Staff supports approval of the building in the proposed location because: a) the building is setback 400 ft. the nearest neighbor's property, exceeding minimum winery setbacks by 380 feet; b) the applicant will be planting trees on the north side of the building to soften neighbors views of the applicant's building; c) outdoor winery operations are located substantial distances from noise sensitive uses (residences range from approximately 500 ft. to 1,750 ft. away); d) staff believes that wineries are an integral component of Napa Valley's agriculturally-based economy, and as such, wineries support property values and quality of life.

During negotiations with neighbors, several alternative building designs and placements were discussed, including relocation of the building to the south end of the wastewater pond, moving the operations to the Airport Industrial Area, and either doing a cut and cover cave or partially lowering the building to sit below grade. Mr. Lamoreaux expressed a willingness to help with some of the costs, but the applicant expressed that none of these design alternatives could feasibly be incorporated into the plan. The applicant noted that he could construct a berm or landscape hedge on his northern property line screening neighbors' views of the winery, but neighbors did not support a screen obstructing views across the property.

2) Building Color - The existing winery production building is painted a light shade of gray, which has been characterized by the neighbors as white. It appears that the neighbors would like the buildings painted with a more natural green or brown hue. Staff supports painting the new building with more natural colors, and supports the existing building being repainted. Staff does not believe the existing building is out of compliance with use permit #99506-UP, which required final building colors to be submitted to the department for review and approval, but did not require the building to be a particular color. Given that the Department authorized the building permit and granted a final occupancy with the building painted in its current light gray color, staff concludes that the permittee complied in good faith with the use permit condition.

3) Winery Operations - Neighbors expressed concern that screening of existing outdoor work areas was not high enough to block views of grape bins and other agricultural and winery storage. The new building will largely screen these existing areas, but includes large amounts of outdoor work area. The applicant has indicated that the new covered outdoor work area will allow for all agricultural and winery storage to occur within roofed areas, which staff feels will improve its degree of visibility from off-site. In addition, the row of screening trees proposed on the north side of the building will provide screening in accordance with County standards.

4) Neighbor Involvement - Neighbors are objecting that the applicant did not contact them either before or during the development review process. Although contacting neighbors is not a requirement of the application process, Staff routinely ask applicants if they have a sense of whether neighbors support the proposal. During processing of the previous modification request, Staff was under the impression that the applicant's representatives had performed some outreach to the neighbors, and consequently made reference to this in the March 2008 staff

report. It now appears that this was not the case. In addition, the reason Mr. Lamoreaux did not participate in the previous hearing was that he was not provided the required notice of the hearing as discussed in the section below.

Part B - Rescission of Prior Modification:

On March 5, 2008, the Planning Commission approved a major modification to the Laird Family Estates Winery Use Permit No. P07-00587-MOD-MAJ and the related Negative Declaration. Subsequent to the Commission's approval, the County learned that a neighbor (Phillip Lamoreaux) located within 300 feet of the Laird Winery had not been given notice of the Planning Commission's public hearing on the use permit as required by County Code Sections 18.124.040 (B) and 18.136.040 (B)(4). These sections require that a preliminary title report containing a list of the names and addresses of the owners of real property located within 300 hundred feet of the property of the proposed use permit be given notice of the Planning Commission's public hearing held for consideration and approval of the use permit.

The title report that was provided by the applicant to the County listed "no mailing address" for Phillip Lamoreaux because his name is registered on a "no junk mail" list. Therefore he was not provided public notice of the Planning Commission's hearing on the Laird Winery use permit. In lieu of filing litigation, the County and Mr. Lamoreaux entered into a tolling agreement to give the parties an opportunity to see if the matter could be resolved informally without having to rescind the Commission's approval. The County met with the Lairds, Mr. Lamoreaux and their respective counsels however those discussions reached an impasse. Because the approval was not granted in the manner required by law, it is void and the approval must be rescinded. The County and the applicant agreed that the Commission's prior approval of Use Permit No. P07-00587-MOD-MAJ would be rescinded after the Commission makes a final decision on the current use permit modification (P08-00564-MOD). If the Commission decides to approve the pending use permit modification (P08-00546-MOD) today, it would also adopt Resolution No. 08-04. If the Commission decides not to approve P08-00546-MOD, adoption of Resolution No. 08-04 would be scheduled for a future meeting.

Oak Knoll Neighbors Revocation Request:

On November 6, 2008, the County received a November 5, 2008 letter from the law firm Morgan, Miller, Blair on behalf of several neighbors of the proposed project referring to themselves as the "Oak Knoll Neighbors." The letter which is included as part of the Commission's packet requests that the Planning Commission schedule a public hearing to consider revocation of Major Modification (P07-00587-MOD) approved last March, and examine Use Permit #99506-UP to determine compliance with building color requirements.

Revocation proceedings can only be initiated by the Planning Commission, if it deems appropriate, or upon request of the Board of Supervisors. Staff does not support the Oak Knoll Neighbors request and recommends that the Planning Commission proceed with hearing the new Major Modification and simply adopt a resolution rescinding the previous approval. If the Commission desires to consider revocation, such action would need to be scheduled for a future meeting so that proper notice may be given.

SUPPORTING DOCUMENTS

- A . Exhibit A - Findings
- B . Exhibit B - Conditions of Approval
- C . Resolution Rescinding Laird Use Permit and Related Negative Declaration
- D . Fire Department Conditions of Approval

- E . Building Division Comments
- F . Environmental Management Conditions of Approval
- G . Initial Study / Draft Negative Declaration
- H . Application Package
- I . Supplemental application information
- J . Use Permit Modification 99506 Conditions of Approval
- K . Morgan Miller Blair Revocation Request Letter
- L . Neighbor Comment Letter
- M . TOVA Applied Science and Technology Comment Letter
- N . Application Plans
- O . Site Map and Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell