



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/4/2013

Agenda Placement: 9A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: Charlene Gallina for Pete Parkinson - Interim Director
Planning, Building and Environmental Services
REPORT BY: Linda St. Claire, PLANNER III - 707.299.1348
SUBJECT: Theorem Winery Modification

RECOMMENDATION

THEOREM WINERY - USE PERMIT MODIFICATION No. P13-00019-MOD

CEQA Status: Consideration and possible adoption of a Subsequent Mitigated Negative Declaration Prepared. According to the proposed subsequent mitigated negative declaration, if mitigation measures are not included, the proposed project would have potentially significant environmental impacts in the following areas: Biological Resources. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5.

Request: Modification to Use Permit P10-00400 to: 1) construct new winery structures to include: a 7,249 square foot fermentation and barrel storage building, a 2,670 square foot tasting room, a 1,438 square foot storage and administrative building, and a 713 square foot covered crush pad, for an increase from the approved 11,855 square feet to a total of 23,925 square feet; 2) rehabilitate the historic poultry barn for winery use and stabilize the existing historic barn, both in accordance with the Secretary of the Interior's (SOI) Standards for historic structures; 3) convert approved tasting room from winery use and utilize it as a residential home study; 4) increase hours of operation from 10:00am-4:00pm to 7:00am-7:00pm seven days per week and hours of visitation from 10:00am-4:00pm to 10:00am-6:00pm seven days per week; and, 5) allow on-site consumption consistent with AB2004 to occur in landscaped winery gardens. The 41.45 acre project site is located on the south side of Petrified Forest Road, approximately 1.6 miles west of Franz Valley Rd and the City of Calistoga within the AW (Agricultural Watershed) Zoning District, Assessor Parcel Number: 020-430-007, 255 Petrified Forest Rd, Calistoga.

Staff Recommendation: Adopt the subsequent mitigated negative declaration and approve the requested use permit as conditioned.

Staff Contact: Linda St. Claire, 299.1348 or linda.stclaire@countyofnapa.org

Applicant Contact: David Gilbreth, (707)0337-6412 or dgilbreth@gmail.com

EXECUTIVE SUMMARY**Proposed Actions:**

That the Planning Commission:

1. Adopt the Subsequent Negative Declaration for the Theorem Winery Use Permit Modification, based on Findings 1-6 of Exhibit A; and
2. Approve Use Permit (P13-00019-MOD) based on Findings 7-11 of Exhibit A and subject to the recommended Conditions of Approval (Exhibit B).

Discussion:

This project consists of a modification to a Use Permit, originally approved in 2010. This modification includes restoration and rehabilitation of historic structures, construction of additional winery buildings, a change to the hours of operation and visitation, and the addition of on-site consumption of wine at the outdoor winery garden areas in accordance with AB2004. No changes to the approved production, by appointment tours and tastings, marketing plan, or employee numbers have been proposed. Staff has determined the request, and previous continued mitigation measures, has no adverse environmental impacts and is consistent with all applicable Zoning standards. As such, staff recommends approval of the request as conditioned.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Subsequent Mitigated Negative Declaration Prepared. According to the proposed subsequent mitigated negative declaration, if mitigation measures are not included, the proposed project would have potentially significant environmental impacts in the following areas: Biological Resources. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5.

BACKGROUND AND DISCUSSION

Owner/Applicant: Theorem Winery, Beshert Ventures LLC, Jason and Kisha Itkin

Representative: David Gilbreth, 1152 Hardman Ave., Napa, CA., (707) 337-6412

Zoning District: AW (Agricultural Watershed)

General Plan Designation: AWOS (Agriculture, Watershed, and Open Space)

Original Application Filed: January 24, 2013

Application Deemed Complete: October 28, 2013

Parcel Size: 41.45 acres

Winery Size (Approved) : 11,855 square feet

Winery Size (Current): 11,855 square feet

Winery Size (Proposed) : 23,925 square feet

Production Capacity (Approved) : 20,000 gallons per year.

Production Capacity (Proposed): No proposed changes.

Accessory/Production Ratio (Approved and Existing): 0.05%, meets standards

Accessory/Production Ratio (Proposed): 29%, meets standards

Winery Coverage (Approved and Existing): 1.57%, meets standards

Winery Coverage (Proposed): 2.9%, meets standards

Number of Employees (Approved) : 4 full-time and 2 part-time. No proposed changes.

Number of Employees (Proposed): No proposed changes.

Hours of Visitation Current : 10:00 AM - 4:00 PM, 7 days per week.

Hours of Visitation Proposed : 10:00 AM - 6:00 PM, 7 days per week.

Hours of Operation Current : 10:00 AM - 4:00 PM, 7 days per week.

Hours of Operation Proposed : 7:00 AM - 7:00 PM, 7 days per week.

Tours & Tastings (Approved and Existing): By appointment only for 15 visitors per day with a maximum of 105 per week.

Tours & Tastings (Proposed): No proposed changes.

Marketing (Approved) : Three events per year with 40 visitors and one additional event per year for up to 100 persons.

Marketing (Proposed): No proposed changes.

Parking Size (Approved): 15 spaces.

Parking Size (Proposed): No proposed changes.

Adjacent General Plan Designation/Zoning District/Land Use:

Northerly - Agricultural Watershed (AW), and General Plan designation of Agriculture, Watershed, and Open Space (AWOS) - Vineyard and rural residence (Two parcels: 51.31 acres, 6.13 acres)

Southerly - Agricultural Watershed (AW), and General Plan designation of Agriculture, Watershed, and Open Space (AWOS)- Winery, (Fulton Family Vineyards) vineyard and rural residence (40 acres)

Easterly - Agricultural Watershed (AW), and General Plan designation of Agriculture, Watershed, and Open Space (AWOS) - Vacant (22.67 acres)

Westerly - Agricultural Watershed (AW), and General Plan designation of Agriculture, Watershed, and Open Space (AWOS) - Rural residence (17.51 acres and 1.8 acres)

Nearby Wineries (within about two miles of project site):

Fulton Family Vineyards - 263 Petrified Forest Road, 11,700 square feet, 20,000 gal/yr, tours and tastings by appointment (20/wk), a marketing plan with ten events/yr.

Envy Wines - 1170 Tubbs Lane, 11,137 square feet, 50,000 gal/yr, tours and tasting by appointment (60/wk), with a marketing plan with 361 events/yr;

Villa Andriana Summers Winery - 1171 Tubbs Lane, 8,250 square feet, 50,000 gal/yr, tours and tasting by appointment (70/wk); no marketing;

Coquerel Family Winery - 3180 Highway 128, 12,741 square feet, 75,000 gal/yr, tours and tasting by appointment only (175/wk), a marketing plan with 67 events per year.

Parcel History and Evolution of this Application:

The existing structures were constructed starting in the late 1880s through the 1920s. The property was originally known as La Perlita del Monte, and was a poultry ranch built and owned by the Dr. R. Beverly Cole family. The Grasier Family purchased the ranch in the 1950s.

On December 31, 1984 the Napa County Planning Department issued a Small Winery Exemption Certificate.

In both 1985 and 1986 the owner applied for a Bed and Breakfast use permit. Each application was denied by the Planning Commission, and both were subsequently appealed to the Board of Supervisors but the Board declined to hear the requests.

On August 2, 2006 the Napa County Planning Commission approved a Use Permit Modification (P06-00132-UP) to allow for tours and tastings, marketing, sales of wine, improvements to the road and replacement of an existing winery sign. This application was filed partially in response to ongoing code compliance issues. In accordance with Napa County Code Section 18.124.080, Automatic expiration of use permits, the owner did not diligently pursue activation of the entitlement, nor were they able to provide evidence that use permit P06-00132-UP was used, and therefore, the permit expired August 2, 2008.

In 2010 the winery went into receivership. Redwood Mortgage requested a use permit to resolve outstanding code issues and to resurrect the unused entitlement from 2006. A Use Permit was approved by the Planning Commission in 2010 (P10-00400).

In 2012 the new owners purchased the property and submitted a use permit modification application in early 2013. The original application proposal included demolition of many of the structures onsite, including the poultry barn and the larger barn. The applicant hired a historic consultant and later returned with changes to the modification to include rehabilitation of the poultry barn and stabilization of the large barn, both in accordance with the Secretary of the Interior's Standards for Historic Preservation. The applicants provided updated information from the consultant which indicated the garage and the addition to the tasting room lacked sufficient integrity to be deemed historic and those structures have been demolished.

Code Compliance History:

The owner applied for a building permit in early 1989 and this led to an inspection of the winery. The inspection found tours and tastings and marketing occurring onsite. A letter was sent to the owner, dated July 1990, detailing these discoveries and directing the owner to cease all such operations.

A January 5, 2005 letter from Napa County Code Enforcement directed the owner to cease continuing tours and tastings, marketing and bed and breakfast activities.

Discussion Points:

Wineries with Similar Traits - There are one hundred wineries in the Napa County Winery Database that are approved to produce 20,000 gallons per year. Below is a short list of five producing wineries from the database that compare in production, and somewhat in visitation, as Theorem Winery. There are four wineries that have building square footage over 20,000. Theorem's square footage includes the restoration and rehabilitation of approximately 11,855 of existing structures. Twenty-one of the one hundred 20,000 gpy wineries have zero visitation and thirteen have over 100 visitors per week. The remaining sixty-six wineries visitation ranges from one to ninety visitors per week. Forty-two of the 100 wineries have marketing plans and the range is also widespread. Only six of the 100 wineries are pre-WDO public wineries.

Comparison Wineries

Winery	Address	Building Square Feet	Approved Production	Tours & Tasting per Week	Marketing Plan
Arroyo Winery	2361 Greenwood	6,074	20,000 gpy	90	0
Merus Winery	424 Crystal Springs	11,527	20,000 gpy	175	9
Venge Winery	4708 Silverado Trl	15,400	20,000 gpy	140	10
Milat Winery	1091 S St Helena Hwy	4,900	20,000 gpy	140	0
Signorella Winery	4246 Silverado Trl	8,000	20,000 gpy	120	12
Theorem Winery	255 Petrified Forest Rd	23,925	20,000 gpy	105	3

Historic Resources - The winery site contains two historic residences, one original (approved as a tasting room) and one used as a residence, a large historic barn and a historic poultry barn. The 2006 use permit included a historical evaluation of the site, by Roland-Nawi Associates dated June 27, 2005, and found the site to be eligible as a historically significant district due to contribution to local history and association with a person of significance. None of the structures, individually, or as a potential district, are listed on a local, State, or Federal historic register. The historian found that although some of the buildings had been adapted to new uses, this adaptation had been undertaken in a manner that has preserved the original appearance of the buildings. A study from Juliana Inman, dated March 23, 2011, found the site continued to hold historic significance for the two contributing factors listed above, and recommended standard measures to ensure continued compliance with The Secretary of the Interior's Standards.

A more current evaluation by Julianna Inman dated August 19, 2013, indicates that the contributing period of significance for the site as 1889 to the 1940s. Two of the structures onsite were, in fact, not constructed at the time of the contributing factors and their architectural features have been altered in such a way that their potential for significance has been compromised and/or lost. Of the structures included in the original evaluation which she called out as no longer historically significant, specifically the garage and the addition to the original residence (a hatchery), materials from the 1940s through 2000s were used which were not integral to the contribution or association to the site. The study also indicates that alterations have been made to the original residence addition (the hatchery) since the 2005 evaluation, thereby destroying any integrity the addition might have contributed to the site. Removal of this addition to the original residence was approved as part of a demolition permit issued on September 11, 2013. The applicants have proposed to restore the original residence and change its use from the currently approved tasting room back to residential use. A second dwelling unit (which also had been severely altered, and was a non-contributing structure, was included in the demo permit.

The existing residence is not part of the winery project, but because it is potentially contributing to the historic

significance of the site, it is being restored in accordance with the Secretary of Interior's Standards. The applicants have also proposed to restore the existing large barn and rehabilitate the poultry barn, both in accordance with the Secretary of Interior's Standards thus reducing the environmental impact to a less than significant level and maintaining the site as contributory to local history and association with a person of significance.

Proposed Building Design -The applicants have indicated that the proposed new winery structures will be constructed in a manner in keeping with the agricultural building traditions of the area. Board and Batten siding and metal roofing materials will be used on the production and accessory buildings in an effort to blend well with the existing historic structures. The existing tasting room will be converted back to residential use (it was the first residence on the parcel) and used as a private study. It will not be part of the winery operations and has been conditioned as such.

Greenhouse Gas Reduction Strategies - The Bay Area Air Quality Management District (BAAQMD) released California Environmental Quality Act (CEQA) Project Screening Criteria and Significance of Thresholds [1,100 metric tons per year (MT) of Carbon Dioxide and carbon dioxide equivalent (CO₂e)] related to greenhouse gas emissions (GHG) for new development suggests that similar projects such as a quality restaurant and light industrial uses with less than 9,000 sq. ft. and 121,000 square feet of floor area, respectively, would not generate GHG in excess of the BAAQMD criterion. By comparison a high quality restaurant is considered comparable to a winery tasting room for purposes of evaluating air pollutant emissions, but grossly overstates emissions associated with other portions of a winery, such as office, barrel storage and production, which generate fewer vehicle trips. Therefore, a general light industry comparison has also been used for other such uses. The applicant has proposed new construction at an approved winery. They have proposed a number of measures to held reduce greenhouse gasses to include; landscaping with native plants and habitat restoration, rainwater harvesting, using energy efficient appliances, high efficiency irrigation, recycling and composting waste, using certified sustainable harvested wood, restoring historic structures, and bicycle access/parking. The proposal would not generate greenhouse gas in excess of the above criterion.

Grape Sourcing - The applicant has indicated that the existing approximately eight acres of vineyard on-site will be used for start up production and they have started planning for an additional 15 acres of vineyard development on-site. The applicants also own the parcel to the immediate west and there is a potential for vineyard development at this site as well. If we use the assumption that one acre of vineyard will supply 350 gallons of wine, the eight acres on-site will supply approximately 2,800 gallons and the additional 15 acres will produce an additional 5,250 gallons for a total of 5,600 gallons. If the applicant intends to produce the approved 20,000 gallons per year they will need to acquire and/or develop more vineyards to meet the seventy-five percent rule. The applicant has expressed their desire to use only Napa grapes for their wine production.

Facility Upgrades - The proposed project includes construction of new winery buildings, and restoration and rehabilitation of existing historic structures. Previous approval for the driveway upgrades include limited grading to allow for a minimum 20 foot width required for wineries and addition surface upgrades in accordance with Napa County Engineering Services Division's conditions. The project engineer was able to demonstrate the upgrades necessary to meet the winery width without the necessity of a road modification.

Consistency with Standards:

Zoning - A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.20.030) are permitted in the AW (Agricultural Watershed) District with an approved use permit. Based upon discussion provided above, staff is recommending approval of the use permit modification request. The project as conditioned complies with the Napa County Winery Definition Ordinance and all other requirements of the Zoning Code.

Fire Department Requirements

The Fire Department recommends approval. See their February 5, 2013 memo.

Engineering Division Requirements

The Engineering Division recommends approval with conditions. See their October 23, 2013 memo.

Environmental Health Division Requirements

The Environmental Health Division recommends approval with conditions. See their May 13, 2013 memo.

SUPPORTING DOCUMENTS

- A . Exhibit A Findings
- B . Exhibit B Conditions of Approval
- C . Department/Division Comments
- D . Environmental Documents
- E . Use Permit History
- F . Application
- G . Cultural Resources Reports
- H . Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell