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Agenda Date: 2/5/2020

Agenda Placement: 7A

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: Donald Barrella, Planner III - 707-299-1338

SUBJECT: Anthem Winery, P14-00320-MOD, P14-00321-VAR, and P14-00322-ECPA

RECOMMENDATION

JULIE ARBUCKLE / ANTHEM WINERY / USE PERMIT MODIFICATION # P14-00320-MOD, VARIANCE #P14-00321-VAR, VIEWSHED, EXCEPTION TO THE NAPA COUNTY ROAD AND STREET STANDARDS, AND AGRICULTURAL EROSION CONTROL PLAN #P14-00322-ECPA

CEQA Status: Consideration and possible adoption of a Mitigated Negative Declaration. According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures (or MM's). MM's are proposed for the following area(s) Biological Resources, Geology and Soils, and Noise. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Request: Approval of a Use Permit Major Modification for an existing winery permit to allow the following: (a) an increase in annual permitted production capacity from 30,000 to 50,000 gallons; (b) the construction of a new 10,388 sq. ft. Winery Facility that includes a 1,508 sq. ft. Tasting Room, a 1,724 sq. ft. Office, Catering and Conference Room, and approximately 5,485 sq. ft. of outdoor marketing areas; (c) the development of 29,053 sq. ft. of caves including the on-site placement and storage of spoils; (d) an increase in on-site parking from 2 spaces to 22 spaces; (e) the development of winery support facilities (water tanks, septic system, and rainwater harvesting and winery process water recycling and reuse systems); (f) an increase in the number of employees from 1 part-time employee to 7 full-time and 5 part-time employees; (g) a change in the in the winery's hours of operation from 9:00 AM to 5:00 PM Monday through Sunday to 8:00 AM to 8:00 PM Monday through Sunday (production hours) and 10:00 AM to 6:00 PM Monday through Sunday (visitation hours), and marketing events 11:00 AM to ~~12:00 AM~~ 10:00 PM Monday through Sunday; (h) a marketing plan that includes daily tours and tastings by appointment with a maximum of ~~256~~ 224 visitors per week and ~~36~~ 31 annual marketing events [~~24~~ 22 30-person events, ~~2~~ 50-person events, ~~4~~ 6 100-person events, and 1 200-person event ~~1 300-person event~~] resulting in a maximum of ~~45,532~~ 13,208 annual visitors, and on-site consumption of wine produced on-site; and (i) the reconfiguration of an existing access driveway including the construction of a clear span bridge and approximately 650 feet of new driveway to provide adequate access to the winery. The project also includes an Exception to the Napa County Road and Street

Standards for reduced commercial driveway widths and for road grades exceeding 18%, a Variance to allow construction of the proposed winery a minimum of 65 feet from the applicant's own private access drive where a minimum 300-foot setback is required, a Viewshed request; and, an Agricultural Erosion Control Plan for the installation and maintenance of approximately 1.19 acres of new vineyard. The project would be completed in three phases: Phase I includes construction of the driveway, parking, septic system, production structures (Fermentation Buildings and Bottling Room), outdoor tasting area, and the cave water storage tanks; Phase II includes construction of the remainder of the caves; and Phase III includes construction of the tasting room and the office/catering/conference room building. The project is located on an approximate 44.8 acre holding within the Agricultural Watershed (AW) zoning district that consists of two parcels: i) the "Winery Parcel" (3454 Redwood Road, APN 035-470-046) an approximate 27.23 acre parcel located on the east side of Redwood Road approximately 1.5 miles north of its intersection with Browns Valley Road; and ii) the "Access Parcel" (3123 Dry Creek Road, APN 035-460-038) an approximate 17.54 acre parcel located on the west side of Dry Creek Road approximately 1.7 miles north of its intersection with Redwood Road (or approximately 0.4 miles north of its intersection with Linda Vista Avenue). Access to the winery is proposed from Dry Creek Road.

Staff Recommendation: Adopt the Mitigated Negative Declaration and approve the Exception to the Napa County Roads & Street Standards, the Variance, the Viewshed, the Use Permit modification, and the Agricultural Erosion Control Plan, as conditioned.

Staff Contact: Donald Barrella, Planner III, (707) 299-1338 or Donald.barrella@countyofnapa.org

Applicant: Julie & Justin Arbuckle, Trustees of the Arbuckle Family Trust dated May 5, 2016; (707) 227-0722 or jarbuckle@sbcglobal.net

Applicant Representative: Rob Anglin, Holman Teague Roche Anglin LLP.; (707) 927-4280 or anglin@htrlaw.com

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission open the public hearing, take testimony and:

1. Adopt of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP) based on recommended Findings 1-7 in Attachment A (State Clearinghouse #2018-082072);
2. Approve the Exception to the Napa County Road & Street Standards, based on Findings 8-9 of Attachment A and subject to the recommended conditions of approval in Attachment B;
3. Approve the Variance request P14-00321-VAR, based on recommended Findings 10-14 of Attachment A and subject to the recommended conditions of approval in Attachment B;
4. Approve the Viewshed request based on recommended Findings 15-21 of Attachment A and subject to the recommended conditions of approval in Attachment B;
5. Approve Use Permit request P14-00320-MOD based on recommended Findings 22-26 of Attachment A, and subject to the recommended conditions of approval in Attachment B; and
6. Approve Agricultural Erosion Control Plan P14-00322-ECPA, based on the recommended Findings and conditions of approval in Attachment C.

Discussion:

On October 3, 2018, the Planning Commission held a public hearing to consider a use permit modification and

related requests as described in detail within the October 3, 2018 Staff Report. Several comment letters and emails were received prior to this hearing which focused on the following issues: i) groundwater availability and use, and the adequacy of the Project's Water Availability Analysis (WAA) and the assumptions utilized therein; ii) access to the site including the number and extent of requested exceptions to the County Road and Street Standards (RSS) and if adequate emergency ingress and egress would be provided; and iii) general land use concerns resulting from increased traffic, noise, and safety on public roadways and neighboring properties due to increased visitation and marketing, and increase production capacity.

At the conclusion of the October 3rd hearing the Commission continued the item to the December 5, 2018 hearing, and requested clarification on: the Project's WAA conclusions; the adequacy of the proposed access and exceptions to the County Road and Street Standards; the visitation and marketing numbers in relation to marketing and visitation numbers for 30,000 gallon wineries; that additional information be provided on the viewshed request; the overall erosion and hydrology/runoff associated with the Agricultural Erosion Control Plan; and any County responsibility related to the private tree easement with the adjacent property to the north (Lands of Damery: APN 035-460-034; 3185 Dry Creek Road).

No additional information or responses was available or presented at the December 5, 2018 hearing, primarily because the applicant was considering modifications to the project as proposed at the October 3, 2018 hearing. Therefore, staff requested and the Commission granted a further continuance to the January 16, 2019 Commission hearing to allow the applicant sufficient time to consider project revisions and prepare and provide additional information, as well as allow staff additional time to review any project modifications. No additional testimony was taken at this hearing.

At the time of finalization and publication of the January 16, 2019 hearing report, no additional information or project modifications had been provided to present at the hearing. Therefore, the application was dropped from the Commission Agenda so that the project could be re-noticed to a future date. However, the applicant provided a re-submittal package on January 11, 2019, that included modifications to the project as originally proposed. In summary the revisions included the following: i) a reduction in visitation to a maximum of 224 visitors per week from 256 visitors per week, and a reduction in marketing events from 36 annual events to 31 annual events, resulting in a reduction of 2,324 annual visitors from 15,532 visitors to 13,208 visitors; ii) a 1,350 sq. ft. reduction in landscaping from 36,070 sq. ft. to 34,720 sq. ft.; and ii) ending all winery events by 10:00 PM rather than 12:00 AM.

The October 3, 2018 agenda item, including correspondence and the applicant's and public's presentations is available at: (<http://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5364>). The December 5, 2018 agenda item, including correspondence received up to October 5th is available at: (<http://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5368>). The January 16, 2019 agenda item is available at: (<http://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5719>) Correspondence received after the December 5, 2018 hearing are attached to this report (Attachment J). Staff has also included alternatives to the proposed project below for the Commission's consideration.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

ENVIRONMENTAL IMPACT

Consideration and possible adoption of a Mitigated Negative Declaration (MND) dated August 30, 2018. According to the proposed MND, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures. Mitigation measures are proposed for the areas of biological resources, geology and soils, and noise. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

While several comments letters/correspondence were received in response to public hearing notification, only three comment letters appear to be specific to the MND: a September 19, 2018 letter from Bernadette Brooks, a October 1, 2018 letter from CalTrans, and a October 2, 2018 letter from the CA Department of Fish and Wildlife (CDFW).

The CDFW comment questions if there are potentially significant impacts to oak woodland and appropriate mitigation. As indicated in the MND, while the project would remove approximately 1.1 acres of oak woodland, it would retain approximately 25.4 acres of the site's 26.5 acres of oak woodlands resulting in less than significant impacts to oak woodlands and consistency with Policy CON-24, thereby not requiring mitigation. The winery use permit civil plans for the project that are included/referenced in the MND included a breakdown of tree removal, identifying that approximately 52 oak trees and 8 bay trees would be removed as part of winery development, and approximately 30 oak trees and 38 bay trees would be removed as part of access development. The CDFW letter also identifies potential permitting associated with the take of special-status species, and the need for a Lake and Streambed Alteration Agreement (LSAA or 1601 permit) for the diversion/alteration of watercourses or impacting riparian vegetation. As indicated in the MND, potential impacts to special-status species would be reduced to a less than significant level with implementation of Mitigation Measures BIO-1 through BIO-3, and there is no riparian vegetation located within the project area. Additionally, project conditions of approval (if the project is approved) will include the provision requiring any/all Local, State and Federal permits necessary to implement and operate this project shall be obtained.

As detailed in the MND, the project site is over two miles from the closest state maintained roadways, and is not anticipated to change or effect the existing or future Level of Service (LOS) on roadways within the area or contribute a significant number of trips to the overall roadway system. For these reasons there is no nexus between the project and state roadways requiring the implementation of fair share contributions or a transportation demand management program. However, consistent with current County practice proposed project conditions of approval will include the provision requiring a Traffic Demand Management Plan be developed for the project.

Specific to noise impacts, the Environmental Noise Assessment (Illingworth & Rodkin, Inc., July 2017) shows that marketing events being held outside, except for the 300-person marketing event, are not expected to exceed prescribed Daytime or Nighttime standards provided they end or are moved inside by 10:00 PM. The proposed modifications to the marketing plan, which would eliminate the 300-person event and end all events by 10:00 PM would minimize potentially significant impacts to a less than significant level; therefore, Mitigation Measure NOI-1 would no longer be necessary. Proposed project modifications would not affect the analysis or mitigation associated with geology and soils; therefore, Mitigation Measure GEO-1 will still need to be implemented. Information associated with the Brooks' comment letter is detailed below under Groundwater and within Attachments E and F.

Based on review of the comments received and proposed modifications to the project, no new potentially significant impacts beyond those identified in the MND would occur, no new or additional mitigation measures, or project revisions, must be added to reduce impacts to a less than significant level, and none of the grounds for recirculation of the MND as specified in State CEQA Guidelines Section 15073.5 have been identified.

BACKGROUND AND DISCUSSION

This application was dropped from the Commission Agenda on January 16, 2019, to be re-noticed to a future date so that groundwater, access, and land use issues primarily focused around visitation and production capacity in context of the site's location and constraints, as well as project modifications proposed by the applicant could be presented and assessed. Revisions to the project as proposed and presented on October 3, 2018 (as detailed in the Recommendation Section of this report) are identified by ~~striketrough~~ and underline. Revisions to the proposed findings and conditions of approval as presented on October 3, 2018, are also identified in this format.

Material and information submitted by the applicant or prepared by County Staff, including consultants contracted by the County, on or after January 11, 2019 that are include as attachments to this report are listed below.

1. Winery Comparison Analysis and Summary of Changes (Attachment D)
2. Tier I Water Use Calculations dated January 2019 (Attachment E)
2. Luhdorff and Scalmanini Consulting Engineers Memo dated January 27, 2020 (Attachment F)
3. Engineering Division Memo dated January 21, 2020 (Attachment G)
5. Viewshed Exhibit UP 4.1 dated January 2019 (Attachment H)
4. Applicant 2019 Submittal and Supplemental Documents (Attachment I)

Please note that the *Applicant 2019 Submittal and Supplemental Documents* Attachment includes the following documents: Submittal Cover Letter, Applicant January 2019; Response to Comments Letter, RSA+ January 2019; Proposed Reductions Chart, Applicant January 2019; Winery Comparison Chart 30,000-50,000 Gallons, Applicant, January 2019; Access Retaining Wall Logistics Plan/Letter, Ledcor Group November 2018; Tree Easement Document; Water System Feasibility Study, RSA+ March 2019; Winery Wastewater Feasibility Study, RSA+ January 2019; Hydrology Report, RSA+ January 2019; Agricultural Erosions Control Plan RSA+ January 2019; and Landscape Plan, Claud Schmidt January 2019.

Correspondence received after the November 5, 2018 hearing are attached to this report (Attachment J).

Project Revisions and Modifications:

The Winery Comparison Analysis and Summary of Changes (Attachment D) presents a comparison of the modifications made to the original October 3, 2018 project that are presented in this report. In summary, the modifications to the proposed project include the following: reduction in marketing and visitation from 36 annual events to 31 annual events, and an overall reduction in visitation by 2,324 visitors annually from 15,532 visitors to 13,208 visitors; a 1,350 square foot (sq. ft.) reduction in landscaping from 36,070 sq. ft to 34,720 sq. ft.; and ending all winery events at 10:00 PM rather than 12:00 AM. No other operational, structural or site plan changes to the project as proposed and presented on October 3, 2018 (other than the reduction in landscaping area) have been made.

Specific to visitation, maximum weekly visitation has been reduced to 224 visitors per week, from 256 visitors per week. Specific to the 31 marketing events, the following has been proposed: 22 events per year with a maximum of 30 guests (from 24 events); two events per year with a maximum of 50 guests (from zero events); six events per year with a maximum of 100 guests (from 10 events); and, one event per year with a maximum of 200 guests (no change). The previously proposed one event per year with a maximum of 300 guests has been eliminated from the proposed marketing plan.

The primary reason for these modifications is to reduce overall anticipated winery water use due to adjusted water supply and availability calculations taking into account a more plausible rainwater harvesting system capture efficiency of 85% and a process wastewater recycling system efficiency of 90% (Tier 1 Water Use Calculations, RSA+, January 9, 2019), rather than the 100% efficiency rates utilized for these systems in the original water supply and use calculations (RSA+, June 5, 2018).

The modification to end events by 10:00 PM is a result of Board of Supervisors established policy (i.e. customs and practices) that marketing events end by 10:00 PM, which was included in the recommended conditions of approval of the original proposal and are also included in the modified project and reflected in the recommended conditions of approval (Attachment B).

Commission Consideration:

Consistent with staff's October 2018 assessment, there is adequate documentation in the record as of the issuance of this staff report to consider approval of the proposed project. However, given the setting and site constraints as demonstrated by the need for a setback variance and road and street standards exceptions, including the water supply and the extent the site would need to be manipulated to provide adequate access and accommodate an expanded winery of the requested production and visitation level, in conjunction with the multiple phases necessary to develop an operational winery at this site (or otherwise increase the sites entitled winery operations to the requested levels), this site may not be wholly appropriate for a winery facility with the proposed level of operations.

While staff is recommending the project as revised may be approved with incorporation of proposed conditions of approval (Option 1 below), and as noted in the Executive Summary Section, staff is providing the Commission with decision making alternatives/options that include a no project alternative, a reduced production alternative, a reduced visitation and marketing alternative, and a vineyard only alternative (See Decision Making Options 1 through 5 below).

Discussion Points:

Visitation and Marketing - The attached Winery Comparison Analysis and Summary of Changes (Attachment D) compares the Anthem Winery (as modified) with wineries that currently have an annual permitted production capacity of 50,000 gallons. As shown in Attachment D, the average and median annual visitation for similar production capacity wineries is 9,343 and 8,000 (respectively), with average and median weekly visitors being 159 and 105 (respectively) and average and median annual marketing visitors being 1,073 and 832 (respectively). The number of marketing events averages 27 with a median of 15 events. The requested annual visitation (as modified) for tours and tastings and marketing all fall above the average and median visitation for similar production size winery facilities with 13,208 visitors a year. With respect to requested weekly visitors and marketing visitors (as revised), these also fall above the average and median weekly visitors and marketing visitors for similar production capacities with 224 weekly visitors and 1,560 annual marketing visitors. The project as modified would have the second highest visitation rate of wineries within approximately one mile (the Woolls Ranch Winery located approximately 0.5 miles to the northwest has an annual visitation of 22,840 guests), and would have approximately one and a half the average and median visitation rates of wineries with a similar production limit of 50,000 gallons.

As requested by the Commission, marketing and visitation numbers for wineries with a 30,000 gallon production limitation are being provided for comparison purposes. Presently 30,000 gallon wineries have an average annual visitation of approximately 6,904 visitors (annual median visitation 5,841), an average weekly visitation of 119 visitors (median weekly visitation 105), and average 730 marketing visitors (median marketing visitors 550). The number of marketing events averages 33 with a median of 15 events (Source: Napa County, November 20, 2019 Staff Report, Fontanella Family Winery, #P18-00431-UP). Given site access, water availability, and neighborhood context the Commission may wish to consider visitation consistent with the average and median visitation of 50,000 gallon wineries of approximately 9,000 annual visitors and approximately 150 weekly visitors, or visitation consistent with 30,000 gallon wineries of approximately 7,000 annual visitors and approximately 120 weekly visitors: Use Permit #96006 that covers the project site has a 30,000 gallon production limitation.

As previously indicated, the application also requests temporary tasting/marketing within the existing 1,600 square

foot winery cave and associated crush pad while the proposed winery is being constructed. Staff has recommended denial of this request because these existing facilities are not designed or constructed to accommodate public access and use. The scope of the recommended conditions of approval (Attachment B) is crafted to exclude this project component, and require all improvements be made to the winery prior to commencement of visitation and marketing events.

Groundwater - Comments on groundwater and the Project's WAA (Richard C. Slade & Associates 2017 - Attachment J of the October 3, 2018 Staff Report) received in conjunction with the October 3, 2018 hearing, including comments received through public testimony/presentations at that hearing, were directed to the County's groundwater consultant, Luhdorff and Scalmanini Consulting Engineers (LSCE), for review and response. The proposed revisions to the project presented by the applicant, including reduced visitation and landscaping, and utilizing reduced capture efficiencies for the rainwater harvesting system at a 85% capture efficiency and winery process water recycling/reuse system at a 90% capture efficiency in the project's Tier 1 Water Use Calculations (RSA+, Revised January 9, 2019 - Attachment E) were also directed to LSCE to include in their review.

The Revised Tier 1 Water Use Calculations indicate that overall water use for both existing and proposed uses on both the Project/Winery Parcel and the Access Parcel is anticipated to be 6.72 AF/yr, with 1.6 AF/yr of this total being attributed to winery use (Winery water use has been reduced approximately 0.32 AF/yr as compared to the October 3, 2018 project from 1.92 AF/yr to 1.6 AF/yr). Of this total water use the Tier 1 Calculations identify that overall groundwater use would range from 4.71 AF/yr during average rainfall years and 5.4 AF/yr during drought years, and that the proposed rainwater harvesting system is estimated to yield between 0.63 AF/yr to 1.32 AF/yr (based on an 85% efficiency rate and drought and normal rainfall years: respectively), and reclaimed winery process water would provide up to 0.69 AF/yr (based on a 90% efficiency rate).

As previously indicated, the County originally had LSCE conduct an adequacy review of the Project WAA (Attachment K of the October 3, 2018 Staff Report). LSCE's previous review found that the assumptions utilized in the Project WAA calculated groundwater recharge potential during average rainfall years of approximately 11.02 acre-feet per year (AF/yr) and approximately 5.29 AF/yr during dry rainfall years are appropriate and plausible. Their review also identified that the WAA also demonstrated through its aquifer testing at the three Project wells that project groundwater use would be operationally constrained by the effective pumping capacities/rates of the Project wells. LSCE has also confirmed that the aquifers supporting the Anthem Project Wells are not connect to surrounding aquifers, as identified in their original conclusions.

The applicant, in order to design a conservative project in terms of groundwater use, and to take into account the operational constrains of the project wells, is limiting overall groundwater use on the Project/Winery Parcel and the Access Parcel commensurate with anticipated recharged potential during drought conditions (i.e. 5.29 AF/yr) as well as supplement the project's water supply through the installation and use of rainwater harvesting and winery process water recycling/reuse systems. Furthermore, as identified in the proposed conditions of approval, staff is recommending that groundwater use be limited to 4.71 AF/yr which is the anticipated groundwater use during average rainfall years as identified in the Tier 1 Water Use Calculations.

LSCE's subsequent review of the groundwater comments, the revised project, and the revised Tire 1 Water Use Calculations are presented in their January 27, 2020 memo (*Water Availability Analysis Review for the Proposed Anthem Winery, Major Use Permit Modification P14-00320-UP*, Luhdorff & Scalmanini Consulting Engineers, January 27, 2020 - Attachment F). LSCE's review has concluded that the Project WAA has been prepared consistent with County guidance, appropriately takes into account anticipated efficiencies of the rainwater harvest and process water recycling in water supply calculations, and reflects the relatively limited water supply available for the project. Based on this analysis, it is anticipated that projected water supplies will likely be sufficient to meet proposed use in both average and dry year conditions.

Road and Street Standard (RSS) Exception and Access - As previously indicated, the RSS Exception Request

(Attachment G - October 3, 2018 Staff Report) was necessitated by the project proposal and physical and legal limitations/constraints resulting from the 20.09 foot wide 1,700 long flagpole section of the Access Parcel's connection with Dry Creek Road that is proposed to provide access to the expanded winery. This section of the access drive would consist of a 16 to 18 foot wide paved travel way, and a 14 foot wide travel way for the clear span bridge, resulting in exceptions to allow relief from: providing two 10 foot wide traffic lanes with 22 feet of horizontal clearance, the 22 foot wide turnouts, and for road grades exceeding 18% slope (but not exceeding 20%) without the required transition zones of 10% in two driveway segments. The remaining access drive located west of the proposed clear span bridge has been designed to comply applicable standards. In order to support adequate emergency access as a result of, and in combination with, the RSS Exception requests an Emergency Ingress/Egress Plan (RSA+, June 5, 2018, Anthem Winery Driveway Entry Option 2 Plans) was included in the RSS Exception request to provide additional measures to avoid delays in emergency equipment response. Review of that plan by the Napa County's Engineering Division, Public Works Department and Fire Marshal concluded that the Emergency Ingress/Egress Plan in combination with the proposed access improvements would provide sufficient emergency access to and from the project site.

Comments received on and after the October 3, 2018 hearing specific to the proposed access drive improvements, the Emergency Ingress/Egress Plan, and the RSS Exceptions (in particular the REAX Engineering letter and Paul K. Rowe letter both dated October 2, 2018, and the Block and Block LLP October 3 2018 hearing presentation, among others) have been forwarded to the Engineering Division and Fire Marshal for review and response and to reaffirm the County's original determination that the proposed RSS Exception requests satisfies the standards for an exception. As indicated in the Engineering Response Memo dated January 21, 2020 (Attachment G), while the extent of the exception request is unique and unmatched when compared to other exception requests in Napa County given the siting and construction constraints and limitations, the proposed access in conjunction with its associated components (including the Emergency Ingress/Egress Plan) satisfies the standards for an exception, and has been designed to the maximum extent practical to provide the same overall practical affect.

With regard to the proposed clear span bridge and as indicated in the MND, Redwood Creek a blue-line stream generally abuts the western periphery of the Winery and Access Parcels (which is located approximately 0.25 miles west of the proposed bridge), and there are two unnamed blue-line tributaries located approximately 0.25 miles to the northeast and southeast of the project site. Other than Redwood Creek, there are no other identified (i.e. blue-line) streams located within the project area (also see: USGS maps; Napa County GIS Streams layer; and Firstcarbon Solutions, October 13, 2017, Biological Resources Assessment, Anthem Winery and Vineyards, Road Project). Staff has confirmed that the project would not alter a blue-line stream. The MND also indicated that the project would not substantially alter the drainage patterns on-site or off-site in a manner that would cause flooding or a significant increase in erosion or siltation on or off the project site. As conditioned the project would require incorporation of best management practices and would be subject to the Napa County Stormwater Ordinance, which would require the implementation of runoff and sediment and erosion control measures, as applicable, during construction activities and post construction operations. Typically, these include implementation of a Stormwater Pollution Prevention Plan (SWPPP) during construction and implementation of a Stormwater Control Plan for a Regulated Project for operational activities.

As indicated in the Environmental Impact Section of this report, the CDFW provided a comment letter on the MND identifying the need for a Lake and Streambed Alteration Agreement (LSAA or 1601 permit) for construction activities that would divert or alter a watercourse (or drainages including Class II drainages) or that would impact riparian vegetation. As indicated in the MND, the project would not physically alter any watercourses/drainages, and there is no riparian vegetation located within the project area. Additionally, as previously indicated and included in the proposed conditions of approval, there is a provision requiring any/all Local, State and Federal permits necessary to implement and operate this project shall be obtained, if one is eventually needed.

Variance - Please see Variance Analysis contained in the October 3, 2018 staff report wherein staff recommended the Commission could make the required variance findings.

Viewshed - As previously indicated in the October 3, 2018 staff report, Dry Creek Road and Redwood Road are viewshed roads, and that due to project siting, site topography, and existing vegetation associated with Redwood Creek and along Redwood Road the proposed winery structures would not be visible from Redwood Road. The Project's revised Viewshed Analysis also demonstrates approximately 20% of the proposed Winery Facility would be visible from Dry Creek Road and the Napa Valley floor as sited and designed.

The applicant has provided an updated viewshed exhibit that utilized the same simulation points as presented in the October 3, 2018 project viewshed exhibit (Plan Sheet UP 4.1) and that includes a simulation of the project site's access with its intersection with Dry Creek Road, primarily to determine the visibility of proposed retaining walls associated with access drive expansion and improvement. Based on the simulation points there are no noticeable differences between the October 2018 exhibit and the January 2019 exhibit. Additionally, based on subsequent off-site inspections and aerial imagery review and interpretation there are only brief and filtered views of the access drive as viewed from an approximate 300 foot northbound section of Dry Creek Road located approximately 400 feet north of the Winery's access point, or from the driveway of 3185 Dry Creek Road to the driveway of 3171/3177/3167 Dry Creek Road.

While the proposed access improvements will include cut and fill slopes and retaining walls to construct, their limited height (typically no greater than 6 feet) and construction material (wood), in conjunction with the limited off-site views of these walls, they are anticipated to have a limited effect on the landscape. However, the residences abutting the north side of the access drive (3173 Dry Creek Road, Lands of Atlas; and 3163 Dry Creek Road, Lands of Sparby) will have pronounced view of the expanded access and associated retaining walls.

Agricultural Erosion Control Plan (ECPA) - Specific to ECPA hydrology and erosion review and technical adequacy, ECPAs are subject to General Plan Conservation Policies CON-48 and CON-50(c). Policy CON-48 requires post-development sediment erosion conditions (i.e., soil loss) be less than or equal to pre-development conditions, and Policy CON-50c requires peak runoff following development cannot be greater than predevelopment conditions. In short these Policies require no net increase in soil loss, erosion and runoff as a result of land use changes as compared to existing conditions. As disclosed in the Project's Initial Study and supporting documentation the vineyard has been designed to result in a slight decrease in soil loss and no change runoff as compared to existing conditions.

The revised Vineyard ECPA (January 2019) was submitted to make minor adjustments to the rainfall rate modeling variable/value utilized in the soil loss calculations and the post-project curve number modeling value utilized in the hydrologic modeling (TR-55), to recognize more recent rainfall rates and accepted modeling value for no-till cover crops, that were identified as a result of ongoing review of the application by Engineering Division staff. These adjustments did not materially change modeling results, in that the vineyard development is still anticipated to slightly reduce soil loss and there would be no change in runoff rates as compared to existing conditions.

Tree Easement - County staff and County Counsel have reviewed the Tree Easement (Document ID#1995-02895, recorded December 27, 1995, Napa County Records - see Attachment I) that enjoins the Winery/Project Parcel with the adjacent property the north (APN 035-460-034, 3185 Dry Creek Road, Land of Damery). Because the easement is a private agreement that is specific to these private properties it is civil matter; therefore, it is neither under the Commission's purview nor does it obligate the Commission to consider this easement in its deliberations for the requested actions.

Additionally, as disclosed in the project Initial Study and shown in the project plans, no trees are proposed to be removed as part of vineyard development associated with this project.

Compliance - As previously indicated the subject winery was included in the 2016 Winery Audit and no violations or compliance issues were identified, and #98301-ECPA was modified by the Planning Director on March 11, 2009 (#P08-00345-ECPA), to address compliance matters occurring as part of its installation.

On November 19, 2018 and May 2, 2019, site inspections were conducted by Planning Division staff to confirm there were no winery violations occurring, and inspect potential erosion issues. These inspections did not identify any potential winery violations, or identify substantial erosion or runoff due to human-induced alteration of vegetation by the applicant.

On January 24, 2019, a complaint was received regarding the placement/re-placement of a winery sign located on Redwood Road that was associated with the existing winery located on the Project/Winery Parcel. Review by the Code Enforcement Division did not uncover any approvals for the sign in the records of Use Permit #96006 or that an encroachment permit was ever issued for the sign. Therefore, the sign was subsequently removed by the owner.

There are no open or pending code violations on Winery Parcel of the Access Parcel and the County is not aware of any compliance issues on the properties.

Public Comments – Correspondence received after the December 5, 2018 hearing are attached to this report (Attachment J).

Decision Making Options:

As noted in the Executive Summary Section and above, staff is recommending that the project can be approved with conditions of approval as described in Option 1 below. Other decision making options for the Commission's consideration include, but are not limited to, a reduced production alternative, a reduced visitation and marketing alternative, a vineyard only alternative, or denying the project. The Commission may also consider any combination of the below options or develop other options not listed.

Option 1 - Owner/Applicant's Proposal (As Modified)

Disposition - This option would result in approval of the expansion of the existing 30,000 gallon winery to 50,000 gallon per year winery with visitation and marketing, a variance, a viewshed request, an exception request to the Roads and Street Standards, and an Agricultural Erosion Control Plan. Staff recommends approval of this option as the request is consistent with the Zoning Ordinance, applicable General Plan policies, and other County regulations. The requested visitation and marketing program is proportionate in size to a recently approved 50,000 gallon per year production winery with by appointment visitation and marketing activities within the immediate area. An adequate water supply system has been demonstrated to be available to implement and operate the project, the applicant proposes to incorporate GHG reduction measures as part of the project, and there will be no significant unavoidable environmental impacts associated with the project with implementation of identified mitigation measures and conditions of approval. As indicated in the Visitation & Marketing Section above, staff is not recommending approval of temporary marketing event or visitation occur or be conducted during construction of the expanded winery.

Action Required - Follow the proposed action listed in Executive Summary. If proposed conditions of approval are to be amended, specify conditions to be amended at time motion is made. This option has been analyzed for its environmental impacts pursuant to CEQA, which were found to be less than significant with incorporation of project specific mitigation measures and conditions of approval.

Option 2 – Reduced Visitation and Marketing Alternatives

Disposition - This option would result in a decrease in the proposed visitation and marketing program numbers. Based on the averages for similar capacity wineries identified in the Winery Comparison Table (Attachment D), the winery could be limited commensurate with the visitation and marketing averages for a 50,000 gallon wineries,

which would reduce annual visitation by approximately 4,000 visitors (from 13,208 visitors to approximately 9,300 visitors).

Alternatively, if due to the site's characteristics, constraints, or context it is determined that a visitation and marketing program consistent with the site's current 30,000 gallon production capacity would be more appropriate given these factors, the winery could be limited commensurate with the visitation and marketing averages for a 30,000 gallon wineries, which would reduce annual visitation by approximately 5,000 visitors (from 13,208 visitors to approximately 7,000 visitors). Staff also suggests reevaluating the number of requested employees if one of these alternative is considered.

Action Required - Follow the proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to require the reduction of the proposed visitation and marketing program. If major revisions of the conditions of approval are required, staff recommends the item be continued to a future date.

Option 3 - Reduced Production Alternative

Disposition - This option would reduce the annual production to approximately 30,000 gallons that is closer to existing and entitled on-site vineyard production, which is anticipated to be approximately 8,000 gallons annually (10 acres of grapes x 5 tons per acre x 165 gallons of wine per ton of grapes). This alternative would better align production capacity with existing and proposed on-site vineyard (including vineyard currently being developed), and the uncertainty of a reliable long term grape source as a result of contracting with independent grape growers on an ongoing basis to supply necessary fruit to achieve maximum production levels.

Action Required - Follow the proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to require an annual production limit of 30,000 gallons. If major revisions of the conditions of approval are required, staff recommends the item be continued to a future date.

Option 4 - Vineyard Alternative

Disposition - This option would only consider the proposed Agricultural Erosion Control Plan (#P14-00322-ECPA) for the development of approximately 1.19 acres of new vineyard at the project site.

Action Required - Given the Mitigate Negative Declaration prepared for the project includes extensive information and analysis not germane to the small amount of vineyard being considered, should the Commission consider this option staff recommends remanding ECPA Application #P14-00322-ECPA back to the Planning Division for preparation and circulation of a Mitigated Negative Declaration specific to vineyard development for consideration and action by the Planning Director pursuant to NCC Section 18.108.070(B). It is anticipated that this could be accomplished in a fairly short timeframe because all of the necessary information is already available for the preparation of a vineyard only Negative Declaration.

Option 5 - Deny Proposed Project

Disposition - In the event the Commission determines that the project does not, or cannot meet the required findings for the granting of the Napa County Road & Street Standard Exception, the granting of a variance, or the granting of a modified use permit, the Commissioners should identify what aspect or aspects of the project are in conflict with the required findings. State Law requires the Commission to adopt findings, based on the General Plan and County Code, setting forth why the proposed Use Permit and exception request is not being approved.

In addition to the standard findings, consideration should be given to appropriate production levels given available grape resources and sourcing, appropriate levels of visitation and marketing given the location of a winery and characteristics of surrounding wineries, configuration and characteristics of local roadways utilized to access the

site including site access itself to provide appropriate and adequate access, and the need for a variance. In short given the local context of the winery site, and the efforts and requests necessary to accommodate the winery, the Commission may find this site is not appropriate for a winery of the requested production and visitation level.

Action Required - Commission would take tentative motion to deny the project and remand the matter to staff for preparation of required findings to return to the Commission on a specific date.

Additionally, the Commission may continue the item to a future hearing date at its discretion.

SUPPORTING DOCUMENTS

- A . Revised Recommended Findings UP, VAR, RSS Exception, Viewshed
- B . Revised Recommended Conditions UP, VAR, RSS Exception, Viewshed
- C . Revised Recommended ECPA Findings and Conditions
- D . Winery Comparison Analysis and Summary of Changes
- E . Tier 1 Water Use Calculations January 2019
- F . LSCE Water Availability Analysis Review January 2020
- G . Engineering Division Road & Street Standard Exception Memo January 2020
- H . Viewshed Exhibit January 2019
- I . Applicant 2019 Submittal & Supplemental Documents
- J . Correspondence
- K . Graphics

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina