



Agenda Date: 5/7/2008
Agenda Placement: 7B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Chris Cahill, Planner - 707.253.4847
SUBJECT: Budge Brown Family Winery Use Permit # P07-00431-UP

RECOMMENDATION

BUDGE BROWN FAMILY WINERY/SILICATEC RENTALS, INC. USE PERMIT REQUEST #P07-00431-UP

Request: Approval of a Use Permit to establish a new 16,000 gallon per year winery with: (1) a 5,270 square foot single story winery building with no basement for a winery totaling 5,270 square feet; (2) a 1,600 square foot covered outdoor crush and fermentation pad with three eight foot diameter fermentation tanks; (3) two full-time and two part-time employees; (4) 20 parking spaces including two disabled-accessible spaces; (5) tours and tastings by appointment only with a maximum of 15 visitors per day but no more than 75 visitors per week; (6) a marketing plan with: six events with a maximum of 50 persons per year; two events with a maximum of 15 persons per year; and one Wine Auction event with a maximum of 100 persons per year; and, (7) installation of six 8,000 gallon above ground process waste water treatment tanks. The project is located on a 54.1 acre parcel on the west side of Pope Valley Road approximately 2,000 feet south of its intersection with Ink Grade within an AW (Agricultural Watershed) zoning district. (Assessor's Parcel #: 018-090-082). 6307 Pope Valley Road, Pope Valley.

Staff Recommendation: Adopt the attached Mitigated Negative Declaration and approve the requested winery use permit as proposed and conditioned.

EXECUTIVE SUMMARY

This application proposes a new 16,000 gallon per year winery which the applicant, Mr. Robert "Budge" Brown, would like to establish on his 54 acre Pope Valley property near the intersection of Pope Valley Road and Ink Grade. Mr. Brown purchased the property, which includes 17.5 acres of producing vineyard, in 2000 and has been intermittently pursuing a winery use permit approval since 2001. Earlier iterations of this application were much larger than the item now before the Commission, including 200,000 gallons of annual wine production, multiple winery buildings totalling nearly 30,000 square feet of floor area, reconstruction of an existing dam, and a more extensive marketing program. The application currently before the Commission has been scaled back considerably and would now result in a moderate, or even small sized, winery. Specifically, this application proposes 16,000 gallons of annual wine production, a single 5,270 square foot single story winery building, no more than 15 tours and tasting visitors a day, limited marketing, and no work near the existing dam and reservoir.

The winery itself would be located above the foundations of a demolished turkey barn, some 700 feet to the west of and all but invisible from Pope Valley Road. Concerns about archeological resources are addressed in the attached Mitigated Negative Declaration.

Proposed Action: That the Commission adopt Resolution P07-00431-UP certifying the mitigated negative declaration, adopting a mitigation monitoring plan, and approving the Budge Brown Winery Use Permit with conditions of approval.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration Prepared – According to the proposed Mitigated Negative Declaration, if mitigation measures are not included, the proposed project would have potentially significant environmental impacts in the following area: Cultural 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: Silicatec, Inc.

Applicant: Budge Brown Family Winery

Representative (Attorney): C. Evangeline James, Pollock & James

Zoning: AW (Agricultural Watershed)

General Plan Designation: Agricultural Resource

Filed: June 18, 2007 **Declared Complete:** March 13, 2008

Building Size: 5,270 square feet, plus a 1,600 square foot covered crush pad

Production Capacity: 16,000 gallons per year

Visitation: A maximum of 15 persons per day with no more than 75 persons per week

Marketing: Six 50-person special events, two 15-person trade events, and one 100-person wine auction event annually

Number of Employees: Two full-time and two part-time employees

Hours of Operation: 6:00 AM to 6:00 PM, seven days a week

Parking: 20 parking spaces, including two ADA-accessible spaces

Adjacent Zoning / Land Use:

North

AW - Open Space/Rural Residential - including a 22 acre undeveloped parcel (Olive Ridge Ranch, LLC) and a 97 acre rural residential parcel (BP Morris Enterprises, LP);

South

AW - Rural Residential - including a 35 acre rural residential parcel (Straub) and a 26 acre rural residential parcel (Varner);

East

AW - Vineyard - a 382 acre vineyard parcel (Hess Collection Winery); and

West

AW - Open Space/Rural Residential - including a 51 acre rural residential parcel (Parady) and an 84 acre open space parcel (Carter).

Property History:

Prior to 1989

According to the written statements of a number of Pope Valley residents, submitted as part of a 1991 Certificate of Legal Nonconformity application, at various times the property housed a turkey ranch and packing facility, a feed mill, and a machine/equipment repair shop.

May 1990

The Conservation, Development, and Planning Commission **denies trailer permit request T-89-11**, to legalize an office trailer that had been placed on the property by Valley Dirt Distributors, a grading, trucking, and heavy equipment operating company leasing portions of the property from Mr. DeVita, the then-owner.

January 1991

The Zoning Administrator **denies certificate of legal nonconformity request CLN 90-5**, to recognize alleged preexisting industrial and commercial uses, including welding and heavy equipment sales and/or repair.

February 1995

Mr. DeVita enters into a Class H agricultural preservation contract. At the time, the property had 3.1 acres of vineyards and an additional 22 acres of "open land being developed into vineyard."

June 2000

Sillicatec Rentals (which is owned by Budge Brown) purchases the property from the DeVita family.

November 2001

Budge Brown submits Tulip Hill Winery use permit application.

November 2003

The Planning Director **approves erosion control plan 02306-ECPA**, a request by Mr. Brown to legalize 14.5 acres

of vineyard planted by a previous property owner. Department files indicate that the vineyards were primarily planted in 1997.

July 2004

Budge Brown withdraws Tulip Hill Winery use permit application.

September 2007

The Deputy Planning Director **approves home occupation use permit P07-00680-HO**, to allow approximately 120 square feet of an existing residence to be used "as an office for order taking and record keeping in association with wholesale wine sales as a home occupation."

Code Compliance History:

As the above Property History section makes evident, a previous owner leased a portion of the property to Valley Dirt Distributors, a grading contractor, in the late 1980s. Because the property was (and is) zoned for agriculture, that commercial/industrial use of the property conflicted with the Zoning Code. Following a failed attempt to obtain a certificate of legal nonconformity for the use, Valley Dirt Distributors either shut their doors or relocated off of the property prior to the tenure of the current owner. The previous owner also planted some 11 acres to vines without an approved erosion control plan in, or about, 1997. Any issues related to the vineyard planting were resolved in 2003, when the current property owner was granted an after-the-fact erosion control plan approval. Staff believe the property is currently in compliance with all County regulations.

Discussion Points:

Evolution of this Application

After purchasing the property in 2000, Mr. Brown filed a use permit application in late 2001 proposing Tulip Hill Winery, a much larger operation than the one currently under review. The earlier winery application proposed 200,000 gallons of annual production, 25,700 square feet of new production and tasting room buildings, a maximum of 245 tours and tastings visitors per week, multiple 200-person maximum marketing events, a large wastewater treatment pond, and the construction of a new driveway over an existing dam which would have required significant alterations to the dam itself. At the scale originally proposed, the applicant encountered significant concerns, not just with Napa County's Planning and Environmental Management Departments, but also with State agencies including the Department of Fish and Game, the Central Valley Regional Water Quality Control Board, and the Division of Water Resources. The Tulip Hill Winery application was eventually withdrawn in the summer of 2004.

The current application represents the applicant's attempt to address the concerns raised in the earlier review and the Budge Brown Family Winery now proposed is smaller in every way and has greatly reduced environmental impacts when compared to the earlier Tulip Hill submittal. Wine production has been reduced to 16,000 gallons annually, the winery has been relocated to the already disturbed site of a former turkey barn, the winery building has been shrunk to slightly more than 5,000 square feet of floor area, proposed marketing and visitation numbers are in keeping with other small Napa County wineries, and the reservoir and dam are to be left undisturbed.

While the process has been somewhat prolonged, and doubtless occasionally painful, we appreciate the applicant's ongoing efforts to work through the issues raised by the construction of a winery on this site. Planning staff is happy to report that the version of this application currently before the Commission is in keeping with the County's requirements, minimizes environmental impacts, and should be a benefit to both Pope Valley and Napa County more generally.

Environmental Review - Mitigated Negative Declaration

An Initial Study has been prepared for the project and is attached for the Commission's review. With the incorporation of mitigation measures addressing cultural resources as discussed below, no significant environmental impacts have been identified.

Portions of the Budge Brown property are located in a mapped archeologically sensitive areas and previous archeological studies have indicated that there is a likelihood that archeological resources may be located under and around the proposed winery. Midden soil, scattered obsidian, and other indicators of pre-European settlement have been found on the site. However, given the significant amount of regrading and other soil disturbance that have historically occurred on the property, archeological reports indicate that it is possible that the the soils may have been imported from elsewhere.

The applicant has relocated the proposed winery onto the site of a former turkey barn in the hope that the remnant slab foundation can be reused, greatly reducing the potential that excavation will disturb artifacts or burial sites. Additionally, the attached draft mitigated negative declaration includes requirements for archeological monitoring or completion of a thorough exploratory excavation program prior to the construction of the winery. Please see the attached Project Revision Statement for complete mitigation measure language.

Wastewater System/ Regional Water Quality Control Board

The treatment and disposal of winery waste has been a longstanding issue with both the earlier Tulip Hill Winery application and the current Budge Brown Family Winery proposal. The application currently before the Commission proposes a series of six 8,000 gallon above ground treatment tanks to be located along the winery's rear elevation. As sited at the back of the winery building, the tanks should not be visible from off-site vantage points. Treated winery process wastewater will then be used to irrigate the 17.5 acres of existing vineyard on the property. The Central Valley Regional Water Quality Control Board has reviewed the proposed process wastewater treatment system and approved a Conditional Waiver of Waste Discharge.

Building Design

The proposed winery facility would be located approximately 700 feet to the west of Pope Valley Road and be well screened from public view by the topography of the site and existing barns and residences located closer to the roadway. The proposed winery building is a tall (32' from finished grade to the highest ridgeline) single story barn-like structure with open interior volumes to allow for the flexible location of tall storage tanks and stacked barrel storage. On its exterior, the winery will be clad with board and batten wood siding painted or stained brown and a standing seam metal roof.

General Plan **Agricultural Policy 3.13** requires that wineries "convey the attractiveness associated with existing Napa Valley wineries." Only the Commission can determine whether this proposal meets that high standard, however, Planning staff would label this proposal attractive in its simplicity and entirely appropriate to its proposed location.

Consistency with Standards:

Zoning

The project is consistent with AW (Agricultural Watershed) zoning district regulations. A winery (as defined in Napa County Code § 18.08.640) and uses in connection with a winery (see Napa County Code § Section 18.16.030) are permitted in the AW district with an approved use permit. This application complies with the Winery Definition Ordinance and the setbacks and other requirements of the Zoning Code.

Building Division Requirements

The Building Division recommends approval with standard conditions. Please see their March 15, 2008 memo

(attached).

Fire Department Requirements

County Fire Marshall Gabrielle Avina recommends approval with standard conditions. Please see her March 31, 2008 memo (attached).

Public Works Department Requirements

The Public Works Department recommends approval with standard conditions. Please see Larry Bogner's September 7, 2007 memo(attached).

Environmental Management Department Requirements

Assistant Director Christine Secheli has reviewed this application for the Department of Environmental Management. Her recommended conditions of approval include a requirement for additional soils testing prior to the issuance of a building permit and a requirement that;

"All food service associated with marketing events be provided by a Napa County Permitted Caterer. No use of an on-site barbeque shall be allowed."

With the exception of the above, the Department of Environmental Management recommends standard conditions of approval. Please see their attached March 18, 2008 memo.

Sheriff's Department Requirements

The Sheriff's Department has reviewed this application and has no comment.

SUPPORTING DOCUMENTS

- A . Resolution with Conditions of Approval
- B . Mitigation Monitoring Program
- C . Fire Marshall's Comments
- D . Public Works Comments
- E . Environmental Management Comments
- F . Building Division Comments
- G . Sheriff's Comments
- H . Central Valley Regional Water Quality Control Board Comments
- I . Environmental Document- Mitigated Negative Declaration
- J . Application Materials
- K . 75% Agreement
- L . Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell