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A Commitment to Service

Agenda Date: 6/16/2010

Agenda Placement: 9A

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: Shutters Winery Use Permit Application No. P09-00222-UP and Variance Application No. P09-00223-VAR

RECOMMENDATION

TIM MCDONALD / PROVO LAND PARTNERS LLC / SHUTTERS WINERY - USE PERMIT P09-00222-UP and VARIANCE P09-00223-VAR

CEQA Status: 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: Biological Resources. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5.

Request: Variance to allow construction of a new winery within required road setbacks (300 feet required, 69 feet proposed). Use Permit to establish a new 50,000 gallon per year winery with: 1.) a 9,034 sq. ft. three level barrel storage building with adjoining courtyard; 2.) an approximately 11,600 sq. ft. wine production and storage cave; 3.) three full-time and three part-time employees; 4.) fourteen parking spaces; 5.) by-appointment tours and tastings with a maximum of 18 visitors per day and 40 per week; 6.) a marketing plan with twelve 25-person events, twelve 50-person events, two 50-person harvest events, and participation in Auction Napa Valley (all marketing events include catered food service); 7.) relocation of the existing private drive extending from Lommel Road; 8.) new domestic and process wastewater treatment systems; and 9.) two new upslope water tanks totaling approximately 90,000 gallons. The project is located on a 15 acre parcel located at the terminus of Lommel Road, approximately 1 mile northeast of its intersection with the Silverado Trail and within the AW (Agricultural Watershed) zoning district. APN: 018-060-027, Calistoga

Staff Recommendation: Adopt the mitigated negative declaration and mitigation monitoring and reporting plan and approve the requested variance and use permit as conditioned.

Staff Contact: Chris Cahill, 253-4847 or chris.cahill@countyofnapa.org

EXECUTIVE SUMMARY**Proposed Action:**

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Program for Shutters Winery, based on findings 1-5 of Exhibit A;
2. Approve Variance No. P09-00223 based on findings 6-11 of Exhibit A; and
3. Approve Use Permit No. P09-00222 based on findings 12-16 of Exhibit A and subject to the recommended conditions of approval (Exhibit B).

Discussion:

The applicant proposes a new 50,000 gallon per year winery to be located in a secluded portion of the Biter Creek Canyon, some 3 miles east-southeast of the City of Calistoga and directly behind (up-canyon from) the Calistoga Ranch Resort. The 15 acre property straddles Biter Creek and includes the steeply sloping, heavily wooded, canyon walls both to the north and south of the creek. Access to the site is from Lommel Road, a public roadway which connects the Silverado Trail to the main entrance of Calistoga Ranch and then continues as a private vehicular access easement/ service road through Calistoga Ranch and on to undeveloped hillside properties, including the subject parcel, to the east. The winery itself would be located on the 15 acre property's flatter northwest corner in a new 9,034 square foot barrel storage and hospitality building and approximately 11,600 square feet of adjacent caves. The proposed winery would have a maximum of 18 by-appointment visitors per day, no more than 40 per week, and a marketing program including 26 events annually with 25 to 50 visitors per event. Given the property's steep slopes and relatively remote location, staff believes that required findings can be made in support of the requested winery road setback variance. We recommend approval of the variance and winery use permit as conditioned.

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: 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: Provo Land Partners LLC (c/o David Deniger)

Applicant: Tim McDonald, Provo Land Partners

Representative (Surveyor): Jon Webb, Albion Surveys

Zoning: AW (Agricultural Watershed)

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

Filed: May 28, 2009 **Complete:** March 4, 2010

Winery Size: 20,634 square feet (including 11,600 square feet of caves)

Production Capacity: 50,000 gallons per year

Visitation: By-appointment tours and tastings; 18 visitors per day and 40 per week maximum

Number of Employees: 3 full-time and 3 part-time

Hours of Operation: 7 am to 5 pm Monday through Friday; Monday through Sunday during crush

Marketing: Twelve 25-person events, twelve 50-person events, two 50-person harvest events, and participation in Auction Napa Valley (all marketing events include catered food service and all figures are max)

Parking: 14 spaces

Parcel Size: 15 acres

Accessory/Production Ratio: 23% (40% allowed)

Winery Coverage: Approx. 3/4 acre (15 acres allowed) and 5% of the lot area (25% allowed)

Property Line Setbacks: 47' front (20' required), 195' south side (20' required), 350' north side (20' required), and 750' rear (20' required)

Winery Road Setbacks: 69' proposed (300' required)

Conservation Regulations Creek Setbacks: Meets requirements (55' to 65' top of bank setback required)

Adjacent General Plan Designation/ Zoning / Land Use:

North

Agriculture, Watershed, and Open Space General Plan designation

AW zoning

Open space; including a 312 acre forested parcel (Mendenhall)

South & West

Agriculture, Watershed, and Open Space General Plan designation

AW zoning

Resort hospitality; including the 167 acre Calistoga Ranch Resort

East

Agriculture, Watershed, and Open Space General Plan designation

AW zoning

Open space; including a 120 acre forested parcel (Napa County Land Trust) and a 168 acre forested parcel (Carter)

Nearby Wineries (located within one mile of the project):

Hourglass Winery - 701 Lommel Road - Approved 2007, *not yet producing* - 30,000 gal/yr - By appointment

Parcel History and Evolution of this Application:

November 2007 - The Napa County Land Trust, then owner of the property, files for and receives **certificate of compliance No. W07-00929**. The document formally establishes that the Shutters Winery property was legally created in 1943.

May 2008 - The Napa County Land Trust deeds their interest in the Shutters Winery property to Provo Land Partners (the applicant).

May 2009 - Tim McDonald files the subject applications, which consists of **use permit No. P09-00222** and **variance No. P09-00223**.

June 2009 - The Planning Department, Department of Public Works, and the Department of Environmental Management each issue incompleteness determinations outlining the additional information needed to process the application.

February 2010 - The applicant submits the additional required information outlined in the County's various incompleteness determinations.

May 2010 - The Planning Department posts the project mitigated negative declaration and agendas the Shutters Winery item for a hearing before the Planning Commission.

Code Compliance History:

Having discussed the application with Enforcement staff, toured the property, and reviewed the Department's files, planning staff is not aware of any code compliance issues on the subject parcel.

Discussion Points:

Setting

The proposed Shutters Winery would be located on a 15 acre parcel at the end of Lommel Road, northeast of and immediately adjacent to the Calistoga Ranch resort. The property, which is roughly rectangular, is split by Biter Creek- which has its headwaters about 1 ¼ miles up-canyon and flows, eventually, into Dutch Henry Creek and from there into the Napa River. The creek divides a roughly 3 ½ acre portion of the parcel from the remainder, creating a triangular area on its northwestern corner in which all of the development proposed here would be located. With the exception of the existing unpaved extension of Lommel Road, which crosses its northwestern corner, the property is now completely undeveloped. Slopes are generally steep, as the parcel includes the channel of Biter Creek and the steeply sloping canyon walls on both sides of the creek channel.

Access

Access to the subject parcel is from Lommel Road, which is a public roadway running northeast from the Silverado Trail approximately 1/2 mile through to the Calistoga Ranch property. As it enters Calistoga Ranch, Lommel Road becomes a private drive, across which the Provo Land/ Shutters property has a right of vehicular access. In order to reach the proposed Shutters Winery site, the visitor must first check in at the main Calistoga Ranch gate. From there you proceed along a paved service road which crosses Calistoga Ranch from east to west and ends at a gate and turnaround at the easternmost edge of Calistoga Ranch property. Access to the Shutters parcel, and to other properties lying to its east, is through the gate and up a dirt ranch road which continues up the Biter Creek canyon from that point. The existing dirt ranch road is proposed to be widened, improved, and paved from the western Provo Land/ Shutters property boundary to a point some 100 feet east of the new winery.

The Proposed Winery

Mr. McDonald and Provo Land Partners are proposing a new 50,000 gallon per year winery set into the hillside at the property's northwest corner, outside of the required top-of-bank setbacks from Biter Creek and on one of the property's less extreme slopes (the average cross slope at the building site is 26.6%). The facility would be located in a new purpose-built barrel storage and hospitality structure and an adjacent cave complex. The proposed building totals 9,034 square feet on three levels. The lower level, which would be cut into the hillside- largely below existing grade, would be given over to barrel storage and mechanical uses. The main level would be at-grade at its northern (or upslope) elevation and would include tasting room, storage, office, and restroom facilities. An open mezzanine level is also proposed, which would include approximately 700 square feet of additional office space. The design of the proposed building is understated and generally in keeping with its woodland surroundings. The structure would be clad with natural stained board and batten wood siding and vertical wood trellis features with vines. Roofing is proposed to be a standing seam metal material, painted gray.

An approximately 4,000 square foot courtyard is proposed adjacent, and just to the north of, the barrel storage/hospitality building. The courtyard would provide space for some non-crush-related incidental storage and winery activities, but would primarily provide ADA parking, emergency vehicle access, and a fire truck turnaround at the main level of the hospitality building and cave. Slightly less than 12,000 square feet of wine caves are also proposed. The caves would run north from the courtyard and portals along three main bores, with interconnecting cross-corridors. A substantial portion of the cave area directly to the rear of the proposed portals would be given over to crush, tank storage, and other intensive winemaking activities. The remainder of the cave complex is slated for barrel storage.

Additional winery improvements slated for the property include an approximately 700 square foot trellis-covered area at the eastern edge of the barrel storage/hospitality building and courtyard, a 12-car parking lot proposed at the property's southwest corner, relocation of the existing right-of-way 35-40 feet to the east to provide additional breathing room for the winery development and minimize the requested winery road setback variance, upslope water tanks for fire flow and process wastewater storage totalling 90,000 gallons, and new process and domestic wastewater distribution fields (both of which are proposed to be located proximate to winery cave and structural development on the western half of the property).

Grape On-Haul

There are currently no vineyards planted on the Shutters property and, due to the steep slopes and other environmental constraints of its site, the facility will likely rely on fruit grown off site for the vast majority of its future production. According to staff's calculations, grape on-haul would likely result in between 50 and 76 truck trips annually. These grape delivery trips would, however, occur during the one to two month harvest period and would generally be limited to the early and mid morning hours. The Calistoga Ranch Resort, which is clearly the facility which would be most affected by the additional truck trips has supplied a letter of support for this application.

Visitation and Marketing

Tours and tastings visitation to the proposed Shutters Winery would be by-appointment, with a maximum of 18 visitors per day and no more than 40 per week. In addition, a moderately-sized marketing program is proposed for

the facility, including twelve 25-person private food and wine tasting events for the trade annually, twelve 50-person private food and wine tasting marketing events, and two annual 50-person harvest events. Food is proposed to be catered; no kitchen facilities are proposed as part of this application. As noted above, normal hours of operation would be Monday through Friday, 7 am to 5 pm.

Winery Road Setback Variance

The new winery is proposed to be set back 69 feet from the centerline of the relocated private right-of-way which crosses the Provo Land/ Shutters property and provides primary access to a number of as-of-yet undeveloped parcels to the east. As the Winery Definition Ordinance requires a 300 foot setback from shared private roads, a variance will be necessary to approve the winery as submitted.

A review of the County's environmental resource mapping (and in particular, the *Slope* layer) indicates that the entirety of the property on the southern and eastern side of Biter Creek is characterized by steeply sloping hillsides with cross-slopes exceeding 30%. This application proposes winery development on the only sizable portion of the property with slopes averaging less than 30% (as the Commission surely knows, the County's Conservation Regulation severely restrict development on slopes greater than 30%). It is no great surprise that the unpaved private extension of Lommel Road which crosses the property and provides access to properties to the east was also located on the flatter northwestern corner of the property. Because the topography of the site forces development of roads, septic systems, and structures into the constrained northwestern corner of the parcel, staff is comfortable finding that a special circumstance exists which would support a reduction in the required road setback in this case. In practice, the fact that roadway in question is little more than a gravel ranch road and that much of the land area to the east is held by the Land Trust and will, presumably, never be developed greatly limits the public impacts of the proposed 230 feet reduction in the required winery road setback. Findings in support of the requested variance are attached at **Findings** and **Submitted Application Materials**.

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, where variances and/or exceptions to the requirements of the Zoning Code are requested, required findings can be made.

Building Division Requirements

The Building Division recommends approval with standard conditions. Please see their final project memo.

Fire Department Requirements

The Fire Marshal's office recommends approval with standard conditions. Please see their June 24, June 25, and December 8, 2009 memos (attached).

Department of Public Works Requirements

The Department of Public Works recommends approval with standard conditions. Please see their final project memo.

Department of Environmental Management Requirements

The Department of Environmental Management recommends approval with standard conditions. Please see their March 23, 2010 memo (attached).

SUPPORTING DOCUMENTS

- A . Proposed Findings
- B . Proposed Conditions
- C . Fire Marshal's Conditions
- D . Environmental Management Conditions
- E . Public Works Conditions
- F . Building Division Comments/Conditions
- G . Public Comments
- H . Project Revision Statement and Mitigation Monitoring Program
- I . Mitigated Negative Declaration
- J . Greenhouse Gas Reduction Checklist
- K . Submitted Application Materials
- L . Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell