



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 6/17/2009

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Trish Hornisher, PLANNER III - 299-1349
SUBJECT: Round Pond Winery Use Permit Modification

RECOMMENDATION

ROUND POND, INC. / ROUND POND WINERY – USE PERMIT MAJOR MODIFICATION REQUEST #P08-00548-MOD

CEQA Status: Subsequent Mitigated Negative Declaration Prepared. According to the proposed Subsequent Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, a potentially significant environmental impact in the following area: transportation/traffic. This project site is not on any of the lists of hazardous waste sites enumerated under Government code section 65962.5.

Request: Approval to modify Use Permit #03529-UP, #P05-0334-ModMin and #P06-0063-ModMin to allow the following: (1) increase production from 20,000 gallons to 100,000 gallons per year; (2) construct a new 14,775 square foot barrel storage building; (3) increase employees from 4 to 10 full-time and 3 to 4 part-time employees (at peak); (4) increase parking from 13 to 43 parking spaces (11 prev. approved); (5) increase tours and tasting by appointment only from a maximum of 15 busiest day visitors to a maximum of 60 on the busiest day; (6) expand the Marketing Plan to include: 3 promotional tastings with meals per week with a maximum of 75 persons per event; 4 Release Events per year with a maximum of 150 persons per event; and, 1 Wine Auction event with a maximum of 100 persons; (7) convert the existing combined process and domestic wastewater system to domestic wastewater only and construct a new pretreatment and subsurface drip disposal system; (8) construct a two way left turn lane on State Highway 128 (Rutherford Rd.) between the existing Round Pond Winery and Honig Winery driveways; (9) provide new landscaping; (10) remove previously approved condition of approval limiting custom production activities. The project is located on a proposed approximately 46.69 acre parcel (pending a Lot Line Adjustment) on the south side of Rutherford Road (State Highway 128) approximately three quarters of a mile from its intersection with St. Helena Highway (St. Highway 29) within an AP (Agricultural Preserve) zoning district. 877 Rutherford Road, Napa (in the Rutherford area) (Assessor's Parcel #: 030-140-022 & 023).

Staff Recommendation: Adopt the Subsequent Mitigated Negative Declaration and approve the Use Permit Modification as conditioned.

Staff Contact: Patricia Hornisher 299-1349 thornisher@co.napa.ca.us

EXECUTIVE SUMMARY

Proposed Action:

1. That the Planning Commission adopts the Subsequent Mitigated Negative Declaration and Mitigation Monitoring Program for the Round Pond Winery Major Modification, based on findings 1-6 of Exhibit A (attached);and,
2. That the Planning Commission approves Use Permit Major Modification #P08-00548-MOD based on findings 11-15 of Exhibit A and subject to the attached Conditions of Approval (Exhibit B).

Discussion:

Round Pond Winery use permit was originally approved on February 2, 2005 as a 20,000 gallon per year, 19,000 square foot facility. It included custom production activities for eight producers utilizing a maximum of 10,000 gallons per year, by-appointment visitation and an average marketing plan as compared to other wineries of similar size. In 2005 and 2006, two minor modifications were approved to relocate various improvements such as the septic tank, leach field and parking as well as add a commercial kitchen for the preparation of full meals for marketing events. (See attached Minor Modifications for further information.)

The current use permit modification proposes to increase production from 20,000 to 100,000 gallons per year, double the facility size by adding a new barrel storage building, add employees and parking and expand and convert the existing process/domestic wastewater system. Round Pond Winery also proposes to expand By Appointment Tours and Tasting visitation and Marketing events after installing a two-way left hand turn lane on Rutherford Road (St. Hwy. 128) as required by Caltrans. Finally, the applicant requests the removal of a previous condition of approval regulating and limiting custom production activities.

The scope of the proposed changes is consistent with the Winery Definition Ordinance. Based on the Napa County Winery database, visitation increases appear to be in the median range. However, the proposed marketing events are higher than past County actions for similar expanded facilities. Water serving the expanded operation is via an existing well which, as calculated in the Water Availability Analysis, falls well below County established limits. Because lands surrounding the project are mainly planted in vineyards and owned by Round Pond, Inc., the proposed increases (with the inclusion of the two-way left turn lane), do not appear to result in any significant impacts to the general area or neighboring properties.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Subsequent Mitigated Negative Declaration Prepared and attached. According to the proposed Subsequent Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, a potentially significant environmental impact in the following area: transportation/traffic. This project site is not on any of the lists of hazardous waste sites enumerated under Government code section 65962.5.

BACKGROUND AND DISCUSSION

Owner: Round Pond, Inc.

Applicant/Representative: Ms. Katherine Philippakis, Attorney

Zoning: AP Agricultural Preserve

General Plan Designation: Agricultural Resource

Filed: September 22, 2008

Declared Complete: October 29, 2008

Winery Size: *(Existing)*: 18,894 square feet (Based on former application 15,174 sq. ft. wine processing building, 2,400 sq. ft. covered crush pad, 1,320 sq. ft. mechanical/pump house building)

Winery Size: *(Proposed)*: 14,775 sq. ft. wine production/barrel storage building (Winery to total: 33,669 sq. ft.)

Production Capacity: *(Existing)*: 20,000 gallons per year

Production Capacity: *(Proposed)*: 100,000 gallons per year

Marketing: *(Existing)*: various marketing events as follows: Promotional tastings with meals - 24 events per year with 20 persons maximum; Release Events - 4 events per year with 40 persons maximum; "Grand Opening" – one time event only with 100 persons maximum; Wine Auction – one event per year with 50 persons

Marketing: *(Proposed)*: Promotional tastings with meals – 156 events per year (3 times per week) with 75 persons maximum; Release Events - 4 events per year for 150 persons maximum; Participation in the Wine Auction for up to 100 persons.

Visitation: *(Existing)*: By appointment only for a maximum of 15 persons per day averaging 90 persons per week

Visitation: *(Proposed)*: By appointment only for a maximum of 60 per day averaging 360 per week (staff suggests a maximum of 360 per week)

Number of Employees: *(Existing)*: Four full-time; Three part-time

Number of Employees: *(Proposed)*: Ten full-time at Harvest (7 Average); Four part-time at Harvest (2 Average)

Hours of Operation: *(Existing)*: 8 am to 5:00 pm, six days a week

Hours of Operation: *(Proposed)*: No Changes Proposed

Parking: *(Existing)*: 13 (11 Approved) off-street, 6 customer, 5 employee, 1 loading area

Parking: *(Proposed)*: 43 off-street, 29 customer, 14 employee, 1 loading area

Adjacent Zoning / Land Use:

North AP – Round Pond Olive Oil LLC., 3.33 acres, 2,000 from the project site; 2 other parcels with 25 acres, both with vineyards and one with 3 single family residences, 2,500 feet from the project site. All three are across Rutherford Road (St. Hwy. 128)

South AP – Two parcels, 40+ acres with vineyard only. One is owned by Round Pond and located 100 ft. from the project site. The other vineyard parcel is 500 ft. from the project site

East AP – Two 40-acre vineyard properties immediately adjacent to the project site (one is owned by Round Pond). Further east are two parcels with residences, winery and vineyard located approximately 2,700 ft. from the proposed winery addition

West AP - One 44-acre vineyard property owned by Round Pond with two residences and agricultural offices located approximately 1,300 ft. from the project site

Nearby Wineries (within a 3/4 to one mile radius of the project site):

North

Honig Cellars – 850 Rutherford Road (0.7 of a mile from the project site) - Approved in 1982
Now 150,000 gallons/yr – 10,552 Sq Ft – By Appt. Tours and Tasting – 2 Visitors/wk – No Marketing

Frogs Leap Winery – 8815 Conn Creek Road (1.2 miles from the project site) - Approved in 1994
Now 240,000 gallons/yr – 38,568 Sq Ft – By Appt Tours and Tasting – 350 Visitors/wk
36 Marketing Events/Yr of less than or equal to 25 persons

South

None within 1 mile

East

Puerta Dorada Winery – 8780 Conn Creek Road (1.2 miles for the project site) - Approved in 1998
Now 20,000 gallons/ yr- 5,420 Sq Ft- By Appt Tours and Tasting – 25 Visitors/wk
14 Marketing Events/Yr of less than or equal to 25 persons

Caymus Vineyards – 8700 Conn Creek Road (0.8 miles from the project site) - Established in 1971
Now 110,000 gallons/yr – 24,455 Sq Ft – Public Tours and Tasting for 180 Visitors/wk
No Marketing

West

Beaulieu Vineyards – 1960 St. Helena Highway (1.47 miles from the project site) - Established in 1900
Now 1,800,000 gallons/yr – Public Tours and Tasting for 3,150 Visitors/wk
No Marketing

Property History:

February 2005

Planning Commission approves the original winery use permit (#03529-UP). A Temporary Certificate of Occupancy was subsequently issued in June of 2007.

October 2005

An administrative approval for a Minor Modification (#P05-0334-ModMin) was granted to relocate the proposed new septic tank and leach field from the planned location on an adjacent parcel to an on-site location; relocate the planned well to an on-site location; reduce the size of the mechanical building; increase the fire protection storage tank to 45,000 gal.; defer submittal of landscaping & parking plans to after building permit issuance; and, other miscellaneous changes.

March 2006

Another administrative approval for a Minor Modification (#P06-0063-ModMin) was granted to add a new commercial kitchen for preparation of full meals for marketing events; expand case good storage; expand the 2nd

floor terrace tasting area; change a wine lab use to office use; and, relocate parking.

September 2008

Application for Major Modification (#P08-00548-ModMaj) and deemed complete in October of 2008.

Code Compliance History:

Based on a review of the Planning Division's files, there are no records of any code compliance issues on this property.

Discussion Points:

1. Building Sizes – The applicant proposes to construct a new 14,775 square foot production building to be used primarily for barrel storage. This nearly doubles the size of the Winery structures which, upon completion, will total approximately 33,669 square feet. The applicant indicates that the additional size is required to accommodate both planned production and marketing/visitation needs. A comparison of ten other previously approved 100,000 gallon/year winery facilities shows square footage ranges from as low as 7,200 to as high as 56,057 square feet. This places Round Pond's expanded facility in the mid-range of previously approved winery expansions. (See attached winery square footage datasheet.) Finally, the ratio of production to accessory uses is 82.4% for production and 17.6% for accessory uses. This is well within the 40% limitation for accessory use required by County Code Section 18.104.200.

2. Aesthetics and Architectural Design – This project is located off of State Highway 128/Rutherford Road, a "designated scenic highway", listed in the Scenic Highway Element of the Napa County General Plan. The existing winery building is set back from the highway at a distance of 1,500 feet and is surrounded with existing vineyard and landscaping. The new barrel building will be located approximately 1,700 feet from the highway. It will be tucked behind the existing winery with a maximum height that extends approximately 6 feet higher than the existing winery building. In addition to the surrounding vineyard, an existing small olive orchard just north of the proposed new barrel building will offer natural screening when viewed from St. Hwy.128/Rutherford Road. The nearest residence is approximately 1,500 feet west of the project site and is owned by the applicant. Other neighbors are further north across the highway at a distance of approximately 2,000 feet. Because the new construction will be located quite a distance from the scenic highway and will be well screened, staff believes there will not be a noticeable change from the views that currently exist as seen by the viewing public from St. Hwy. 128/Rutherford Road or surrounding properties.

With the addition of the proposed new barrel building, the mass of the winery buildings will increase substantially from existing conditions. While this is the case, the new building design is similar to other agricultural storage buildings in the area and strongly conveys the agricultural nature of its use. The proposed construction materials and earth tone colors will also blend well the existing structures on the campus. (See Project Graphics for color samples.) And a landscaping plan will be required as a condition of approval prior to the issuance of the building permit to ensure the new building and additional parking areas will be substantially screened from view. Thus, the proposed architecture and associated landscaping for the new building appears to be in keeping with County aesthetic policy goals for agricultural preservation and land use which states that: "expansion of existing wineries and facilities in agricultural areas should be designed to convey their permanence and attractiveness." (See Policy AG/LU-10 Napa County General Plan 2008).

3. Traffic and Utilities – Access for the project is off a private driveway located on the south side of State Highway 128/Rutherford Road approximately one mile from its intersection with St. Hwy. 29. As described in the Round Pond Traffic Report by Mark Crane, P.E., dated September 4, 2008, "State Highway 128 (Rutherford Road) is a two-lane regional arterial roadway with 10.5 foot-wide lanes and wide gravel shoulders in most locations...It is level

and straight in the project vicinity and a 10-foot-wide paved shoulder is provided on the north side of the highway extending easterly from about 150 feet west of the Round Pond winery driveway to the Honig Winery Driveway.

Caltrans is the responsible agency that reviews and comments on projects that may impact State highways. They have commented that based on the increased traffic volumes resulting from the expansion of visitation and marketing, a left turn lane is required. When Caltrans first reviewed the project, they included conditions requiring a Marketing Event shuttle plan for larger 100+ events as well as hazardous materials soil sampling. Caltrans has subsequently eliminated the shuttle plan requirement in an email on December 12, 2008, as well as the Hazardous Materials soil sampling requirement in an email on April 6, 2009. The comments were rescinded because it was found that Napa County already requires shuttle service for larger events as a condition of approval. In addition, the Geologist for the County's Department of Environmental Management found no hazardous sites or facilities of concern on or near the project site.

After reviewing the left turn lane improvement plans, Caltrans recommended a two-way left turn lane vs. a back-to-back left turn pocket as suggested by the applicant's traffic consultant. (See attached Caltrans comments dated November 20, 2008.) As recommended and designed, the road widening will extend easterly to the Honig Winery-Round Pond Olive Oil Sales Driveway. In addition, Caltrans will require utility pole relocation, Right-of-Way (ROW) dedication to the State if additional roadway is needed, conformance to the Department's Highway Design Manual and all other requirements as stated in their letter of comment dated November 20th, 2008. **A mitigation measure for a two-way left turn lane on St. Highway 128/Rutherford Road as required by Caltrans has been incorporated into the project Revision Statement and signed by the applicant as follows:**

1. Prior to issuance of certificate of occupancy or temporary certificate of occupancy for the new barrel building or commencement of any increases in visitation or marketing, a two-way left turn lane shall be constructed on State Highway 128 in conformance with the requirements of the California Department of Transportation to reduce potential traffic hazards in the general vicinity as required by their letter of comment dated November 20th, 2008, (as subsequently revised by email on December 12, 2008 eliminating the Marketing Event shuttle plan requirement and again by email on April 6, 2009 eliminating the Hazardous Materials soil sampling requirement) as well as their 2nd letter of comment dated March 16, 2009, and incorporated herein by reference into the project Conditions of Approval - Compliance With Other Departments and Agencies.
1. All marketing activities shall be conducted during the off-peak hours and avoid the peak hours which are considered to be from 4-5 pm for Friday peak hour and 3-4 pm for Saturday afternoon peak hour. The start and finish time of marketing activities shall be scheduled to minimize vehicles arriving or leaving between 4:00 PM and 6:00 PM. If any marketing event is held which will exceed the available on-site parking, the applicant shall arrange for off-site parking and shuttle service to the winery.

4. Visitation and Marketing - The project proposes visitation By Appointment Only for a maximum of 60 per day averaging 360 per week. Marketing events include: Promotional tastings with meals – 156 events per year (3 times per week) with 75 persons maximum; Release Events - 4 events per year for 150 persons maximum; Wine Auction – one event per year for 100 persons.

Based a review of sixteen By Appointment Only wineries that have expanded to similar or higher gallons per year, staff concluded that Round Pond's By Appointment visitation request is within an average range. (See Attachment A for 100,000+ gallon Wineries with Visitation & Marketing.) Staff, however, recommends that the conditions of approval for visitation specify that visitors per week will be a maximum of 360 visitors instead of an average of 360 visitors per week as requested in the applicant's project description. Staff believes this clarifying language is needed because the traffic report and wastewater feasibility report were based on a maximum of 60 visitors per day. This language is incorporated into the draft conditions of approval under Marketing and Tours and Tasting for

approval by the Planning Commission.

Various approved Marketing plans are also shown on the attached winery table Attachment A. While the size of the events requested by Round Pond is similar to the comparison winery group, Round Pond's total events per year are decidedly higher than the comparison winery's plans. The approved marketing plans on the table range from 8 to 56 events per year as opposed to 161 events per year as requested by Round Pond. Staff recommends approval for a total number of marketing events for Round Pond that is more consistent with the marketing plans previously approved by the Commission.

Finally, Round Pond has requested that their Promotional Tasting with meals and Release Events be allowed to take place between 11:00 AM and 10:00 PM. This timing is not supported by their traffic consultant who based his calculations on the premise that most of these two types of events would take place in the evenings and on weekends (See pg. 9 of the Traffic Impact Study attached.) Staff recommends the consultant's timing be reflected in the conditions of approval for the time of day. Therefore, as suggested by the consultant, the 75 person Promotional tastings with meals and the 4 larger 150 person marketing events would take place between 11:00 AM to 2:00 PM and 7:00 PM to 10:00 PM with the largest events taking place on the weekends. The attached conditions of approval have been drafted showing this change.

5. Parking - Additional parking will be located on the east side of the existing winery building on an adjacent parcel. On May 8, 2009, the applicant submitted a proposal to record a Lot Line Adjustment for the purpose of bringing the proposed new parking area (comprising approximately one-third of an acre of land) onto the project parcel. Prior to its recordation, Public Works will require that the applicant also submit applications to rescind and replace the two existing Williamson Act contracts so that the new parcel configurations are consistent with these contractual agreements.

Staff reviewed Round Ponds' request to expand parking to 43 spaces to accommodate their visitation, marketing, employee and current custom producer needs. Based on a worst case scenario, staff calculated that on a busiest day, four parking spaces would be required for By Appointment Tours and Tasting visitors per hour. If a Release Event of 150 persons occurred at that same time and attendees were arriving and departing over a three hour period, 19 spaces would be required per hour. Full and part-time employees and half of the approved custom producers (wine makers) would be utilizing 17 spaces for the entire day. This equates to a requirement of at least 40 spaces during any given hour on a busiest day to accommodate the full gamut of all visitors, employees and custom producers. To further ensure adequate parking is available, the County includes a standard condition of approval for parking which states that: "If any event is held which will exceed the available on-site parking, the applicant shall arrange for approved off-site parking and shuttle service to the winery". Assuming the conditions of approval are met, the Lot Line Adjustment is recorded and the number of custom producers remains the same, staff believes the applicant's request for 43 spaces is reasonable.

6. Hazardous Materials Sites - Caltrans commented that the project was in the vicinity of a leaking underground storage tank (LUST) and a known hazardous facility site (HAZ FAC) and thus would require soil testing prior to any soil excavation. A significant amount of time was spent conferring with Caltrans to assure the agency that no LUST's (Leaking Underground Storage Tanks) or Hazardous Facilities sites were located on or near that project site. This was confirmed by the licensed Geologist on staff with the Napa County Department of Environmental Management. Caltrans subsequently eliminated the hazardous materials soil sampling requirement in their email dated April 6, 2009. (See Caltrans comments in the attachments.)

7. Septic Tank and Leach Field Location - The original winery use permit proposed to locate the septic tank and leach field system on an adjacent parcel. In 2005, a minor modification (#P05-00334-ModMinor) was approved to change the location of the system to what is now the project parcel. The system has since been constructed and approved by Environmental Management. Due to the increase in production and visitation, the applicant proposes the conversion of the existing leach field system from combined process and domestic wastewater to domestic

wastewater only. A new pretreatment and subsurface drip disposal system will be constructed for process wastewater. The Department of Environmental Management has reviewed the proposal and recommends approval as conditioned.

8. Removal of the Existing Custom Producers Condition of Approval - Currently, Round Pond is approved for 8 Custom Producers utilizing 10,000 gallons per year of their approved 20,000 gallon per year production capacity. Round Pond requests that this condition be removed since the County policy to regulate specific custom production activities was revised internally in April of 2006. The new policy favors a more efficient metric of environmental and community impact using the total production volume of the winery where such activities occur. This allows a winery the opportunity to adjust on-going business operations within the parameters of the approved maximums established by the use permit or its modification. Staff has included a proposed condition of approval stipulating the removal of the previous condition under Use Permit #03529-UP (Scope) limiting custom production activities.

9. Neighbor Issues – No neighbor issues are noted regarding this project. The applicant's representative commented the CFO for Round Pond has discussed the project with their immediate neighbor, Honig Winery, and they have not expressed any concerns. No other neighbors have raised concerns.

Consistency with Standards:

Zoning

The project is consistent with AP (Agricultural Preserve) 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 AP district with an approved use permit. This application complies with the Winery Definition Ordinance and where a variance to the requirements of the Zoning Code is requested, required findings can be made. Please see the attached draft resolution of approval for findings and conditions of approval.

Building Division Requirements

The Division recommends approval with standard conditions incorporated into the project per their attached memo dated 12/14/2008.

Fire Department Requirements

The Department recommends approval with standard conditions incorporated into the project per their attached memo dated 11/21/2008.

Public Works Department Requirements

The Department recommends approval with standard conditions incorporated into the project per their attached memo dated 5/13/2009. [Groundwater (11/10/2008) and Traffic (3/24/2009) memorandums attached for informational purposes with no required conditions.]

Environmental Management Department Requirements

The Department recommends approval with project specific conditions for an upgraded septic and wastewater system per their attached memo dated 4/24/2009.

Caltrans Requirements

Caltrans requirements are contained in the attached letters dated 11/20/2008 and 3/16/2009 as revised by emails dated 12/12/2008 and 04/07/2009.

SUPPORTING DOCUMENTS

- A . Exhibit A - Proposed Use Permit Modification Findings
- B . Exhibit B - Proposed Conditions of Approval
- C . Staff Report Attachment A: Winery Sq Ft & Marketing Comparison Data
- D . Environmental Management Conditions Memo
- E . Fire Department Conditions Memo
- F . Public Works Conditions Memo
- G . Caltrans All Comments
- H . Previous Staff Report and Cond of Apprvl 03529-UP
- I . Previous Staff Report and Cond of Apprvl P05-00334 & P06-0063-MODMIN
- J . Draft Subq Mit Negative Declaration/Initial Study/Proj Rev Stmt/Mit Mon Prog
- K . Traffic Study
- L . Wastewater Feasibility Report
- M . Lot Line Adjustment Application
- N . Application Materials with 75% Grape Source Agreement
- O . Project Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell