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Agenda Date: 6/20/2018

Agenda Placement: 7B

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: Kyra Purvis, Planner II - (707) 299-1788

SUBJECT: Cardey Residence Driveway Repair – Use Permit Exception to the Conservation Regulations Request #P18-00116-UP and Exception to Road and Street Standards

RECOMMENDATION

STEVEN AND ANDREA CARDEY / CARDEY RESIDENCE DRIVEWAY REPAIR / USE PERMIT EXCEPTION TO CONSERVATION REGULATIONS APPLICATION #P18-00116-UP AND EXCEPTION TO ROAD AND STREET STANDARDS

CEQA Status: Consideration and possible adoption of a Categorical Exemption pursuant to CEQA Guidelines Section 15301 (Categorical Exemption Class 1 Existing Facilities), which exempts repair, maintenance, or minor alteration of existing facilities involving negligible or no expansion of use, and Section 15302 (Categorical Exemption Class 2 Replacement or Reconstruction), which exempts replacement or reconstruction of existing facilities on the same site and with the same purpose. The project site is not located on any of the lists of hazardous material sites compiled pursuant to Government Code Section 65962.5.

Request: Approval of a request for an exception to the Napa County Conservation Regulations (County Code Chapter 18.108), in the form of a Use Permit, in order to allow the reconstruction and relocation of a private driveway to encroach into the minimum required 55- to 65-foot stream setback from the top of bank of Browns Valley Creek, a blue-line and County definitional stream (as defined in County Code Section 18.108.030). The driveway that provided access from McCormick Lane to the existing residence located at 1100 McCormick Lane (Assessor's Parcel No. 050-270-009) was damaged by a landslide in February, 2017 and made unusable. A portion of the driveway is within an existing roadway easement located on APN 050-270-027. The approvals requested with the project include a request for approval of an exception to Napa County Road and Street Standards (RSS) to allow for a non-standard longitudinal slope and a horizontal inside radius of curvature of less than 50 feet. The 14.95-acre parcel on which the project is proposed is adjacent to the City of Napa, has a General Plan land use designation of Agriculture, Watershed and Open Space (AWOS), and is located in the AW (Agricultural Watershed) zoning district. The project is located at 1100 McCormick Lane (Assessor's Parcel No. 050-270-009).

Staff Recommendation: Find the project categorically exempt from CEQA and approve the Use Permit Exception request, as conditioned.

Staff Contact: Kyra Purvis, Planner II; phone (707) 299-1788; email kyra.purvis@countyofnapa.org

Applicant: Steven and Andrea Cardey; phone (707) 363-0632; email scardey@sbcglobal.net

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Adopt the Categorical Exemptions;
2. Approve an Exception to the Road and Street Standards, based on Findings 2-3 of Attachment A; and
3. Approve an Exception to the Conservation Regulations in the form of a Use Permit (#P18-00116), based on Findings 4-15 of Attachment A and subject to the Conditions of Approval listed in Attachment B.

Discussion:

The proposed project is a request for an exception to the Napa County Conservation Regulations (County Code Chapter 18.108), in the form of a Use Permit, in order to allow the reconstruction and relocation of a private driveway to encroach into the minimum required 55- to 65-foot stream setback from the top of bank of Browns Valley Creek, a blue-line and County definitional stream (as defined in County Code Section 18.108.030). The existing driveway was damaged by a landslide in February, 2017. The proposed driveway reconstruction from McCormick Lane to the existing residence located at 1100 McCormick Lane is approximately 0.1 miles (550± feet) long with a width varying between 10 feet wide to 20 feet wide at the proposed turnout. The proposed modifications to the existing compromised driveway include the removal of the damaged road sections, excavation and compaction of a portion of the slope failure area that falls within the proposed driveway location, and the placement of asphalt. The project also includes the construction and repair of drainage facilities including culverts, swales, a detention basin, bank stabilization, and stormdrains. Work within the top of bank of Browns Valley Creek includes extending a storm drain outlet and placement of rock slope protection to prevent erosion.

The majority of the area in which the reconstructed asphalt-paved driveway would occur is substantially disturbed due to the existing compromised driveway and the landslide. The proposed realignment would reduce the overall amount of asphalt within the stream setback, and the existing portions of the driveway compromised by the landslide would be removed. With the Use Permit Exception to the Conservation Regulations, the applicant is also requesting an exception to the Napa County Road and Street Standards (RSS) to allow for a non-standard longitudinal slope and a horizontal inside radius of curvature of less than 50 feet. The Engineering Division determined that the project design achieves the same overall practical effect of the RSS and supports the exception, with conditions.

Staff believes that the necessary findings can be made to approve the requested exceptions to the Conservation Regulations and Road and Street Standards and recommends approval of the Conservation Regulations and RSS exception requests, subject to conditions.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and adoption of a Categorical Exemptions pursuant to CEQA Guidelines Section 15301 (Categorical Exemption Class 1) and 15302 (Categorical Exemption Class 2). The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Property Owner: Steven and Andrea Cardey

Applicant: Steven and Andrea Cardey; phone (707) 363-0632; email scardey@sbcglobal.net

Zoning: AW (Agricultural Watershed) District

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

Parcel Size: 14.95 acres

Setback (Required): 55 to 65 feet from top of bank of Browns Valley Creek

Setback (Proposed): None (work proposed within top of bank of Browns Valley Creek)

Application Filed: March 29, 2018. Supplemental submittal May 23, 2018.

Application Complete: May 24, 2018.

Adjacent General Plan Designations, Zoning Districts and Land Uses:

North: Two parcels adjoin the northern property line of the parcel on which the parcel is proposed: A 5-acre parcel that is undeveloped but owned by the Moose Lodge that is located just north of the adjoining parcel, and a 6.5-acre, single-family residential parcel. Beyond these parcels lie residential neighborhoods. All parcels to the north of the project parcel are within the City of Napa.

West: West of the project parcel lies a narrow portion of a 41.5-acre parcel developed with a single-family residence and approximately 35 acres of vineyard and a 36.7-acre, single-family residential parcel. Beyond these parcels to the west are additional residential neighborhoods of the City of Napa. The parcels immediately to the west have a land use designation of AWOS and are zoned AW District, up the boundary of the City of Napa.

South: South of the project parcel is the same 41.5-acre parcel that bounds the west side of the project parcel, which includes a single family residence and vineyard. Beyond this parcel lies an undeveloped 80-acre parcel consisting of grassland, scattered trees, and a pond. All parcels to the south have a General Plan land use designation of AWOS and are zoned AW District.

East: Adjoining the parcel to the west is a 29.6-acre, single-family residential parcel, consisting of dirt and paved

roads, the residence, an equipment storage lot, and grassland and woodland. Beyond that to the east is Westwood Hills Park within the City of Napa. Parcels immediately to the east of the project site have a General Plan land use designation of AWOS and are zoned AW District, up the boundary with the City of Napa.

Property History:

The project proponents resides on the 14.95-acre parcel located at 1100 McCormick Lane (Assessor's Parcel No. 050-270-009). The property is developed with a single-family residence and driveway that was constructed in the mid-1990s (permit no. 92066). Subsequent to construction of the residence and driveway, the property owner obtained permits to construct an addition to the dwelling, a swimming pool, and a retaining wall associated with the swimming pool (County building permit nos. 0054841 obtained in 1996, and B98-00362 and B98-00545 obtained in 1998). The property is planted with a small amount of ornamental landscaping but is otherwise undeveloped.

At the time of construction of the original driveway, the applicant and resident owner of the property at 1100 McCormick Road recorded an agreement with the owner of the adjacent parcel (Assessor's Parcel No. 050-270-027). The adjacent parcel, roughly 36.7 acres in size, is developed with vineyard and a single family residence. The recorded agreement provided for an access easement across the parcel at APN 050-270-027 to the property at 1100 McCormick Road.

The driveway alignment was approved in 1992, prior to the adoption of the stream setbacks (Ordinance No. 991) in 1993. The portion of the driveway within the stream setback followed the alignment of an existing gravel road, and the driveway generally follows a narrow portion of the project proponent's property, which is approximately 60 feet wide.

Compliance History:

There have been no compliance issues with the applicant's property located at 1100 McCormick Lane (Assessor's Parcel No. 050-270-009).

Discussion Points:

Project Setting – The property at 1100 McCormick Lane has limited frontage to a public street; the parcel access McCormick Lane via a narrow portion of the property, approximately 60 feet wide, which abuts Browns Valley Creek. The alignment of the driveway that was compromised by the landslide crosses into the adjoining parcel (APN 050-270-027) for approximately 40 feet prior to its intersection with McCormick Lane, just south of McCormick Lane's crossing over the creek. Prior to the landslide, the driveway provided access to the residence, as well as connected to a driveway that accessed the back portion of the Moose Lodge to the east of the project parcel. The 2017 landslide damaged and displaced the driveway, resulting in the need for its reconstruction and relocation.

Exception to the Conservation Regulations – Among the purposes of the Conservation Regulations (County Code Section 18.108.010) are intentions for the County to: 1) minimize the effects of cut, fill, earthmoving, grading operations and similar activities on the natural terrain; 2) minimize soil erosion caused by human modifications to the natural terrain; 3) maintain and improve water quality by regulating stormwater quality and quantity; 4) preserve riparian areas and other natural habitat near streams; and 5) encourage development that minimizes impacts to existing land forms, avoids steep slopes and preserves existing vegetation and unique geologic features.

The requested use permit would allow the proposed driveway reconstruction to encroach into the County's minimum required stream setback but is generally consistent with the intent of the Conservation Regulations.

Approximately 70 feet of the 650-foot-long roadway reconstruction would be within the required stream setbacks, such that approximately 90 percent of roadway would not require an exception. The project will reduce the overall amount of asphalt within the creek setback, and proposes to remove the existing driveway compromised by the landslide. A total of approximately 7,350 square feet of compromised driveway will be removed, and 3,850 square feet will be replaced.

A substantial portion of the area of disturbance would be within an area that is already disturbed by the existing driveway and the landslide, and would require minimal vegetation removal. The project involves the removal of nine trees, including three California bay and two coast live oak (the remaining trees are non-native ornamentals). There are no wetlands in the project area, and no special status species were observed. The project includes pre-construction surveys to avoid potential impacts to nesting birds and special status bats. Browns Valley Creek is critical habitat for steelhead, but there would be no impacts to the stream and the storm water system of the improved driveway will also help to protect water quality in Browns Valley Creek. As added precautions, work will occur after June 1 in order to avoid the winter rainy season, and work within the top of bank will be performed with hand tools only. No heavy equipment will be used in the stream, and the wetted area of the stream will be avoided. The project will comply with NCC Section 18.108.07(L), which requires all earthwork to stop and all erosion control measures to be in place by October 15. Earthwork involved would be limited to excavation and compaction of a portion of the slope failure, at depths up to 4 feet over a total area of disturbance of approximately 0.4 acres. Slopes in the vicinity of the project area are moderate, ranging from 15 to 25 percent. The project will have no impact on the stream.

Use Permit Exception to the Road and Street Standards (RSS) – Under Section 2(c) of the RSS, use permit applications are subject to compliance with the RSS. For the requested Use Permit Exception to the Conservation Regulations, compliance with the RSS would mandate that the driveway have a maximum slope of 16 percent and a minimum inside radius of curvature of 50 feet. The applicant's request for an exception to the County's RSS would allow for a maximum slope of 19.5 percent for 350 feet and 19 percent for 150 feet of the proposed driveway, and an inside radius of curvature of approximately 25 feet for approximately 60 feet of the proposed driveway. The area available for the driveway is constrained on both sides by neighboring properties, limiting the area available for expansion and reduction in longitudinal slope. Meeting the RSS slope standard would require removing additional material that may impact the parcel to the west, and additional tree removal. The inside radius of curvature is similarly constrained by the parcel width, existing driveway, and surrounding features. Meeting the RSS inside radius standard would require significant earthwork and mature tree removal to structurally support such a design.

The requested exception has been reviewed by the Fire Department and recommended conditions. The Engineering Division has reviewed the RSS exception request and supports its approval with conditions.

Use Permit Findings – County Code Section 18.108.040 allows landowners or leaseholders to request exceptions to the requirements of the County's Conservation Regulations. Such requests are made in the form of a use permit application, which is subject to approval or denial by the Planning Commission. Pursuant to County Code Section 18.124.070, the Commission's decision to grant or deny a use permit must be based on findings that the use permit would not adversely affect public health, safety or welfare of the county, and that the request is consistent with the policies and standards of the county's General Plan. To justify an exception to the Conservation Regulations, additional findings are necessary, including findings that the proposed project would complement natural landforms; would require minimal grading, minimal removal of vegetation, and minimal disturbance to watercourses; and would not result in significant adverse impacts to sensitive species or stormwater quality.

Compliance with Other County Standards – Slopes within the proposed roadway range from 4 to 19.5 percent, and the property is not located on any ridgeline, so the proposal is not subject to the County's Viewshed Protection Program.

Decision-making Options:

Upon consideration of additional public comment and close of the public hearing, the Commission may take one of the following actions:

Option 1: Approve Applicant's Proposal (Staff Recommendation)

This option would allow the driveway reconstruction and relocation to encroach into the County's minimum required stream setback. The improved driveway would require an exception to the County standards for roads and streets, which is supported by the Engineering division. The project meets County standards for stormwater quality. The driveway would provide permanent access to the residence at 1100 McCormick Lane.

Action Required – Follow the proposed action listed in the Executive Summary. If recommended condition(s) of approval are to be amended, identify the condition and specify the desired revision thereto.

Option 2: Redesign Alternative

This option would require that the applicant attempt to re-negotiate the access agreement with the adjacent property owner for a new driveway location that would completely avoid the stream setback. The applicant's property has frontage to the public road only within the stream setback. In order to avoid the stream setback, the road would have to be located approximately 65 into the adjacent property. This option would not require a use permit but would still require the applicant to obtain a grading permit and an exception to the Napa County Road and Street Standards. Relocating the road outside the stream setback would potentially require additional oak tree removal, and might result in some removal of existing vineyard, which occupies the adjacent parcel immediately west of the proposed alignment. The RSS exceptions are requested for areas outside the stream setback, so a redesigned alternative is likely to still require such exceptions.

Staff does not support this option because it appears that an alternate driveway location would not have significantly fewer environmental impacts than the proposed project. Although outside the stream setback, such an alternative location may require additional vegetation removal and disturbance, potentially leading to greater environmental impact. This option also relies on the applicant's success in modifying the existing easement.

Action Required – Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to revise the location of the driveway and required conditions of approval. The item will need to be continued to a future date to complete CEQA review on the new driveway and any associated required improvements.

Option 3: Deny the Requested Use Permit

Denial of the requested Use Permit Exception to the Conservation Regulations would preclude construction of the proposed driveway within the required stream setback. This option results in continuation of the existing condition, wherein the compromised and unusable driveway remains in place. With this option, the applicant could also attempt to re-design the driveway and subsequently submit requests for a grading permit to reconstruct the driveway in a new location, in accordance with Option 2, above.

Disposition – In the event the Commission determines that the project does not or cannot with conditions meet the required findings for grant of a use permit exception, the Commissioners should articulate 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 exception is not being approved. Based on the administrative records as of the issuance of this staff report, there does not appear to be any evidence supporting denial of the project.

Action Required – Commission would make a tentative action to deny the project and remand the matter to staff for preparation of required findings to return to the Commission at a future meeting date.

Option 4: Continuance Option

The Commission may continue an item to a future hearing date, at its discretion.

SUPPORTING DOCUMENTS

- A . Recommended Findings
- B . Recommended Conditions
- C . CEQA Exemption Memo
- D . Graphics
- E . Use Permit Application
- F . RSS Exception Request
- G . Project Plans
- H . Creek Setback Exhibit
- I . Pre- and Post-Project Exhibit
- J . Biological Assessment
- K . Geotechnical Study
- L . Hydraulic Analysis

Napa County Planning Commission: Approve

Reviewed By: Vincent Smith