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Agenda Date: 7/16/2014

Agenda Placement: 9A

Continued From: June 4, 2014 and July 2, 2014

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: WYNTRESS BALCHER, Planner II - 707 299 1351

SUBJECT: LMR Rutherford Estate Winery

RECOMMENDATION

LMR RUTHERFORD ESTATE WINERY/LMR RUTHERFORD PARTNERS, LLC - USE PERMIT APPLICATION, #P13-00167-UP & P13-00185-VAR

CEQA Status: Consideration and possible adoption of a Negative Declaration. According to the proposed Negative Declaration, the proposed project would not have any potentially significant environmental impacts. 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 application to establish a new winery with an annual production capacity of 100,000 as follows: (1) Construct a new 11,000± sq.ft. wine production facility, including a 4,164± sq. ft. covered tank pad and a 4,164± sq.ft. covered crush pad for a total of 19,328 sq. ft.; construct a new 816 sq. ft. storage building; and construct a new 1,360 sq.ft. administrative office building with conference rooms; (2) Relocate an existing driveway and construct a new 20' wide driveway to the proposed office building; (3) Relocate an existing greenhouse for the construction of a new 7-space employee parking lot and expand an existing farm stand visitor parking area from 4 to 12 spaces, for a total of 19 parking spaces on-site; (4) Use an existing, 2,400 sq.ft., open-air pavilion for tastings and marketing; (Remodel an existing restroom for use by visitors and employees; (6) Allow hosted daily tours and tastings for wine trade personnel and consumers by appointment only for a maximum 50 persons per day and a maximum 350 per week in the open air pavilion; (7) Allow on-premise consumption of the wines produced on-site pursuant to the Evans Bill (AB2004) in the open-air Pavilion or on the south porch of the winery; (8) Employ up to 9 people for the winery, 6 full-time, 3 part-time; (9) Install a new on-site winery process and domestic wastewater treatment system; (10) Install a transient non-community water system; (11) Remove an existing barn; (12) Establish hours of operation from 7:00 AM to 6:00PM (production hours) and 10:00AM to 4:00PM (visitation hours), 7-days a week; (13) New landscaping and signage; (14) Establish a Marketing Program: 24 private promotional tastings and meals per year for a maximum of 35 people per event; Two (2) harvest party events per year for a maximum of 100 guests at each event, between the hours of 10:00AM and 11:00 PM; Six (6) marketing events such as barrel tastings, auctions and other social events, including meals and music for a maximum 60 people in the open-air pavilion or on the south porch of the winery. The application also includes a variance request pursuant to County Code Section 18.104.230, to allow construction of the proposed wine

production building within the State Highway 29 600-ft winery setback area. The project is located on a 30 acre parcel on the east side of State Highway 29, approximately 1/4 mile north of the State Highway 29/State highway 128 intersection, within the AP (Agricultural Preserve) zoning district; 1790 St. Helena Highway South, Rutherford, CA 94573; APN: 030-100-016.

Staff Contact: Wyntress Balcher; (707) 299-1351; wyntress.balcher@countyofnapa.org

Applicant Contact: Jon Webb, Albion Surveys, Inc (707) 963-1217; jwebb@albionsurveys.com

CONTINUED FROM JUNE 4, 2014 AND THE JULY 2, 2014 PLANNING COMMISSION MEETINGS

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Adopt the Negative Declaration for the LMR Rutherford Estate Winery based on Findings 1-6 of Exhibit A;
2. Approve Variance request (P13-00185 VAR) based on Findings 7-11 of Exhibit A and subject to the recommended revised Conditions of Approval (Exhibit B); and
3. Approve Use Permit (P13-00167) based on Findings 12-16 of Exhibit A and subject to the recommended revised Conditions of Approval (Exhibit B).

Discussion:

A public hearing was held on June 4, 2014, and was continued to July 2, 2014, to allow staff to review a revised proposal to locate the winery building closer to State Highway 29 (160 feet) in response to a neighbor's concern about visual impacts from the proposed location; and, to allow staff to review grading and on-haul requirements to construct the winery at a location closer to State Highway 29, the proposed location (380 feet), and a location of 600 feet from the State Highway. At the July 2nd meeting, the applicant asked for a continuance of the hearing until July 16, 2014 to address findings presented by staff regarding the grading and on-haul requirements. The applicant no longer desires to locate the winery at the originally proposed location, 380± feet from the centerline of State Highway 29, and would like consideration of the winery building 160± feet from the centerline of State Highway 29. Copies of previous staff reports have been provided in the packet for reference. Specific aspects of the revised request and the project are addressed below.

Approval of a use permit application #P13-00167 to establish a new 100,000 gallon/year winery with the construction of a new 19,328± sq. ft. wine production facility, a new 816± sq. ft. storage building; and a new 1,360± sq. ft. administrative office building with conference rooms. The proposal also includes use of a portion of an existing, 2,400± sq. ft., open-air pavilion for hospitality/marketing use. The applicant proposes to relocate the existing driveway and construct a new 20' wide driveway, and provide a total of 19 on-site parking spaces. A variance is also being requested to allow the construction of a new winery building 160± feet; an administrative office building 160± feet; and a winery equipment storage building 260± feet from the centerline of State Highway 29 in lieu of the required minimum 600 ft. winery road setback.

Based upon the new information provided by the applicant and a reassessment of the project, staff is recommending approval of the LMR winery at a location 160± feet from State Highway 29. Staff finds the project consistent with the Winery Definition Ordinance and other applicable provisions of the Zoning Ordinance and General Plan, subject to the

updated findings (Exhibit A) and subject to revised conditions of approval presented in Exhibit B.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Negative Declaration Prepared. According to the draft Negative Declaration, the proposed project would not have a significant environmental impact on the environment.

Based upon review of the additional information prepared by the applicant, staff has concluded that the environmental analysis and impacts identified in the Negative Declaration remain substantively unchanged and supports the findings that the addition information does not raise any new issues and does not exceed the level of impacts identified in the previously prepared Negative Declaration.

The project is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

This project was originally presented at a hearing held on June 4, 2014 and was continued to the July 2, 2014 hearing to allow time for staff to analyze the proposal to change the location of the proposed winery presented at that hearing and to provide the Commission with recommendations. The applicant subsequently requested continuance of the July 2, 2014 hearing until the July 16, 2014 hearing, to allow time to address staff comments regarding grading and on-haul requirements for construction the winery at the three locations that have been considered and to allow time to discuss staff' recommendations regarding visitation at the winery.

Revised Project Location: On June 4, 2014, the Applicant, Ted Hall, presented to the Commission, a revision to his application, relocating the proposed winery to a site 106± feet from State Highway 29, approximately 105' north of the proposed open-air pavilion/hospitality building, instead of the originally proposed location 380± feet from State Highway 29; and amending his variance application to consider the variance for the location 160' from State Highway 29 in lieu of the required 600 feet. In addition, the applicant has amended his application regarding visitation to 50 visitors Sunday through Thursday; 40 visitors Friday and Saturday. The applicant's project revision statement, dated June 16, 2014, was included in the July 2, 2014 staff report and is attached again with this staff report, Attachment C. Additional photo simulations of the proposed revised project have been submitted and are attached.

Based upon discussions with the neighbor, the applicant took another look at the site and instead of utilizing the area where the old homestead was located and determined that relocating the winery 180 feet from the highway, the same distance as the open-air pavilion and the proposed winery office building, would result in a clustering of the winery operations. The applicant has indicated that the quality of the grapes in the location near the highway was reduced due to shading by the existing trees. The revised project would result in the removal of vines, but the originally proposed winery site would be replanted, replacing many of the vines removed.

Environmental Review: Staff had concluded that the environmental analysis and impacts identified in the Negative Declaration remain substantively unchanged and supports the findings that the proposed change in the project does

not raise any new issues and does not exceed the level of impacts identified in the previously prepared Negative Declaration.

Additional Documents and Department Review: The applicant met with the project planner, Wyntress Balcher and Planning Director David Morrison on July 8, 2014 to discuss the applicant's on-haul and fill comparison documents prepared by Albion Surveys. The applicant questioned Engineering Services Division's determination that there would be less on-haul of fill and pad height at the site 380 feet from the State Highway 29, a fact utilized by the Planning Division in the July 2, 2014 staff report recommendation to the Commission to support the 380 foot location.

The applicant's surveyor indicates that the site 160 feet from the highway would have less fill requirements - 2,800cy versus the County Engineer's Estimate of 3,920cy; 2.5' average fill height versus the estimated 3.5' height. The County's Engineering Division is unable to dispute or agree with the submitted calculations since the report did not include exhibits or stated methodology in making the report's findings. The applicant requested their Architect, Eric Haesloop, to build a detailed topographic model of the site, based upon their topographical survey, to make clear that the property gains elevation as the project moves closer to the highway. The applicant indicated that the Architect will be available at the hearing to answer any question about the model. These exhibits serve to provide a visual illustration of why the required fill volumes decline from 600' to 380' to 160 feet, respectively. (Refer to Engineering Services Report - Attachment I-C, Staff Report of July 2, 2014)

Additionally, a chart pinpointing the issues that have been discussed on this project was developed by the Planning Division and discussed with and completed by the applicant. For the Commission's information, the chart is as follows:

	160-foot setback	380-foot setback	600-foot setback
Floodplain	No – 0.5 feet fill	Partial - 1.4 feet fill	Yes – 3.5 feet fill
Net Loss of Vineyards	0.83 acres	0.83 acres	2.46 acres
Net Change in Impervious Surfaces	37,500± sf	40,000± sf	80,000± sf
Net Change in Grape Tonnage	20.17± ac remain 80± tons	20.17± ac remain 80± tons	18.54± remain 74± tons
Visual Impacts	Closer to the road, with screening by trees and existing pavilion building. Vertical rootstock. Not visible to northbound traffic. Screened to southbound traffic.	Farther from road, screening by existing buildings, but not trees. Blocks neighbor's viewshed. Visible to northbound traffic. More visibility to southbound traffic.	Farthest from road, but large elevated pad to address floodplain. Visually prominent from all directions. Blocks neighbor's viewshed.
Facility Efficiency	±100 feet from tasting ±300 feet from office ±300 feet from storage	±300 feet from tasting ±460 feet from office ±360 feet from storage	±70 feet from tasting ±100 feet from office ±120 feet from storage
Consistency with Existing Footprint	Other existing buildings at 160 feet.	No other buildings at 380 feet.	No other buildings at 600 feet.
AG Conservation Easement Compatibility	Yes	No	No

Revised Visitation Request: As discussed in the July 2, 2014 staff report, the applicant's Project Revision Statement proposes 40 visitors on Friday and Saturday, and 50 visitors Sunday through Thursday and holidays for a total of 330

visitors per week to encourage midweek visitation. As proposed, the Applicant feels that the proposal is consistent with visitation of other 100,000 gallon/year wineries. Staff had previously recommended that the visitation numbers be approved at 30 visitors per day during the week (indicated on the application form an average 30 visitors, maximum 50 visitors) and 50 during the weekend, as the expected winery visitations increased over the weekends. The applicant has indicated a different marketing concept of increased visitation during the weekdays, therefore staff is in support of the applicant's revised proposal.

Staff Recommendations: Staff has determined that the revised project is consistent with the necessary use permit findings, except that the proposal did not comply with the winery setback requirements. A revised variance application has been submitted with the revised use permit application requesting an exception to the winery setback regulations and allow for the construction of the winery 160 feet from the Centerline of State Highway 29; the construction of an associated office building, 160 feet from the State Highway; and the construction of an associated winery storage building, 260 feet from the State Highway.

As previously discussed, it should be noted that the granting of a variance requires findings be made based upon special circumstances with respect to specific physical circumstances that distinguish the project site from its surroundings which would deprive the property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. The physical circumstance regarding the subject property is its location fronting State Highway 29. The purpose and intent of the WDO in requiring a 600' setback is to alleviate buildings from being placed up against the State Highway creating a commercial "strip like character mall". Another physical circumstance of this property is its location within a Flood Hazard area. Only 1.8± acres of this 30± acre parcel is located outside of the Flood Hazard area, and applicant is proposing the location of the winery office and the equipment storage building on that portion of the property. The location of the winery within the floodplain would not prevent the construction of a winery on the parcel but would require grading of the property and the addition of fill to engineer a building pad above the base flood elevation or would require the engineered construction of the structure so that the base of the building below the base flood elevation be watertight. Compliance with the 600 foot setback would also place a proposed winery closer to the flood source, Bale Slough. There are three other wineries fronting State Highway 29 in this 1/2 mile portion of State Highway located in the Flood Hazard zone (Grgich, Provence, and Alpha Omega). They are Pre-WDO wineries and their location were not dependent upon the winery setback regulation.

The location of the winery on this property will result in the on-haul of fill to create a building pad in the flood hazard area, with the exception of the small portion on the southerly portion of the property. That area outside the flood hazard zone on this property is developed and there is insufficient area to construct a winery there. The location of the office and equipment storage buildings are proposed in this area and are also within the 600 foot setback. The proposed placement of these buildings are within the developed area of the original homestead, previously disturbed. Staff has prepared revised findings for approval in Exhibit A. The findings cite special circumstances that physically differentiate the project site from other properties that have frontage on State Highway 29. The subject property has frontage on a portion of State Highway located within of a Flood Hazard Zone and compliance with the 600' setback will require alteration of the elevation of the property to construct the winery building pad or will require engineering of the building design to make the base of the building below the base flood elevation water-tight. In addition, the property has an existing line of mature trees fronting the property which can provide screening of the winery. Staff proposes a condition that this line of trees be maintained to ensure that the approval of this variance would not grant a special privilege. (Proposed condition #2G)

Furthermore, Staff finds that the 160' location would require the least amount of on-haul of materials to construct the building pad and the least amount of alteration of the land than compliance with the location in compliance with the 600' winery setback. The location near the road significantly removes the proposed winery from the source of the flooding, the Bale Slough. The original findings also recommended approval of the variance for the office building and storage building because of their location in the homestead development on the southerly portion of the property, which is outside of the Flood Hazard Area. The revised location of the winery, 160' from the centerline of State Highway, will align the development on this project with the existing pavilion and the proposed office, providing a more cohesive

development plan. The applicant also proposes an increase in orchard planting and gardens along the highway in the landscape design for the project, further screening and softening the visual impacts to the highway view.

SUPPORTING DOCUMENTS

- A . Revised Findings
- B . Revised Conditions of Approval
- C . Project Revision Statement
- D . Applicant's Representative Comments Regarding Grading
- E . 160 foot topographic model
- F . 600 foot topographic model
- G . Photo simulations
- H . Photo simulation of view of winery from hospitality
- I . Staff Report of July 2, 2014

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina