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Agenda Date: 7/2/2014
Agenda Placement: 9B
Continued From: June 4, 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 of 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: Wytress Balcher; (707) 299-1351; wytress.balcher@countyofnapa.org

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

CONTINUED FROM JUNE 4, 2014 PLANNING COMMISSION MEETING

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. A copy of the staff report has 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 or 380± feet; an administrative office building 160± feet; and 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 380 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.

Revised Project Location and Response to Staff's Project Recommendation: On June 4, 2014, the Applicant, Ted Hall, stated that concerns expressed to him by the neighbor to the south regarding the view of the winery from their home had caused him to modify his application to locate the proposed winery 160 feet from the State Highway instead of the originally proposed 380 feet, with no change in the location of the proposed new administrative office building and new winery storage building.

In response, the applicant submitted on June 16, 2014, a site plan and variance findings for the new proposed setback for the winery, which are included in Attachment E. A plan was also submitted showing the 600' setback location. The special circumstances noted are: the majority of the property located in the floodplain and the location of Bale Slough along the northeasterly border of the property. It is stated in this document that it would be necessary to construct a berm to elevate the winery from harms way, requiring the on-haul of 12,540 cubic yards of fill to build the berm and the access road, and increasing impervious surfaces to 73,600 sq. ft. rather than the 45,000 sq. ft. if the variance is granted.

The applicant's statement further discusses river restoration plans sought for Bale Slough, bordering his property and the upper Bear Creek watershed. The applicant states that the granting of the variance places structures as far as possible out of the riparian buffer zone of Bale Slough and would facilitate future river restoration design and potential stream realignment options. The applicant's statement cites visibility and aesthetic impacts, proposed development clustering, vineyard preservation as other factors supporting this requested variance. Granting the variance would also, according to the applicants findings, facilitate the applicant's ability to place the project site under a "conservation easement", which furthers the agricultural preservation policies of the Napa County General Plan.

In addition, the applicant indicates in the statement that they did not agree with staff's recommendation regarding visitation, maximum 30 visitors Monday through Thursday with maximum 50 on Friday through Sunday for a total of 270 visitors per week. The applicant now proposes 40 visitors on Friday and Saturday, and 50 visitors Sunday through Thursday and holidays for a total of 330 visitors per week. The proposal is to encourage midweek visitation, and feels that the proposal is consistent with visitation of other 100,000 gallon/year wineries.

The applicant also submitted a statement from their Wastewater Engineer that the location at the 160 foot setback would not impact on the studies prepared for the original proposal.

Environmental Review: Staff has reviewed the proposed revisions to the project and has determined that there would be no change necessary to the Initial Study-Draft Negative Declaration prepared for the project. The environmental document analyzed the entire parcel, and the visitation proposal was evaluated at 350 visitors/week.

Department/Division/Agency Review: The Engineering Division was requested to review the locations of the proposed winery at the 160' setback, the 380' setback, and the 600' setback to estimate the amount of on-haul fill that would be necessary to construct a pad for the winery building above the base flood elevation. A report of their findings is provided in Attachment C. Staff's other concern was regarding the wastewater system a part of which is located within the area of the proposed new winery location. The Environmental Health Division has indicated, based upon the report from the Wastewater Engineer submitted with the revision proposal that there would be no changes to the conditions placed on the original project proposal.

The State Clearinghouse forwarded comments from CalTrans regarding the insufficient length of the left turn deceleration lane, truck traffic, and construction traffic. Conditions have been placed on the project requiring securing Caltrans permits for improvements that will be required on the State Highway. Comments regarding truck volumes during harvest season do not take into account that the majority of the grape deliveries to the winery will be utilizing the internal vineyard roads existing on the subject property and the applicant's adjacent vineyards, avoiding the State Highway. The applicant's proposal for higher weekday visitors and fewer weekend visitors are still less than the total 350 visitors per week originally reviewed by the staff report, and there is no change in the project regarding the proposed avoidance of the peak traffic period between 4:00PM and 6:00PM.

Revised Visitation Request: In response to staff's recommendation on LMR's visitation program, the applicant now 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, and feels that the proposal is consistent with visitation of other 100,000 gallon/year wineries. Staff continues to maintain the position that to reflect the true and typical visitation patterns previously discussed by the Commission, that the applicant be restricted to the following weekday and weekend visitation: Monday through Thursday-30 maximum; Friday through Sunday- 50 maximum, providing for a weekly visitation of 270 visitors. The applicant had proposed a daily average of 30 visitors/day. It should be noted that the environmental documentation analyzed the applicant's original request of 50 persons per day for a total of 350 visitors/week. Please refer to the Staff Report of June 4, 2014 for a detailed discussion on Tours & Tastings/Marketing Events.

Variance Request: Staff had reviewed the project and had determined that the project is consistent with the necessary use permit findings, except that the proposal did not comply with the winery setback requirements. A variance had been submitted with the use permit requesting an exception to the winery setback regulations and allow for the construction of the winery 380 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.

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 the engineering of a building pad to raise the building above the base flood elevation or 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.

For Planning Commission consideration and discussion, Staff has provided an evaluation of all three locations for the winery, incorporating the information/comments from the Engineering Division as follows:

1. Location of the Winery 600' From the Highway: This is the winery location in compliance with the Zoning Ordinance and the development area would also incorporate the office and the equipment storage buildings. The Engineering Division estimated the base flood elevation would be 164' and that approximately 5.170 cubic yards (cy) of fill would be required for the earthwork to raise the winery building the necessary level above the base flood elevation. Their estimates did not include the driveway due to limitation of data available to them. The resultant height of the winery building would be 43.2'. The placement of the winery in this location would place it closer to the flood hazard, Bale Slough, approximately 500 feet. The location of the winery in this area would result in several physical changes to the property. The construction of a berm would be required for not only the winery, but for the location of the office building, storage building, driveway and additional parking, which would be located with the winery, estimated by applicant to be 73,600 sq. ft. land coverage. According to the applicant, the location of the winery operations at the 600' location will require the removal of 2.46 acres of vineyards. The line of trees along State Highway will not effectively screen the winery located at the 600' location, and although the applicant proposes the "living wall" of vines screening on the winery building, office building and storage building, the winery development will be noticeable from the State Highway.

2. Location of the Winery 160' From the Highway: This proposed location is closest to the highway. The applicant stated at the hearing that the change is proposed to address the concerns of the southerly neighbor who were concerned that the proposed winery would be in their view of Mt. St. Helena. As requested, the Engineering Division estimated the base flood elevation at this location would be 164' and that 3,920 cy of fill would be required for the earthwork to raise the winery building above base flood elevation with a resultant building 44' in height. This location would be the furthest distance from the flood hazard risk, approximately 1000'. This location will also result in the removal of .97 acres of vineyard which the applicant states are in the least productive area due to heavy shade from the trees along the highway and driveway. This location will result in a clustering of the winery development, however, it may be to be too close to the highway and to Grgich Winery across the street, a Pre-WDO winery, also located about approximately 160 feet from the centerline of State Highway 29.

3. Location of the Winery 380' From the Highway: This location is the originally proposed winery location. Staff had prepared finding for approval of this location and the locations of the office building and storage building based upon the previously disturbed land by the farmstead development. The Engineering Division estimated that at this location, the base flood elevation would be 162.4' and that 1,215 cy of fill would be required to for the earthwork to raise the winery building above base flood level. This location would be approximately 825' from Bale Slough. Because this location of the proposed winery is on the area of the original homestead, removed about a year ago, the amount of vineyard to be removed for construction of the winery would be minimal. The view of the winery would be substantially screened from the highway by the trees along the highway frontage, and softened by the "living wall" of vines on the west, north, and eastern sides of the winery building. The south side is an open, covered work

area. The location of the winery at the 380' foot location would not hamper the applicant's ability to place the vineyards in a conservation trust easement.

In conclusion and based upon the information received regarding the on-haul of fill and the resultant building heights, staff continues to recommend the original proposal to locate the winery building 380' from the centerline of State Highway 29, the office building 160' from State Highway 29, and the winery equipment storage building 260' from State Highway 29 in lieu of the 600' winery setback. Napa County Code Section 18.104.230(A)(1) requires wineries to meet a 600' setback from the centerline of a State Highway. Therefore, a variance is necessary to approve the proposal. 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 380' 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, since the area has been already disturbed by the original homestead development. It appears that the homestead was located in an area with a lower flood risk. 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.

To address the neighbor's concern about the winery interrupting their view, staff proposes the addition of a condition regarding the lighting to require lighting on the south side of the building to be motion sensor and any lights used for the marketing activities on the south porch of the winery building to be turned off at 10:00PM (Proposed Condition #2H), as well as, the standard condition on landscaping that requires evergreen screening between the industrial portion of the project from the residence. (Standard Condition #9).

SUPPORTING DOCUMENTS

- A . Revised Findings
- B . Revised Conditions of Approval
- C . Review by Engineering Division
- D . Agency Comments
- E . Proposed Revisions - New Information
- F . Public Comment Letter
- G . Graphics
- H . Staff Report of June 4, 2014

Napa County Planning Commission: Approve

Reviewed By: John McDowell