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Agenda Date: 8/15/2018
Agenda Placement: 7B
Continued From: 7/18/2018

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: Wyntriss Balcher, Planner II - 707 299-1351
SUBJECT: Benessere Vineyards Winery Use Permit Modification #P16-00432

RECOMMENDATION

ANTHONY BENISH / BENESSERE VINEYARD WINERY / USE PERMIT MAJOR MODIFICATION # P16-00432-MOD, EXCEPTION TO THE CONSERVATION REGULATIONS, AND ROAD & STREET STANDARDS EXCEPTION

CEQA Status: Consideration and possible adoption of a Negative Declaration. Based on the analysis in the proposed Negative Declaration, the proposed project would not have any potentially significant environmental impacts. The project site is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Request: Approval of a major modification of an existing winery use permit to: 1) increase production capacity from 40,000 gallons to 44,000 gallons; 2) increase the number of employees; 3) add daily visitation with tours and tastings by appointment only; 4) establish a formal annual marketing program; 5) add two outdoor tasting areas; and, 6) add on-premises consumption of wines in accordance with Business and Professions Code Sections 23358, 23390 and 23396. A Use Permit Exception to the Conservation Regulations and an Exception to the Napa County Road and Street Standards has also been requested to allow required improvements within the Napa River stream setback and to reduce the required improvements to the existing access driveway. The project is located on a ±42.61-acre site within the AP (Agricultural Preserve) zoning district at the terminus of Big Tree Road, ±1,600 feet east of its intersection with State Highway 29; 1010 Big Tree Road, St Helena; APN: 022-032-011.

Staff Recommendation: Adopt the Negative Declaration and approve the Exception to the Conservation Regulations, RSS Exception, and the Use Permit Modification, as conditioned.

Staff Contact: Wyntriss Balcher, Planner II, (707) 299-1351 or wyntriss.balcher@countyofnapa.org

Applicant Contact: Tom Adams, (707) 252-7122; TAdams@dpf-law.com

ITEM CONTINUED FROM THE JULY 18, 2018, PLANNING COMMISSION MEETING.

EXECUTIVE SUMMARY**Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration based on the recommended Findings 1-7 in Attachment A;
2. Approve an Exception to the Napa County Road and Street Standards based on Finding 8 of Attachment A and subject to the recommended Conditions of Approval in Attachment B;
3. Approve an Exception to the Conservation Regulations based on Findings 9-15 of Attachment A; and subject to the recommended Conditions of Approval in Attachment B, and,
4. Approve the Use Permit based on Findings 16-20 of Attachment A, and subject to the recommended Conditions of Approval in Attachment B.

Discussion:

Benessere Winery is an existing 40,000 gallon/year winery established in 1979. The applicant has filed a request to modify the winery use permit to increase the production capacity from 40,000 to 44,000 gallons/year. The winery was approved under the original use permit for four visitors per week, but, there was no request made or approval given for tours and tastings. The application states that the current owners were under the assumption that, as a pre-WDO winery, their use permit did not limit visitation and are voluntarily submitting this use permit modification to to add by-appointment tours and tasting for a maximum 60 persons/day, a maximum 300/week, and to establish a formal annual marketing program for a total 56 marketing events. On-premises consumption of wines in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 (AB 2004-Evans Bill) in the winery, on lawn areas, on the deck above an existing carport, and in a new 2,500 ft² crush granite patio area adjacent to the west side of the winery is included in the request. It should be noted that the Commission continued this item from the July 18th regular Planning Commission to this meeting in order for staff to complete it's analysis of the project.

This project has been analyzed for its environmental impacts, which were found to be less than significant. Staff believes there is adequate rationale to support approving the project: 1) the project will utilize the existing facilities and will not result in the construction of any new structures on the parcel, since the proposed improvements are not permanent or located on an improved existing structure; 2) there are sufficient grapes on the property and in close proximity to serve the project; 3) there is adequate water supply to serve the proposed project; 3) there are no current outstanding code compliance or any records of complaint issues at the project site and the applicants have voluntarily filed the use permit modification to ensure the winery is operating consistent with County regulations; 4) there is existing improved direct access to Big Tree Road and any improvements to the access driveway will be only necessary to accommodate the RSS for emergency equipment access; and, 5) although the project will require the removal of 0.1 acre removal of vineyard for health and safety reasons, the project supports continued agricultural use of the land. Considering all of the enumerated reasons, staff finds that the project meets all County Code requirements and complies with General Plan Policies, subject to the recommended conditions of approval.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

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. This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Owner: Anthony Benish, 2100 Clearwater Dr. Ste. 250, Oak Brook, Ill 60523; (708) 560-9840; tony@cookillinois.com

Applicant: Stephanie Grubbs, 1010 Big Tree Road, St. Helena, CA 94574; (707) 963-5853; stephanie@benesserevineyards.com

Representative: Tom Adams, 1455 First Street Ste 301, Napa, CA 94559; (707) 252-7122; TAdams@dpf-law.com

Zoning District: Agricultural Preserve (AP)

General Plan Designation: Agricultural Resource (AR)

Filed: November 22, 2016; **Resubmittal:** March 10, 2017; **Resubmittal:** September 5, 2017; **Resubmittal:** November 20, 2017; **Complete:** April 17, 2018

Parcel Size: ±42.61 acres

Existing Development: Development on the site consists of a 12,016 ft² winery, a single family residence; a second residential unit located above the garage; a deck located above the carport adjacent to the second unit; and a 12.276 acre-foot reservoir.

Vineyard Acreage (Existing): ±29.5 acres

Vineyard Acreage (Proposed): ±29.4 acres

Winery Characteristics:

Winery Size (Existing): ± 12,051 ft²

Winery Size (Proposed): No change proposed

Production Capacity (Approved): 40,000 gallons/year

Production Capacity (Proposed): 44,000 gallons/year

Development Area (Existing): 22,000 ft²

Development Area (Proposed): No change proposed

Winery Coverage (Existing): ±17,164 ft²; 0.4 acres or less than 1%

Winery Coverage (Proposed): No change proposed

(Maximum 25% or 15 acres)

Accessory/Production Ratio (Existing): 1,823 ft²/10,193 ft² = 18%

Accessory/Production Ratio (Proposed): No change proposed

(Maximum 40% allowed)

Number of Employees (Existing): Two full-time/two part-time

Number of Employees (Proposed): Five full-time/five part-time

Visitation (Approved): Four visitors/week (no tours or tasting was approved)

Visitation (Existing): Average 13/day (weekday); 28/day (weekend)

Visitation (Proposed): 60/day, maximum 300 per week; visitation appointments will be scheduled so that no more than nine vehicles leave the winery during the weekend peak hours of 2:00 pm -3:00 pm

Marketing Program (Approved): None established

Marketing Program (Existing): Four events/year, maximum 120 guests

Marketing Program (Proposed): 56 marketing events: 24 events/year, maximum 10 guests; 24 events/year, maximum 25 guests; four events/year, maximum 80 guests; four events/year, maximum 150 guests; to occur between 7:00 pm, and 10:00 pm on any night and from noon to 2:30 pm on weekends. Catered food service may be provided

Days and Hours of Operation (Existing): Seven days, 7:00 am – 5:00 pm (production); 10:00 am to 5:00 pm (visitation)

Days and Hours of Operation (Proposed): No change proposed

Parking (Existing): 13 spaces including one ADA van space and a loading space

Parking (Proposed): No change proposed

Setbacks (Required): 300 ft. front; 20 ft. sides and rear; Conservation Regulations Stream Setback: 45 ft.

Setbacks (Existing): ±850 ft. front; ±272 ft./±450 ft. sides; ±425 ft. rear (no changes proposed); access road-±10ft. - ±20 ft. Within required Stream Setback - Exception to Conservation Regulation Required

Adjacent General Plan Designation/Zoning District/Land Use:

North: AR (Agricultural Resource)/ (AP) Agricultural Preserve/agriculture (vineyards); residential

South: AR / (AP) /agriculture (vineyards); winery/ residential

West: AR / (AP) /agriculture (vineyards); residential; commercial (CalFire offices)

East: AR/ (AP) /agriculture (vineyards)

Nearby Wineries Located within one mile of the project:

Please refer to Attachment K.

Property History:

Use Permit #U-257879 was approved by the Planning Commission on February 21, 1979, to establish a 40,000 gallon winery with the conversion of an existing 900 ft² stable and construction of a 3,000 ft² addition. Two part-time and two seasonal employees were requested. Operations included crushing, fermentation, storage/aging, bottling/packing/ shipping and administration. Four visitors per week were anticipated, but no tours/public tastings were requested or approved.

Use Permit #U-258182 was approved by the Planning Commission on April 14, 1982, to allow construction of a 6,640 ft² addition to the winery for case storage and fermentation. There were no other changes to the project. The application indicated four visitors per week were anticipated, however, no tours or tastings or marketing activities were requested or approved.

Code Compliance: There are no open or pending code violations for the subject site. According to the project statement, the current owners of the winery have been operating under the assumption that, as a pre-WDO winery, their use permit did not limit visitation. The property has no record of complaints or enforcement actions and the applicant simply desires to update their use permit voluntarily to ensure they are complying with County regulations.

Discussion Points:

Setting – The 42.61 acre parcel is located on a relatively flat land at the terminus of Big Tree Road, an improved local road, ± 1600 feet east of its intersection with State Highway 29, approximately four miles northwest of St. Helen (elevation 240-280 ft. MSL). The parcel borders on the southwest side of the Napa River and is entirely located within its 100-year floodplain. Development on the site consists of a winery, a single family residence; a second residential unit located above the garage; a deck located above the carport adjacent to the second unit; and a 12,276 acre-foot reservoir. The winery consists of a 4,912-ft² winery building, 1,481 ft² covered crush pad and 5,658 ft² concrete tank and winery equipment pad. Surrounding land uses are agriculture (vineyards); large lot residential; California State Fire and County Fire Offices to the southwest; and Tudal Winery to the southeast. The closest residence is located to the northwest of the winery, ±700 feet. The Napa County Environmental Sensitivity maps indicate this parcel is located within the 100-year floodplain of the Napa River.

Winery Proposal – Benessere Winery is an existing 40,000 gallon/year winery established in 1979. The applicant has filed a request to modify the winery use permit to increase the production capacity from 40,000 to 44,000 gallons/year. The winery was approved under the original use permit for four visitors per week, but, there was no request made or approval given for tours and tastings. The application states that the current owners were under the assumption that, as a pre-WDO winery, their use permit did not limit visitation and have voluntarily submitted this use permit modification to add by-appointment tours and tasting for a maximum 60 persons/day, a maximum 300/week, and to establish a formal annual marketing program. There is no history of complaints or enforcement action. On-premises consumption of wines in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 (AB2004-Evans Bill) in the winery, on lawn areas, on a new deck above an existing carport, and in a new 2,500 ft² crush granite patio area adjacent to the west side of the winery is included in the request. The project will be required to upgrade the access driveway to current County Road and Street Standards (RSS), and the only other physical changes proposed are the construction of a new 2,500 ft² crushed granite tasting patio area adjacent to the southwest side of the winery building and improvements to a ±204 ft² deck above an existing carport for an additional outdoor tasting area.

Tours & Tasting/Marketing Events – The applicant is requesting to add by-appointment tours and tasting for a maximum of 60 persons per day, a maximum of 300 persons per week. As stated in the application, the new owners were under the assumption that as a WDO winery, the winery did not have a limit on visitation. There are no complaints or no enforcement action against the winery and the modification was submitted voluntarily to request the entitlement of by-appointment tours and tastings and a marketing program. The project statement notes that the winery has an average of 13 daily visitors per week, 28 daily visitors on weekends. The request is for 60 visitors per day, a maximum of 300 per week. The proposed visitation hours are 10:00 am - 5:00 pm daily, and visitation appointments will be scheduled so that no more than nine vehicles leave the winery during the weekend peak hours of 2:00 pm -3:00 pm. Based on the winery database comparison chart (40,000 to 45,000 gallons/year), the requested number of weekly visitors (300) is 33% above the average for by-appointment wineries, 10% above average for pre-WDO wineries. The total number of marketing visitors (1,760) is 30% above the average of by-appointment wineries, but over 196% over the average for Pre-WDO wineries. It should be noted that 48 of the events are for groups of 10-25 guests, two times per month.

Traffic & Parking - A focused Traffic Study (Focused Traffic Analysis, Omni-Means Engineering Solutions, dated October 2017) was prepared for the project. The project driveway is located at the far eastern terminus of Big Tree Road and requires no turning movements to gain access (uncontrolled) from Big Tree Road. Big Tree Road is

currently operating at LOS A. The intersection of Big Tree Road and State Highway 29 is stop sign controlled and there is no southbound left turn lane on to Big Tree Road. The report states that without the project, average daily traffic (ADT) volumes on SR-29 would increase from a peak month 14,900 ADT to 15,651 ADT, operating at LOS D. During weekday and weekend PM peak hours, the ADT would increase to 1,315 and 1,558 ADT respectively. The project would represent a net increase of less than one percent (0.004%) to the daily volumes on SR-29. During the weekday PM peak hour period, the study would be operating acceptably at LOS C. During the mid-day PM peak hour (2:30-4:00 PM), the LOS without the project is LOS E, and with the project, there would be no change. The report recommended the limitation of visitors leaving the winery during the weekend PM peak hour to reduce further impact on the highway. The applicant incorporated a limit to the number of vehicles leaving the winery during the Saturday mid-day peak traffic hour in the project description in response to the recommendation. The standard Condition of Approval No 4.2 includes the statement that "To the maximum extent feasible, scheduling of visitors shall not occur during peak travel times, and a project-specific condition limiting the number of visitors leaving the winery during the Saturday mid-afternoon peak hour to nine vehicles will be included in the recommended conditions of approval.

There is currently sufficient parking for the winery provided on site. The previous project approval authorized nine parking spaces for the 40,000 gallon winery. The current site plan indicates 13 parking spaces on improved surface are available, including an ADA van space and a loading space. These parking spaces would be sufficient to accommodate parking needs during normal business days for the additional employees and visitors. Additional parking will be required during marketing events, and there is adequate space adjacent to the winery to accommodate additional temporary parking.

Groundwater Availability - The project is located on a ±42.61 acre parcel on the valley floor in an area that has an established acceptable water use criteria of one acre-foot per acre per year. Water Availability Analysis was prepared (CMP Civil Engineering & Land Surveying, August 31, 2017), and submitted with the application utilizing the Napa County's Guidelines for Estimating Non-residential Water Use for specified land. Utilizing these guidelines, the study calculates that the Napa County Allowable Water Allotment for the property 42.61 af/yr, determined by multiplying the acreage of the parcel by the one af/yr fair share water use factor.

The subject property is not located in a "groundwater deficient area" as identified in Section 13.15.010 of the Napa County Code. Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is, for purposes of the application of the County's Groundwater Conservation Ordinance, assumed not to have a significant effect on groundwater levels. Based on the submitted Phase One water availability analysis, the ±42.61 acre valley floor-area parcel has a water availability calculation of 42.61 acre feet per year (af/yr), which is arrived at by multiplying its approximately 42.61 acre size by a one acre foot per year per acre fair share water use factor. The Water Demand Calculations submitted for the project placed water demand for existing uses on the property (winery-0.61 af/yr; winery domestic and landscaping-0.11 af/yr; residential-0.70 af/yr; and vineyards irrigation and heat protection (29.5 acres)) at 17.65 af/yr. The proposed winery project places the new demand for the parcel property (winery-0.68 af/yr; winery domestic and landscaping-0.11 af/yr; residential-0.70 af/yr; and vineyard irrigation and heat protection (29.4 acres-removal for road improvements)-16.23 af/yr) at 17.81 af/yr. Based upon this figure, the project would be well below the established threshold for groundwater use on the property and is projected to increase by 0.18 af/yr. The County is not aware of, nor has it received any reports of, groundwater shortages near the project area. The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.

Wastewater - The proposed project will not violate any known water quality standards or waste discharge requirements. Improved on-site domestic and process wastewater systems are proposed to accommodate the increase in visitation. The Napa County Division of Environmental Health has reviewed the proposed domestic and

process wastewater systems and recommends approval as conditioned. The project proposes the use of portable toilets for the four 150-guest marketing events.

Grape Sourcing – The property is planted in ±29.5 acres of vineyards, where ±0.1 acres will be removed for access road improvements. This amount yields ±2 tons or ±35 gallons. According to the winery's public promotional information, the winery uses grapes from the historic 'Collins Holystone Vineyard' adjacent to the winery estate and from vineyards in the Oak Knoll District. As a pre-WDO winery, with the approval of the production capacity increase, 75% of the 4,000 gallon production increase shall be grown within Napa County.

Greenhouse Gases/Climate Action Plan - Greenhouse Gases/Climate Action Plan - The County requires project applicants to consider methods to reduce Green House Gas (GHG) emissions consistent with Napa County General Plan Policy CON-65(e), which requires GHG review of discretionary projects. The applicant has completed the Department's Best Management Practices Checklist for Development Projects, which is attached to this report as part of the application materials. The applicant proposes to incorporate GHG reduction methods including: generation of on-site renewable energy, evaluating solar panel options; participating in habitat restoration or new vegetation through the Napa County Flood Control riparian vegetation improvement program; energy-conserving lighting with intent in participating in PG&E evaluation plan to identify lighting replacement option for energy; providing bicycle incentives with the existing bicycle racks on the property; recycling 75% of all waste; the implementation of a sustainable purchasing and shipping programs; existing plantings of shade trees within 40 feet of the south side of the building elevation; is certified in the "Napa Green Land and Fish Friendly Farming Program" and an intent to become a certified Green Business or "Napa Green Winery; will use recycled materials; will use local food production; will use 70%-80% cover crop; and will retain biomass removal via pruning and thinning by chipping the material and reusing it rather than burning on-site.

Napa County Road and Street Standards (RSS) Compliance - An Exception request has been made is to allow the existing gate to remain at 20 feet wide instead of the required 22 feet. The subject parcel falls entirely within the Local Responsibility Area (LRA) and is not designated as being in a Very High Fire Hazard Severity Zone (VHFHSZ). The improvement achieves the same overall practical effect of the RSS by providing defensible space and consideration toward life, safety and public welfare by providing permanent measures such as horizontal and vertical vegetation management shall be implemented along the entire length of the private lane and around any existing and proposed structures to create defensible space, and improvements to the existing private driveway to bring the entirety of the road excluding the gate into compliance with the RSS. This exception have been reviewed by the County Engineering Services Division and the Fire Marshal. As stated in the Engineering Services Division Memorandum, dated April 9, 2018, it has been determined that the requested Exception will provide safe access for emergency apparatus, safe civilian evacuation, and the avoidance of delays in emergency response based on the demands of the property.

Conservation Regulation Compliance - The existing access driveway used to serve the winery is located within the 45-ft Napa River stream setback established by the Conservation Regulations. A portion of the existing access driveway is located within the required setback. The RSS requires road improvement to the existing access road to provide defensible space and consideration toward life, safety and public welfare. With the approval of the exception to the RSS regarding changing the gate, the improvements will not occur in the undisturbed riparian area adjacent to the Napa River and will occur on the disturbed side of the road, which will result in the removal of ±.1 acres of vineyards. The road improvements are designed to complement the natural landform and avoid excessive grading and there will be no structures required to accommodate the driveway improvements. There will be no encroachment or disturbance to the Napa River.

Public Comments – An adjacent neighbor submitted a letter of support for the project proposal.

Decision-Making Options:

As noted in the Executive Summary Section above, staff is recommending approval of the project with conditions of approval as described in Option 1 below. Decision-making options also include a reduced visitation/marketing alternative and a no project alternative.

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

Disposition – This option would result in the approval of the increase in production capacity of the existing winery; the addition of by-appointment-only tours and tastings; the establishment of a marketing program; on-premises consumption of wines; the addition of two outdoor tasting areas; installation of access road improvements within a stream setback; and an exception to the RSS regarding the entry gate and access road improvements. This option has been analyzed for its environmental impacts, which were found to be less than significant. The project will utilize the existing facilities and will not result in the construction of any new structures on the parcel-the proposed improvements are not permanent or located on an improved existing structure. The project is located in close proximity to its main grape source, and production will include all estate-grown grapes. There is adequate water available and no new wastewater facilities will be necessary for the increased production. The proposal includes voluntary greenhouse gas offset features. There is no history of complaints, and there are no current outstanding code compliance issues at the project site. There is existing, improved direct access to Big Tree Road and any improvements to the access driveway will be only necessary to accommodate the RSS for emergency equipment access. Staff has concluded that the project merits the approval as proposed and conditioned, since the project meets all WDO and County Code requirements, complies with General Plan policies, and has no potential significant environmental impacts.

Action Required - Follow proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made.

Option 2 - Reduced Visitation/Marketing Alternative

Disposition - This option could result in a potential decrease in the proposed visitation and marketing program.

Action Required - Follow the proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to reduce the permitted visitation and marketing events. If major revisions to the conditions of approval are required, the item will need to be continued to a future date.

Option 3 - Deny Proposed Project

Disposition - In the event the Commission determines that the project does not, or cannot meet the required findings for the granting of a Use Permit Modification, Commissioners should identify 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 Modification is not being approved. Based on the administrative record as of the issuance of this staff report, there does not appear to be any evidence supporting the denial of the project.

Action Required - Commission would take a tentative motion to deny the project and remand the matter to staff for preparation of required findings to return to the Commission on a specific date.

Option 4 - Continuance Option

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

SUPPORTING DOCUMENTS

- A . Recommended Findings
- B . Recommended Conditions of Approval and Final Agency Memos
- C . Previous Project Conditions
- D . Initial Study/Negative Declaration
- E . Public Comments
- F . Use Permit Application Packet
- G . Water Availability Analysis
- H . Wastewater Feasibility Study
- I . Traffic Study
- J . Graphics
- K . Winery Comparison Analysis

Napa County Planning Commission: Approve

Reviewed By: Vincent Smith