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Agenda Date: 8/3/2016

Agenda Placement: 9B

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission

**FROM:** Charlene Gallina for David Morrison - Director  
Planning, Building and Environmental Services

**REPORT BY:** Sean Trippi, Principal Planner - 299-1353

**SUBJECT:** Yountville Hill Winery - Public Hearing on the Draft Environmental Impact Report

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### **RECOMMENDATION**

#### **YOUNTVILLE HILL WINERY / CS2 WINES, LLC - USE PERMIT AND AN EXCEPTION TO THE CONSERVATION REGULATIONS (P13-00279); VARIANCE (P13-00417); AND, VIEWSHED (P13-00416) PUBLIC HEARING ON THE DRAFT ENVIRONMENTAL IMPACT REPORT**

**CEQA Status:** Napa County and its consultant, Ascent Environmental, Inc., have completed a draft environmental impact report (DEIR) that analyzes the potential environmental impacts of the Yountville Hill winery proposed on a 10.89 acre site located at 7400 St. Helena Highway, in unincorporated Napa County. The DEIR was released for a public and agency review and comment period that began on July 1, 2016. The public comment period is scheduled to conclude at 5:00 p.m. on August 15, 2016. Interested agencies, organizations and members of the public are invited to submit written comments to Planning staff within the comment period. Oral or written comments may also be submitted to the Planning Commission during this agendized hearing.

**Request:** This is a public hearing to receive comments regarding the DEIR that has been prepared to analyze the direct, indirect and cumulative environmental impacts that could occur as a result of approval of the proposed project. The proposed project consists of a request to establish a new winery on the subject site with an annual production capacity of 100,000 gallons. The 10.9 acre project site is located on the east side of State Route 29 approximately ¼-mile south of the Yount Mill Road / State Route 29 intersection. APN's: 031-130-028 & 029. 7400 St. Helena Hwy, Napa.

The Commission is also asked to consider a request from Shute, Mihaly & Weinberger LLP, representing Save Yountville Hill to extend the public review and comment period on the DEIR, from 45 days to 90 days.

**Staff Recommendation:** Open the public hearing, accept public comments on the DEIR, and close the public hearing on the DEIR. Extend the public comment and review period for an additional 15 days, adjusting the date of the end of the comment period from August 15, 2016, to August 30, 2016, for a total of 60 days.

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**Applicant:** Eric Sklar, (707) 484-8656 or [ericsklar@gmail.com](mailto:ericsklar@gmail.com)

**Applicant's Representative:** Lester Hardy, (707) 967-9610 or [lester@lhardy.com](mailto:lester@lhardy.com)

## **THIS ITEM IS SET TO BE DISCUSSED AT 1:30 PM**

### **EXECUTIVE SUMMARY**

#### **Proposed Actions:**

That the Planning Commission:

1. Open the public hearing on the DEIR, receive oral and written comments thereon, and close the public hearing.
2. Extend the public and agency review and comment period on the DEIR beyond the statutory minimum of 45 days (Public Resources Code Section 21091). Staff recommends an extended comment period totaling 60 days, consistent with the guidance in CEQA Guidelines Section 15105.

#### **Discussion:**

The Napa County Planning Division has received a request for a use permit to establish a new winery with an annual production capacity of 100,000 gallons. The project would include construction of two new winery buildings with approximately 14,000 square feet (sf) of floor area, divided between a 1,200 sf reception building and a 12,800 sf winery administration and visitor building. The winery administration and visitor building would also include approximately 9,600 sf of unenclosed terraces. The winery would employ up to 19 full-time staff. The project would also include construction of approximately 35,590 sf of cave area, 37 on-site parking spaces, installation of a new on-site winery process and domestic wastewater treatment system, installation of a three-sided box drainage culvert to replace an existing culvert, new landscaping, driveway improvements, water storage tanks, and signage. Operation of the winery would include tours, tastings, and marketing events. Tours and tastings would occur by appointment only. The maximum number of visitors would be limited to 1,000 per week. All marketing events at the site would be by invitation and would not exceed 58 events per year. Proposed marketing activities include 48 food and wine pairings per year with up to 50 guests at each event, six (6) food and wine pairings per year with up to 100 guests at each event, two (2) food and wine pairings per year with up to 200 guests at each event, and two (2) wine auction events per year with up to 200 guests at each event. The subject property is currently developed with a single-family residence with a valid use permit to operate a three bedroom bed and breakfast, detached garage, a cave that is accessory to the residence and, approximately 2.2 acres of vineyard.

The applicant is also seeking an exception in the form of a use permit to the conservation regulations to grade/construct improvements on slopes exceeding 30 percent; a viewshed application that would allow construction on slopes 15 percent or greater and visible from a viewshed designated roadway (SR 29); and a variance for development that encroaches into the 300-foot required setback from a shared driveway. Today's hearing is to take public comment on the adequacy of the DEIR; not on the merits (or lack thereof) of the underlying project.

The proposed project is subject to review under the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq.*), which requires permitting agencies to identify potential impacts to the environment that would occur as a result of implementation of a proposed project, prior to making a decision to approve or to deny a permit request. Staff of the Planning Division and the consulting firm of Ascent Environmental, Inc., have

completed the DEIR, in order to meet the requirements of CEQA. The DEIR is being circulated for public and agency review and comment in accordance with CEQA, the State CEQA Guidelines and Napa County's Local Procedures for Implementing CEQA. During the review and comment period, members of the Planning Commission, public and other regulatory agencies are invited to provide input on the analysis and discussion of the impacts and alternatives contained within the DEIR. Planning Commissioners and other interested parties can provide their input on the DEIR via written letters or emails to the County Planning Division during the comment period, which began on July 1, 2016, or they may comment orally at this public hearing. All substantive comments on environmental issues of the DEIR will be responded to in a final environmental impact report (FEIR) before the Commission can take action on the proposed project.

In addition to taking public comment, the Commission is requested to consider and take action on a request from Shute, Mihaly & Weinberger LLP (attached) to extend the public review and comment period from 45 days to 90 days, but at least 60 days. Approval of the extension would change the date of the end of the comment period from August 15, 2016 to August 30, 2016 for a total of 60 days or to September 28, 2016 for a total of 90 days, or somewhere in between at the Commission's discretion.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

**Environmental Determination:** Draft EIR prepared for the project. (State Clearinghouse # 2014022035)  
Consideration of an extension of the DEIR comment period is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines), and therefore, CEQA is not applicable to the extension request.

### **BACKGROUND AND DISCUSSION**

**Background:** The Planning Division prepared and circulated an Initial Study/Mitigated Negative Declaration (IS/MND) for the project on February 14, 2014. On July 2, 2014, the Planning Commission adopted the Mitigated Negative Declaration and approved the Yountville Hill Winery/CS2 Wines, LLC application for a use permit and exception to the conservation regulations, a variance, and a viewshed application to establish a new winery with an annual production capacity of 100,000 gallons. The project included the following: (1) construction of two new winery buildings with approximately 14,019 sq. ft. of floor area, including a 1,208 sq. ft. reception building and a 12,811 sq. ft. winery, administration and visitor center building with 9,605 sq. ft. of unenclosed terraces; (2) construction of approximately 35,588 sq. ft. of cave area, including a warming kitchen; (3) 37 on-site parking spaces; (4) a Marketing Plan with 48 events per year for a maximum of 50 guests at each event (half of the events will be scheduled to begin after 6:30 PM); six (6) events per year for a maximum of 100 guests at each event; two (2) events per year for a maximum of 200 guests at each event; and, two (2) wine auction events per year; (5) tours and tastings, which may include food paring, by appointment only for a maximum of 285 visitors per day with a maximum of 1,120 visitors per week (285 Sat/Sun; 110/day Mon-Fri); (6) hours of operation from 6 AM to 3 PM (production staff), 8 AM to 5 PM (administrative staff) and 9:30 AM to 6:30 PM (hospitality staff – visitation would occur between 10 AM and 6 PM); 7 days a week; (7) on-premise consumption of the wines produced on-site in the winery administration and visitor center building and terraces pursuant to the Evans Bill (Business & Professions Code sections 23358, 23390 and 23396.5 also known as AB 2004 or the Picnic Bill); (8) employ up to 19 people; (9) a new on-site winery process and domestic wastewater treatment system; and, (10) new landscaping, driveway

improvements, four water storage tanks (10,500 gallons each), and signage. The proposal also included an exception to the conservation regulations to grade/construct improvements on slopes exceeding 30%, a viewshed application to construct on slopes 15% or greater and visible from a viewshed designated roadway (State Route 29) and a variance to allow the lower cave portal and winery related activities on the pad in front of the cave to encroach into the approximately 275-feet into the 600-foot setback from State Route 29, winery buildings to encroach into the 300-foot setback from a private shared road, a staircase at the rear of the winery building to encroach 6-feet into a 20-foot rear yard and a non-habitable portion of the structure/landscaped terrace and stairs at the third or roof level to encroach 15-feet into the 20-foot rear yard. The project site is comprised of two parcels that will be combined. An existing 4,000 sq. ft. residence/bed & breakfast and garage and the existing driveway from State Route 29 to the structures would be removed as part of the proposal to facilitate construction of the winery, a new driveway, and associated improvements.

On July 30, 2014, an appeal of the Planning Commission's decision was filed. Over several weeks, before a hearing was held on the appeal, the Applicant and Appellants met and attempted to resolve the appeal through mediation. Despite their efforts, the mediation was unsuccessful. Because some of the issues raised by the Appellants warranted further environmental analysis, Staff and the Applicant believed that an environmental impact report was necessary to more fully evaluate the potential impacts associated with the winery project. On December 14, 2014, staff, with the support of the Applicant and Appellant, requested that the Board; (1) grant the appeal without making any findings as to the merit of the issues raised in the appeal; (2) rescind the Planning Commission's approval of the project and Mitigated Negative Declaration; and, (3) direct staff to initiate preparation of an environmental impact report for the winery project.

**Environmental Impact Report:** An environmental impact report (EIR) is an informational document that is used to inform public agency decision makers and the general public of the potentially significant environmental effects of a project; to identify possible ways to mitigate or avoid those significant effects; and to describe a range of reasonable alternatives to the project that could feasibly attain most of the basic objectives of the project while substantially lessening or avoiding any of the significant environmental impacts. Public agencies are required to consider the information presented in the EIR when determining whether to approve a project.

The DEIR for the proposed Yountville Hill Winery describes the potentially significant adverse environmental effects of the proposed project, as well as measures that would avoid or mitigate to less-than-significant levels the significant adverse environmental effects that are anticipated to result from the construction and operation of the proposed project. The DEIR also includes a discussion of potential alternatives to the proposed project and a comparison of the anticipated environmental impacts of each alternative relative to the proposed project.

**Errata:** Since release of the DEIR, the some inaccuracies have been identified in the DEIR which need correction/clarification. The attached memo presents specific text changes made to the DEIR since its publication. The changes are presented in the order in which they appear in the DEIR and are identified by the DEIR page number.

**Proposed Project:** The project is essentially the same as previously approved by the Planning Commission, described above, except that the winery administration and visitor center building has been redesigned such that portions of the building no longer encroach into the 20-foot rear yard setback, and winery related activities are no longer proposed on the pad in front of the lower cave portal and photo simulations show that the portals will not be visible prior to completion and occupancy of the winery eliminating the need for a variance from the 600-foot setback from State Route 29.

**Project Objectives:** The project applicant has developed the following objectives for the project:

- 1 Construct and operate a new landmark winery in the upper Napa Valley, capable of producing up to 100,000 gallons of wine annually.

- | Design a winery with high-quality architecture and landscaping and a sustainable design that also maintains existing topography and vineyards to the maximum extent practicable.
- | Design the new winery such that environmental impacts are minimized and environmental resources are preserved.
- | Promote water conservation through the use of recycled water or treated wastewater for outdoor irrigation.
- | Achieve the highest feasible Leadership in Energy & Environmental Design (LEED) standards for the project, while also qualifying for Napa Green Certified Land and Napa Green Certified Winery status.
- | Construct the new winery on a site without removing any vineyards from production.
- | Improve the existing viewshed by removing the existing three-story residence/bed and breakfast on the project site.
- | Contribute to the local agricultural economy through the development of a winery that would use 95 percent Napa County grapes.
- | Create a range of new job opportunities.
- | Develop a viable on-premise marketing and sales program through a combination of tours and tastings with educational marketing events.
- | Use the winery's hilltop location to educate visitors about the Napa Valley and the Agricultural Preserve by showing the location of landmark wineries and vineyards visible from the winery, as well as the vineyards owned by the project applicant.

**DEIR Summary:** As described above, the Planning Division prepared and circulated an Initial Study/Mitigated Negative Declaration (IS/MND) for the project on February 14, 2014. On April 29, 2015, the Planning Division released a Notice of Preparation (NOP) indicating that an EIR would be prepared for the project. The analysis in the Initial Study concluded that the proposed project would result in no significant impacts in the areas of agriculture and forest resources, air quality (operation), geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, population and housing, public services, recreation, and utilities and service systems (except water supply). The Initial Study identified one potentially significant impact in the area of cultural resources and also identified a mitigation measure that would require cessation of work in the event of discovery of significant archaeological or paleontological resources during project construction. This mitigation measure was augmented as part of the preparation of the DEIR to include a worker awareness program to provide construction personnel additional guidance and training should cultural resources be encountered. Implementation of the mitigation measure would reduce the impact to less than significant. Accordingly, these resources are not addressed further but are identified in the DEIR with a brief explanation as to why impacts to each resource are not anticipated, as required by CEQA. It should be noted that the IS/MND also identified potential impacts and included mitigation measures related to biological resources (three potential impacts/mitigation measures) and transportation/traffic (one potential impact/mitigation measure); however, analysis of these topics were included in the DEIR.

Although the Initial Study included varying levels of analysis in all 17 categories of potential land use impacts, the DEIR provides more in-depth analysis for each of the eight topic areas that staff determined could have potentially significant impacts during the scoping process for the DEIR. Thus, the DEIR focuses on the potential significant environmental effects of the project on the following resource topics: land use; aesthetics; biological resources; noise; transportation; greenhouse gas emissions; air quality; and, water supply and groundwater. Within these eight areas, the DEIR identifies another 30 potential impacts to the environment that could occur as a result of approval and implementation of the proposed project. Of the 30 total impacts identified in the DEIR, 22 were determined to be less than significant impacts for which no mitigation was necessary to reduce the level of significance of the impact. The remaining 8 impacts were either significant or potentially significant impacts in the areas of aesthetics, biology, transportation, greenhouse gas emissions, and air quality. The DEIR identifies eight mitigation measures that would reduce the severity of each impact to less than significant. The five mitigation measures identified in the IS/MND have also been included in the DEIR. A summary of the potential environmental impacts of the proposed project, as well as corresponding mitigation for each significant or potentially significant impact, is provided in the Executive Summary section of the DEIR, a copy of which is attached to this staff report.

**Alternatives to the Project:** In addition to an impact analysis of the proposed project, and in accordance with State CEQA Guidelines, Section 15126.6, the DEIR analyzes alternative scenarios and compares the potential environmental effects of each alternative to those of the proposed project. The Yountville Hill Winery Project DEIR evaluates three alternatives to the proposed project: 1) the No Project Alternative, which assumes that the project does not move forward, and the project site would remain in its existing condition (residence/bed and breakfast and vineyards); 2) Alternative 1, which would include the same site layout as the proposed project but would reduce wine production from 100,000 gallons per year to 80,000 gallons per year, reduce visitation from 1,000 visitors per week to 800 per week, and reduce marketing events from 58 to 50 annually; and, 3) Alternative 2 which would relocate the winery administrative and visitor building from the top of the hill to the level of the upper caves (about the midpoint of the site), reduce wine production from 100,000 gallons per year to 70,000 gallons per year, reduce visitation from 1,000 visitors per week to 500 per week, and reduce marketing events from 58 to 48 annually. Additional summary of the project alternatives are included in the attached Executive Summary from the DEIR.

**Environmentally Superior Alternative:** The State CEQA Guidelines, Section 15126.6, suggests that an EIR should identify the “environmentally superior” alternative. “If the environmentally superior alternative is the ‘no project’ alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.” In this case, the no project alternative is the environmentally superior alternative, as all of the significant impacts of the project would be avoided. However, the no project alternative would not meet any of the project’s objectives because a winery would not be constructed on-site. In accordance with the aforementioned section of the CEQA Guidelines, Alternative 2 is the environmentally superior alternative of the other alternatives considered. With this alternative, significant impacts to aesthetics, biological resources, transportation, greenhouse gas emissions, and air quality would be reduced or avoided, when compared to the project. Further, this alternative would meet all project objectives.

**Public Comment:** The DEIR was released for a public and agency review and comment period that began on July 1, 2016, with copies of the document available at the Napa Main Library, the Yountville Library, the St. Helena Library, the County Administration Building, and online on the project webpage via the link <http://www.countyofnapa.org/cdspdprojects/>. In accordance with Public Resources Code section 21091, CEQA Guidelines section 15105 and section 702.3 of the Napa County Local CEQA Procedures, the public comment period must remain open for a minimum of 45 days. However, under Local CEQA Procedures, the comment period may be extended, subject to the discretion of the Planning Director (for extensions of time up to 15 days) or the Planning Commission (for extensions of time greater than 15 days). Interested agencies, organizations and members of the public are encouraged to submit written comments to Planning staff prior to the close of the comment period. Oral or written comments may also be submitted to the Planning Commission during this agendized hearing. Comments received to date are attached to this report.

Following close of the comment period on the DEIR, County Planning and consulting staff will prepare a Final EIR, which will consist of the DEIR, comments thereon, and written responses to those comments. The Planning Commission will be asked to certify the adequacy of the Final EIR, prior to considering whether to approve or deny the proposed project. Notice of any future public hearing on the proposed project and certification of the EIR will be emailed and mailed to interested parties at least 10 days prior to the date of the hearing. Those future hearings are tentatively anticipated to occur in fall of this year, depending on the extent of effort necessary to respond to comments submitted on the DEIR.

**Extension Request:** Planning staff received a letter dated July 5, 2016, from Shute, Mihaly & Weinberger LLP, representing Save Yountville Hill, to extend the comment period from 45 days to 90 days (but not less than 60 days), due to the release date just prior to the July 4th holiday and during the summer vacation month(s) of concerned members of the public and the length of the DEIR and associated documents. In accordance with Local CEQA Procedures, because the request is for an extension of time greater than 60 days from the July 1, 2016, start of the public comment period, the Planning Commission has discretion to approve or to deny the extension

request. Approval of the extension would change the date of the end of the comment period from August 15, 2016 to September 28, 2016, for a review period of 90 days or to August 15, 2016, for a review period of 60 days, or some other date deemed appropriate by the Commission.

CEQA Guidelines section 15105 establishes 30 days as the minimum review and comment period for DEIRs. For DEIRs that are submitted to the State Clearinghouse for review by one or more state agencies, the review and comment period should be increased to at least 45 days. The Guidelines also indicate that review periods should be no longer than 60 days, except in unusual circumstances.

The DEIR for the proposed Yountville Hill Winery was submitted to the State Clearinghouse; accordingly, the comment period was established at 45 days. Staff believes that, due to the extent of public interest in this proposed project, an extended period of public review is appropriate and, therefore, recommends an extended comment period of 60 days in total, in accordance with the guidance contained in CEQA. Staff does not believe that there are unusual circumstances that would warrant the 90-day review period requested.

An extension allowing a total of 60 days would change the close of the comment period from 5:00 p.m. on August 15, 2016, to 5:00 p.m. on August 30, 2016. In the event that the Commission moves to grant the extension request for a timeframe other than 60 days, staff requests that the Commission specify the new ending date for receipt of public comments on the DEIR. Staff will update information on the project website accordingly.

#### **SUPPORTING DOCUMENTS**

- A . Yountville Hill Winery Draft EIR Executive Summary
- B . Public Comment Period Extension Request
- C . Draft EIR Errata
- D . Public Comments

Napa County Planning Commission: Approve

Reviewed By: John McDowell