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Agenda Date: 9/16/2020

Agenda Placement: 7A

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: Rombauer Vineyards Major Modification #P19-00103-MOD

RECOMMENDATION

KORNER ROMBAUER TRUST / ROMBAUER VINEYARDS / MAJOR MODIFICATION #P19-00103-MOD & EXCEPTION TO COUNTY ROAD AND STREET STANDARDS

CEQA Status: Consideration and possible adoption of a Mitigated Negative Declaration. According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures. Mitigation measures are proposed for the following areas: Noise. 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 Major Modification to an existing 450,000-gallon per year winery to allow the following: **A. COMPONENTS NECESSARY TO REMEDY EXISTING VIOLATIONS:** 1) recognition of 48 full-time and 22 part-time/seasonal existing employees (currently authorized for 25 full-time employees and nine part-time/seasonal employees); and 2) recognition of 79 parking spaces (currently authorized for 74 spaces). **B. EXPANSION BEYOND EXISTING ENTITLEMENTS:** 1) increase the number of full time employees from 25 to 55 and increase the number of part-time/seasonal employees from nine (9) to 26; 2) revise the locations of the existing on-site wine consumption to add an existing picnic area on an adjacent parcel (APN: 021-410-024) and a new ADA-accessible picnic area adjacent to the tasting room parking lot in accordance with Business and Professions Code Sections 23390 and 23396.5; 3) construct an arbor at the entrance to the garden path to the new picnic area; 4) amend the existing Marketing Plan; 5) convert a conference room in the existing administration building into a small private tasting area; convert a portion of an existing restroom to office space in the production building; and temporarily use space within an area approved to construct a tasting room for a staff break room; 6) add an existing 260 ft² shed on an adjacent parcel (APN 021-410-025) for grounds maintenance equipment storage; 7) allow outdoor amplified music on the crush pad, tasting room parking area, and the parking area near a cave entrance during five (5) marketing events; 8) add an existing road for a service area of the administration building; 9) construct four (4) new parking spaces for a total of 83 spaces; 10) construct deceleration/acceleration lane improvements to the Silverado Trail access entrance; and 11) revise Major Modification Permit #P10-00038 - COA#5 to correct the

percentage of production that is subject to the 75% rule (120,000 gallons). There are no proposed changes to the Winery's production, daily visitation, or hours of operation. The project also includes a request for an exception to the Road and Street Standards to avoid the removal of existing mature trees to construct the required current road width increase. The project is located at 3522 N. Silverado Trail, St. Helena - APN:021-410-025 (winery - ±31.85 acres) and APN:021-410-024 (Residence - ± 5.15 acres) Zoning and General Plan Designation: Agricultural Preserve (AP) and Agricultural Resource (AR).

Staff Recommendation: Adopt the Mitigated Negative Declaration and approve the Exception to the Napa County Roads & Street Standards and Major Modification, as conditioned.

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Applicant Contact: Lynn Sletto, 3522 Silverado Trail, St. Helena, CA, 94574, (707) 963-6629; lynns@rombauer.com

CONTINUED FROM THE AUGUST 5, 2020 COMMISSION MEETING.

EXECUTIVE SUMMARY

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration and MMRP, based on recommended Findings 1-7 in Attachment A;
2. Approve an Exception to the County Road and Street Standards (RSS) based on Findings 8-9 of Attachment A and subject to the recommended conditions of approval in Attachment B; and
3. Approve Major Modification No. P19-00103-MOD based on recommended Findings 10-14 in Attachment A, and subject to the recommended revised conditions of approval in Attachment B.

Discussion:

On August 5, 2020, the Planning Commission held a public meeting to consider approval of a Major Modification submitted to participate in the County's Code Compliance Program as described in Resolution No. 2018-164 adopted by the Napa County Board of Supervisors on December 4, 2018. Under the program, property owners may apply for a permit to voluntarily remedy existing violations. Staff presented to the Commission the proposal to modify the existing 450,000 gallon/year winery permit to recognize existing employees and parking spaces which were not approved under prior entitlements, including Major Modification #P10-00039-MOD for the subject site approved in 2012. The project also requests an expansion to add additional employees and parking spaces, convert accessory spaces within the existing winery building and administration building to alternate accessory uses, modify the existing marketing program, construct a deceleration/acceleration lane at the project's entrance, clarify the 75% grape sourcing condition of approval, and allow for use of outdoor amplified music. An Exception to the County Road and Street Standards (RSS) is also being requested to meet the inside radius to the curves of the existing driveway in order to avoid the removal of mature trees and grading on steep slopes.

Several letters and emails were received prior to the hearing, and comments presented at the hearing included concerns regarding the proposed amplified music request, a new picnic area located a distance from the supervised tasting area, potential impact on groundwater, and the proposed change to the marketing event hours. The neighbors specifically expressed opposition to the proposed amplified music stating that it would be an adverse impact on their quiet lifestyle. Statements were made that they were not afforded adequate notice to fully evaluate the proposal due to postal delivery delays. During deliberation, the Commission also expressed concerns about the use of amplified music at the five marketing events (a use that is not typically approved for wineries), concerns regarding the impact on adjacent wells located 500 feet from winery wells and the need to

require monitoring of winery wells, as well as, concerns regarding the neighbors' limited time to review the project (less than 20 days). At the conclusion of the Commission's deliberation, the Commission voted to continue the item to the September 16, 2020, to allow applicant/permittee sufficient time to review comments, discuss the issues with neighbors, and to allow staff sufficient time to prepare and provide additional information and potential revise conditions of approval.

In response to public comments and Commission concerns, the applicant has revised the project scope by reducing their request for outdoor amplified music to one event per year that would end at 7:00 pm, providing public notification of marketing events 2 weeks in advance, and limiting the use of the outdoor speakers located next to the tasting room to background music only during tasting hours only. Staff has reviewed the proposal to revised the project scope and finds that the project would address both the public and Commission concerns and would still be consistent with Zoning Ordinance and General Plan policies. Furthermore, the reduction to one amplified music event per year in addition to incorporation of the proposed environmental mitigation measure would reduce the noise impact significantly. The proposed additional condition regarding groundwater monitoring will ensure the sustainability of future groundwater demands. Furthermore, staff has also added an additional condition regarding the submission of the required Travel Demand Management (TDM) plan prior to any operational changes of the winery to ensure that any environmental impacts resulting from the project would be implemented earlier. Based on these reasons, staff recommends approval of the project subject to the recommended revised Conditions of Approval.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

ENVIRONMENTAL IMPACT

Consideration and possible adoption of a Mitigated Negative Declaration. According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures. Mitigation measures are proposed for the following areas: Noise. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Discussion:

On August 5, 2020, the Planning Commission held a public hearing to consider approval of a Major Modification to an existing pre-WDO, 450,000 gallon/year winery under the County's Code Compliance Program. A copy of the full Staff report can be found at <http://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=5736>. Prior to the hearing on August 5, 2020, several emails and letters were received and public comments were presented at the hearing expressing concerns and opposition to various aspects of the project. These included concerns regarding groundwater impact on adjacent wells within 500 feet from the project wells, allowing amplified music that would have an impact on the surrounding neighbors, and the public notice for the project was not clear and did not provide sufficient time to allow the public to fully evaluate the project. During deliberation, the Commission also expressed concerns about the use of amplified music at the five marketing events (a use that is

not typically approved for wineries), marketing event notification to adjacent parcels, concerns regarding the impact on adjacent wells located 500 feet from winery wells and the need to require monitoring of winery wells, as well as, concerns regarding the neighbors' limited time to review the project (less than 20 days). At the conclusion of Commission deliberation, the Commission voted to continue the item to September 16, 2020 to allow staff and the applicant sufficient time to address these concerns and comments. As provided below, staff has provided only updates in response to the Commission's August 5, 2020 continuance to allow the applicant and neighbors to further discuss the project and to allow time for staff to prepare modifications to the address the comments presented and provide additional information or revised conditions of approval.

Project Proposal and Neighborhood Outreach - The Commission believed a continuance to a later hearing would allow the applicant and neighbors to meet to discuss the project and would allow the public to be better prepared to respond to the project. On August 10, 2020, the applicant forwarded a letter to the neighbors who provided public comment at the August 5, 2020 hearing, and on August 13, 2020, a second letter was prepared and mailed for the remainder of the property owners who received notice of the public hearing, but did not provide public comments. The letters included a statement of the modifications that the winery was seeking and invited the neighbors to a site visit to discuss their proposal. Neighbors had visited the site before the hearing, and subsequent to the letters mailed. The applicant has submitted revisions to the project based upon the comments made by the public and the Commission. The project is revised to reduce the request for a live band to only one event/year to end by 7:00 pm and with notification to the neighbors two weeks in advance of the event. In addition, the use of the speakers outside the existing patio of the tasting room are limited to providing background music, and only during the tasting room's hours of operation. In no event shall these speakers be used during any marketing events.

Amplified Music and Temporary Event License - During Commission deliberation, three of the Commissioners indicated that the proposed live band music at the five large marketing events would not be acceptable given the requested hours of such events. However, two Commission members indicated that they would be agreeable to authorizing one event with a live band music should the marketing event cease at 7:00 pm. Furthermore, some Commissioner members also indicated that they consider use of amplified sound through patio speakers appropriate in the tasting area for background music, since volume would be limited to allow general conversation of guests and winery employees. However, the Commission also expressed concern that the public perceived that the patio speakers could be also used for other kinds of events. With regards to authorization of a Temporary Event License and use of amplified music, staff informed the Commission that a Temporary Event License could be issued to allow an event with amplified music at the winery, however, by definition, the "Marketing Event" presented by the winery for approval would not be eligible, per the definition of "event" (County Code Section 5.36.010), since the event does not invite the public. If the winery were to apply for a Category 3, Temporary Event License, it would allow no more than three consecutive days per event, and no more than six events per calendar year. The application must be filed at least sixty days prior to the event, and a Notice of Intent to approve is forwarded to neighbors within 1,000 feet, requesting that any request for a hearing before the Zoning Administrator within 10 days. If such request is not timely received, the director will issue or deny the license in accordance with the recommendation, and such action would be final and not subject to appeal to the Board.

As attached to this report, the applicant has proposed that the project request for amplified music be reduced to one "Marketing Event" (350 persons) per year until 7:00 p.m. The applicant has also proposed notification 14 days prior to any of the five marketing events to the adjacent property owners located within 1,000 feet. Furthermore, the applicant is also requesting use of the speakers outside the existing patio of the tasting room limited only to providing background music, and only during the tasting room's daily hours of operation. As noted in the deliberations, the sound from these speakers would be related to the ambience of the tasting experience which would allow for conversation and discussion regarding the wines being tasted. As stated in the acoustical study, the level of sound from the patio speakers is not greater than the ambient noise levels, mostly overshadowed by the Silverado Trail traffic noise.

In response to Commission discussion and the request of the applicant, staff is recommending modification to

Conditions of Approval 1.2(h) and 1.2(i) as well as 4.3(a)(3) and 4.3(a)(4) to reflect the applicant's request. Condition of Approval 4.3(a)(5) has also been added requiring notification of the five marketing events as proposed by the applicant.

Groundwater Monitoring - The WAA prepared by Bartelt Engineering (July 2020-Revised) indicated there is no current, potential well interference may occur with the existing wells located within 500 feet of the project well, to the northwest, north and northeast. Public comments expressed concerns that although there is no interference today, in the future potential drawdown and impacts to the adjacent wells located within 500 feet, and asked the Commission to require monitoring and reporting of the wells. The Commission concurred and requested that a condition be included to require well monitoring and submission of results to the County to ensure future sustainability of groundwater. Staff recommends the following be included in the conditions of approval:

4.20 OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT

b. GROUNDWATER

The parcel shall be limited to 18.77 acre-feet of groundwater per year for all water consuming activities on the parcel. A Groundwater Demand Management Program shall be developed and implemented for the property as outlined in COA 6.15(a) below.

In the event that changed circumstances or significant new information provide substantial evidence (footnote #1) that the groundwater system referenced in the Use Permit would significantly affect the groundwater basin, the PBES Director shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to meet the requirements of the County Code and to protect public health, safety, and welfare.

Footnote #1 - Substantial evidence is defined by case law as evidence that is of ponderable legal significance, reasonable in nature, credible and of solid value. The following constitute substantial evidence: facts, reasonable assumptions predicated on facts; and expert opinions supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or clearly inaccurate or erroneous information do not constitute substantial evidence.

6.15 OTHER CONDITIONS APPLICABLE TO THE PROJECT PERMITTING PROCESS

a. Groundwater Demand Management Program

- 1. The permittee shall install a meter on each well serving the parcel. Each meter shall be placed in a location that will allow for the measurement of all groundwater used on the project parcel. Prior to the issuance of a grading or building permit for the winery or expanding any operations as approved under this modification, the permittee shall submit for review and approval by the Director of Public Works a groundwater demand management plan which includes a plan for the location and the configuration of the installation of a meter on all wells serving the parcel.*
- 2. The Plan shall identify how best available technology and best management water conservation practices will be applied throughout the parcel.*
- 3. The Plan shall identify how best management water conservation practices will be applied where possible in the structures on site. This includes but is not limited to the installation of low flow fixtures and appliances.*
- 4. As a groundwater consuming activity already exists on the property, meter installation and monitoring shall begin immediately and the first monitoring report is due to the county within 120 days of approval of this modification.*
- 5. For the first twelve months of operation under the Use Permit, the applicant shall read the meters at the beginning of each month and provide the data to the Public Works Director monthly. If the water usage on the property exceeds, or is on track to exceed, 18.77 acre-feet per year, or if the permittee fails to report, additional reviews and analysis and/or a corrective action program at the permittee's expense shall be required and shall be submitted to the Public Works Director and the PBES Director for review and action.*
- 6. The permittee's wells shall be included in the Napa County Groundwater Monitoring program if the County finds the well suitable.*
- 7. At the completion of the reporting period per 6.15(a)(5) above, and so long as the water usage is within the acre-feet per year as specified above, the permittee may begin the following meter reading schedule:*

a. On or near the first day of each month the permittee shall read the water meter, and provide the data to the Public Works Director during the first weeks of April and October. The Public Works Director, or his designated representative, has the right to access and verify the operation and readings of the meters during regular business hours.

9.9 OTHER CONDITIONS APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY

a. All required meters shall be installed and all groundwater usage monitoring required in COA 4.20(a) and 6.15(a) shall commence prior to final occupancy, or expanding any operations as approved under this modification.

Vehicle Miles Traveled (VMT) - The transition to VMT in analysis of traffic is required beginning July 1, 2020. The Public Works Department has included a condition requesting the applicant submit a Transportation Demand Management (TDM) Plan that will include measures to reduce Vehicle Miles Traveled (VMT) by 15 percent. The condition requires submission of the TMD prior to issuance of a building permit. Inasmuch as the applicant has requested recognition of the 36 employees that were not authorized by the existing use permits and is requesting additional employees, staff recommends the following condition be added to require submission of the TDM within 30 days of permit approval:

4.20 (c). Within 30 days of permit approval, the permittee shall submit a Traffic Demand Management Plan to the Planning Division and the Public Works Department for review and approval which addresses Public Works Department Memorandum dated June 22, 2020. Such plan shall be implemented upon County authorization and may be subject to submittal of annual reporting requirements upon request in response to the County development of a Vehicle Mile Traveled (VMT) Reduction Program.

Public Notification - During Commission deliberation, concern was expressed about the public not having enough time to review the project due to required noticing timelines and postal delays, and that the project description did not fully provide a full picture of the project and requested more information regarding the hearing notices. Pursuant to County Code Section 18.136.040, the public hearing notices prepared are required to provide a general explanation of the matter to be considered, a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing. It should be also noted that a link to the Current Project Explorer on the Department's website is included to provide public access to the project documents (including the environmental document and public notice) and the name, phone number and email address of the staff planner. Timelines of 10, 20 or 30 days are determined based upon the required environmental document prepared for the project. A copy of the public notice mailed out for this project on July 14, 2020 (required a 20 day notice for a Initial Study/Mitigated Negative Declaration not requiring State review) and published in the Napa Valley Register on July 15, 2020 has been attached to this report for Commission review. It should be noted that the County is not responsible for any delays associated with the US Postal Service. During the public comment period, staff had received a call from one neighbor who had difficulty with the link, and additional information was provided for her eventual success in reviewing the documents for the project prior to the hearing.

Public Comment - After the hearing, a letter was received on August 14, 2020 stating that if the request for amplified music for Rombauer were approved, the listed wineries that had been declined in the past would reapply for amplified music use. It should be noted that through adoption of the Winery Definition Ordinance outdoor amplified music was prohibited since it was identified as not accessory to the making of wine and would likely result in an impact to the surrounding properties, thereby, a standard condition was developed and applied to all projects to prohibit this use. Therefore, any request for amplified music would have to be evaluated on a case by case basis and would be required to submit a noise report prepared by an acoustical engineer to determine any potential impacts before authorization by the Planning Commission. Given application of this standard condition of approval prohibiting outdoor amplified on all winery applications most wineries do not request it. It should be further noted that of the list of wineries provided only Shadybrook Estate Winery was authorized to have background music within their outdoor daily visitation area due to the low volume in providing such music.

Decision Making Options Regarding Remediating Existing Violations:

Staff recommends approval of the components of the project necessary to remedy the existing violation with conditions of approval as described in Option 1 below.

Option 1: Approve Applicant's Proposal (Staff recommended option).

Disposition - This action would result in approval of 36 existing employees (23 full-time, 13 part-time) currently working at the winery; and would recognize the existing additional five (5) parking spaces beyond the approved 74 spaces approved by Major Modification P10-00039-MOD. Staff's analysis of this increase would result in no significant impacts associated with water and wastewater since the winery has already accommodated this increase.

Action Required- Follow the proposed action listed in the Summary section of this staff report.

Option 2: Prohibit or Reduce Requested Modifications.

Disposition - All potential environmental impacts have been found to be less than significant through a combination of project design and conditions of approval. However, this option provides the Planning Commission at their discretion, the ability to further reduce potential impacts by reducing the number of existing employees and require removal of existing parking spaces. Such reduction could result in inefficiencies at the winery with respect to winery operations, and require the removal of the constructed parking spaces.

Action Required: Follow proposed actions listed in the Executive Summary and amend scope and project-specific conditions of approval to reduce the scope of the project. This option would have not have proportionately fewer environmental impacts as compared to those discussed in the Initial Study/Mitigated Negative Declaration, since the removal of the additional parking on sloped areas. The item would need to be continued to a future date if significant revisions to the recommended conditions of approval are desired.

Option 3: Deny the Applicant's Proposal.

Disposition – This action would result in the winery reverting back to the originally approved operations and improvements authorized in Major Modification Permit #P10-00039-MOD; thereby all improvements made to the winery outside of the entitlement scope would have to be removed and reconstructed back to this approval. Employee levels would be reduced to 25 full-time and five part-time employees/four part-time interns

Action Required - In the event that the Commission determines that the proposed Major Modification does not or cannot meet the required findings for grant of a Major Modification, Commissioners must articulate the basis of the conflict with the findings. The Commission would then make a tentative motion to deny the proposal and remand the matter to staff to draft the required findings of denial, based on the Commissioners' statements. Staff would return to the Commission with the findings of denial on a specified date.

Option 4: Continuance Option.

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

Decision-making Options Regarding Expansions Beyond Existing Entitlements:

Staff recommends approval of Option 1.

Option 1: Approve Applicant's Revised Proposal (Staff recommended option).

Disposition - This option would result in approval of an additional number of employees and the incorporation of a TDM plan; the revision to marketing plan; the designation of existing approved new on-premise wine consumption areas; construct an arbor; allowing accessory use designation changes to existing accessory use areas within the winery production and administration buildings; the construction of additional parking spaces; a revision of the condition of approval regarding the 75% rule; add an existing grounds maintenance storage building; improvements to a temporary construction road for a permanent service road; improvements to the driveway entrance; improvements to the waste disposal system; and an exception to the RSS, allow amplified music for one marketing event as mitigated and permit amplified music in the outdoor speakers located on the deck off the tasting room for background music only.

Action Required - Follow the proposed action listed in the Summary section of this staff report. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. This proposal has been analyzed for its environmental impacts, which were found to be less than significant, provided the noise mitigation measure is implemented. Staff believes there is adequate rationale to support approving the winery's requests the following reasons: 1) distance of the existing winery from the State Highway and other residential properties; 2) The reduction of the number of a amplified music to one per year; 3) sufficient water supply and required well monitoring; 4) proposed levels of visitation and marketing activities will not be significantly increased; 5) no vineyard removal is proposed; and, 6) compliance with all Winery Definition Ordinance (WDO) and Zoning Code regulations. Based on the reasons stated above, staff recommends approval of the project and the Exception to the RSS, subject to the recommended conditions of approval.

Option 2: Modify the Applicant's Proposal to Allow Fewer Employees, Less Parking and/or a Reduced Marketing Program Alternative.

Disposition - All potential environmental impacts have been found to be less than significant through a combination of project design and conditions of approval. However, this option provides the Planning Commission at their discretion, the ability to further reduce potential impacts by decreasing the proposed number of employees, parking spaces and/or marketing guests and proposed entertainment.

Action Required – Follow proposed actions listed in the Executive Summary and amend scope and project-specific conditions of approval to reduce the number of employees, parking spaces and/or marketing guests to a specific maximum and/or remove the use of outdoor amplified music. This option would have proportionately fewer impacts as compared to those discussed in the Initial Study/Mitigated Negative Declaration, and thus, no new analysis beyond that of the Mitigated Negative Declaration would be necessary. The item would need to be continued to a future date if significant revisions to the recommended conditions of approval or desired.

Option 3: Deny the Applicant's Proposal.

Disposition – In the event the Commission determines that the project does not, or cannot meet the required findings for the granting of a Major Modification and an Exception to the RSS, 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 Major Modification and RSS Exception is not being approved.

Action Required - In the event that the Commission determines that the proposed Major Modification and RSS Exception does not or cannot meet the required findings for granting project approval, Commissioners must articulate the basis of the conflict with the findings. The Commission would then make a tentative motion to deny the proposal and remand the matter to staff to draft the required findings of denial, based on the Commissioners' statements. Staff would return to the Commission with the findings of denial on a specified date.

Continuance Option.

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

SUPPORTING DOCUMENTS

- A . Recommended Findings
- B . Recommended Revised Conditions of Approval and Final Agency Approval Memos
- C . Applicant's Revised Project
- D . Public Comments Received After August 5, 2020 Hearing
- E . Public Notice for Rombauer Vineyards Major Modification
- F . Staff Report of August 5, 2020
- G . Graphics

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina