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A Commitment to Service

Agenda Date: 9/2/2020

Agenda Placement: 7C

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: Brian Bordona for David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: Jason Hade, Principal Planner - (707) 259-8757

SUBJECT: Ballentine Vineyards Use Permit Major Modification P18-00382 and Variance P19-00006

RECOMMENDATION

FRANK BALLENTINE C/O THE WM VAN & BETTY P BALLENTINE TRUST ET AL / BALLENTINE VINEYARDS / USE PERMIT MAJOR MODIFICATION NO. P18-00382 AND VARIANCE P19-00006

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 (or MM's). MM's are proposed for the following area(s): cultural resources, transportation/traffic, and tribal cultural resources. 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 Major Modification to an existing 50,000 gallon per year winery to allow the following: **A. Components Necessary to Remedy Existing Violations:** (1) recognition of daily tastings of 21 persons per day, 147 visitors maximum per week. Currently authorized for 10 weekly visitors; (2) recognition of an existing marketing program of six events per year (325 guests). Currently authorized for two events per month (120 guests); and (3) recognition of 11 full-time employees. Currently authorized for four full-time employees. **B. Expansion Beyond Existing Entitlements:** (1) Construction of a 3,500 square foot freestanding covered crush pad and outdoor work area; remodel the existing tasting room including the addition of a 1,200 square foot outdoor tasting area adjacent to the tasting room; construction of a 240 square foot attached ADA compliant restroom, 215 square foot attached private tasting room, 250 square foot attached employee break room, and a 225 square foot pomace bin; (2) Increase in maximum annual permitted wine production from 50,000 to 125,000 gallons; (3) Increase existing daily tastings from 21 persons per day, 147 visitors maximum per week (existing conditions to be recognized via the County's Code Compliance Program) to 40 persons per day Monday through Friday and 95 persons per day Saturday and Sunday; 390 visitors maximum per week. All visitation would be by appointment only; (4) Modification of an existing Marketing Program to increase events from six events per year (325 guests) (existing conditions to be recognized via the County's Code Compliance Program) to 112 events per year (3,400 guests) as follows: (a) Ninety-Six (96) annual events for up to 25 guests; (b) Twelve (12) annual events for up to 50 guests; (c) Four (4) annual events for up to 100 guests; and (d) Closure of the winery for daily tastings during all

100 person events. (5) On-premises consumption of wines produced on site in the open air patio, tasting room, and private tasting room in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5; (6) Change the winery's tasting room hours of operation from 10:00 AM to 5:00 PM to 10:00 AM to 6:00 PM (Seven days a week); (7) Increase parking spaces from 15 spaces to 37 spaces and provide a minimum of two on-site bicycle parking spaces; (8) Increase the number of employees from 11 (existing conditions to be recognized via the County's Code Compliance Program) to 15; (9) Construct a new gate and re-configure the existing on-site circulation pattern; (10) Upgrade existing landscaping and the façade of the existing winery building and the provision of an accessible path of travel; (11) Potential relocation of the existing overhead power lines; (12) Improvement of the existing driveways to county standards; and (13) Upgrade the existing water system permit from a Transient Non Community (TNC) water system to a Non-Transient Non-Community (NTNC) water system. A Variance application (P19-00006) is also requested to allow construction of the proposed covered work area approximately 375 feet from the centerline of State Highway 29 and the proposed covered pomace bin approximately 430 feet from the centerline of State Highway 29. Both would be located within the minimum 600-foot winery setback from State Highway 29. The project is located on an approximately 21 acre site within the AP (Agricultural Preserve) zoning district with a General Plan land use designation of AR (Agricultural Resources) and AWOS (Agriculture, Watershed & Open Space) at 2820 State Highway 29, Saint Helena, CA; APN: 022-200-003.

Staff Recommendation: Adopt the Mitigated Negative Declaration and approve the Variance and Use Permit Major Modification, as conditioned.

Staff Contact: Jason R. Hade, Principal Planner, (707) 259-8757 or jason.hade@countyofnapa.org

Applicant Contact: Jeffrey Redding, AICP, Land Use Planning Services, 2423 Renfrew Street, Napa, CA 94558, (707) 255-7375 or jreddingacip@comcast.net

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP) based on recommended Findings 1-7 in Attachment A;
2. Approve a Variance (P19-00006), based on Findings 8-12 of Attachment A and subject to the recommended conditions of approval in Attachment B; and
3. Approve Use Permit Major Modification No. P18-00382-MOD based on recommended Findings 13-17 in Attachment A, and subject to the recommended conditions of approval in Attachment B.

Discussion:

This application was 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. The proposal is to modify an existing winery Use Permit to recognize an existing visitation and marketing program as well as employees which were not approved under the initial Use Permit for the subject site in 1993. A Variance application (P19-00006) is also requested to allow construction of the proposed covered work area approximately 375 feet from the centerline of State Highway 29 and the proposed covered pomace bin approximately 430 feet from the centerline of State Highway 29. Both would be located within the minimum 600-foot winery setback from State Highway 29.

Staff has reviewed both the components necessary to remedy existing violations, as well as, the requested expansions beyond the existing entitlements and found them to be consistent with the Zoning Ordinance and applicable General Plan policies. As noted above, the Use Permit Major Modification Application requests recognition of existing visitation, marketing program, and employees. Although not initially permitted at the existing levels under Use Permit 93080-UP, these activities are already occurring at the subject site.

As described in Resolution No. 2018-164, the subject application was found to be substantially conforming prior to the submittal deadline of March 29, 2019 at 2:00 PM. Accordingly, the County may use the existing operations as the environmental baseline for the CEQA analysis related to this application. The existing visitation level and marketing program is below the average and median calculations for maximum annual visitation of similar production capacity by appointment wineries. Although the requested intensification of annual maximum visitation exceeds that of similar production capacity by appointment wineries, staff is supportive of the request based upon the project's location on the valley floor adjacent to a State Highway and the ability of the project to mitigate all potentially significant environmental impacts to a less than significant level.

The applicant intends to implement the following GHG reduction methods at the winery: installation of approximately 1,500 square feet of additional solar panels adding approximately 20kWh to the current capacity of 75kWh capacity; construction of approximately 350 linear feet of a vertical living garden within an existing paved area; energy efficient lighting fixtures; installation of four bicycle racks; project location along future Napa Vine Trail extension; treatment of process wastewater before recycling for use for agricultural irrigation purposes; installation of water efficient fixtures; replacement of asphalt pavement with an impervious paving system to filter and drain water towards landscape; planting of native vegetation; continued recycling of 75 percent of all waste; installation of an electric vehicle charging station; and minimizing grading by only disturbing previously disturbed areas as part of the project. The winery has already implemented the following GHG reduction methods: installation of solar panels which generate approximately 75kWh of on-site renewable energy; recycling of 75 percent of all waste; lining of highly exposed southern facades with trees; certification as a Napa Green Winery; education to staff and visitors on sustainable practices; and retaining biomass removed via pruning and thinning by chipping the material and using it rather than burning on-site.

Staff believes that the necessary findings can be made to approve the requested Variance. As shown on the "Variance for Covered Crush Pad" exhibit prepared by MH Architects on February 13, 2019 (Attachment K), strict application of the required setbacks would require removal of vineyards, disturbance of previously undisturbed areas and development within a floodway. Although the proposed covered work area would be located approximately 375 feet from the centerline of State Highway 29 within the minimum 600-foot winery setback from State Highway 29 requiring the Variance application, it would be mostly shielded behind an existing structure and the proposed additional landscaping. Visual impacts would be minimal.

Based on the reasons stated above, staff recommends approval of the project (the components necessary to remedy existing violations and the requested expansions beyond the existing entitlements), subject to the recommended 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 (or MM's). MM's are proposed for the following area(s): cultural resources, transportation/traffic, and tribal cultural resources. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Owner: Frank Ballentine c/o The William Van and Betty P. Ballentine Trust et al, 2820 St. Helena Highway North, St. Helena, CA 94574, (415) 850-0898

Representative: Jeffrey Redding, AICP; 2423 Renfrew Street, Napa, CA 94558; (707) 255-7375; jreddingaicp@comcast.net

Zoning: Agricultural Preserve (AP) - District

GP Designation: Agricultural Resource (AR) and Agriculture, Watershed & Open Space (AWOS) designations

Filed: October 5, 2018; **Resubmittal Received:** December 31, 2018; March 21, 2019; and January 17, 2020;
Deemed Complete: February 16, 2020

Parcel Size: 21.12 acres

Existing Development: The site is currently developed with a fermentation building and tasting room, two agricultural buildings, an agricultural building/office, outdoor crush pad and work areas, winery-associated driveway and parking improvements, irrigation pond, a residence, garage, pool, and approximately 15 acres of planted vineyard.

Proposed and Existing Winery Characteristics

Winery Development Area - Approved: 4,080 square foot winery development area with uses identified above.
Winery Development Area - Proposed: 6,145 square feet.

Production Capacity Approved: 50,000 gallons per year. Current actual production was 44,715 gallons in 2017.
Production Capacity Proposed: 125,000 gallons per year.

Winery Coverage Existing: 47,230 square feet or approximately 5.1%.
Winery Coverage Proposed: 60,775 square feet or approximately 6.6%. (Maximum 25% or approximately 15 acres permitted, whichever is less).

Accessory/Production Ratio Existing: 1,920 square feet accessory/15,020 square feet production - approximately 13%.

Accessory/Production Ratio Proposed: 2,570 square feet accessory/15,055 square feet production - approximately 17%.

Number of Employees Approved: Four full-time employees.

Number of Employees Existing: 11 full-time employees.

Number of Employees Proposed: 15 full-time employees.

Visitation - Approved: 10 visitors maximum per week.

Visitation - Existing: 21 visitors per day by appointment and 147 visitors maximum per week.

Visitation - Proposed: 40 persons per day Monday through Friday and 95 persons per day Saturday and Sunday; 390 visitors maximum per week. All visitation would be by appointment only.

Marketing Program - Approved: Two events per month for up to 5 guests.

Marketing Program - Existing: Five events per year for up to 50 guests and one event per year for up to 75 guests.

Marketing Program - Proposed: 96 events per year for up to 25 guests; 12 events per year for up to 50 guests; and four events per year for up to 100 guests. Food service would continue to be catered by licensed caterers.

Days and Hours of Operation - Approved: 9:00 AM to 5:00 PM daily (production hours) and 9:00 AM to 5:00 PM daily (visitation hours).

Days and Hours of Operation - Existing: 9:00 AM to 5:00 PM daily (production hours) and 9:00 AM to 5:00 PM daily (visitation hours).

Days and Hours of Operation - Proposed: 9:00 AM to 5:00 PM daily (production hours) and 9:00 AM to 6:00 PM daily (visitation hours).

Parking - Approved: 15 parking spaces.

Parking - Proposed: 37 parking spaces and provide a minimum of two bicycle parking spaces.

Setbacks:

Required Road setbacks – 600 feet from the centerline of State Highway 29

Required Property line setbacks - 20 feet side and rear yard setbacks (for structures).

Existing Setbacks - The existing tasting room is located approximately 309 feet from the centerline of State Highway 29 (authorized by Variance 93081-VAR), 687 feet from the rear property line, 617 feet from the northern side property line, and 330 feet from the southern side property line.

Proposed Setbacks - Proposed setbacks for the tasting room addition would be approximately 309 feet from the centerline of State Highway 29 (no change from existing setback), 671 feet from the rear property line, 611 feet from the northern side property line, and 330 feet from the southern side property line (no change from existing setback). The proposed crush pad canopy would be located approximately 375 feet from the centerline of State Highway 29, 621 feet from the rear property line, 651 feet from the northern side property line, and 229 feet from the southern side property line.

Building Height-Existing: Approximately 12 feet (tasting room).

Building Height-Proposed: No change for tasting room addition and approximately 20 feet for proposed covered crush pad. 35 foot maximum height permitted.

Adjacent General Plan Designation/ Zoning / Land Use:

North: Agricultural Resources (AR) General Plan land use designation/Agricultural Preserve (AP) zoning district/agricultural use (vineyards)

South: Agriculture, Watershed and Open Space (AWOS)/AW/zoning district/vineyards and wineries

East: AWOS & AR/AP/ vineyards and winery

West: AWOS & AR/AP zoning district/vineyards and rural residential

Nearby Wineries: (located within 1 mile of the project)

Please refer to Attachment L.

Parcel History:

Ballentine Vineyards was approved by the Planning Commission on December 8, 1993 (Use Permit 93080-UP) with a maximum annual production capacity of 50,000 gallons and use of a 7,000 square foot winery building and 400 square foot office. A Variance (Variance 93081-VAR) was also approved which permitted the winery to be located 310 feet from State Highway 29 within the required 600-foot winery setback. On August 19, 1994 the Zoning Administrator approved Use Permit Modification #94016-MOD to permit the expansion of the previously approved office to 720 square feet and for it to be attached to the winery building. The Planning Commission authorized the addition of a 9,600 square foot barrel storage building (Use Permit application 96661- MOD), with no change in production, visitation or marketing within the 600-foot winery setback (Variance 97023-VAR) on October 15, 1997. A 3,750 square foot winery storage building, conversion of existing winery office to tasting room and retail sales areas with a maximum of 10 visitors per week for wine tasting by appointment was approved by the Planning Commission on August 18, 2003 via Use Permit Modification #03215-MOD. On January 28, 2004 staff approved a reduction in size of the previously approved winery storage building via Use Permit application 04013-MOD. A tasting room remodel and office addition was approved by staff on June 5, 2007 (Minor Modification P07-00170-MODVMIN). The most recent Use Permit modification, P15-00281-VMM, was approved by staff on October 16, 2015 and permitted the replacement of the winery's septic system a more environmentally sustainable Lyve system.

Code Compliance History:

A site inspection was conducted by Code Compliance, Planning, and Fire staff on May 27, 2020 to identify any potential health and safety issues, as well as, to review the existing use and proposed changes. As a follow-up to the site inspection, a notice regarding apparent code violations was issued to the property owner by the Code Enforcement Division on June 29, 2020. Apparent code violations include various Fire Code violations regarding posting of exit signage and fire extinguisher installation as well as the need to secure the fermenting tanks consistent with the California Building Code. Code Enforcement Case CE18-00424 was opened for the alleged conducting of marketing events outside the scope of the Use Permit, but would be resolved by approval of this Use Permit Major Modification request. All items noted in the apparent code violation notice of June 29, 2020 have been addressed with the exception of fermenting tank bolting. At the time of the preparation of this staff report, the applicant has obtained a building permit to complete this work.

Discussion Points:

Setting - The 21 acre parcel is relatively flat and is currently developed with a fermentation building and tasting room, two agricultural buildings, an agricultural building/office, outdoor crush pad and work areas, winery-associated driveway and parking improvements, irrigation pond, a residence, garage, pool, and approximately 15 acres of planted vineyard. Access to the site is via two driveways connecting to State Highway 29. Land uses in the area are dominated by large lot residential properties, wineries, including Markham Vineyards, and vineyards. The existing winery is located approximately 1,000 feet to the southwest of the nearest neighboring residence which is located at 2908 St. Helena Highway North.

Winery Proposal - The request is to modify an existing winery to recognize an existing visitation and marketing program as well as employees which were not approved under the initial Use Permit for the subject site in 1993. In addition to the changes requested to remedy existing violations, several expansions beyond the existing entitlements are requested including a Variance (P19-00006) to construct a new crush pad canopy and covered work area within the 600-foot winery setback from State Highway 29.

Winery Colors - Minimal exterior changes would occur and the proposed exterior changes (canopy/work area, pomace bin/trash enclosure, and tasting room addition) would comply with Condition of Approval No. 6.5 which requires the use of earth tone colors to blend in with the surrounding area. No highly reflective surfaces are proposed.

Visitation/Marketing Program - Components Necessary to Remedy Existing Violations: As shown in Attachment L, the existing visitation and marketing program requested for recognition is below the maximum annual visitation average and median calculations of similar production capacity by appointment wineries. **Expansion Beyond Existing Entitlements:** The requested visitation increase of 40 persons per day Monday through Friday and 95 persons per day Saturday and Sunday; 390 visitors maximum per week beyond the existing entitlements and modified marketing program exceeds both the average and median calculations of similar production capacity by appointment wineries. However, it is below the average and median calculations for similar production capacity pre-WDO wineries. Proposed daily visitation could result in a maximum of 20,280 tastings per year but the winery does not host 55 visitors for 365 days per year. MM TRANS-2 (COA 4.19.b) requires that the applicant/permittee shall revise the proposed marketing events to not start or end large marketing events (100 guests) during the weekday PM hour (4:00 PM to 5:00 PM) or weekend midday peak hour (2:00 PM to 3:00 PM). During (100 guests) events, the tasting room shall not be operating concurrently. Although the requested intensification of annual maximum visitation exceeds that of similar production capacity by appointment wineries, staff is supportive of the request based upon the project's location on the valley floor adjacent to a State Highway and the ability of the project to mitigate all potentially significant environmental impacts to a less than significant level. Staff has provided a decision making option below which would reduce the number of authorized daily tastings to more closely match the average and median of similar production capacity by appointment wineries.

Food Service - No commercial kitchen is proposed and food service would continue to be provided by licensed caterers. Wine and food pairings are requested, but food service would not be the predominant use at the marketing events requested for recognition and expansion. All marketing events would be required to conform to Condition of Approval No. 4.3 which addresses food service as it relates to the marketing of wine.

Traffic and Parking - GHD prepared a *Focused Traffic Analysis for the Proposed Ballentine Vineyards Use Modification* in January 2020. According to the study, proposed project daily and peak hour trip generation was conservatively based on Napa County Trip Generation ratios for winery production, employment, and visitation. Based on these County ratios, the project as modified is estimated to generate 93 daily trips with 33 weekday PM peak hour (4:00 PM to 6:00 PM) trips and 44 Saturday midday peak hour (1:00 PM to 4:00 PM) trips. However, the Winery is currently permitted to generate 19 daily trips with 7 weekday PM peak hour trips and 5 Saturday midday peak hour trips. Accounting for Ballentine Vineyards Winery permitted uses, the proposed project's net increase in vehicle trip generation would amount to 74 daily trips with 26 weekday PM peak hour trips and 39 Saturday midday peak hour trips. The largest requested marketing event would have up to 100 attendees per event and up to four times a year. These events would be scheduled to not start or end during the weekday PM hour (4:00 PM to 5:00 PM) or weekend midday peak hour (2:00 PM to 3:00 PM) on weekend days. Based on updated County significance criteria for unsignalized intersections the intersection of Deer Park Road/SR-29 has been evaluated for proposed project impacts since the LOS operates at an unacceptable level (LOS F) without proposed project trips during the weekday PM peak hour and weekend midday peak hour. County criteria indicate that a significant impact could occur if the proposed project contributes 1 percent or more of the total traffic at the intersection. Current County protocol go on to state "the peak hour signal warrant criteria should also be evaluated and presented for informational purposes." During the weekday PM peak hour, the proposed project would add 20 trips to the intersection. During the weekend midday peak hour, the project would add 27 trips to the intersection. Based on existing peak hour volumes of 2,137 and 1,748 at the intersection during these PM and midday peak hours; proposed project contribution would be less than one percent (1%) during the Friday PM peak hour. However, during the weekend (Saturday) midday peak hour the proposed project's contribution would total 1.5 percent. Under the County significance criteria, this would be considered a significant impact. The Deer Park Road/SR-29 intersection would continue to meet the peak hour signal warrant with or without proposed project. With existing plus project traffic, the arterial north-south segments of SR-29 would continue to operate an unacceptable conditions (LOS E). The roadway segments on Lodi Lane and Deer Park Road would continue to operate at acceptable levels (LOS D or better). The addition of proposed project trips to directional (southbound only or northbound only) peak hour volumes on SR-29 would represent a significant impact based on the project adding

more than one percent to the overall directional volumes. During the weekday PM peak hour project trips would represent 1.6 percent of directional southbound volumes and 1.5 percent of directional northbound volumes. The implementation of mitigation measures MM TRANS-1 (COA 4.19.a) and MM TRANS-2 (COA 4.19.b) would reduce impacts to a less than significant level. MM TRANS-1 requires that an operations plan be adopted that reduces the impact to the intersection of Deer Park Road and SR-29 by limiting the Saturday midday peak hour ratio to 68 daily visitor trips and reduces the impact to the intersection of Deer Park Road and Lodi Lane by instituting an alternate schedule for employees to reduce the vehicle trips to and from the winery during the weekday PM peak hour and weekend midday peak hour, reducing the number of weekday PM peak hour trips by seven trips and weekend midday peak hour trips by five trips. Under the County cumulative significance criteria, the addition of proposed project trips to these intersections would be considered less-than-significant given that all project contributions would be under 5 percent of overall cumulative traffic growth. Related to arterial segment operation on SR-29, Lodi Lane, and Deer Park Road; the proposed project trips would be considered less-than-significant given that they represent less than a 5 percent increase in total cumulative traffic growth. Public Works Department staff reviewed the study and concluded that the study adequately demonstrates that the proposed use in the proposed location would not result in any significant impacts, either project-specific or cumulative, on traffic circulation in the vicinity.

Starting on July 1, 2020, a VMT analysis in CEQA documents is required statewide. Automobile delay, as described solely by LOS or similar measure of traffic congestion, is no longer considered a significant impact under CEQA, except in locations specifically identified in the Guidelines. (Pub. Resources Code, § 21099(b)(2).) The project would also implement the VMT Reduction/Transportation Demand Management Plan as proposed in the *Focused Traffic Analysis for the Proposed Ballentine Vineyards Use Modification* in January 2020. The proposed project is considered exempt from VMT analyses based on State/OPR thresholds. Based on the OPR's *Technical Advisory on Evaluating Transportation Impacts in CEQA (2018)*, "VMT Screening Thresholds for Land Use Projects" states the following: "Many local agencies have developed screening thresholds to indicate when detailed analysis is needed. Absent substantial evidence indicating that a project would generate a potentially significant level of VMT, or inconsistency with a Sustainable Communities Strategy (SCS) or general plan, projects that generate or attract fewer than 110 trips per day generally may be assumed to cause a less-than-significant transportation impact." The proposed project is estimated to generate 74 net new daily trips or well below the 110 trip threshold in the OPR guidelines.

The proposal includes the construction of 22 additional parking spaces for a total of 37 parking spaces at the subject site. Based upon the County standard of 2.6 persons per vehicle during weekdays and 2.8 persons per vehicle during weekends and 1.05 persons per vehicle for employees the minimum parking required for weekend activities would be 49 parking spaces. However, it is unlikely that the winery would host 95 visitors at one time and have 15 employees at the site at one time. In addition to the standard and ADA parking spaces, there would 12 over-flow parking spaces (10 spaces along the north side and 2 spaces along the south side) to accommodate additional visitor demand or special event parking.

Groundwater Availability - The project is categorized as being located within the Valley Floor in an area that has an established acceptable water use criteria of 1.0 acre foot per acre per year based upon current County Water Availability Analysis policies. Based upon those criteria, the Allowable Water Allotment for the project site is 21.12 acre-feet per year (af/yr), determined by multiplying the 21.12 acre Valley floor site by a one AF/YR/acre fair share water use factor. Currently, there is only one well (Well #01) on the parcel. Historically, the yield on the well has exceeded 200 gpm. As part of this project, a new well (Well #02) with a 50' sanitary seal would be drilled and connected to all winery uses. Well #02 is expected to have a similar yield to Well #01. The proposed winery water use of 13.784 acre-feet per year equates to an average of approximately 12,300 gallons per day. At a constant rate of 9 gpm (only approximately 5 percent of expected Well #02 capacity), approximately 12,960 gallons of water would be available each day. Therefore, project water use is expected to be well within the physical capabilities of the proposed Well #02 (Madrone Engineering, 2018). According to the Water Availability Analysis for Ballentine Vineyards 2820 St. Helena Highway North, St. Helena, CA 94574 APN: 022-200-003 prepared by Madrone Engineering on October 3, 2018 (Attachment G), the anticipated total overall water demand for the project site

would be 13.784 AF/YR representing a 2.443 AF/YR increase of the existing water demand of 11.341 AF/YR. The estimated groundwater demand of 13.784 AF/YR, represents an increase of 2.443 AF/YR over the existing condition and is below the water allotment for the parcel. In summary, the existing yield would be sufficient to serve all uses on the property.

Wastewater - Wastewater disposal would be accommodated on-site and in compliance with State and County regulations. According to the Wastewater Feasibility Report for Ballentine Vineyards Use Permit Modification prepared by Madrone Engineering on October 3, 2018 (Attachment H), the project site and proposed system would have adequate disposal capacity to serve the project. The Division of Environmental Health reviewed this report and concurred with its findings.

Greenhouse Gas Emissions - The County requires project applicants to consider methods to reduce Greenhouse 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 Attachment E. As discussed above, the applicant intends to implement the following GHG reduction methods at the winery: installation of approximately 1,500 square feet of additional solar panels adding approximately 20kWh to the current capacity of 75kWh capacity; construction of approximately 350 linear feet of a vertical living garden within an existing paved area; energy efficient lighting fixtures; installation of four bicycle racks; project location along future Napa Vine Trail extension; treatment of process wastewater before recycling for use for agricultural irrigation purposes; installation of water efficient fixtures; replacement of asphalt pavement with an impervious paving system to filter and drain water towards landscape; planting of native vegetation; continued recycling of 75 percent of all waste; installation of an electric vehicle charging station; and minimizing grading by only disturbing previously disturbed areas as part of the project. The winery has already implemented the following GHG reduction methods: installation of solar panels which generate approximately 75kWh of on-site renewable energy; recycling of 75 percent of all waste; lining of highly exposed southern facades with trees; certification as a Napa Green Winery; education to staff and visitors on sustainable practices; and retaining biomass removed via pruning and thinning by chipping the material and using it rather than burning on-site.

Tribal Cultural Resources - On October 30, 2019, County Staff sent invitations to consult on the proposed project to Native American tribes who had a cultural interest in the area and who as of that date had requested to be invited to consult on projects, in accordance with the requirements of Public Resources Code Section 21080.3.1. The Yocha Dehe Wintun Nation responded and declined comment as the project site is not located within their aboriginal territories. The Middletown Rancheria requested consultation and met with the County on December 11, 2019 to discuss their concerns. A mitigation measure was developed in consultation with the tribe and is included in Attachment B as COA 6.12.a. The mitigation measure requires the execution of a Standard Monitoring Agreement with Middletown Rancheria and presence of an archaeological monitor and tribal representative on-site during initial rough grading of improvements (freestanding covered crush pad and outdoor work area and two bio-retention areas). No other responses were received within 30-days of the tribe's receipt of the invitations.

Grape Sourcing - The project site includes approximately 15 acres of vineyards. An additional approximately 57 acres of vineyards are owned or leased by the applicant. Together these vineyards produce approximately 350 tons of grapes. Using a standard of 165 gallons of wine per ton, on-site vineyards would supply 57,750 gallons. According to information provided by the applicant, the on-site vineyards as well as other properties owned or leased by the applicant can supply 77 percent of the grapes necessary for the requested annual maximum production increase to 125,000 gallons. Remaining fruit would be provided by vineyards within the Calistoga area and from non-Napa fruit. The recommended conditions of approval include a requirement for compliance with the 75 percent grape sourcing rule (COA 4.6 – Attachment B).

Variance – A Variance application (P19-00006) is requested to allow construction of the proposed covered work area approximately 375 feet from the centerline of State Highway 29 and the proposed covered pomace bin

approximately 430 feet from the centerline of State Highway 29. Both would be located within the minimum 600-foot winery setback. As shown on the variance site plan exhibits (Sheets A0.02 and A0.03A of Attachment F) prepared by MH Architects on November 2, 2018, strict application of the required setbacks would result in development of the proposed covered work area and pomace bin within the Napa River floodway. Meeting the setback presents a practical difficulty and would result in detrimental environmental impacts associated with permanent vineyard removal, additional grading, and water quality.

Variances must satisfy the criteria in Government Code Section 65906 and County Code Section 18.128.060. Generally, the findings for a variance must meet each prong of a three-prong test to satisfy the statutory requirements together with additional local findings contained in the County Code. An applicant must demonstrate that: 1) they will suffer practical difficulties and unnecessary hardships in the absence of the variance, 2) these hardships result from special circumstances relating to the property that are not shared by other properties in the area, and 3) the variance is necessary to bring the applicant into parity with other property owners in the same zone and vicinity. In addition, an applicant must show that the proposed variance will not be contrary to public interest, safety, health, and welfare. To approve a variance, the Planning Commission must make all five of the required findings listed below. As discussed below, Staff believes the project site can meet all of the required findings, and thus, supports granting the variance.

Required Findings pursuant to Section 18.128.060:

1) *That the procedural requirements set forth in this chapter have been met.*

Staff Comment: This requirement has been met.

2) *Special circumstances exist applicable to the property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.*

Staff Comment: The 21-acre parcel has a significant environmental constraint not shared by other properties in the vicinity: floodway. Much of the parcel is located within the 600-foot winery setback from State Highway 29 or located within the floodway. Construction of the proposed winery improvements outside of this area of the parcel would require excessive grading and potential water quality impacts within the floodway. Ballentine Vineyards is one of five wineries located within the immediate vicinity. Revanna, Morlet and St. Clement are not located within the floodway. Markham Winery has areas of its site located within the floodway, but has sufficient area available outside of the floodway where additional winery improvements could be constructed. The granting of this variance would not confer a special privilege as the subject parcel contains a unique combination of constraints.

3) *Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.*

Staff Comment: This finding requires the applicant to demonstrate that grant of the variance is necessary for the preservation and enjoyment of substantial property rights generally enjoyed by other property in the same zone and vicinity, but would be denied to the applicant's parcel due to special circumstances of the property and unnecessary hardship. This is generally referred to as the "parity" prong. The property is located within the AP zoning district in which wineries are permitted upon approval of a use permit. Denial of a variance would deprive the applicant of the ability to maintain this property for conforming agriculture, either agriculture or agricultural processing facility, without excessive grading, vineyard removal, water quality impacts because the proposed covered work area and pomace bin would be located within the floodway. Approval of the variance would allow the subject property to continue to be efficiently used as an agricultural use consistent with the site's zoning and General Plan land use designations. Further, the variance to the winery setbacks would allow the applicants to achieve a degree of parity with other properties in the vicinity within the same zoning district that are currently in

agricultural use and are not constrained by the pre-existing conditions described above. Strict application of the setbacks, results in both practical and financial hardships, which would restrict the ability to obtain a winery use permit major modification. Grant of the variance would bring the parcel into "parity" with other properties zoned AP that have been granted use permits and subsequent modifications for wineries.

Relocation of the proposed winery improvements outside of the 600-foot road setback would create a substantial hardship in that any alternative location on the 21-acre parcel would necessitate the construction of structures, including access driveways, drainage and erosion control, in the floodway of the proposed site. This would necessitate the permanent loss of approximately 1.0 acres of existing vineyard and the placement of up to six feet of fill within the floodway to create a new building pad that is above the Base Flood Elevation (BFE).

The economic burden of grading an extended access driveway and the placement of up to six-feet of fill to create a building pad above the BFE to serve these alternative sites would create substantial hardship. A comparison table of the costs of constructing the proposed canopy in the proposed location versus a location in compliance with the 600-foot setback was prepared by the project architect, MHA, and is included within Attachment F. As shown in the table, the costs of constructing the proposed canopy in a compliant location would result in a cost difference of over \$350,000 when compared to the proposed location without a corresponding benefit to either the public or applicant. The costs of compliance with the 600-foot setback would add an additional 60 percent to the costs of the project in order to comply with current County regulations.

According to the applicant the varieties planted in this portion of the property (Chenin Blanc and Malvasia) yield seven tons per acre. The area where the conforming driveway extension and pad would be located was planted three years ago. According to the applicant, the two varieties are valued at \$3,000 per ton. At a value of \$3000 per ton, an annual loss of approximately \$21,000 would be projected for the permanent loss of vineyard acreage taken out of production if the structure is built in compliance with the 600-foot setback. Conservatively, the life span of a vineyard is 25 years. With an estimated remaining productive life of 22 years, an annual loss of \$21,000 would result in a cumulative loss of approximately \$483,000.

4) *Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.*

Staff Comment: There is nothing included in the variance proposal that would adversely impact the public health, safety, or welfare of the County of Napa. Construction of the new canopy and pomace bin would be subject to County Codes and regulations including but not limited to California building codes, fire department requirements, and water and wastewater requirements. The granting of the variance to the winery road setbacks would not adversely affect the health or safety of persons residing or working in the neighborhood of the property. The proposed additional site improvements would be located outside of the floodway and mostly screened from view from State Highway 29 by existing structures and landscaping. Various County departments have reviewed the project and commented regarding water, waste water disposal, access, building permits, and fire protection. Conditions are recommended which would incorporate these comments into the project to assure protection of public health, safety, and welfare.

5) *Findings 5, 6, and 7 pertain to groundwater use, and the applicable finding depends on whether the project is located in a groundwater deficient area (#5), outside of a groundwater deficient area (#6), or connecting to a public water supply (#7). In this case finding #6 applies with operative language as follows: "...substantial evidence has not been presented demonstrating that grant of the variance might cause a significant adverse affect on any underlying groundwater basin..."*

Staff Comment: As set forth in the attached initial study MND hydrologic section and water availability analysis the estimated groundwater demand of 13.784 AF/YR, represents an increase of 2.443 AF/YR over the existing condition and is below the water allotment for the parcel. Based upon current County Water Availability Analysis

policies, the allowable water allotment for the project site is 21.12 acre-feet per year (af/yr), determined by multiplying the 21.12 acre Valley floor site by a one AF/YR/acre fair share water use factor. The project does not have a significant impact on groundwater resources and this finding can be met. (Refer to groundwater availability discussion above).

Public Comments - At the time of staff report preparation, three public comment letters from nearby wineries in support of the project had been received. They area included as Attachment M.

Pursuant to BOS Resolution No. 2018-164, (Staff has provided separate decision-making options for the components of the project necessary to remedy existing violations and the new expansions beyond existing entitlements.

Decision Making Options Regarding Remediating Existing Violations:

As noted in the Executive Summary Section above, staff is recommending approval of the components of the project necessary to remedy existing violations with conditions of approval as described in Option 1 below. Decision-making options also include a no project alternative and a reduced project alternative.

Option 1 - Approve Applicant's Proposal

Disposition - This option would result in approval of the existing employees and visitation and marketing program levels at the winery. Staff recommends this option as the request is consistent with the Zoning Ordinance and applicable General Plan policies. Further, staff recommends recognition of the existing visitation and marketing program based upon the site's non-remote location, sufficient access, proximity to the Vine Trail and, availability of adequate water supplies. The applicant also proposes to incorporate additional GHG reduction methods beyond those reduction measures which have already been adopted at the site.

Action Required - Follow the proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. This option has been analyzed for its environmental impacts, which were found to be less than significant.

Option 2 - Reduced Visitation and/or Marketing Program Alternative

Disposition - This option would require that the applicant reduce their existing maximum daily visitation numbers and/or the number of marketing events. As noted above, the existing visitation and marketing program requested for recognition is below the maximum annual visitation average and median calculations of similar production capacity by appointment wineries. Staff recommends no changes to the existing visitation and marketing program.

Action Required – Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to reduce the maximum daily visitation and required conditions of approval. The item will need to be continued to a future date if significant revisions to the recommended conditions of approval are desired.

Option 3 - Deny 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 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.

Action Required - Commission would take 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.

Decision Making Options Regarding Expansions Beyond Existing Entitlements:

Staff recommends approval of the applicant's proposal as described in Option 1 below.

Option 1 - Approve Applicant's Proposal

Disposition - This option would result in approval of the expansions beyond the existing entitlements which are requested including additional visitation, marketing events, employees, tasting room addition, covered work area, pomace bin and a Variance (P19-00006) to construct the new canopy and pomace bin within the 600-foot road setback. Staff recommends this option as the changes requested such as the new canopy cover, pomace bin, tasting room addition, parking spaces, and improvement of the driveway to Napa County Road and Street Standards are operational modifications needed to ensure consistency with County Code and to support the requested expanded visitation and marketing program outlined above. Although the requested intensification of annual maximum visitation exceeds that of similar production capacity by appointment wineries, staff is supportive of the request based upon the project's location on the valley floor adjacent to a State Highway and the ability of the project to mitigate all potentially significant environmental impacts to a less than significant level.

Action Required - Follow the proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. This option has been analyzed for its environmental impacts, which were found to be less than significant.

Option 2 - Reduced Visitation and/or Marketing Program Proposal

Disposition – All potential environmental impacts related to traffic, safety and tribal cultural resources have been found to be less than significant through a combination of project design, conditions of approval and mitigation measures. Furthermore, the Department of Public Works, the County Fire Department and the Engineering Division have reviewed the proposal and are in support of the request. However, this option provides the Planning Commission the ability to further reduce potential impacts related traffic, safety and tribal cultural resources by reducing the requested maximum annual visitation and/or marketing program (number of events). This could be accomplished by potentially reducing the maximum number of weekly visitors and/or eliminating several of the marketing events. If the Planning Commission elects to pursue this option, the recommended conditions of approval would need to be amended to reflect the revised 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 require the reduction of the visitation and marketing program. If major revisions of the conditions of approval are required, the item will need to be continued to a future date.

Option 3 - Redesign Alternative

Disposition - This option would require that the applicant attempt to relocate the proposed covered crush pad and pomace bin to comply with the 600-foot road setback from State Highway 29. However, this would be challenging as the crush pad areas are existing and the proposed canopy support columns need to be located on the existing

crush pads. Relocating the covered crush pad and pomace bin outside the 600-foot setback would potentially require additional grading, placement of up to six-feet of fill within the BFE, and result in the permanent loss of vineyards. A new covered crush pad would also fail to take advantage of utilizing the existing previously developed crush pad area footprint and result in inefficient winery business operations.

Staff does not support this option because it appears that an alternate covered crush pad location would not have significantly fewer environmental impacts than the proposed project. Although outside the 600-foot setback, such an alternative location may require additional grading and disturbance within the floodway, potentially leading to greater environmental impact and the need for additional CEQA review.

Action Required – Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to revise the location of the covered work area and pomace bin and required conditions of approval. The item will need to be continued to a future date to complete CEQA review on the new covered work area and any associated required improvements.

Option 4 - 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 and Variance, 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 and Variance is not being approved.

Action Required - Commission would take 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 5 - 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 Approval Memos
- C . Previous Conditions
- D . Initial Study/Mitigated Negative Declaration
- E . Use Permit Major Modification Application Packet
- F . Variance Application Packet
- G . Water Availability Analysis
- H . Wastewater Feasibility Study
- I . Historic Resource Evaluation
- J . Traffic Impact Study
- K . Graphics
- L . Winery Comparison Analysis

M . Public Comments

Napa County Planning Commission: Approve

Reviewed By: Brian Bordona