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Agenda Date: 9/7/2016

Agenda Placement: 9C

## 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:** EMILY HEDGE, PLANNER II - 259-8226

**SUBJECT:** Chanticleer Winery Use Permit P14-00304 and Variance Permit P14-00305

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### **RECOMMENDATION**

#### **CHANTICLEER WINERY, GEORGE GRODAHL, USE PERMIT P14-00304-UP AND VARIANCE P14-00305-VAR**

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

**Request:** Approval of a use permit to allow the construction of a new 10,000 gallons annually winery with the following characteristics: a) Demolition of an existing approximately 3,500 square foot barn (to be replaced by new winery building); b) Approximately 5,400 square foot winery building consisting of 4,800 square foot first floor and 600 square foot mezzanine, with a "living vegetated" roof; c) Approximately 1,500 square foot covered crush pad and outdoor work area; d) Approximately 8,900 square feet of caves including an approximately 550 square foot bottle storage room; e) Covered storage, trash, and recycle enclosure; f) Tours and tastings by appointment only with a maximum of 10 people per day; g) Marketing program of one (1) marketing event per month for a maximum of 25 persons per event and events may be catered; h) Hours of operation daily 8 am to 6 pm (production) and 10 am to 6 pm (visitation); i) Two (2) full-time and two (2) part time employees; j) Six (6) parking spaces for visitors and employees; k) One (1) loading dock; l) 50,000 gallon fire water tank and 5,000 gallon domestic water tank; m) Improved access driveways and walkways; n) Installation of storm drainage facilities and water conveyances; o) Wastewater treatment and disposal facilities; and p) Fire suppression equipment and facilities.

The project also includes an Exception to the Napa County Road and Streets Standards (RSS) request to the Public Works Director to allow for an exception to install a left turn lane on Solano Avenue. Furthermore, the project includes an application for a variance to allow the construction of the winery within the required 300 foot winery setback from Vineyard View Drive (private road). The winery is proposed approximately 55 feet from the centerline of Vineyard View Drive on the footprint of the existing storage barn. The project is located on a 40-acre parcel on the west side of Solano Avenue, south of the Town of Yountville. The site address is 4 Vineyard View Drive; APN: 034-150-045.

**Staff Recommendation:** Adopt the Negative Declaration and approve the Use Permit and Variance with the proposed conditions of approval.

**Staff Contact:** Emily Hedge, (707) 259-8226 or emily.hedge@countyofnapa.org

**Applicant Representative:** Jeff Redding, Land Use Planning Services, 2423 Renfrew Street, Napa, 94559, (707) 255-7375

## **EXECUTIVE SUMMARY**

### **Proposed Actions:**

That the Planning Commission

1. Adopt the Negative Declaration for the Chanticleer Winery based on recommended Findings 1-7;
2. Approve Variance P14-00305-VAR and Use Permit P14-00304-UP based on recommended Findings 8-17, and subject to the recommended conditions of approval, attached.

### **Discussion:**

The project consists of a request for a 10,000 gallon winery annual production with visitation for 10 persons per day maximum and one (1) marketing event per month for a maximum of 25 persons per event. The approximately 5,400 square foot winery building would replace the existing barn to be demolished. Approximately 8,900 square feet of caves would be installed in the hillside behind the winery building. The project also includes an Exception to the Napa County Road and Streets Standards Exception request to the Public Works Director to allow for an exception to install a left turn lane on Solano Avenue and a Variance request to the 300-foot road setback from Vineyard View Drive.

The proposed project complies with all County standards except the road setback and the requirement for a left turn lane. Staff has reviewed the Variance request and the evidence submitted and believes the findings can be met. The Public Works Director has tentatively approved the left turn lane exception, pending approval of the Use Permit. The applicant has provided evidence that the property could support the proposed winery and the proposed winery is comparable to the other 10,000 gallon wineries. Staff is recommending approval of the project subject to the recommended conditions of approval.

## **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

## **ENVIRONMENTAL IMPACT**

A Negative Declaration was prepared. According to the Negative Declaration, the proposed project would have no potentially significant environmental impacts. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**BACKGROUND AND DISCUSSION**

**Owner/Applicant:** George Grodahl, 4 Vineyard View Drive, Yountville, CA 94599

**Representative:** Jeff Redding, Land Use Planning Services, 2423 Renfrew Street, Napa, 94559

**General Plan Designation:** Agriculture Watershed and Open Space (AWOS) Designation and Agricultural Resource (AR) Designation.

**Zoning:** Agricultural Watershed (AW) and Agricultural Preserve (AP).

**Application Filed:** September 23, 2014

**Resubmittal Received:** March 17, 2015; July 20, 2015; January 15, 2016; July 20, 2016; August 16, 2016

**Application Complete:** February 2016

**Parcel size:** 40 acres

**Vineyard Acreage (Existing):** Approximately 6.8 acres

**Vineyard Acreage (Proposed):** Approximately 6.5 acres (Removal of approximately 0.25 acres)

**Existing Development:** Residence and garage, guest cottage and carport, personal wine cave, and storage barn (to be removed for construction of the winery).

**Proposed Winery Characteristics:**

**Winery Building Size:** Approximately 5,400 square feet

**Winery Cave Size:** Approximately 8,900 square feet, Class 2 - guided tours only. Cave spoils to be disposed of offsite.

**Production Capacity:** 10,000 gallons annually

**Development Area:** Approximately 7,000 square feet

**Winery Coverage:** 1.7% (Maximum 25% or approximately 15 acres).

**Accessory/Production Ratio:** 13.5% (Maximum 40% permitted).

**Number of Employees:** Two (2) full-time and two (2) part-time

**Visitation:** Maximum 10 persons per day; maximum 70 persons per week

**Marketing Program:** One (1) marketing event per month for a maximum of 25 persons. Events may be catered.

**Days and Hours of Operation:** Daily - 8am to 6pm (production) and 10 am to 6pm (visitation);

**Parking:** 6 spaces

**Setbacks:**

Required Road setbacks – 300 feet from the centerline of Vineyard View Drive (private road) and 600 feet from Highway 29.

Required Property line setbacks - 20 feet side and rear yard setbacks (for structures) except where the 300-foot setback is applicable.

The application includes a Variance request because the winery is proposed approximately 55 feet from the centerline of Vineyard View Drive. See Discussion section below. The application meets all other setback requirements.

#### **Adjacent Zoning / Land Use:**

North: The property directly to the north is in the Town of Yountville and contains the Veterans Home. Properties to the northwest are zoned AW and are developed with some residences.

South: AP and AW– Most of the properties to the southwest are zoned AW and are developed with rural residences. Properties to the southeast have a split zoned AP and AW and are developed with vineyards, residences, and Keever Winery.

East: AP - The properties to the east are primarily developed with vineyards.

West: AP - The properties to the west contain steep slopes and are largely undeveloped.

#### **Nearby Wineries (within one mile of the project site):**

The attached table lists the nine (9) wineries operating or approved to operate on properties within one mile of the proposed Chanticleer Winery. Two of the wineries are not active. The list includes one winery that is currently in for a Use Permit.

#### **Property/Parcel History:**

May 20, 1994 – Erosion Control Plan #93472 – Ag Track I Replant

December 1, 1998 – Erosion Control Plan #98088 – ECP for grading associated with the construction of a residence, cellar, and a 250 foot driveway.

May 24, 1999 - Use Permit Stream Setback Exception Request #98334 was approved by the Zoning Administrator to allow for construction to widen and reconstruct a 150-foot long section of existing driveway located within the 65-foot stream setback along an unnamed creek. The existing dirt driveway served the single family residence.

January 15, 1999 - Environmental review of Special Design Sewage System #98317.

#### **Code Compliance History:**

There are no pending code cases. However, there is internet evidence that tastings and tours have been conducted at the residence and personal wine cave. Applicant has indicated that these activities are no longer occurring.

#### **Discussion Points:**

Setting - The existing development on the property includes a residence and garage, guest cottage and carport, personal wine cave, storage barn, and shared access driveway. Approximately 6.8 acres out of the 40 acres are

planted in vineyards. Approximately 18 acres are steep hillsides with slopes greater than 30%.

Variance – The application includes a Variance request for approval of the winery within the required 300-foot winery setback from a private road. The winery is proposed approximately 55 feet from the centerline of Vineyard View Drive on the building footprint of the existing barn. This location represents one of the only areas (approximately 0.5 acre) on the property with less than 15% slope. It is a flat, previously disturbed area, so limited grading would be required for the construction of the winery structure and site improvements. Meeting the setback will present a practical difficulty, requiring additional grading and site development and removal of mature vineyard.

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 grant of the variance.

Required Findings pursuant to 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 40-acre parcel has a unique shape with constraints due to topography, with approximately 47% of the parcel having slopes greater than 30 percent. These constraints are further increased by the requirements of the 300-foot road setback. Approximately 16.75 acres, or 42% of the parcel, are within the road setback. Compared to properties in the vicinity, the subject parcel has the greatest percentage of the parcel affected by the road setback. The remaining areas of the parcel outside of the road setback and steeply sloped areas are developed with the existing residential structures and vineyards. The vineyards are primarily planted on slopes ranging from 15-30%. Strict application of the setback creates a hardship for the parcel, and has the potential to result in increased development costs, permanent loss of vineyard land, and permanent loss of revenue. 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 has a split zoning, locating it within the Agricultural Watershed and Agricultural Preserve zoning districts in which wineries are permitted upon approval of a use permit. The property exceeds the minimum lot size for a winery (10 acres) and the applicant has provided evidence that the property could support the proposed 10,000 gallon winery. As discussed above, the

parcel has unique physical characteristics and strict application of the setback, results in both practical and financial hardships, which would restrict the ability to obtain a winery use permit. Grant of the variance would bring the parcel into "parity" with other 10+ acre properties zoned AP or AW that have been granted use permits for wineries.

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 building 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 setback will not adversely affect the health or safety of persons residing or working in the neighborhood of the property. The proposed winery structure and site development would be located in the approximate location of the existing barn and access road. Various County departments have reviewed the Project and commented regarding water, waste water disposal, access, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure protection of public health and safety.

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 hydrologic section and water availability analysis. The reports demonstrate that the parcel has a sufficient recharge rate (26.4 acre-feet per year) to support the winery and other water uses on the property (5.05 acre-feet per year) The project does not have a significant impact on groundwater resources and this finding can be met.

Visitation and Marketing - The application proposes a maximum of 10 visitors per day and one (1) marketing event per month, which can be catered, for up to 25 people. The proposed cave is a Class 2, which allows guided tours only. The attached winery comparison tables compare the proposed Chanticleer Winery with wineries that currently have an annual permitted production capacity of 10,000 gallons. The proposed winery has a very similarly sized visitation and marketing plan to by-appointment only wineries. This marketing is not out of scope with what has been approved at similarly sized wineries.

Wastewater - RSA+ prepared a winery wastewater feasibility report, dated June 18, 2013 - Revised September 10, 2014, which demonstrated the feasibility of utilizing a subsurface drip system for treating the domestic wastewater and either a surface drip irrigation system or a hold and haul tank system to treat the winery process wastewater. The designs proposed in the report meet the Napa County Environmental Health Division's design standards for the treatment of winery and domestic wastewater. The Division of Environmental Health has reviewed the application and determined that the proposed wastewater systems are adequate to serve the facility's septic needs. No information has been encountered that would indicate a substantial impact to water quality.

Groundwater Availability - For this project a Water Feasibility Study (September 19, 2014), a County Water Availability Analysis - Phase One Study form (March 13, 2015), and a Water Availability Analysis (January 8, 2016) were prepared by RSA+. The analyses included a water demand analysis detailing the existing and proposed groundwater uses, an analysis of the aquifer recharge rate, and a Tier 2 well interference analysis.

The water demand for the existing residential structures, existing vineyard, and proposed winery was determined to be approximately 5.05 acre feet per year. The winery results in a water use increase of approximately 0.45 acre feet per year above existing conditions. The Water Availability Analysis calculated the groundwater recharge rate by

examining the annual rainfall, runoff, and evapotranspiration during winter months. Only the winter months were considered because it was assumed that evapotranspiration in summer months will be from irrigation water. Based on the analysis of these factors, the recharge rate was calculated at 0.66 acre-feet per acre per year, resulting in a total parcel recharge of 26.4 acre-feet per year. The estimated ground water recharge on this parcel is greater than the estimated water use and therefore the Tier 1 Water Criterion is met. Based on review of County Environmental Health Division records for adjacent properties, there are no non-project wells within 500 feet of existing project wells. The Tier 2 analysis showed that there were no non-project wells within 500 feet of the proposed project well.

Traffic Impact Report and Left Turn Lane Analysis - A Traffic Impact Study, dated March 16, 2015, was prepared by Whitlock & Weinberger Transportation, Inc. (W-TRANS). The study looked at collision history for the study segment of Solano Avenue, trip generation rates, trip distribution, roadway segment operations, site access, and County left-turn lane warrants. Site access to the project would be via Vineyard View Drive, a gated, private road that intersects Solano Avenue approximately a half mile south of the intersection of Solano Avenue and California Drive. The study determined that the proposed project would generate an average of 16 new weekday trips, including five weekday p.m. peak hour trips and five Saturday midday peak hour trips.

Furthermore, earthwork estimates for cave and portal construction (5,200 cubic yards) and site improvements (500 cubic yards) will generate approximately 5,700 cubic yards of spoils. The applicant proposed to dispose of the spoils offsite under an approved Napa County Grading permit or to Clover Flats Landfill. Based on an average commercial dump truck carrying approximately 10 to 14 cubic yards of dirt, the total of 5,700 cubic yards of spoils would result in approximately 570 trips. This would represent approximately 19 daily trips over a four-week construction period. However, these potential construction impacts would be temporary in nature and subject to standard conditions of approval from the Engineering and Conservation Division as part of the grading permit review process.

The need for a left-turn lane on northbound Solano Avenue at Vineyard View Drive was evaluated using Napa County's Left-Turn Lane Warrant. According to the Warrant calculations, under existing conditions, a northbound left-turn lane is warranted. The need for a left-turn lane was also evaluated based on criteria contained in the Intersection channelization Design Guide, National Cooperative Highway Research Program (NCHRP) Report No. 279, Transportation Research Board, 1985, as well as an update of the methodology developed by the Washington State Department of Transportation. This more detailed analysis indicates that there is no apparent need for a left-turn lane to address operational or safety issues with or without the proposed project.

Because of the difference in findings between the two methodologies, consideration was given to the potential drawbacks of installing a left-turn lane. The report found potential drawbacks to include potential environmental impacts on the stream immediately north of Vineyard View Drive due to increased paving and associated runoff; impacts to existing plant aquatic life due to widening of the culvert north of Vineyard View Drive; jurisdictional constraints for widening portions of the roadway within the Town of Yountville; and reduction in the separation between Solano Avenue and the planned Napa Vine trail planned east of Solano Avenue. Based on the analysis, performed together with the character of the roadway, installation of a left-turn lane at Vineyard View Drive was not recommended by the traffic consultant. The applicant submitted a letter, dated July 15, 2015, to the Public Works Department requesting an exception to the requirement for installation of a left-turn lane. That request has been reviewed and tentatively approved by the Public Works Department, as stated in their memo dated August 3, 2015. Formal action will be taken by the Public Works Director after the Planning Commission makes a decision on the Use Permit application as a whole.

Grape Sourcing - Following development the project site will have 6.5 acres of vineyard. This amount represents approximately 4,000 gallons or 40% of the grapes needed for wine production. The applicant stated that they currently purchase 100% grapes from Napa Valley, including vineyards in Carneros and Yountville. The recommended conditions of approval include a requirement for compliance with the 75% rule.

Greenhouse Gas Reduction Strategies - The applicant proposes to incorporate the following voluntary best management practices: pre-plumbing for installation of rooftop photovoltaics; providing priority parking for efficient transportation; bicycle incentives; installation of energy conserving lighting; a “green” living vegetated roof to reduce heating and cooling requirements; utilization of caves for barrel storage to reduce cooling requirements; installation of water efficient fixtures; planting of water efficient landscaping; and utilization of recycled process waste water for irrigation.

Public Comments - As of August 30, 2016, seven public comment letters in support of the project have been received (Attached).

### **Decision Making Options:**

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

This option would result in approval of the actions requested in the use permit including approval of the left turn lane exception and the variance from the 300-foot road setback.

Discussion - Staff supports the application as proposed and conditioned because the proposed winery request is relatively small and the visitation and marketing plans are comparable to other 10,000 gallon wineries. Staff believes that the applicant has provided sufficient information that the parcel is subject to multiple hardships. Although difficult, the required Variance findings can be met. Additionally, staff believes that the proposed location is environmentally superior and more in line with General Plan Land Use goals to maintain existing agriculture and reduce visual impacts from County roads.

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

#### Option 2 – Deny the Variance Request

This option would require the applicant to redesign the project to move the structure out of the 300-foot setback or abandon the project.

Discussion - If the Commission does not agree that the findings can be met, they can vote to deny the variance. If the Commission requests additional information could be provided that would support the findings, they could request that information be provided by the applicant and staff would evaluate that information and incorporate it into the findings.

Action Required – The applicant would redesign the site plan and resubmit to the Planning Department. After reviewing, staff would present the modified alternative to the Planning Commission for their review. This may require additional environmental review. The applicant could be requested to provide additional information in support of the findings.

#### Option 3 - Deny Proposed Project

This option would result in denial of the requested use permit and variance.

Discussion: In the event the Commission determines that the project does not, or cannot meet the required findings for grant of a use permit modification, Commissioners should articulate what aspect or aspects of the project are in conflict with 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 project and remand the matter to staff for preparation of required finding to return to the Commission on specified date.

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 . Initial Study/Negative Declaration
- D . Public Comments
- E . Use Permit Application P14-00304
- F . Variance Application P14-00305
- G . Water Availability Analysis
- H . Wastewater Feasibility Study
- I . Traffic Study and Left Turn Lane Exception Request
- J . Graphics
- K . Winery Comparison Analysis

Napa County Planning Commission: Approve

Reviewed By: John McDowell