



Napa County

Board Agenda Letter

1195 THIRD STREET
SUITE 310
NAPA, CA 94559
www.countyofnapa.org
Main: (707) 253-4580

Board of Supervisors

Agenda Date: 7/13/2021

File ID #: 21-576

TO: Board of Supervisors
FROM: Jeffrey M. Brax, County Counsel
REPORT BY: Jason M. Dooley, Deputy County Counsel
SUBJECT: Mountain Peak Winery Resolution of Findings of Fact and Decision on Remand

RECOMMENDATION

County Counsel requests consideration and adoption of a Resolution of Findings of Fact and Decision on Remand regarding the Consolidated Appeals of Kosta M. Arger, Cynthia Grupp, William Hocker, and Glenn Schreuder to the decision made by the Napa County Planning Commission on January 4, 2017, to approve the Mountain Peak Winery/Mountain Peak Vineyards, LLC Use Permit No. P13-00320-UP (the Project).

EXECUTIVE SUMMARY

After the Napa County Superior Court ordered the Board to consider specific new evidence related to its August 22, 2017 decision on the consolidated appeals, the Board held a remand hearing on May 18, 2021. The Board heard and considered a report from staff, presentations from the Appellants and the Applicant, and comments from members of the public regarding the new evidence. After considering the new evidence in the context of the entire record on appeal, the Board closed the public hearing and adopted a motion of intent to affirm the previous decision of the Board on appeal, upholding the Planning Commission's approval of the Project. The Board directed staff to return on July 13, 2021, with a Resolution of Findings of Fact and Decision on Remand (the Resolution) reflecting the Board's intent as expressed.

Staff has prepared a proposed Resolution that reflects the Board's intent as expressed on May 18, 2021, together with modified conditions of approval, which were shared with Appellants' and Applicant's respective counsel on June 17, 2021. The Applicant's counsel and Appellants' counsel both suggested non-substantive edits, which staff incorporated into the final draft. Appellants' counsel also requested new recitals relating to the proceedings in the Superior Court and Court of Appeal, and made comments disputing specific findings. Staff did not change the recitals or findings in response to these comments. The public hearing is closed. Public comment is limited to whether the proposed Resolution accurately reflects the Board's intent as expressed on May 18, 2021.

PROCEDURAL REQUIREMENTS

1. Staff Report.
2. Chair invites Appellants, the Applicant, and interested parties to comment on the proposed findings.
3. Motion, second, discussion, and vote on the Resolution.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Effective and Open Government

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The Board adopted a Negative Declaration for this Project, which has been certified. The Court’s Order remanding the matter to the Board does not disturb or disrupt that Negative Declaration. Therefore, no further environmental review is necessary.

BACKGROUND AND DISCUSSION

In August 2017, the Board adopted Resolutions 17-130 through 17-133, denying four appeals of the Mountain Peak Winery Project (the “Project”) and approving the Project with modified conditions of approval. The Appellants filed a petition for writ of mandate challenging the Project on both CEQA and non-CEQA grounds, including the appropriateness of the Project in light of a history of wildfires. On a motion from the Appellants, the superior court remanded the matter and ordered the Board to reconsider the matter in light of specific post-decision evidence relating to the 2017 Atlas Fire, which occurred after the Board’s denial of the appeals.

At the remand hearing on May 18, 2021, the Board received a staff report analyzing the specific new evidence in the context of the administrative record from the appeals and recommending that the Board affirm its previous decision to deny the appeals. The Board heard and considered the presentations of the Appellants, through their representative Anthony Arger, and the Applicants, through their representatives Donna Oldford and Brien McMahon. The Board also received and considered comments from the public regarding the reconsideration of the appeals. After considering the new evidence and the presentations, the Board closed the public hearing and adopted a motion of intent to affirm its decision to uphold the Planning Commission’s approval of the Project subject to certain modifications to the Conditions of Approval. The Board directed staff to return on July 13, 2021, with a Resolution of Findings of Fact and Decision on Remand (the “Resolution”) reflecting the Board’s intent as expressed.

Staff has prepared the proposed Resolution (Attachment A) that reflects the Board’s intent as expressed on May

18, 2021, and has updated the conditions of approval (“COA”) to add a condition requiring the Applicant to cease all visitation or marketing events when a Red Flag Warning or a Public Safety Power Shutoff (“PSPS”) Warning is in effect for the subject parcel.

The proposed Resolution and updated COA were shared with Appellants’ and Applicant’s respective counsel on June 17, 2021, with comments requested by June 24, 2021. Both Applicant’s counsel and Appellants’ counsel suggested non-substantive edits, which staff incorporated into the final draft. Appellants’ counsel also requested the addition of new recitals relating to the proceedings in the Superior Court and Court of Appeals, and made comments disputing some specific findings. Staff did not revise the recitals or findings in response to these comments.

The public hearing is closed. Public comment on this item is limited to whether the proposed Resolution accurately reflects the Board’s intent as expressed on May 18, 2021. Staff recommends that the Board adopt the Resolution and instruct the Clerk of the Board to serve the Resolution in compliance with Napa County Code 2.88.090(D).

SUPPORTING DOCUMENTS

Resolution