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Recommended Findings

**PLANNING COMMISSION HEARING – MAY 1, 2024
RECOMMENDED FINDINGS**

**William Cole Winery Use Permit and Variance
Application Numbers P19-00101-UP and P19-00441-VAR
2849 St. Helena Hwy North, St. Helena, California
APN# 022-230-015**

ENVIRONMENTAL:

The Planning Commission (Commission) has received and reviewed the proposed Categorical Exemptions pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Planning Commission has read and considered the Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. The Negative Declaration is based on independent judgment exercised by the Planning Commission.
3. The Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment as demonstrated in the Negative Declaration.
5. There is no evidence, in considering the record as a whole that the project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
6. The site of this proposed project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
7. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building, & Environmental Services Department, 1195 Third Street, Second Floor, Napa, California.

VARIANCE:

The Commission has reviewed the Variance application and makes the following findings:

8. That the procedural requirements set forth in Section 18.128.060 have been met.

Analysis: An application has been submitted for a variance accompanied with a statement from the applicant outlining the reasons for the request. The required processing fees have been included in the processing of the Use Permit and Variance application. Site plans depicting the location of the project and elevation drawings showing the appearance of the structure have also been submitted. Noticing and public hearing requirements have been met. The hearing notice was posted on March 14, 2024, and copies were forwarded to property owners within 1,000 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from March 14, 2024, to April 2, 2024.

9. 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.

Analysis: A Variance is requested to allow conversion of an existing barn from residential agricultural use to winery related use. The barn is located 280 feet within the required 600 foot setback from State Highway 29. The barn was legally constructed in 2018 (Building Permit No. B16-01751) and is being used for barrel storage. The barn is approximately 320 feet from the centerline of Highway 29. As shown on the William Cole Winery Variance Application – the parcel is 5.72 acres in size and configured in such a way that no portion falls outside of the required 600 foot setback. Meeting the setback presents a practical difficulty as the applicant does not own the parcel to the west, and the area located outside the required setback is located on steep topography with slopes of between 15 percent and greater than 30 percent. Surrounding parcels are greater than 10 acres in size, with the exception of Faust winery to the north which is similarly sized to the project parcel; however, unlike the square shape of the subject parcel, Faust is rectangular in shape with an existing winery located outside the required setback.

Special Circumstances

The subject property has special circumstances unique to it, which it shares with a neighboring property to the south in which they are both ghost wineries. Napa County Code Section 18.104.230 requires a 600- foot setback from Highway 29. This Section's intent and purpose are to protect views of the traveling public along Highway 29. The existing historic development area on the subject parcel lies entirely within the roadway setback. The winery structure is believed to have been constructed in 1876 prior to prohibition, with the upper level converted to a residence in the 1920s. The barn was constructed in 2018 as a residential agricultural building. The parcel is small in size compared to surrounding parcels which are 10 acres or greater with the exception of Faust to the north. However, Faust is located on a rectangular parcel where the winery is located outside the 600 foot setback. The parcel is characterized by steep slopes. It is not physically possible to relocate or construct winery facilities outside the required 600 foot setback from the centerline of Highway 29, due to topography and the square shape and size of the parcel, unlike surrounding parcels where the size and shape do not inhibit location of winery structures at or outside the required 600 foot setback.

Unnecessary Hardship

Relocation of the winery's barrel storage structure outside of the 600-foot road setback will create a substantial hardship in that any alternative location on the 5.72-acre parcel will necessitate the purchase or lot line adjustment with the neighboring parcel to the west under separate ownership, and the construction of structures, including access driveways, drainage and erosion control, on steeply sloping lands to the west of the proposed development area. This will necessitate removal of existing agricultural, grading and slope re-contouring and will move development from an area on low geologic instability to areas of elevated geologic hazard.

The property to the west is approximately 18.41 acres in size with agricultural and residence, sold in 2013 for \$3,100,000, with an estimated value in 2022 of \$5,770,000. The cost to purchase lands, road improvements to comply with the Roads and Streets Standards, and construction costs entailed in relocating the barn outside of the 600-foot roadway setback will likely total more than \$3,000,000.00. This total includes: (1) the additional costs of grading to develop a County-compliant access roadway, (2) the additional costs of grading and fill to

develop a level building site; (3) the additional cost of widening, grading and paving the existing driveway to the alternate location; and (4) the additional cost of establishing water, electric, sewer, and septic pipes and other infrastructure to an alternate location.

10. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.

Analysis: This finding requires the applicant to demonstrate that granting 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 will 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 AW zoning district in which wineries are permitted upon approval of a use permit. Approval of the variance will allow the subject property to be used as an agricultural use consistent with the site's zoning and General Plan land use designations. Further, the variance to the winery setbacks will 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 will restrict the ability to obtain a winery use permit. Grant of the variance will bring the parcel into "parity" with other properties zoned AW that have been granted use permits for wineries.

Other Napa County wineries, including ZD Winery and Sawyer Winery, have been granted Variances from the regulation allowing for development within the setback that is no closer to the centerline than the existing development (Per Napa County Code Section 18.104.230.B). The proposed winery will not be visible from vehicles driving along Highway 29 due to the existing mature vegetation. This design provides screening and viewshed protections consistent with the intent and spirit of the setback regulations described in the Napa County Winery Definition Ordinance (WDO) and Code Section 18.104.230. The proposed development location is entirely within the sole existing development footprint. As referenced above, several properties in the County under similar or identical zoning classification enjoy permitted wineries (and subsequent expansions) within the setback. These wineries include ZD, LMR Rutherford, Cakebread, Madrigal, and Gandon. Thus, in addition to avoiding severe hardship to the applicant, approval of the requested variance will allow the applicant to achieve parity with other properties.

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

Analysis: There is nothing included in the variance proposal that will adversely impact the public health, safety, or welfare of the County of Napa. Construction of the new building will 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 will not adversely affect the health or safety of persons residing or working in the neighborhood of the property. Additionally, there is no construction related to the structure as the proposal is to convert the existing 3,537 square barn to winery, and minimal site improvements within the existing development to comply with the Roads and Street Standards.

12. Grant of the variance in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, where grant of the variance cannot satisfy the criteria

specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080, substantial evidence has not been presented demonstrating that the grant of the variance might cause a significant adverse effect on any underlying groundwater basin or area which does not overlay an identified groundwater basin.

Analysis: The County requires all Use Permit and Variance applicants to complete necessary water analyses in order to document that sufficient water supplies are available for the proposed project. As set forth in the attached water availability analysis the estimated groundwater demand of 1.71 AF/YR, represents an increase of 0.28 AF/YR over the existing condition. The proposed water use is within the property's 0.30 acre-feet per acre groundwater allocation of 1.72 AF/YR for parcels in the GSA Subbasin. The project would not have a significant impact on groundwater resources and this finding can be met, including conditions of approval 4.20 and 6.15.

USE PERMIT:

The Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code §18.124.070 and makes the following findings:

13. The Commission has the power to issue a Use Permit under the Zoning Regulations in effect as applied to property.

Analysis: The project is consistent with the Agricultural Watershed (AW) zoning district regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.20.030) are permitted in the AW District with an approved use permit. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

14. The procedural requirements for a Use Permit set forth in Chapter 18.124 of the Napa County Code (zoning regulations) have been met.

Analysis: The use permit application has been appropriately filed and notice and public hearing requirements have been met. The hearing notice and intent to adopt Negative Declaration were posted on March 14, 2024, and copies were forwarded to appropriate persons on the mailing list. The public comment period ran from March 14, 2024 to April 2, 2024.

15. The grant of the Use Permit Modification, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Granting the Use Permit Modification for the project as proposed and conditioned will not adversely affect the health, safety or welfare of the County. Various County divisions and departments have reviewed the project and commented regarding site access and driveways, grading, drainage, the proposed wastewater disposal system, parking, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to ensure the protection of the public health, safety, and welfare.

16. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan and any applicable specific plan.

Analysis: Compliance with the Zoning Ordinance

The project is consistent with the Agricultural Watershed (AW) zoning district regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.20.030) are permitted in the AW District with an approved use permit. The proposed project will comply with the development standards of the AW District including the 35-foot maximum building height as prescribed in County Code Section 18.104.010 and winery coverage area identified in Section 18.104.220. The project requests a Variance from the 600-foot winery setbacks prescribed in Section 18.104.230.A.1. (Refer to Variance Findings provided above) The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

Analysis: Compliance with the General Plan

As proposed and as conditioned, the requested Use Permit Modification is consistent with the overall goals and objectives of the General Plan (2008). The General Plan land use designation for the subject parcel is Agriculture, Watershed and Open Space (AWOS).

General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guides the County to “preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.” General Plan Goal AG/LU-3 states that the County should “support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.” Goal AG/LU-3 and Policy AG/LU-2 recognize wineries as agricultural uses.

The continued use of the property for fermenting and processing of grape juice into wine supports the economic viability of agriculture within the County, consistent with Goal AG/LU-3 and Policy AG/LU-4 (“The County will reserve agricultural lands for agricultural use including land used for grazing and watershed/open space...”). By allowing the conversion of the barn to winery at the project site, the proposed Use Permit Modification supports the economic viability of both the nearby vineyards in the region and agricultural product processing uses on the property, consistent with Economic Development Goal E-1 and Policy E-1.

The “Right to Farm” is recognized throughout the General Plan and is specifically called out in Policy AG/LU-15 and in the County Code. “Right to Farm” provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa County’s adopted General Plan reinforces the County’s long-standing commitment to agricultural preservation, urban centered growth, and resource conservation.

Applicable Napa County General Plan goals and policies:

Goal AG/LU-1: Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.

- Goal AG/LU-3: Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.
- Policy AG/LU-2: “Agriculture” is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Agriculture also includes farm management businesses and farm worker housing.
- Policy AG/LU-4: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.
- Policy AG/LU-8: The County’s minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units.
- Policy AG/LU-15: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a “right to farm”), even though established urban uses in the general area may foster complaints against those agricultural practices. The “right to farm” shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2.
- Goal CON-10: Conserve, enhance and manage water resources on a sustainable basis to attempt to ensure that sufficient amounts of water will be available for the uses allowed by this General Plan, for the natural environment, and for future generations.
- Goal CON-11: Prioritize the use of available groundwater for agricultural and rural residential uses rather than for urbanized areas and ensure that land use decisions recognize the long-term availability and value of water resources in Napa County.
- Policy CON-53: The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval. Depending on the site location and the specific circumstances, adequate demonstration of availability may include evidence or calculation of groundwater availability via an appropriate hydrogeologic analysis or may be satisfied by compliance with County Code “fair-share” provisions or applicable State law. In some areas, evidence may be provided through coordination with applicable municipalities and public and private water purveyors to verify water supply sufficiency.

- Policy CON-54: The County shall maintain or enhance infiltration and recharge of groundwater aquifers by requiring all projects in designated groundwater deficient areas as identified in the County's groundwater ordinance (County Code Chapter 13.15) be designed (at minimum) to maintain a site's predevelopment groundwater recharge potential, to the extent feasible, by minimizing impervious surfaces and promoting recharge (e.g., via the use of water retention/detention structures, use of permeable paving materials, bio-swales, water gardens, cisterns, and other best management practices).
- Policy CON-55: The County shall consider existing water uses during the review of new water uses associated with discretionary projects, and where hydrogeologic studies have shown that the new water uses will cause significant adverse well interference or substantial reductions in groundwater discharge to surface waters that will alter critical flows to sustain riparian habitat and fisheries or exacerbate conditions of overdraft, the County shall curtail those new or expanded water uses.
- Policy CON-60.5 All aspects of landscaping from the selection of plants to soil preparation and the installation of irrigation systems should be designed to reduce water demand, retain runoff, decrease flooding, and recharge groundwater.
- Policy CON-72: The County shall seek to reduce the energy impacts from new buildings by applying Title 24 energy standards as required by law and providing information to the public and builders on available energy conservation techniques, products, and methods available to exceed those standards by 15 percent or more.
- Policy CON-77: All new discretionary projects shall be evaluated to determine potential significant project-specific air quality impacts and shall be required to incorporate appropriate design, construction, and operational features to reduce emissions of criteria pollutants regulated by the state and federal governments below the applicable significance standard(s) or implement alternate and equally effective mitigation strategies consistent with BAAQMD's air quality improvement programs to reduce emissions. In addition to these policies, the County's land use policies discourage scattered development which contributes to continued dependence on the private automobile as the only means of convenient transportation. The County's land use policies also contribute to efforts to reduce air pollution.
- Policy CON-81: The County shall require dust control measures to be applied to construction projects consistent with measures recommended for use by the BAAQMD [Bay Area Air Quality Management District].
- Goal E-1: Maintain and enhance the economic viability of agriculture.
- Policy E-1: The County's economic development will focus on ensuring the continued viability of agriculture in Napa County.
- Policy SAF-20: All new development shall comply with established fire safety standards. Design plans shall be referred to the appropriate fire agency for comment as to:

- 1) Adequacy of water supply.
 - 2) Site design for fire department access in and around structures.
 - 3) Ability for a safe and efficient fire department response.
 - 4) Traffic flow and ingress/egress for residents and emergency vehicles.
 - 5) Site-specific built-in fire protection.
 - 6) Potential impacts to emergency services and fire department response.
17. That the proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under §'s 13.15.070 or 13.15.080 of the County Code.

Analysis: The project is located in the GSA Subbasin and therefore subject to a 0.30 acre feet per acre per year groundwater allocation based upon Board direction and current County Water Availability Analysis policies. A Tier 3 analysis was not required as the property is located over 2,000 feet from the nearest significant stream. The Water Availability Analysis Memorandum (Attachment G) was completed by Richard C. Slade & Associates, dated February 6, 2024, demonstrated that total proposed water use for the project plus existing uses is estimated to be 1.71 acre-ft/yr which is slightly below its allocation of 1.72 acre-ft/yr. The nearest neighboring well is located less than 500-ft from the project well and therefore a Tier 2 well interference analysis was completed. There are two wells which will supply water to the existing winery and vineyard irrigation, both wells are located west of the existing vineyard on the subject parcel (022-230-015). The wells were drilled to a depth of 170 feet, and the winery well constructed to a depth of 250 feet. As part of the Tier 2 a pump test was performed, including an 8-hour constant rate of pumping test was performed on the winery well at a rate of 15 gpm. A pre-test static water level was taken at 54.5 feet below the reference point, which was measured at 77.6 ft below the reference point at the end of the pump test, for a maximum drawdown of 23.1 feet. Water level recovery was measured 3 hours after completed pump test which was 94%. In summary, the pump test concluded that the existing yield will be sufficient to serve all uses on the property and would not interfere with the neighboring off-site well.

The project will not require a new water system or other improvements and will not have an impact on local groundwater.