



AllWest Environmental

ZONING CODE ANALYSIS

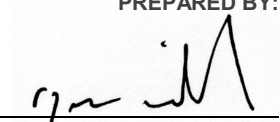
5266 Old Sonoma Road, Napa California 94559

PREPARED FOR:

GF Carneros Holdings LLC
c/o Flynn Properties
225 Bush Street, #1470
San Francisco, California 94104

ALLWEST PROJECT 16027.68
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PREPARED BY:



Ryan Miller, Architect
California License No. C28183

REVIEWED BY:

xxx, Architect
California License No. Cxxxxx



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FIGURES

Aerial Photo

APPENDIX A

Assessor's Parcel Map, Napa County Winery Ordinance, Assessor's Parcel Summary, Minutes of APAC Public Meetings, Agricultural Land Use Element of General Plan, and Napa County General Plan (complete)



ZONING CODE ANALYSIS

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I. INTRODUCTION

This memorandum concerns a property located in Napa County at 5266 Old Sonoma Road. The APN is 147-110-018-000. This analysis is for a single parcel which contains 7.66 acres (333,669.6 square feet), according to Napa County Assessor records.

The property is subject to Napa County jurisdiction; it is not under the jurisdiction of the City of Napa. Submittals for building permits and/or case filings for relief from the requirements of the Zoning Code, zoning changes, and development permit approvals must be submitted to Napa County offices, not offices of the City of Napa. The Napa County Zoning Code is the applicable document under review in this analysis.

The subject property is zoned AW (Agricultural Watershed). The AW district classification is intended to be applied in those areas of the County where the predominant use is agriculturally oriented; where watershed areas, reservoirs, and flood plain tributaries are located; where development would adversely impact on all such uses; and where the protection of agriculture, watersheds, and floodplain tributaries from fire, pollution, and erosion is essential to general health, safety, and welfare.

This memorandum reviews the following issues:

- Land Use: Permitted Uses and Conditional Uses;
- Height Limitations;
- Setbacks;
- Parking Requirements;
- General Plan Designations: Floor Area Ratios, Planning Sub-Areas;
- Current Zoning: Vehicle Trip Generation;

- Proposed Zoning;
- Redevelopment Plans;
- Planned Development Permits;
- Environmental Mitigation Measures;
- Building Permits: Pre-Issuance, Issued, Open, and Expired.

This memorandum provides a summary of each listed issue along with our assessments or interpretations, where applicable.

Other documents reviewed in the preparation of this memorandum include:

- Napa County Code of Ordinances (Zoning Code);
- Napa County Ordinance No. 947, dated January 22, 1990 (This Ordinance is concerned with the definition of a winery, and is often referred to as “The Winery Ordinance” or “The Winery Definition Ordinance”.);
- Napa County Assessor’s summary information;
- Napa County Assessor’s Parcel Map;
- Google Earth satellite photos.

We also contacted Terry Abramson and Suzie Gardner-Gambill, both of whom work as Planners with the Planning, Building & Environmental Services Department of the Napa County Planning Division.

Our research uncovered no active violations or complaints against the subject property; we presume that the present development is legal non-conforming.

II. Land Use

A. Permitted Uses

The following uses shall be allowed in all AW districts without use permits (per Section 18.20.010 of the Napa County Code of Ordinances):

- A. Agriculture;
- B. One single-family dwelling unit per legal lot;
- C. A second unit, either attached to or detached from an existing legal residential dwelling unit, providing that all of the conditions set forth in Section 18.104.180 are met;
- D. Residential care facilities (small);
- E. Family day care homes (small);
- F. Family day care homes (large), subject to Section 18.104.070;
- G. One guest cottage, provided that all of the conditions set forth in Section 18.104.080 are met;
- H. Wineries and related accessory uses and structures which legally existed prior to July 31, 1974 without the requirement that a use permit be issued, and which have not been abandoned; provided, that the extent of such uses and structures have been determined in accordance with the procedure set forth in Section 18.132.050. No expansion beyond those which existed prior to July 31, 1974 may occur unless specifically authorized by use permit, issued in conformance with the applicable provisions of the Zoning Code;
- I. Small wineries which were issued a certificate of exemption prior to the date of adoption (January 22, 1990) of the Winery Definition Ordinance – a copy of this Ordinance is included in the Appendix of this report – codified in the Zoning Code, and used the certificate in the manner set forth in Section 18.124.080 before the effective date (January 22, 1990) of the Winery Definition Ordinance codified in the Zoning Code, in conformance with the applicable certificate of exemption, Section 18.08.600, and any resolution adopted pursuant thereto;
- J. Wineries and related accessory uses which have been authorized by use permit and used in a manner set forth in Section 18.124.080 or any predecessor section; provided, that no expansion of uses or structures beyond those which were authorized by a use permit or modification of a use permit issued prior to the effective date (January 22, 1990) of the Winery Definition Ordinance codified in the Zoning Code shall be permitted except as may be authorized by a subsequent use permit issued pursuant to Section 18.24.010 and any other applicable requirements of the Zoning Code;
- K. Minor antennas meeting the requirements of Sections 18.119.240 through 18.119.260;
- L. Telecommunication facilities, other than satellite earth stations, that meet the performance standards specified in Section 18.119.200, provided that prior to issuance of any building permit, or the commencement of the use if no building permit is required, the director or his/her designee has issued a site plan approval pursuant to Chapter 18.140;
- M. Hunting clubs (small) as defined in Chapter 18.08;
- N. Overnight lodging in public parks or in structures, at the density and intensity of use (number of units) lawfully developed for such purpose prior to October 13, 1977, provided that such use has a currently valid certificate of the extent of legal nonconformity pursuant to Section 18.132.050;
- O. Any recreational vehicle park or campground and their accessory and related uses which have been authorized by use permit and used in a manner set forth in Section 18.124.080 or any predecessor section; provided that no expansion of uses or structures beyond those which were specifically authorized by a use permit or modification of a use permit issued prior to May 10, 1996, shall be permitted except as may be authorized by a subsequent permit issued pursuant to Section 18.24.010 and any other applicable requirements of the Zoning Code;
- P. Floating dock which complies with all of the following:
 - 1. Is accessory to a residential or agricultural use otherwise permitted by this chapter without a use permit;
 - 2. Any portion located on a navigable waterway is determined by the Napa

- County Flood Control and Water Conservation District engineer to not obstruct seasonal flood flows, and;
3. In operation is located adjacent and parallel to, and does not exceed in length the water frontage of the legal parcel or contiguous legal parcels owned by the owner of the floating dock;
- Q. Maintenance and emergency repairs of legally-created levees, subject to compliance with Chapter 16.04 of the code;
- R. Farmworker housing:
1. Providing accommodations for six or fewer employees, or
 2. Consisting of no more than thirty-six beds in group quarters or twelve units designed for use by a single household, and otherwise consistent with Health and Safety Code Sections 17021.5 and 17021.6, or successor provisions, subject to the conditions set forth in Sections 18.104.300 and 18.104.310, as applicable;
 3. Quasi-private recreation uses and facilities, as defined in Section 18.08.494, conforming to the standards in Section 18.104.350, and provided that they do not adversely impact adjacent agriculture.

Comment: Napa County takes a particularly strict approach against the conversion of viable agricultural land to non-agricultural occupancies and uses. Uses allowed by-right in the AW zoning district are rather narrowly defined, as outlined above.

B. Conditional Uses

The following uses may be permitted in all AW districts, but only upon grant of a use permit pursuant to Section 18.124.010:

- A. Parks and rural recreation uses and facilities as defined in Chapter 18.08, conforming to the standards in Chapter 18.104;
- B. Farmworker housing and seasonal farmworker centers conforming to Section 18.104.300 or 18.104.310, unless exempt from a use permit requirement under subsection (R) of Section 18.20.020;
- C. Facilities, other than wineries, for the processing of agricultural products grown or

raised on the same parcels or contiguous parcels under the same ownership;

- D. Kennels, horse boarding and/or training stables, veterinary facilities, and wildlife rescue centers;
- E. Feed lots;
- F. Sanitary landfill sites;
- G. Non-commercial wind energy and conversion systems;
- H. Wineries, as defined in Section 18.08.640;

As defined in Section 18.08.640 of the Zoning Code:

"Winery" means an agricultural processing facility used for:

- A. The fermenting and processing of grape juice into wine; or
- B. The refermenting of still wine into sparkling wine.
- C. The following uses in connection with a winery:
 1. Crushing of grapes outside or within a structure;
 2. On-site, aboveground disposal of wastewater generated by the winery;
 3. Aging, processing, and storage of wine in bulk;
 4. Bottling and storage of bottled wine; shipping and receiving of bulk and bottled wine, provided the wine bottled or received does not exceed the permitted production capacity;
 5. Any or all of the following uses provided that, in the aggregate, such uses are clearly incidental, related, and subordinate to the primary operation of the winery as a production facility;
 6. Office and laboratory uses;
 7. Marketing of wine as defined in Section 18.08.370;
 8. Retail sale of (1) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made,

- providing nothing herein shall excuse the application of subsections (B) and (C) of Section 18.104.250 regulating the source of grapes; and (2) wine produced by or for the winery from grapes grown in Napa County;
- D. The following uses, when accessory to a winery:
1. Tours and tastings, as defined in Section 18.08.620;
 2. Display, but not sale, of art;
 3. Display, but not sale, of items of historical, enological, or viticultural significance to the wine industry;
 4. Sale of wine-related products;
 5. Child day care centers limited to caring for children of employees of the winery;
- E. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in Section 18.119.200;
- F. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district;
- G. Campgrounds on public lands conforming to the standards in Chapter 18.104;
- H. Hunting clubs (large) as defined in Chapter 18.08 and subject to the standards in Chapter 18.104;
- I. Facilities, other than wineries, for the processing of agricultural products where the products are grown or raised within the county, provided that the facility is located on a parcel of ten or more acres, does not exceed five thousand gross square feet, and is not industrial in character. Only those agricultural products raised or processed on-site may be sold at the facility;
- J. Farm management uses not meeting one or more of the standards contained in subsections (E)(2), (E)(3), and (E)(4) of Section 18.08.040.

Comment: Conditional uses in the AW zoning district require a case filing with the Napa County Planning Commission and a public hearing. Conditional use

permits require the approval of the Planning Commission and, if denied, can be appealed to the County Board of Supervisors.

Any use or occupancy not listed in the above two categories – Permitted Uses and Conditional Uses – will require a zoning change. Approvals for zoning changes must be approved by both the Planning Commission and the Board of Supervisors. Additionally, zoning changes are subject to a ballot measure which requires a countywide popular vote. Both planners with whom we discussed the subject property indicated that zoning changes to convert agricultural property – such as the subject property in the AW zoning district – to non-agricultural uses were rarely granted.

III. Height Limitations

Table 18.104.010 lists a schedule of Zoning District regulations. The maximum height limitation in the AW Zoning District is 35 feet.

Comment: A request for a variance on the height limitation in the AW zoning district requires a case filing with the Napa County Planning Commission and a public hearing. Variances require the approval of the Planning Commission and, if denied, can be appealed to the County Board of Supervisors.

IV. Setbacks

Table 18.104.010 lists a schedule of Zoning District regulations. The minimum setbacks in the AW Zoning District are:

Front yard: 20 feet (see below)
Side yard: 20 feet
Rear yard: 20 feet

Comment: Section 18.112.070 sets forth additional setback requirements for Arterial County Roads. Old Sonoma Road is an Arterial County Road. Exception 13 of the above Section establishes a road setback (front setback) of 42 feet for Old Sonoma Road. A request for a variance on the setback limitations in the AW zoning district requires a case filing with the Napa County Planning Commission and a public hearing. Variances require the approval of the Planning Commission and, if denied, can be appealed to the County Board of Supervisors.

V. Parking Requirements

Section 18.104.130 governs off-street parking requirements. In any zoning district, two off-street

parking spaces shall be provided for each dwelling unit. The AW zoning district does not impose any other off-street parking requirements. Since the property is currently developed with a residential building, the requirement for two off-street parking spaces for each dwelling unit applies.

There is no requirement that the two required off-street parking spaces be covered. The off-street parking spaces must observe the setback limitations discussed in Section IV. of this report.

Comment: A request for a variance on the parking requirements in the AW zoning district requires a case filing with the Napa County Planning Commission and a public hearing. Variances require the approval of the Planning Commission and, if denied, can be appealed to the County Board of Supervisors.

VI. General Plan Designations: Floor Area Ratios & Planning Sub-Areas

The general plan land use category for the subject property is Agriculture, Watershed, and Open Space.

Development on the subject property for by-right uses and for conditional uses is not subject to floor area ratios or planning sub-area restrictions.

Comment: Refer to the Agricultural Land Use Element of the Napa County General Plan for additional information concerning development and use of parcels in the AW zoning district. A copy of this document is included in the Appendix.

VII. Current Zoning: Vehicle Trip Generation & Proposed Zoning

Development on the subject property for by-right uses and for permitted conditional uses is not subject to vehicle trip generation studies. There are no proposed or pending Ordinances which affect the AW zoning district in general or the subject property in particular.

Ordinance No. 947, the document which defines wineries and is often referred to as “The Winery Ordinance” or “The Winery Definition Ordinance,” is currently under review by the Napa County Agricultural Protection Committee (APAC). The most salient points under discussion appear to be parcel size for wineries in the AW zone and the definition of Agricultural Uses and how that definition affects wineries and related accessory uses that occur at

wineries. Copies of the minutes of the four most recent APAC public meetings that are available online are included in the Appendix.

Comment: A request for a variance for development other than by-right uses and for permitted conditional uses requires a case filing with the Napa County Planning Commission and public hearing. Variances require the approval of the Planning Commission and, if denied, can be appealed to the County Board of Supervisors. Such variances could require that trip generation studies be provided with the case filing materials.

VIII. Redevelopment Plans

Redevelopment on the subject property for occupancies and uses other than by-right uses and for permitted conditional use requires a case filing for a zoning change with the Napa County Planning Commission. Approval from both the Planning Commission and the Board of Supervisors is required for zoning change approval. Additionally, zoning changes are subject to a ballot measure which requires a countywide popular vote.

IX. Planned Development Permits

The subject property is not within a planned development zoning district.

X. Environmental Mitigation Measures

Environmental mitigation measures are typically not applicable to single family residential development, with which the subject property is currently developed. Redevelopment on the property for uses other than single family residential may require environmental investigation and analysis and the preparation of Environmental Impact Reports (EIR). Proposed environmental mitigation measures may also be required by the Planning Commission as a condition of approval for any case filing under its jurisdiction.

XI. Building Permits: Pre-Issuance, Issued, Open & Expired

In our discussions with Suzie Gardner-Gambill of the Napa County Planning Division, we were informed

that no open, expired, or active building permits are associated with the subject property. No building permits are pending.

XII. Conclusions

Napa County is unique in its dependence upon a single agricultural commodity and associated support systems, activities, and businesses. Napa County is intent on protecting agricultural and open space as the primary land use in the County. Commercial, industrial, and residential uses shall be confined to appropriate areas as set forth in the Napa County General Plan.

The conversion or use of agricultural land for non-agricultural purposes and the depletion of open space land shall be prohibited except to the extent expressly permitted by the Napa County General Plan and any Ordinance adopted to implement the General Plan.

For wineries established after February 22, 1990, wineries are permitted to be located or operated on parcels in the AW zone if the single parcel on which it is located has a minimum parcel size of 10 acres. The subject property, on its own, does not meet the minimum parcel size requirement to be used as a winery.

Transient lodging facilities (hotels) are not allowed either by-right or as a permitted conditional use.

We stress that any occupancies and uses other than those allowed by-right or as permitted conditional uses will require a case filing with the Planning Commission for a zoning change. The zoning change case will require approval of the Planning Commission and the County Board of Supervisors.

Additionally, zoning changes in Napa County are subject to a ballot measure which requires a countywide popular vote.

Napa County, as expressed in its General Plan, is committed to maintaining agricultural land being used as such. The requirements put forth by the County in its Zoning Code to convert agricultural land for non-agricultural uses are not insignificant.