

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: December 11, 2002
Department: P&D
Budget Unit: 053
Agenda Date: January 7, 2003
Placement: Departmental
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TO: Board of Supervisors

FROM: Steven L. DeCamp, North County Deputy Director
Planning and Development

STAFF Zoraida Abresch, Supervising Planner (x6585)

CONTACT: Brian Foss, Planner (x6259)

SUBJECT: Hearing to consider the appeal of Lisa Bodrogi, agent for Ken Plam, of the July 24, 2002 Planning Commission deemed denials of the Mission Meadows Winery Development, case number **01DVP-00000-00002**, for approval of a Final Development Plan under the provisions of Article III of the AG-II-40 Zone District, to develop a winery and manager's residence; and case number **TPM 14,563**, for approval under County Code Chapter 21 to divide 93.54 acres into two parcels of 52.75 acres and 40.79 acres in the AG-II-40 Zone District under Article III, located north of the Alisal River Golf Course (APN 139-250-010), Solvang area, Third Supervisorial District.

Recommendation:

The Board's motion should include the following:

1. Direct staff to prepare an Environmental Impact Report based on the determination that a fair argument has been raised regarding the potential for significant impacts to historical and biological resources.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

At the Board of Supervisor's hearing on November 5, 2002 the appellant of the Plam/Mission Meadows winery and tentative parcel map project requested a continuance to the January 7, 2003 meeting in order to continue to work with the California Department of Fish and Game and other agencies regarding potential modifications and improvements to the existing at-grade crossing over Alamo Pintado Creek. The Board requested that staff provide additional information in order to evaluate the project. The following information is provided in order to summarize the process and address those concerns.

Background

A mitigated negative declaration was prepared for the proposed development plan and tentative parcel map project to satisfy CEQA requirements. The negative declaration supplemented with specific surveys and reports found that with appropriate mitigation all impacts to the environment would be reduced to less than significant levels. The supplemental reports and surveys included a traffic analysis prepared by a County approved traffic engineer, a biological survey addressing traffic associated with the proposed winery over the at-grade Alamo Pintado Creek crossing prepared by a County approved biologist, and an archaeological report prepared by a County approved archaeologist. The mitigated negative declaration was circulated for a period of 51 days and was sent to the State Clearinghouse for review by State agencies. Normally a negative declaration is circulated for 21-30 days, however, in this case the review period was extended in order to ensure that the document was sent to the State Clearinghouse and that all requirements of proper notification were met. During that review period comment letters were received from members of the public, Old Mission Santa Ines, Santa Ynez River Water Conservation District, Women's Environmental Watch and the City of Solvang.

The project was heard at the Planning Commission hearing of July 24, 2002. At that time staff and Counsel were confident that the negative declaration was adequate and the project had received appropriate environmental review. Subsequent to the Planning Commission hearing on July 24, 2002 a historical report regarding the project's potential impact to Mission Santa Ines prepared by a professional historian who is not on the County approved list was submitted to the County and was attached to the first Board letter to supplement the completed negative declaration. This study further supported staff's and Counsel's position. However, just prior to the Board hearing of November 5, 2002 comment letters from California Department of Fish and Game, Department of the Interior and the Santa Barbara Trust for Historical Preservation were received. While the letters were received well after the end of the comment period on the negative declaration the letters were considered. These letters were prepared by experts in their respective fields and raised valid points.

CEQA

The biological report prepared by Dr. Rosemary Thompson from SAIC found that with appropriate mitigation measures the increase in traffic associated with the proposed winery would not likely impact the range or reduce the number of any listed species including the steelhead trout. However, the letter from the California Department of Fish and Game dated October 31, 2002 indicated that potential impacts to the endangered steelhead trout could result from traffic travelling through Alamo Pintado Creek. Fish and Game pointed out that CEQA Section 15065 requires a mandatory finding of significance if a project has any potential to restrict the range or reduce the numbers of an endangered species. Since Alamo Pintado Creek is listed as critical habitat for the steelhead trout and since the traffic associated with the winery would be travelling through the creek the potential does exist to injure or kill a steelhead trout. Therefore, a mandatory finding of significance to biological resources must be made for the project as it is currently designed. Fish and Game further states that modifications to the creek crossing and/or alternative creek crossing designs may alleviate the potential to reduce the range or numbers of the trout, however, at this time no other design has been formally submitted and reviewed. Based on this analysis, staff agrees with the CDFG that according to Section 15065 of CEQA an EIR must be prepared since the project has the potential to reduce the numbers or restrict the range of the species.

Comment letters from the Santa Barbara Trust for Historical Preservation and the National Park Service of the Department of the Interior were received on November 4, 2002 and September 30, 2002, respectively. Planning and Development along with County Counsel has determined that a fair argument has been raised by these agencies regarding the potential impact of the proposed project on the historical significance of the Mission and the nearby grist mills. Despite the fact that the applicant has provided a study prepared by a qualified historian that identifies adverse but less than significant impacts to the historical importance of the Mission and the viewshed, a fair argument appears to have been raised. Agencies with expertise preserving historic structures have expressed an opinion different than the

findings in the negative declaration. The negative declaration analyzed potential impacts of the project on the viewshed from the Mission and found those impacts to be less than significant due to the fact that the proposed structures would be located at a lower elevation than all surrounding development including residential structures to the west in the City of Solvang and the Mission Santa Ines. The analysis concluded that the proposed structures would not be visibly obtrusive. The view from public roads and other public areas looking toward the project site is directed at the Santa Ynez mountains, and expansive rural land that consist of hills and valleys and scattered residential and agricultural structures. The negative declaration also concluded that due to the topography and scale of the project in relation to the expansive view the structures would not cause an obstruction of a scenic view or vista. However, potential impacts to the views from grist mills were not analyzed or addressed in the document due to the fact that the mills are not open to public access. Staff agrees that additional information and attention to the potential impacts to the historical importance and historical viewshed of the Mission and the grist mills should be included in an environmental document.

Therefore, staff's position is that, based on the letters that were received during the hearing process an EIR should be prepared that more closely analyzes these two issues and revisits all other areas contained in the Initial Study.

Environmental Impact Report versus a Mitigated Negative Declaration

The scope of an EIR would include all issues areas that were analyzed in the negative declaration and would review the winery development plan and the tentative parcel map proposal. Since numerous special studies have been prepared by qualified experts in order to address the main impacts of the proposed project, significant amounts of new or additional information would most likely not be required. However, Planning and Development would require the EIR consultant to reanalyze specific issue areas in order to assess the adequacy of the analysis and reports that have been prepared due to the arguments that have been raised by other agencies. Specifically, the visual analysis including potential impacts to historic resources and biological impacts to Alamo Pintado Creek and endangered species (steelhead trout) associated with the at-grade creek crossing would be revisited.

Additionally, the EIR would analyze project alternatives. Alternative scenarios possibly including the relocation of proposed structures, redesign of proposed structures and other means of access to the site across Alamo Pintado Creek along with a "no project" alternative would be analyzed in order to ensure that the design and layout of the proposed project would lessen potential impacts to the greatest extent feasible. Project alternatives are not required to be analyzed in a negative declaration.

Lastly, an EIR would provide the Board the option of adopting overriding considerations if additional analysis concluded in a significance finding. The Board would be able to make the overriding considerations and approve the project or any portion of it if the determination was made that the benefits of the project outweighed the significant impacts.

The EIR would package all of the special studies, the information contained in the Initial Study, any new information and/or new mitigation measures, cumulative analysis and project alternatives under one cover and the document would be noticed and sent to the same individuals and agencies as the negative declaration. The EIR would be circulated for a 45-day period. Any comment letters received during that time would be responded to and addressed in writing that would be contained in the Final EIR. Written responses to comment letters received during the circulation period of a negative declaration are not required.

Creek Crossing

A question was raised at the Board hearing on November 5, 2002 regarding the at-grade creek crossing structure. The question was why was the at-grade creek crossing structure allowed within the creek while other structures are required to have a setback from the creek itself. Comprehensive plan policies allow

structures to be constructed within a creek so long as the structures are designed to avoid causing or contributing to flood hazards. The at-grade creek crossing was designed so that the flow of Alamo Pintado creek would not be altered or obstructed. A structure such as a house or winery building would not be able to be designed to completely avoid the potential to cause flood hazards. Additionally, the policies that require setbacks are in place to avoid exposing future development to flood hazards. The creek crossing is a structure that is inherently designed to withstand fluctuations in the creek without causing those fluctuations. The at-grade creek crossing was installed in accordance with CEQA, County policies and with the benefit of permits from other responsible agencies as discussed in previous Board letters. However, as discussed above, the design of the creek crossing needs to be analyzed further to ensure that future traffic associated with the winery does not adversely impact the steelhead trout.

Piecemeal

A concern was raised at the Board hearing regarding possible “piecemealing” of the components of the proposed project. The at-grade creek crossing was constructed and installed with the benefit of permits from County Planning and Development, County Flood Control District and other responsible agencies including California Department of Fish and Game, Army Corps of Engineers and with the appropriate contact with U.S. Fish and Wildlife Service, Regional Water Quality Control Board, and the National Marine Fisheries Service while the application for the winery and tentative parcel map was under review by the County. A determination was made that the creek crossing was required to help protect the streambed and the water quality of Alamo Pintado Creek regardless of whether or not a winery would be permitted on the site. The improvements to the crossing would benefit the quality of the creek and would be necessary for safe and adequate access to the site even if it were to remain solely in agricultural production and absent commercial facilities.

The County prepared a negative declaration for the creek crossing that was sent for review to all of the above mentioned agencies that included as mitigation measures all of the recommendations contained in a biological survey conducted specifically for the installation of the at-grade crossing, all conditions required by the Streambed Alteration Agreement that was issued by California Department of Fish and Game and based on recommendations from all other agencies listed above. A separate biological study that specifically addresses the impact of project-related traffic to the creek was performed for the proposed project winery and subdivision project. That study along with the negative declaration that was prepared for the winery project was sent to all of the responsible agencies through the State Clearinghouse for review.

Winery Size

A concern was raised by the Board that the winery was very large and there was concern that approximately 50% of the grapes processed on the site would be transported from offsite vineyards based on the acres planted in vineyards and the total production capacity of the winery. Since the property is not under an Agricultural Preserve contract the only requirement limiting the source of grapes to be processed at the winery would be that at least 50% of the grapes be grown in Santa Barbara or San Luis Obispo Counties as required by Article III of the Zoning Ordinance.

The size of a winery in relation to its production capacity is not necessarily a directly proportional relationship. Limiting the production capacity may not reduce the size of the winery to a great extent. Storage areas may be reduced, however, the other components of the winery including the tasting room, offices and production area would most likely remain the same size. However, the Board does have the discretion to limit the size and/or the production capacity of the winery if potential impacts would be reduced.

Impacts to Agricultural Resources

Staff's position remains that the proposed subdivision of the 93.54-acre parcel cannot be found to be consistent with adopted agricultural and comprehensive plan policies. As discussed in the report to the Planning Commission dated July 17, 2002, and previous Board letters, the County's agricultural policies and goals strive to maintain agriculture as an economically viable business and the division of the project site into two separate parcels would further restrict agriculture. Dividing the 93.54-acre parcel that contains a majority of prime soils into two separate parcels will lessen the potential productivity of the site. Two separately managed agricultural operations on limited acreage would not allow for as many crop or agricultural options as the original 93.54-acre parcel. Large blocks of contiguous soils available for cultivation are diminishing in the Santa Ynez Valley. This trend in parcelization contributes to change in the character of the region from rural/agricultural to more intense residential land uses. Subdivision of agricultural land into ever-smaller parcels often leads to decreased agriculture viability, more residential ranchette development and potential land use incompatibility that can threaten the remaining agricultural operations. Both of these factors can lead to eventual land conversion to non-agricultural uses thereby reducing the amount of agricultural resources valley-wide. The proposed parcel map would add to the division of large agricultural parcels in the County and would reduce agricultural opportunities to current and future land owners and farmers looking to lease property for cultivation. In some instances smaller parcels are less desirable to lessees for operating farms or agricultural businesses due to the fact that less acreage yields less crop. Large parcels that contain prime soils can produce a variety of crops and enough product to support an individual business. Continual subdivision of these existing large lots puts more pressure on farmers and other parcels that may not have adequate soils, water or support structures. Therefore, the lot split portion of the proposed project would be considered inconsistent with adopted County goals and policies. Staff would continue to recommend denial of that portion of the project based on policy inconsistencies regardless of further CEQA analysis under an Environmental Impact Report.

Mandates and Service Levels:

Pursuant to Section 35-327.3 of Article III of Chapter 35 of the County Zoning Ordinances, the decisions of the Planning Commission may be appealed to the Board of Supervisors within ten days after the Commission's action.

Pursuant to Government Code Sections 65355 and 65090, a notice of the hearing shall be published in at least one newspaper of general circulation. Mailed notice required to property owners within 300 feet of the project, including the real property owners, project applicant and local agencies expected to provide essential services, shall be done at least ten days prior to the hearing.

Fiscal and Facilities Impacts:

The appellant submitted an appeal processing fee, pursuant to Board of Supervisors Land Development Fee Resolution 96-323.

Special Instructions:

Clerk of the Board shall forward a copy of the Board Minute Order to Planning and Development Hearing Support Section, Attn.: Cintia Mendoza.

Attachments:

Department of Fish and Game letter dated October 31, 2002
Santa Barbara Trust for Historic Preservation letter dated November 1, 2002
National Park Service of the Department of the Interior letter dated September 25, 2002

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