

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

M E M O R A N D U M

TO: Johanna Patri, DZA Hearing Officer
FROM: Veronica Corella-Pearson, Planner
RE: McEvoy Use Permit Amendment (ID# 10-0124)
DATE: August 9, 2010

On July 15, 2010 The McEvoy Use Permit Amendment was approved. Post approval, it came to staffs attention that the hearing was not properly noticed. Therefore the project has been re-noticed for the date of August 12, 2010. No changes to the recommended resolution of July 12, 2010 have been made, except for the final decision date and vesting date.

Attachment:

- 1) Revised Resolution recommending approval of the McEvoy Use Permit Amendment

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION APPROVING THE McEvoy USE PERMIT AMENDMENT AND MINOR DESIGN REVIEW (ID # 10-0124)
5935 RED HILL ROAD, PETALUMA, CA 94952
ASSESSOR'S PARCELS 125-070-05, -06, -16

SECTION I: FINDINGS

- I. WHEREAS the applicant, Aidlin Darling Design, has applied on behalf of the owner, Nan McEvoy (represented by Russ Morita), for Use Permit Amendment and Minor Design Review approval. The applicant proposes to amend the existing Use Permit (96-418) to allow for the conversion of an existing 4,760 square foot storage and maintenance building into a wine production facility, and to legalize 1,112 square feet of storage area. The building would be converted to include production equipment and wine storage. The majority of the wine would be produced from grapes grown on site, yet there is potential for some grapes to be used that are not grown on land owned by Nan McEvoy. The new wine facility would not be open to the public. The wine production staff would work normal business hours (7:30 am to 5:00 pm), except during the fall harvest season (5:30 am to 10:00 pm). During the fall harvest, the average noise level would be between 65-70 decibels for approximately 4 hours/day at the exterior walls of the building. The winery would produce and store up to 2,800 cases of wine a year. The Use Permit Amendment would also allow for 39 full time and 9 part time staff that work on staggered shifts. The majority of the wine sales will be on-line, with limited sales in the existing gift shop within the olive pressing facility. The subject property is located at 5935 Redhill Road, Petaluma and is further identified as Assessor's Parcels 125-070-05, -06, -16.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 112, 2010 to consider the merits of the project, and hear testimony in favor of, and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1 because the project would not result in new construction or site disturbance that would impact sensitive habitat areas or result in a significant amount of grading and site disturbance.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
 - A. The project proposes no new construction or site disturbance and will not conflict with CWP natural systems policies requiring the protection of woodlands, forest, and tree resources (CWP Policies BIO-1.1 and BIO-1.3).
 - B. The project proposes no new construction or site disturbance and will not conflict with the natural systems policies regarding supporting vegetation and wildlife disease

management programs and promoting the use of native plant species (CWP Policies BIO-1.4, BIO-1.5, BIO-1.6 and BIO-1.7).

- C. The project proposes no new construction or site disturbance and will not conflict with policies regarding special-status species (CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2).
 - D. The project proposes no new construction or site disturbance and will not conflict with policies regarding protecting ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the private open space adjacent to the project site, or impact corridors for wildlife movement (CWP Policies BIO-2.3 and BIO-2.4).
 - E. The project proposes no new construction or site disturbance and will not conflict with policies regarding the protection of wetlands or stream conservation areas (CWP Policies BIO-3.1 and CWP BIO-4.1).
 - F. The project proposes no new construction or site disturbance and will not conflict with policies regarding stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4).
 - G. The project proposes no new construction or site disturbance and does not trigger construction that requires building permit review for earthquake standards (CWP Policies EH-2.1, EH-2.3, and CD-2.8).
 - H. The project has been reviewed by Marin County Fire District and is in compliance with required adequate fire protection standards regarding, removal of hazardous vegetation (CWP Policy EH-4.1, and CWP Policy EH-4.2), water for fire suppression (CWP Policy EH-4.c), defensible space and the project does not require a building permit that will require compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n), and clearance of vegetation around the proposed structure (CWP Policy EH-4.h).
 - I. The project is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (CWP Policy DES-1.2).
 - J. The project proposes no new construction and will not conflict with policies regarding energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (CWP Policy DES-1.h).
 - K. The project proposes no new construction or site disturbance and will preserve visual quality, and protect scenic quality and views of the natural environment from adverse impacts related to development (CWP Policy DES-4.1).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project would be consistent with the mandatory finding to approve a Use Permit pursuant to Section 22.48.040 of the Marin County Code for the reasons listed below.

A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.

Marin County Code Section 22.08.040 allows for agricultural processing in the A-60 zoning district. A Use Permit is required if any agricultural products to be processed are not produced on the same site or other agricultural properties located in Marin County that are owned or leased by the same property owner. There is a possibility that the owner may need to augment or supplement their winery with grapes grown from lands not owned by Nan McEvoy. This would result in no more than a total of 5 delivery trucks of grapes per year. All deliveries would be made during normal business hours.

B. The proposed use is consistent with the Countywide Plan.

See Section IV and V above.

C. The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA).

See Section III above.

D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The addition and winery is compatible with the existing agricultural use and agricultural processing that is occurring on the property. The winery is over a 1,000 feet away from the nearest adjacent neighbor and majority of the neighboring properties are engaged in agriculture. The conversion, of a storage facility to a winery would not impact these operations due to the ranches remote location, and the small scale of the facility.

E. That granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

The winery equipment will average 65-70 dBA during the fall harvest and will operate during normal business hours. This level of noise is comparable to vehicular traffic at 20 mph at 25 feet away. The winery operation would be over 1,000 feet to the nearest adjacent neighbor, therefore it is not anticipated that there would be any noise impacts from the project. The proposed project would not increase the number of onsite staff, and would only result in extended operating hours during the fall harvest (August – October), which typically would only occur during a 2 week period. Due to the low volume of wine that would be produced and that majority of all wine produced would be from grapes grown on the property, the wine operation would not result in a significant increase in traffic. In addition the winery would not be open to the public, and no on-site sales would occur. With the recommended conditions of approval from EHS regarding the wastewater generated from the winery, the project would not affect the health, safety, or welfare of the community and would be in keeping with the rural, agricultural character of the community.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project would be consistent with the mandatory finding to approve a Design Review pursuant to Section 22.42.060 of the Marin County Code for the reasons listed below.

A. The proposed development provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community.

The addition has been designed to be in keeping with the rustic, rural character of the property and in keeping with other structures on the property used for production. The addition has been added to an existing structure that is clustered within an area of development and is in conformance with Section 22.08.040.

B. The proposed development results in site layout and design (including building arrangement, exterior appearance, heights, setbacks, drainage, fences and walls, grading, lighting, signs, etc.) that will not eliminate significant sun and light exposure, views, vistas, and privacy to adjacent properties; that will not result in light pollution, trespass, and glare; and that will not adversely affect rights-of-way or pathways for circulation.

The addition is in conformance with all requirements of the A-60 zoning district regarding setbacks and height, and is located within an area of existing development. The addition has been sited to not negatively impact light exposure to other structures, circulation, or result in a significant increase in light pollution or glare.

C. The proposed development will provide appropriate separation between buildings and will be properly and adequately landscaped with maximum retention of trees, native plants, and other natural features consistent with fire safety requirements.

The proposed project does not require the removal of any vegetation and currently there is landscaping surrounding the structure. The project has been reviewed by Marin County Fire Department and was found to be consistent with fire safety requirements.

D. The proposed development will minimize cut and fill, the reforming of the natural terrain, and appurtenant structures (e.g. retaining walls and bulkheads).

The project does not result in any cut and fill, or the need for appurtenant structures.

E. The proposed development complies with the Single-family Residential Design Guidelines and the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards).

The subject building is clustered in an area of existing development and is not located on a visually prominent ridge. The addition would result in construction that is of similar mass and bulk to other buildings on the property. It does not result in construction that would be visually prominent to the public, and is in keeping with the character of existing development.

F. The project design includes features which foster energy and natural resource conservation while maintaining the character of the community.

The project would be required to meet the requirements of the Marin County Green Building Standards, Title 24 and Ordinance 3492.

G. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

The proposed project is consistent with all CWP's policies pertinent to the proposed project, and has been reviewed by Environmental Health Services, the Department of Public Works, and Marin County Fire Department to ensure consistency with applicable development regulations, and as conditioned, the project would comply with all applicable sections of the Marin County Code.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the McEvoy Use Permit Amendment (ID# 10-0124) subject to the following conditions:

Marin County Community Development Agency-Planning Division

1. Pursuant to Marin County Code Sections 22.50 (Use Permit) and 22.42 (Design Review) the McEvoy Use Permit Amendment and Minor Design Review is approved to allow for the conversion of an existing 4,760 square foot storage and maintenance building into a wine production facility, and to legalize 1,112 square feet of storage area. The building will include production equipment and wine storage. The facility may process up to 5 delivery trucks of grapes that are not from lands of Nan McEvoy. The new wine facility will not be open to the public. The wine production staff will work normal business hours (7:30 am to 5:00 pm), except during the fall harvest season (5:30 am to 10:00 pm). The applicant is approved for the production and storage of up to 2,800 cases of wine. The wine production equipment will not exceed 70 decibels and must only operate during normal business hours. The ranch may also have a total of 39 full time and 9 part time staff that work on staggered shifts. The subject property is located at 5935 Redhill Road, Petaluma and is further identified as Assessor's Parcels 125-070-05, -06, -16.
2. Conditions of Approval numbers 1 and 4 in Use Permit 96-418 remain active.
3. The Community Development Agency shall file this Notice of Decision, including all conditions of project approval, with the Marin County Recorder's Office to advise future property owners of the special development restrictions relative to the allowed Olive and Wine Processing Facilities.
4. PRIOR TO VESTING, the applicant must provide written confirmation from the California Department of Alcohol and Beverage Control that an ABC license has been acquired.
5. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of (description of project being approved), for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such

proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.

6. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the addition. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
7. Within 90 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
8. Within 120 days of this decision, the applicant must receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
9. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.
10. This Use Permit is subject to revocation procedures contained in Chapter 22.120 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the public interest, health, safety, convenience, or welfare of the County.

Marin County Environmental Health Services - Sewage

PRIOR TO A TANK INSTALLATION PERMIT:

11. Provide written approval/agreement from Regional Water Quality Control Board (RWQCB) addressing the disposal of the winery waste.
12. Provide a "will serve letter" and a copy of the permit from EBMUD for the acceptance of winery wastewater. Please provide a plan on how to deal with accidental discharges. Satisfy all the conditions of EBMUDs acceptance criteria; etc. Also, secure a contract from EBMUD with the length of time clearly stated on it, and what the requirements are to renew the contract.
13. Provide certification from a state approved certified hauler

Marin County Fire Department

14. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Marin County Fire Department have been met.

Marin County Department of Public Works

PRIOR TO ISSUANCE OF A BUILDING PERMIT

15. Plans shall indicate how the project meets State Title 24 accessibility regulations.

SECTION III: VESTING, PERMIT DURATION AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this McEvoy Use Permit Amendment (ID# 10-0124) approval by commencing the allowed use on the property, in compliance with the conditions of approval by August 12, 2012. The applicant must obtain a Building Permit for the addition and approval of a final inspection by the Building and Safety Division within the time limits specified in the conditions of approval. Requests for an extension to the time limits specified therein may be granted administratively by the Community Development Agency staff, in consultation with the Code Enforcement Section, for good cause, such as delays beyond the applicant's control. In no event may such extensions be granted beyond two years from the effective date of this approval. Time extensions to vest the Use Permit approval beyond two years and up to a maximum of four years may only be granted upon the filing of an extension application with required fees pursuant to Section 22.56.050.B.3 of the Marin County Code.

The McEvoy Use Permit Amendment shall be valid indefinitely, so long as the current owner or subsequent owners of the subject property comply with the conditions of project approval. In the event that the terms of the McEvoy Use Permit Amendment are violated or that the approved uses are carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing in the neighborhood, the McEvoy Use Permit could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120.030 of Marin County Code.

Failure to comply with the strict terms of the Conditions of Approval shall result in invalidation of all permits and rights granted herein. The owner(s) of the subject property shall pay all staff cost incurred at the prevailing hourly rate for any required enforcement actions required by the County.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on August 26, 2010.**

SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 12th day of August, 2010.

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary