MEMO

Date: July 16, 2020
To: Project Review Advisory Committee Members
From: Nina Bellucci, Project Planner
Subject: Request for review of conditions for CMO19-0012

The applicants are requesting modification of the building setback line mapped on Parcel Map 5700, to facilitate construction of a new single-family residence and a new agricultural building with an attached accessory dwelling unit. Construction of the single-family residence would require administrative design review. Current uses on the project site include a vineyard.

The project proposes to reduce the building setback line from 200’ to 140’, which maintains the separation between agricultural uses and residential uses required by General Plan policy AR-4c:

Protect agricultural operations by establishing a buffer between an agricultural land use and residential interface. Buffers shall generally be defined as a physical separation of 100 to 200’ and/or may be a topographic feature, a substantial tree stand, water course or similar feature. In some circumstances a landscaped berm may provide the buffer. The buffer shall occur on the parcel for which a permit is sought and shall favor protection of the maximum amount of farmable land.

A request to reduce the building setback from 200’ to 140; for another parcel (Lot 3) in this subdivision was approved under CMO97-0004.

Staff of the Northwest Information Center recommended a cultural resources study. The study (dated February 28, 2020) concluded that no additional archaeological recommendations were warranted.

Permit Sonoma has determined that the project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15305 of the CEQA Guidelines, Minor Alterations in Land Use Limitations, because:

1. The project site has an average slope of less than 20% and
2. The project would not result in any changes in land use or density.

Staff recommends approval of the project with the attached conditions of approval.
SONOMA COUNTY PROJECT REVIEW & ADVISORY COMMITTEE
DRAFT CONDITIONS OF APPROVAL

Date: File No.: CMO19-0012
Applicant: Michael Kovac & Karina Maher
Owner: KOVAC J MICHAEL TR & MAHER KARINA E TR

Address: 2272 Upper Nelligan Lane, Glen Ellen
APN: 053-030-023

Project Description: Request for Certificate of Modification to modify the existing building setback line from 200 feet to 100 feet from the northern property line and 140 feet from the western property line. The proposed CMO is to reduce grading and potential visual impacts in order to accommodate a new accessory dwelling unit / agricultural building and a new primary dwelling unit.

Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.

NOTES:
The Director of Permit Sonoma is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to Permit Sonoma demonstrating that the conditions is infeasible due to specific constraints (e.g., lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. Permit Sonoma shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by Permit Sonoma are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from Permit Sonoma, and shall not affect the original permit approval date or the term for expiration of the permit.

The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state, and federal regulations.

SURVEYOR:

1. In accordance with Section 66472.1 of the Subdivision Map Act, the following findings are made:
   a. That there are changes in circumstances which make any and all of the conditions of such map no longer appropriate or necessary;
   b. That the modifications do not impose any additional burden on the present fee owner of the property;
   c. That the modifications do not alter any right, title or interest in the real property reflected on the recorded map; and
   d. That the map as modified conforms to all the provisions of the Subdivision Map Act and local implementing ordinances.

2. An Amended Map or Certificate of Modification prepared by a Licensed Land Surveyor or a Civil Engineer authorized to practice land surveying, shall be submitted to the County Surveyor within two (2) years after date of approval. It shall be accompanied by a CURRENT Title Report showing proof of ownership and documentation listing those with a record title interest in the property. Upon recording the Amended Map or Certificate of Modification the original map will be deemed to have been modified.

3. Approval is given for the modification of the “200’ Building Set Back Line” as shown on that map entitled “Parcel Map number 5700” filed in the office of the County Recorder in Book 290 of Maps, Pages 4, Sonoma County Records, to reflect that “Proposed Modified Building Set Back Line” as shown on that “Certificate of Modification Site Plan A1.1, Kovac, Issuance Planning Review, Dated June 24, 2020, by Kovac Design Studio.” made a part of this application.
4. **NOTICE:** Anyone with a record title interest in the property shall sign a statement on the map or certificate consenting to the preparation and recording of said map or certificate:

   a. I (We) have an interest in the property reflected on this certificate of correction (modification) and hereby consent to the preparation and recordation of this document.

   b. Signatures need to be acknowledged by a Notary Public.

**PLANNING:**

5. Construction on the parcel is subject to prior approval and issuance of applicable building and/or grading permits.

6. Prior to building permit issuance or prior to exercising this approval, whichever comes first, the property owners shall execute and record a Right-to-Farm declaration on a form provided by Permit Sonoma.

7. All grading and building permits plans involving ground disturbing activities shall include the following notes:

   “If paleontological resources or prehistoric, historic or tribal cultural resources are encountered during ground-disturbing work, all work in the immediate vicinity shall be halted and the operator must immediately notify the Permit Sonoma staff of the find. The operator shall be responsible for the cost to have a qualified paleontologist, archaeologist or tribal cultural resource specialist under contract to evaluate the find and make recommendations to protect the resource in a report to Permit Sonoma. Paleontological resources include fossils of animals, plants or other organisms. Prehistoric resources include humanly modified stone, shell, or bones, hearths, firepits, obsidian and chert flaked-stone tools (e.g., projectile points, knives, choppers), midden (culturally darkened soil containing heat-affected rock, artifacts, animal bone, or shellfish remains), stone milling equipment, such as mortars and pestles, and certain sites features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe. Historic resources include all by-products of human use greater than fifty (50) years of age including, backfilled privies, wells, and refuse pits; concrete, stone, or wood structural elements or foundations; and concentrations of metal, glass, and ceramic refuse.

   If human remains are encountered, work in the immediate vicinity shall be halted and the operator shall notify Permit Sonoma and the Sonoma County Coroner immediately. At the same time, the operator shall be responsible for the cost to have a qualified archaeologist under contract to evaluate the discovery. If the human remains are determined to be of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification so that a Most Likely Descendant can be designated and the appropriate measures implemented in compliance with the California Government Code and Public Resources Code.”

8. NOTE ON MAP: “Agricultural activities occur in the area and noise, dust, odor, smoke, and pesticide use may occur and are consistent with the Sonoma County General Plan Land Use designation for the area.”

9. The applicant shall include these Conditions of Approval on separate sheets of plan sets to be submitted for building and grading permit applications.

10. These conditions must be met and the application validated within 24 months from the date of the Project Review and Advisory Committee final action unless a request for an extension of time is received before the expiration date.
Project is over 2 miles from HWY 12.
Entire property hidden behind hill and trees

Viewpoint 1

View from HWY 12 looking east, just north of the Kenwood Inn and Spa (see map)
View from HWY 12 looking east, between Salt & Stone and the Kenwood Inn and Spa. This is the closest point of the nearest main public road to the property (see map).
View from HWY 12 looking east, across from Salt & Stone (see map)

Entire property hidden behind hill and trees

Kunde Family Winery

Viewpoint 3
View from intersection of Nelligan Rd (public) and Upper Nelligan Ln (private) (property and project site are completely invisible)
View from project site looking towards Sonoma Mountain (photo taken after Nuns Fire)

South edge of oak trees in front of project
North edge of oak trees in front of project

View from project site looking towards Kenwood
(photo taken after Nuns Fire)

Entry Gate
Existing oak trees in front of project

View of project from nearest downhill neighbor’s driveway entrance

Proposed project

Upper Neilligan Ln (private)
View of project from last corner on Upper Nelligan Ln before turning into property (project shown in “away mode” with fiber cement shutters closed)

Existing oak trees in front of project

Proposed project

Driveway

Upper Nelligan Ln
(private - this portion is a part of this property)
View of project from last corner on Upper Nelligan Ln before turning into property (project shown in “home mode” with all fiber cement shutters open)

Existing oak trees in front of project

Proposed project

Driveway

Upper Nelligan Ln
(private - this portion is a part of this property)