

County of Santa Clara

Department of Planning and Development
Planning Office

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October 21, 2020

The Lawrence Ellison Foundation
101 Ygnacio Valley Rd., Suite 320
Walnut Creek, CA 94596
Email: bmori@lawrenceinv.com

Applicant's responses to individual comments
are in red 03/19/2021

VIA EMAIL ONLY Delivered to Owner and Applicant***

FILE NUMBER: PLN17-6943 Mod 1
SUBJECT: Major Modification of Use Permit, ASA, Grading
SITE LOCATION: 24103 Congress Springs Rd & 14831 Pierce Rd. / APN 503-44-022, 503-45-002, 503-46-009, 503-46-005, 503-46-008
DATE RECEIVED: September 21, 2020

Dear Lawrence Ellison Foundation:

Your application for Major Modification of a Use Permit, Architecture and Site Approval, and Grading Approval is **incomplete**. In order for application processing to resume, you must resolve the following issues and submit the information listed below. Resubmittals are made by electronic submittal and must include all requested information along with a completed application form (which is used to track the resubmittal). Once the information is submitted, the Planning Office will distribute the plans, reports and/or information to the appropriate staff or agency for review.

If you have any questions about the information being requested, you should first call the person whose name is listed as the contact person for that item. He or she represents a particular specialty or office and can provide details about the requested information.

**AN APPOINTMENT IS REQUIRED FOR THIS RESUBMITTAL.
PLEASE CONTACT ME AT (408) 299-5797, Colleen.Tsuchimoto@pln.sccgov.org TO
SCHEDULE A RESUBMITTAL REVIEW APPOINTMENT.**

PLANNING

Contact Colleen Tsuchimoto at (408) 299-5797 / Colleen.Tsuchimoto@pln.sccgov.org for information regarding the following items:

1. On the overall site plan, please provide the following information:

- a) Show the location of the proposed buildings, driveways and other improvements (i.e. bridge, culvert, septic systems, tanks for fire emergency water etc.), and approximate location of structures and improvement on the Mountain Winery property as well.
- b) Label property line dimensions.
- c) Show road right-of-way for Congress Springs Rd, and Pierce Rd.
- d) Identify the limits of the unnamed fire road.
- e) Show top bank of Saratoga Creek.
- f) Show existing and proposed contours surrounding the proposed pipeline.
- g) Provide section details and elevation drawings on plans of the retaining walls proposed supporting the pipeline.
- h) Provide tree protection plan showing tree protection fencing for trees in close proximity to the proposed piping.
- i) Address grading quantities and retaining walls. See LDE comment No. 11 below.

At the Conservation Center for Wildlife Care we have provided current KSH architectural drawings which match the previous Use Permit drawings approved in 2019. In addition, we have provided updated Lea & Braze civil engineering drawings for the entire Conservation Center. This includes the minor drawings modifications required due to the new San Jose Water meter service.

On the Mountain Winery property Schaaf & Wheeler's drawings have been updated to include the requested corrections. Complete set of drawings submitted.

2. The property owner (Lawrence Ellison Foundation) is required to sign the master application form. As an alternative a notarized document may be provide authorizing another person/entity to be an acting agent on behalf of the owner. Staff does not have any records for this authorization, and the master application was signed by Ken White – Peninsula Humane Society.

Master application form submitted with authorization document as requested.

3. Provide a copy of a recorded easement agreement with Mountain Winery as evidence of legal access to the proposed utility easement. See Land Development Engineering comment No. 7 below.

The applicant requests that the recording of the easement across the Chateau Masson parcels be made a condition of approval, requiring recordation within sixty (60) days of final approval of the Use Permit Modification, and prior to the issuance of any grading permit or building permits authorized by that approval.

The applicant's request to defer recording of the easement is based on the following:

1. The applicant and Chateau Masson have agreed upon the form of the easement. An unsigned copy of the easement document is included with the resubmission for the County's review, along with letters from the applicant and Chateau Masson stating that they are each prepared to sign and record the document after approval of the Use Permit Modification, provided that the conditions of approval are acceptable to them.

2. The easement is a valuable property right, and the applicant must pay Chateau Masson for it. But the easement will be of no benefit to the applicant and will unnecessarily burden the Chateau Masson parcels if the Use Permit Modification is denied for any reason, which, though not expected, is a legal possibility. For that reason, the applicant is requesting that the recording be deferred until after final approval of the Use Permit Modification.
 3. The Use Permit Modification approval will include conditions of approval. Though not expected, it is possible that one or more of those conditions will be unacceptable to either the applicant or Chateau Masson, in which event the Use Permit Modification approval will not be accepted by the applicant and as stated in No. 2, above, the easement will be of no benefit to the applicant and will unnecessarily burden the Chateau Masson parcels. For that reason, the applicant is requesting the sixty (60) day post-approval period, during which any conditions of approval of concern to either the applicant or Chateau Masson can be investigated, and a decision made.
 4. To ensure that the applicant does not benefit from the Use Permit Modification approval prior to recording the easement, the applicant is proposing that the condition of approval state that the applicant shall be prohibited from pulling any permits (grading or building) until the easement is recorded.
 5. It is typical in approval of entitlements by local agencies that the recording of documents that are only applicable if the entitlement is approved are required as a condition of approval. This is the County's practice, for example, when a road dedication is required as a condition of building site approval. Other common examples of matters where recording is required as a condition of approval include easements to be reflected on subdivision maps, and CC&Rs.
4. Provide copy of water service agreement between the Wildlife Center and San Jose Water company. See Environmental Health comment No. 5 below.

The Foundation water meter contract with San Jose Water has been submitted with this response.

ENVIRONMENTAL HEALTH

Contact Darrin Lee at (408) 918-3435, Darrin.Lee@cep.sccgov.org for information regarding the following items:

5. Provide a finalized/signed water agreement between the Wildlife Center and San Jose Water Company. This information is necessary prior to deeming your application complete for processing in order to ensure the property has access to and is served by a potable water source.

The Foundation water meter contract with San Jose Water has been submitted with this response.

6. The plans do not illustrate the location of any proposed septic systems. Please depict all previously approved septic systems on the plans. This information is necessary in order to ensure that all plans are consistent within the County's records and as part of this modification.

On the Mountain Winery property Schaaf & Wheeler's drawings have been updated to include the existing septic systems. Complete set of drawings submitted.

On Conservation Center for Wildlife Care Lea & Braze drawings depict the previously approved septic systems.

COMMENTS CONTINUED ON NEXT PAGE.

LAND DEVELOPMENT ENGINEERING

Contact Eric Gonzales at (408) 299-5716, Eric.Gonzales@pln.sccgov.org for information regarding the following items:

7. Record a water line easement for the benefit of the Lawrence Ellison Foundation. Provide a copy of the recorded easement prior to deeming this Grading Modification application complete for processing.

See Response to Item 3.

8. There are new impervious structures (impervious pads and retaining walls) resulting from the new water system. The applicant shall provide updated preliminary grading and drainage plans showing how stormwater runoff will be mitigated to pre-project conditions. Show any proposed treatment/detention systems on the subject plans, and how they adequately route flows from the site to the natural outfall. This information is necessary in order to determine an accurate quantity of grading necessary for these improvements as well as determining potential impacts under the California Environmental Quality Act.

On the Mountain Winery property Schaaf & Wheeler's drawings have been updated to include the existing septic systems.

9. Provide updated earthwork calculations of the earthwork quantities for the new water system tank facilities. The Planning approval will need to be in substantial conformance with the final grading permit plans submitted for permit issuance.

On the Mountain Winery property Schaaf & Wheeler's drawings have been updated to include updated earthwork calculations.

10. For both sites, include all applicable easements affecting the parcel(s) with benefactors and recording information on the site plans. Supply a copy of a preliminary title report, dated within 60 days of the day of the latest submittal. This information was not provided on the plans or documents submitted with this application, as required by our Grading Approval/Use Permit modification checklists.

Title reports for both properties are included in the submittal package. The Lea & Braze and Schaaf and Wheeler drawings now show the easements.

11. Clearly identify all retaining walls necessary to establish the grading shown with appropriate top and bottom of wall elevations. Provide typical sections of all proposed walls. This information was not depicted on the plans submitted.

The new Mountain Winery retaining walls are shown on the Schaaf and Wheeler drawings included in the submittal.

FIRE MARSHAL

Contact Alex Goff at (408) 299-5763, Alex.Goff@sccfd.org for information regarding the following items:

12. Plans show water line crossing fire department access to Mountain Winery. Clarify if fire department access will be impacted to Mountain Winery in this scope of work or if it will remain functional at all times. If the roads are required to be closed, a Construction Site Fire Safety Plan will be required as a condition of approval.

On the Schaaf & Wheeler drawings there is one location shown that will require functional access at all times and this is shown on their drawings.

13. Description states the 3” pipe mostly runs along an unnamed fire road. Clarify if this is a fire department access/egress path to a structure and if the road will be impacted at all. If the road is a fire department access/egress path, a Construction Site Fire Safety Plan will be required as a condition of approval.

As previously discussed with the Fire Marshall this is not a fire access road. It is not accessible by any emergency vehicles. It is an unnamed dirt path.

GEOLOGY

Contact Jim Baker at (408) 299-5774, Jim.Baker@pln.sccgov.org for information regarding the following items.

14. Portions of the proposed pipeline are located within the State Seismic Hazard Zones of Required Investigation of Potential Earthquake-induced Landsliding (“blue” zones). Therefore, submit an engineering geologic report that includes an evaluation of slope stability in those areas. (See attached map). Pay the appropriate report review fee when uploading an unsecured pdf of the report into the documents portal of Acella.

Quantum Engineering geotechnical report is included with this submittal.

PARKS AND RECREATION

Contact Kelly Gibson at Kelly.Gibson@prk.sccgov.org regarding the following items:

15. Please label the below trail route on the proposed site plan along the Congress Springs Road right of way. The Countywide Trails Plan identifies the following undeveloped trail adjacent to the proposed construction at 24103 Congress Springs Road:

- Congress Springs Connector Trail (C12) – an on-street bicycle route located in the road right-of-way along Congress Springs Road.

This proposed trail will feature an on-street bicycle route for cyclists built in the Congress Springs Road right-of-way. Future design plans for development of this proposed trail include an optimum trail tread width of 7-8 feet. It is imperative that the proposed development does not permanent impact the Congress Sprints Road right-of-way for future development and use of the identified trail route.

Lea and Braze drawings show the Congress Springs Connector Trail.

ADDITIONAL INFORMATION / ISSUES OF CONCERN

Note: The following information identifies issues of concern or additional information to be aware of. The information below is not required to deem your application complete for processing, but is instead, informational.

Planning

Contact Colleen Tsuchimoto at (408) 299-5797 / Colleen.Tsuchimoto@pln.sccgov.org for information regarding the following items:

16. As many details of the project are incomplete and/or not provided on the plans, the next revised set of plans may result in additional incomplete comments that are not identified within this letter. Staff recommends setting up a virtual meeting with staff to review the updated plans when they are ready.
17. According to County Ordinance Code Section C1-72, the Planning Commission will not be able to approved a project with open violations unless a signed Compliance Agreement is recorded for this project site.

The Foundation has stated our willingness to sign the Compliance Agreement and we are awaiting two date changes to the Compliance Agreement.

18. All conditions of approval, with exception of the water source conditions changed/altered as a result of this Modification, as previously approved by the County Planning Commission, will be continued with this application, if approved.

Land Development Engineering

Contact Eric Gonzales at (408) 299-5716, Eric.Gonzales@pln.sccgov.org for information regarding the following items:

19. Please be aware that should the water system alignment change during construction, the applicant will be required to re-record a new easement prior to final sign-off of inspections.

See Response to Item 3 and we understand this requirement.

Fire Marshall

Contact Alex Goff at (408) 299-5763, Alex.Goff@sccfd.org for information regarding the following items:

20. Plans will need to show hydraulic calculations at Building Permit submittal to ensure required refill rates of the tanks can still be met. Please be aware that if the applicant is unable to meet the refill rates of the water tanks, a larger water tank may be required. This could affect your Planning approval. Staff would recommend looking close at this issue to ensure that the water tanks proposed on the current plan will suffice this requirement.

As discussed with the Fire Marshall the permitted fire tank of the Conservation Center property was sized so that refill was not required.

If you have any additional questions regarding this application, please call me at (408) 299-5797, or contact me at Colleen.Tsuchimoto@pln.sccgov.org

Sincerely,

Colleen A. Tsuchimoto

Senior Planner

cc:

Planning – Jacqueline Onciano, Rob Eastwood, Leza Mikhail
Environmental Health – Martha Wien, Rochelle Gaddi, Darrin Lee, Nicole Jorgensen
Land Development Engineering – Eric Gonzales
Fire Marshal – Alex Goff
Geology – Jim Baker
Parks & Recreation – Kelly Gibson

Applicants:

Jerry Griffin Email: jerry@griffincon.com,

Ken White: Email: KWhite@PeninsulaHumaneSociety.org