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Draft Rezoning and Development Agreement Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS,
STATE OF CALIFORNIA, APPROVING A DEVELOPMENT
AGREEMENT BETWEEN NAPA COUNTY AND CARROLL LIVING
TRUST, AND REZONING APN 049-161-009 FROM RESIDENTIAL
SINGLE: BUILDING SITE 2 ACRE MINIMUM (RS:B-2) TO
RESIDENTIAL COUNTRY (RC)**

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864-65869.5 (the “Development Agreement Statute”), authorizing municipalities to enter into development agreements in connection with the development of real property within their jurisdiction by qualified applicants with a requisite legal or equitable interest in the real property which is the subject of such development agreement; and

WHEREAS, the purpose of the Development Agreement Statute is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations; and

WHEREAS, Carroll Living Trust, David C. Carroll and Elizabeth P. Carroll, trustees (“Landowner”) holds legal title to an approximately 3.96 acre parcel of real property in Napa County located at 1055 Monticello Road, Napa, California, designated by Assessor’s Parcel Number (APN) 049-161-009 (the “Property”), and is more particularly described in the legal description shown on Exhibit A and depicted on the site map shown on Exhibit B to the form of Development Agreement attached to this Ordinance as Attachment 1; and

WHEREAS, Landowner has proposed rezoning Property from Residential Single: Building Site 2 Acre Minimum, a zoning district that does not permit agricultural uses, to Residential Country, a zoning district that permits agricultural uses, to authorize an existing vineyard on Property to remain (the “Project”); and

WHEREAS, County has determined that the Project is a development for which a development agreement is appropriate. The Development Agreement will eliminate uncertainty in the County's land use planning process and secure orderly development of the Project, assure progressive and timely installation of necessary improvements and mitigation appropriate to each stage of development of the Project, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted. The County desires to provide certainty through this Agreement with respect to specific development and operational criteria that will be applicable to the Property in accordance with sound planning principles; and

WHEREAS, after conducting a duly noticed public hearing in accordance with the Development Agreement Statute, the Planning Commission by a vote of 5:0, on July 11, 2018, recommended that the Board adopt the Negative Declaration and adopt the proposed Ordinance approving the Development Agreement between Napa County and Carroll Living Trust and rezoning the Property to Residential Country; and

WHEREAS, thereafter on August 14, 2018, the Board held a duly noticed public hearing on the Development Agreement combined with the rezoning application pursuant to the Development Agreement Statute and California Government Code Section 65856.

NOW, THEREFORE, the Napa County Board of Supervisors, State of California, ordains as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. The Board finds that Pursuant to Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this Ordinance, the Development Agreement and Rezone are consistent with the County's Zoning Ordinance and the following goals, policies, action items and objectives and programs of the County's General Plan:

Goals: AG/LU-1, AG/LU-3, CIR-1, CON-11, and CON-13.

Policies: AG/LU-1, AG/LU-3, AG/LU-4, AG/LU-9, AG/LU-15, AG/LU-15.5, AG/LU-35, AG/LU-89, AG/LU-91, AG/LU-108, AG/LU-114, AG/LU-118, CIR-19, CC-35, CC-51, CON-2, CON-42, CON-51, CON-52, CON-53, CON-55, CON-57, CON-62, CON-77, and H-4d.

SECTION 3. That the subject Property which is zoned Residential Single: Building Site 2 Acre Minimum (RS:B-2) is hereby rezoned to Residential Country (RC). The official zoning map shall be amended to reflect this change consistent with the requirements of Chapter 18.12. The rezoning of the approximately 3.96 acres of APN 049-161-009 from Residential Single: Building Site 2 Acre Minimum (RS:B-2) to Residential Country (RC) is consistent with the Napa County General Plan (2008) in that General Plan Policy AG/LU-114 and implementing Table AG/LU-B identify RC as the appropriate zoning designation for lands designated Rural Residential by the General Plan Land Use Map where rezoning is proposed, and the parcel is so designated.

SECTION 4. The Board finds that the Project on the Property approved by the Development Agreement provides substantial public benefits to persons residing or owning property outside the boundary of the Property beyond the exactions for public benefits required in the normal development review process under federal, state or local law, as described in the foregoing recitals and in the Development Agreement. The Board further finds that the Development Agreement is in compliance with Government Code Section 65867 .5 and therefore may be approved.

SECTION 5. The Development Agreement substantially in the form attached hereto as Attachment 1 and incorporated herein by reference between the County and Carroll Living Trust, is hereby approved. The Board authorizes and directs the County Executive Officer to execute the Development Agreement, subject to any further modifications that the Executive Officer determines, in consultation with the County Counsel, are in the best interest of the County, do

not materially decrease the benefits to or materially increase the obligations or liabilities of the County, and are in compliance with all applicable laws.

SECTION 6. The Project Approval or Subsequent Approval set forth in the Development Agreement shall prevail in the event of any conflict or inconsistency with the County Subdivision Code.

SECTION 7. All actions taken by County officials in preparing and submitting the Development Agreement to the Board for review and consideration are hereby ratified and confirmed, and the Board further authorizes the Executive Officer and any other appropriate officers, agents or employees of the County to take any and all steps as they or any of them deems necessary or appropriate, in consultation with the County Counsel, in order to consummate the matters set forth in the Development Agreement.

SECTION 8. Pursuant to Government Code § 65868.5, the Clerk of the Board of Supervisors shall record with the County Recorder of the County of Napa a copy of the Development Agreement within ten (10) days after the Development Agreement is fully executed.

SECTION 9. This ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 10. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of the County of Napa hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 11. A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was recommended for adoption and public hearing held thereon before the Napa County Planning Commission at a special meeting of the Commission on the 11th day of July, 2018. The Planning Commission's recommendation was considered by the Board of Supervisors and this Ordinance was introduced and read at a regular meeting of the Napa County Board of Supervisors ("the Board"), State of California, held on August 14, 2018, and passed at a regular meeting of the Board held on _____, 2018, by the following vote:

AYES:	SUPERVISORS	_____

NOES:	SUPERVISORS	_____
ABSTAIN:	SUPERVISORS	_____
ABSENT:	SUPERVISORS	_____

NAPA COUNTY, a political subdivision of
the State of California

BRAD WAGENKNECHT, Chair of the
Board of Supervisors

Attachment No. 1 – Development Agreement

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Chris R.Y. Apallas (E-sign)</u> Deputy County Counsel</p> <p>By: <u>Eric Dixon (E-sign)</u> County Code Services</p> <p>Date: <u>July 20, 2018</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By: _____</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____,
JOSE L. VALDEZ, CLERK OF THE BOARD

ATTACHMENT 1

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