

ATTACHMENT D

Chair's Good Cause Determination



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**DETERMINATION OF GOOD CAUSE REQUESTS
FOR DE NOVO REVIEW AND TO AUGMENT THE
PLANNING COMMISSION'S DOCUMENTARY
RECORD REGARDING THE OAKVILLE
WINERY APPEAL HEARING**

July 10, 2018

TO: Thomas F. Carey, Esq. on behalf of Appellant/Applicant
FROM: Chair Wagenknecht
RE: Oakville Winery Appeal Hearing – Good Cause Determination

As the Chair of the Board of Supervisors, I have received and reviewed Appellant's Pre-Hearing Conference Handout dated June 13, 2018 and letter dated July 3, 2018, requesting that the appeal hearing be held on a *de novo* basis and that the Planning Commission record be augmented. My decision on Appellant's requests is as follows:

A) Appellant's Request for De Novo Review.

Nature of the Request – Appellant requests a *de novo* review of the appeal, pursuant to Napa County Code (NCC) Section §2.88.090(B). Appellant claims that good cause exists for a *de novo* review by the Board to allow for better graphics illustrating some of the concerns of the Commission and ways that the Appellant/Applicant could have addressed these concerns if given the opportunity. (Appellant's Good Cause Request, 6/13/18).

Decision and Rationale – *Denied*. Pursuant to NCC §2.88.090(A), "the decision of the board on appeal shall be based on a review of the documentary record..., and such additional evidence as may be presented which could not have been presented at the time the decision appealed was made." The Planning Commission held a properly noticed public hearing regarding the Use Permit and Variance at issue in this appeal. The Board will exercise its independent judgment, pursuant to the Napa County Code, but will do so based on the facts and evidence available to the Planning Commission, and such additional evidence described below for which good cause has been found to include in the record.

B) Appellant Requests to Augment the Record with the following documents¹:

1. Exhibit with a rendering of the existing proposed winery building viewed from the perspective of Mt. Veeder Road;
2. Same exhibit as above but showing vegetation screening of the winery along road (Olive trees);
3. Same exhibit as above but deleting the covered crush pad fronting Mt. Veeder Road and/or winemaker cottage;
4. Exhibit showing the winery building shifted approximately 50 feet northwest to former cottage location with no change in footprint;
5. Exhibit showing a different color scheme for the winery building;
6. Exhibit moving the County-required parking to a less visible location within the existing building envelope;
7. Post-fire topographic map showing areas on "lower flat" of less than 30% slopes;
8. Exhibit rendering showing visual impact of the same size winery moved outside of 300' setback (onto hillside); and
9. Additional grape source, business plan and operational information from winemaker Helen Keplinger.

Nature of the Request – Appellant requests the introduction of the above referenced documents and asserts that there is good cause for introducing these documents based on two arguments. First, the Appellant believes that these documents are not new evidence but rather merely enhance, clarify or provide a better visual depiction of documents and evidence already in the record considered by the Planning Commission. Second, the Appellant contends that many of these documents illustrate how some of the concerns raised by Planning Commissioners could have been addressed if the Appellant's request for a continuance had been granted by the Commission.

Decision and Rationale – *Granted in part and denied in part.* The Chair finds good cause exists to augment the Planning Commission record with the documents listed as Nos. 1 through 8 above. The Chair does not believe that these documents amount to "new" evidence but rather are enhancements of visual depictions, visual aids and evidence already contained in the record. The Chair further finds that these additional documents could not have been presented at the time of the decision being appealed due in part to the architect suffering a heart attack a week before the Planning Commission hearing and in part due to Appellant's request for a continuance being denied.

As to document No. 9 (additional grape source business plan and operational information from the winemaker), good cause has not been presented to allow this new evidence and the request is denied. The Chair finds that information regarding the winery's operations and business plan could have and should have been presented to the Planning Commission. Appellant has provided no justification as to why such information was not included in Applicant's presentation to the Commission. Appellant had many opportunities to include this evidence as part of the use permit application, to provide it during the processing of the winery's application, or to bring this evidence forward during the Planning Commission hearing yet failed to do so.

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¹ Appellant had initially also requested introduction of a deed restriction along Dry Creek for habitat protection purposes but has since withdrawn that request.