

RECEIVED

DEC 18 2008

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.NAPA COUNTY
CONSERVATION, DEVELOPMENT & PLANNING COMMISSION
1195 Third Street, Room 210, Napa, California, 94559 (707) 253-4416**APPLICATION FOR A VARIANCE**

FOR OFFICE USE ONLY

ZONING DISTRICT: APFILE NO: P08-00672REQUEST: VARIANCE FROM THE
REQUIRED 600' SETBACK FROM
ARTERIALS AND 300' SETBACK
FROM PRIVATE EASEMENTS (SERVING
TWO OR MORE PROPERTIES) REQUIRED
FOR WINERIESDate Submitted: 12-18-08

Date Complete: _____

Date Published: _____

ZA CDPC BS APPEAL

Hearing: _____

Action: _____

TO BE COMPLETED BY APPLICANT

Applicant's Name: Duane KanuhaTelephone #: (808) 934-7033Address: 101 Aupuni St., Ste. 206 Hilo HI 96720
No Street City State ZIPStatus of Applicant's Interest in Property: ApplicantProperty Owner's Name: Sherry W. OwczarzakTelephone # (702) 361-6713Address: 7930 Castle Pines Avenue Las Vegas NV 89113
No Street City State ZIP

REQUEST: Variance to 300-ft. setback in Winery Definition Ordinance (Zinfandel Lane) _____

**PLEASE EXPLAIN ON THE REVERSE SIDE OF THIS FORM THE REASONS THAT
THE VARIANCE REQUEST SHOULD BE APPROVED**

I certify that all the information contained in this application is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

Signature of Applicant

Date: 12/16/08

Signature of Property Owner Date

Submit with a check or money order payable to the County of Napa. The full application fee for a variance is \$1120.00

TO BE COMPLETED BY CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT

\$1010.00

Receipt Number

Pre-Application Receipt No. _____

Received By _____

Conservation Development & Planning Department

Date: _____

Date

REASONS FOR GRANTING A VARIANCE

1. Please describe what exceptional or extraordinary circumstances or conditions apply to your property (including the size, shape, topography, location or surroundings), which do not apply generally to other land, buildings, or use and because of which, the strict application of the zoning district regulations deprives your property of the privileges enjoyed by other property in the vicinity and under identical zoning classification.

Site is narrow and deep, almost entirely in vineyard but for already developed pervious and structural areas. A 600-ft. setback from Zinfandel Lane (arterial) would result in the winery being at the extreme southeast edge of the property boundary and is further constrained by a 300-ft. setback requirement from an existing on-site easement that provides access to another property owner. Setback condition places winery very close to neighboring residents and impacts horizon views of Mt. St. Helena. Winery development envelope is consistent with setbacks of other winery and residential uses on Zinfandel.

2. Please state why the granting of your variance request is necessary for the preservation and enjoyment of your substantial property rights.

Applicant has a substantial investment in old-growth vineyards and infrastructure (large storage tanks, etc.) in existing envelope. Most important aspect of this property is protection of the views of Mt. St. Helena. Variance protects horizon views to north and west. Property does not allow for observance of both the 600-ft. and 300-ft. setbacks because site is deep and narrow. Furthermore, adherence to setbacks results in disruption of entire site, excessive paving of ag lands, and loss of vineyards.

3. Please state why the granting of your variance request will not adversely affect the health or safety of persons residing or working in the neighborhood of your property, and will not be materially detrimental to the public welfare or injurious to property or improvements in your neighborhood.

Approval of the variance will not adversely effect health and safety of area residents. Creation of the "front yard" landscape will make winery more compatible with residential uses. Protection of mountain views benefits both residents and motorists without adversely effecting safety of quality of life. Variance allows applicant to place winery at a greater distance from neighboring residences and protects horizon views of Mt. St. Helena in one of the most important view areas in the County.

See attached Variance Project Statement for more detailed basis of findings in support of variances.

INDEMNIFICATION AGREEMENT

Pursuant to Chapter 1.30 of the Napa County Code, as part of the application for a discretionary land use project approval for the project identified below, Applicant agrees to defend, indemnify, release and hold harmless Napa County, its agents, officers, attorneys, employees, departments, boards and commissions (hereafter collectively "County") from any claim, action or proceeding (hereafter collectively "proceeding") brought against County, the purpose of which is to attack, set aside, void or annul the discretionary project approval of the County, or an action relating to this project required by any such proceeding to be taken to comply with the California Environmental Quality Act by County, or both. This indemnification shall include, but not be limited to damages awarded against the County, if any, and cost of suit, attorneys' fees, and other liabilities and expenses incurred in connection with such proceeding that relate to this discretionary approval or an action related to this project taken to comply with CEQA whether incurred by the Applicant, the County, and/or the parties initiating or bringing such proceeding. Applicant further agrees to indemnify the County for all of County's costs, attorneys' fees, and damages, which the County incurs in enforcing this indemnification agreement.

Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the Applicant desires to pursue securing approvals which are conditioned on the approval of such documents.

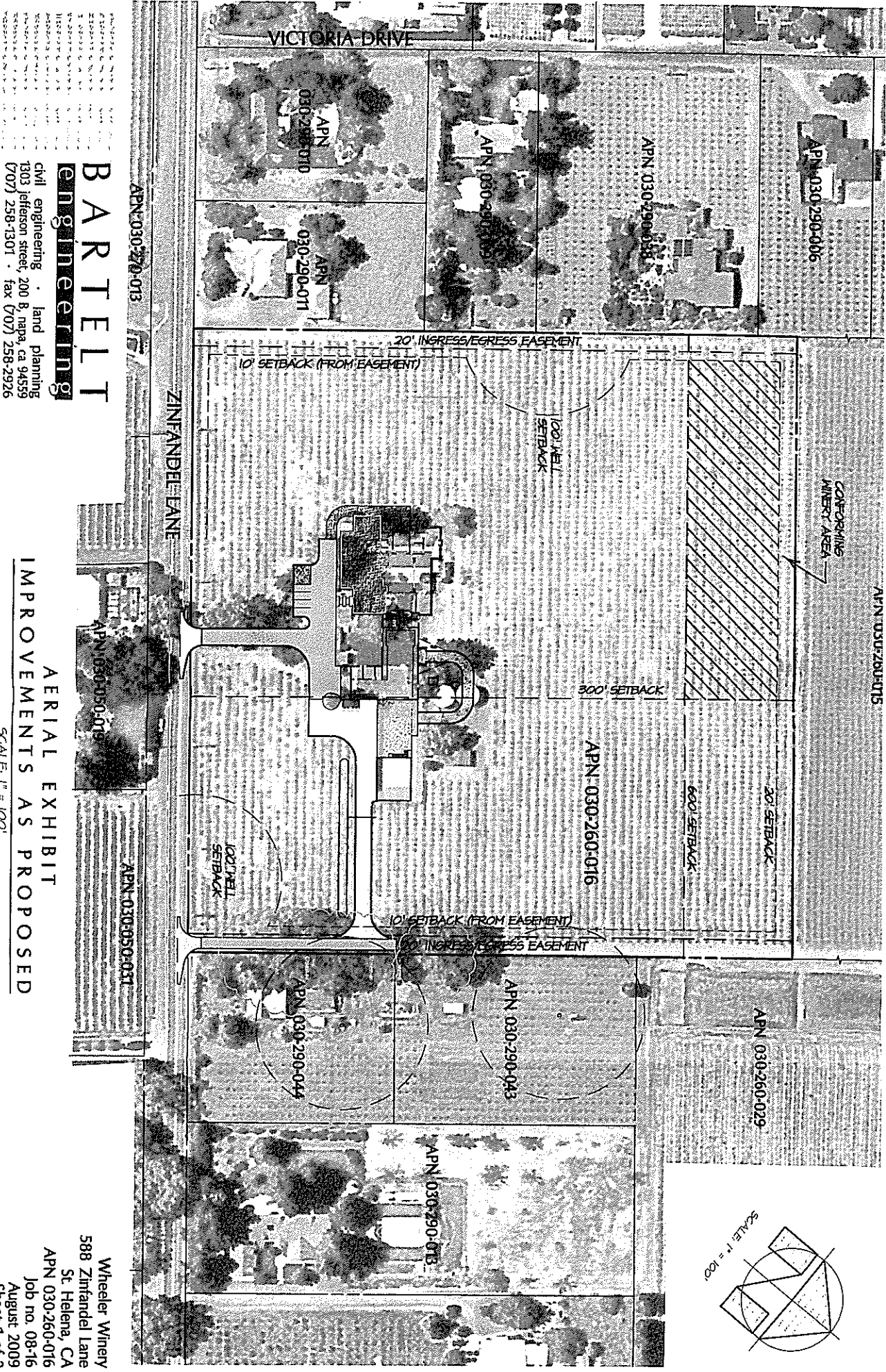
In the event any such proceeding is brought, County shall promptly notify the Applicant of the proceeding, and County shall cooperate fully in the defense. If County fails to promptly notify the Applicant of the proceeding, or if County fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County. The County shall retain the right to participate in the defense of the proceeding if it bears its own attorneys' fees and costs, and defends the action in good faith. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.

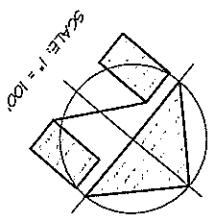
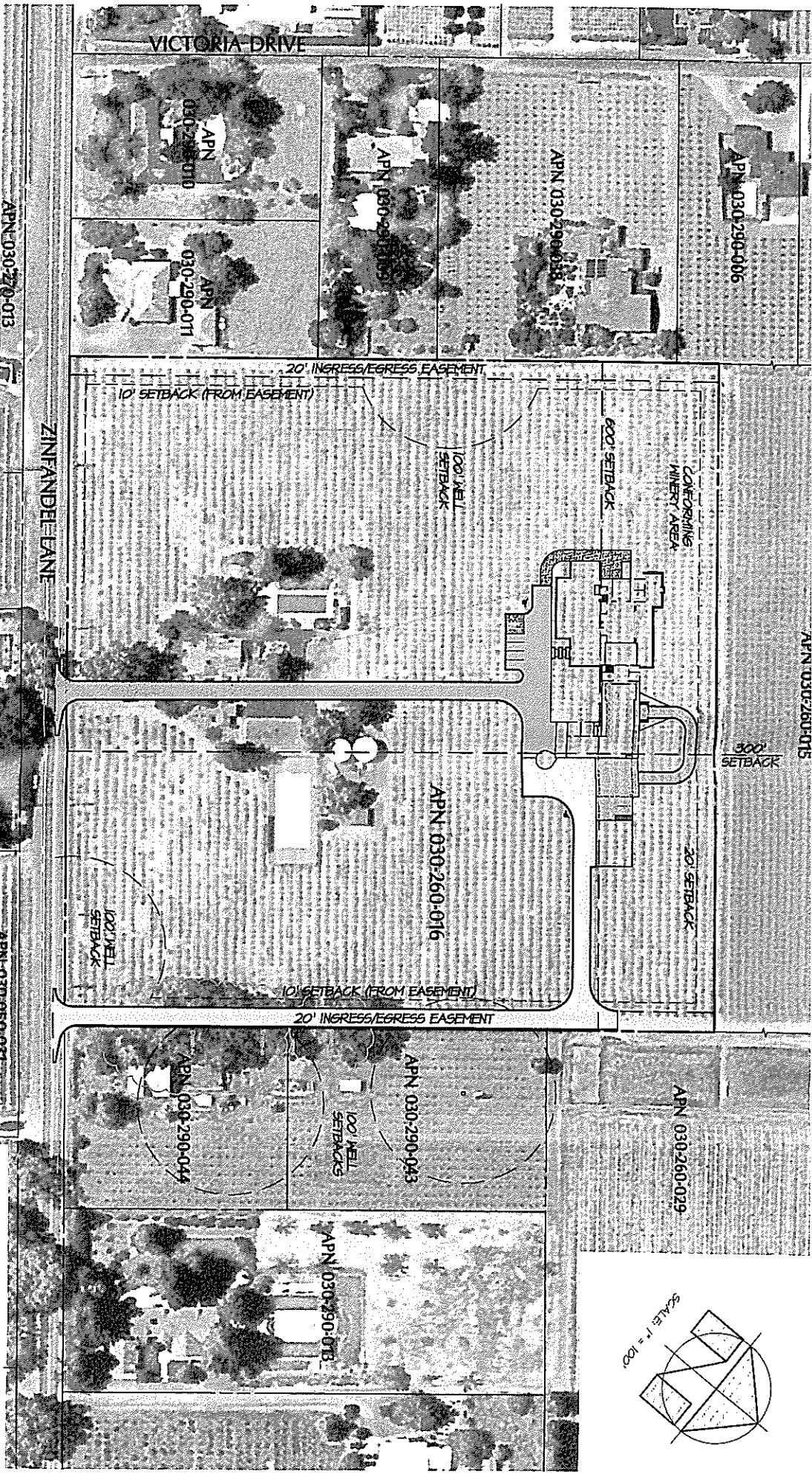

Applicant

12/16/08
Date

Property Owner (if other than Applicant)

APN 030-260-016
Project Identification





SCALE: 1" = 100'

BARTTELL
engineering
civil engineering • land planning
1303 jefferson street, 200 b, napa, ca 94559
(707) 258-1301 • fax (707) 258-2926

AERIAL EXHIBIT
IMPROVEMENTS AT REAR

SCALE: 1" = 100'

Wheeler Winery
588 Zinfandel Lane
St Helena, CA
APN 030-260-016
job no. 08-16
August 2009
Sheet 2 of 2

PROJECT STATEMENT FOR VARIANCES TO WDO SETBACKS

**588 ZINFANDEL LANE
APN 030-260-016**

The request is for approval of variances as follows: (1) a variance associated with the 600-ft. setback associated with Zinfandel Lane as an arterial; (2) A variance associated with a 300-ft. setback from an access road on the eastern boundary of the property which accesses a separate single-family residence; and (3) A variance associated with a 300-ft. setback from an access road on the western boundary of the property which accesses a separate single-family residence.

As indicated in the exhibits provided, the only way to site a winery on this parcel would be via utilizing some combination of both the 600-ft. setback and two 300-ft. setback variances. The exhibit reflecting siting of the winery in observance of the 600-ft. setback still requires a variance to the 300-ft. setback from access roads at the eastern and western boundaries of the property. And the combination of all setback requirements still translates into a requirement for a variance to the 600-ft. setback from Zinfandel Lane because the resulting area not affected by the setback is so confining that the winery structure cannot be sited with the small area.

With the above site characteristics in mind, our proposal is to maximize the benefits associated with the variance requests, as described below.

Highlights of the benefits associated with approval of the variances are as follows:

- (1) Utilization of an existing disturbed impervious residential enclave by replacing three residential units, tennis courts and a pool/terrace area with the small winery.
- (2) Ability to retain 1.6 acres of old-growth vineyards instead of replacing existing vineyards with a winery located at the far north boundary of the parcel.
- (3) Ability to retain existing mature trees as an integral part of the landscape plan associated with the winery.
- (4) Ability to site the winery so it is surrounded by vineyards as opposed to having it define one edge of the parcel (to the north).
- (5) Protection of the views of Mt. St. Helena from the vantage point of Zinfandel Lane, as this location is one of the most picturesque views of Mt. St. Helena offered in Napa County.
- (6) Replacing an existing “wall of structures” with a heavily landscaped and vineyard surrounded setting for the winery as viewed from Zinfandel Lane and Stice Lane.

- (7) Providing neighbors with their preferred alternative for the winery's siting, allowing the winery lesser proximity to residential neighbors and protecting their existing views of Mt. St. Helena and vineyards.
- (8) Maximizing the benefits of variances that will be required for any winery on this site, since the exhibit clearly reflects that the owners would be deprived of the use of their property without benefit of some combination of variances thereon.

The applicant wishes to locate the winery in an existing development area that presently includes three small residences (a fourth residence will remain), a tennis court, a swimming pool and patio/outdoor fireplace area, and a parking area. All these areas are now either structurally developed or consist of impervious surfaces. In addition, the residential enclave is graced by several mature trees and that the applicant would like to retain and integrate into the landscape plan for the winery.

The intent is to replace the existing residential enclave with the winery, which is designed in the Napa Valley vernacular of a barn-like structure. The design envisioned by Taylor Lombardo (architects for Nickel & Nickel Winery and the new Silver Oak Winery, among others in the County) reflects a winery structure with the appearance of one that has been in this location for a long period of time as opposed to being new. The retention of old-growth trees assists with this. The winery will be heavily landscaped with vineyards in front of the winery retained, so that the appearance of the winery is a vineyard and ornamental landscaping close to the winery structure, along with a graceful allee of trees at the entry and trees for screening the structure. The result will be the appearance of viticulture and landscaping as greenery, instead of a wall of structures.

The design of this winery includes a large barrel storage area below the winery (below grade), which minimizes the assign of the winery structures on-site as viewed from Zinfandel Lane and neighboring residences in the area. The proposed siting will result in a winery surrounded by old-growth vineyards that also screen it from the views from Zinfandel Lane and neighbors. (See attached sketch rendering of the winery from the vantage point of Zinfandel Lane.)

Another objective of the applicant is to site the winery so that panoramic views of Mt. St. Helena from the vantage point of Zinfandel Lane are protected. This area offers one of the most stunning views of Mt. St. Helena of any location in the Napa Valley. Locating the winery to the far north of the parcel would result in the winery development envelope defining views of Mt. St. Helena as a backdrop, instead of the winery being located largely outside the cone that defines views to the horizon.

Sited as proposed, the winery will still be surrounded by old-growth vineyards that largely screen it from the views from Zinfandel Lane and for residential neighbors on the east, west and north of the winery.

Additional benefits of the variance include saving 1.6 acres of old-growth vineyards that would otherwise require sacrifice for the winery development envelope and winery access roads. Siting the winery closer to Zinfandel Lane also minimizes the extent of paving for winery access roads, in this case, two roads. One road serves as a visitor entry to the winery and the other (to the east) will provide access for deliveries and other production-related trucks.

The frontage along Zinfandel Lane, as shown in the aerial map, is already largely defined by structures located closer to the roadway than deeply set back. The winery's location, taking advantage of an already disturbed area, will allow for the retention of large mature trees while still giving the appearance of a small winery completely surrounded by vineyards. The alternative of siting the winery 600 feet back (which would still require a variance for fitting the winery within the three separate setback requirements) would result in the winery interrupting a very large and otherwise cohesive planting of vineyards that extends from the subject property all the way north to Stice Lane.

Residential neighbors in proximity to the winery support the variance so that the winery can take advantage of the existing residential enclave. Letters from each of the neighbors will be submitted in support of the variances. Neighbors are generally more effected if the winery is located to the far north of the parcel, even if it was possible to fit it into the extremely confined area not affected by setbacks, because they have a more direct view of the winery and its operations and greater proximity to it.

Our team has been meeting with neighbors over a period of several weeks. The feedback we have received from every neighbor to date is that their preference is for the winery to be sited so it takes advantage of the already disturbed area closer to Zinfandel Lane, as opposed to having it located further to the north and disturbing existing vineyards and neighbors' views of Mt. St. Helena. Prior to the hearing before the Planning Commission, we will submit letters of support from each of these neighbors.

In summary, the application of all three of the WDO setbacks as described and as effect this parcel, result in there being no feasible alternative for the siting of the winery. The property owner would not enjoy the use of his property in the manner that other minimum 10-acre parcels do, with a winery as an allowed use. And the removal of nearly 20 percent of the on-site vineyards would prove a hardship to this owner, in that the intention is to have the majority of the wine estate grown.

Approval of the variance does not have an adverse effect on public safety and welfare, because the neighbors most affected by attempting to site the winery to the far north then are more affected by its proximity and visual effect. That alternative would incur additional paving for winery access roads that could otherwise be avoided. And the mature tree stands that define the front (south end) of the property can be retained if that area is utilized for the winery.

The intent of the 600-ft. setback is to avoid the appearance of a wall of structures along major arterials in Napa County. In effect, the planting of vineyards and introduction of

dense landscaping on the south side of the winery as it is sited will result in what is presently a wall of residential structures being perceived as a winery surrounded by old-growth vineyards, landscaping of the structural elements of the winery, and a graceful allee of trees defining the visitor's entrance to the winery.

Attachment: Aerial Mapping with Overlay of Winery Development Area and Setbacks

Aerial Mapping with Overlay depicting winery in proposed location

Aerial Mapping with Overlay depicting winery at 600-ft. setback

Sketch rendering of proposed winery with landscape plan

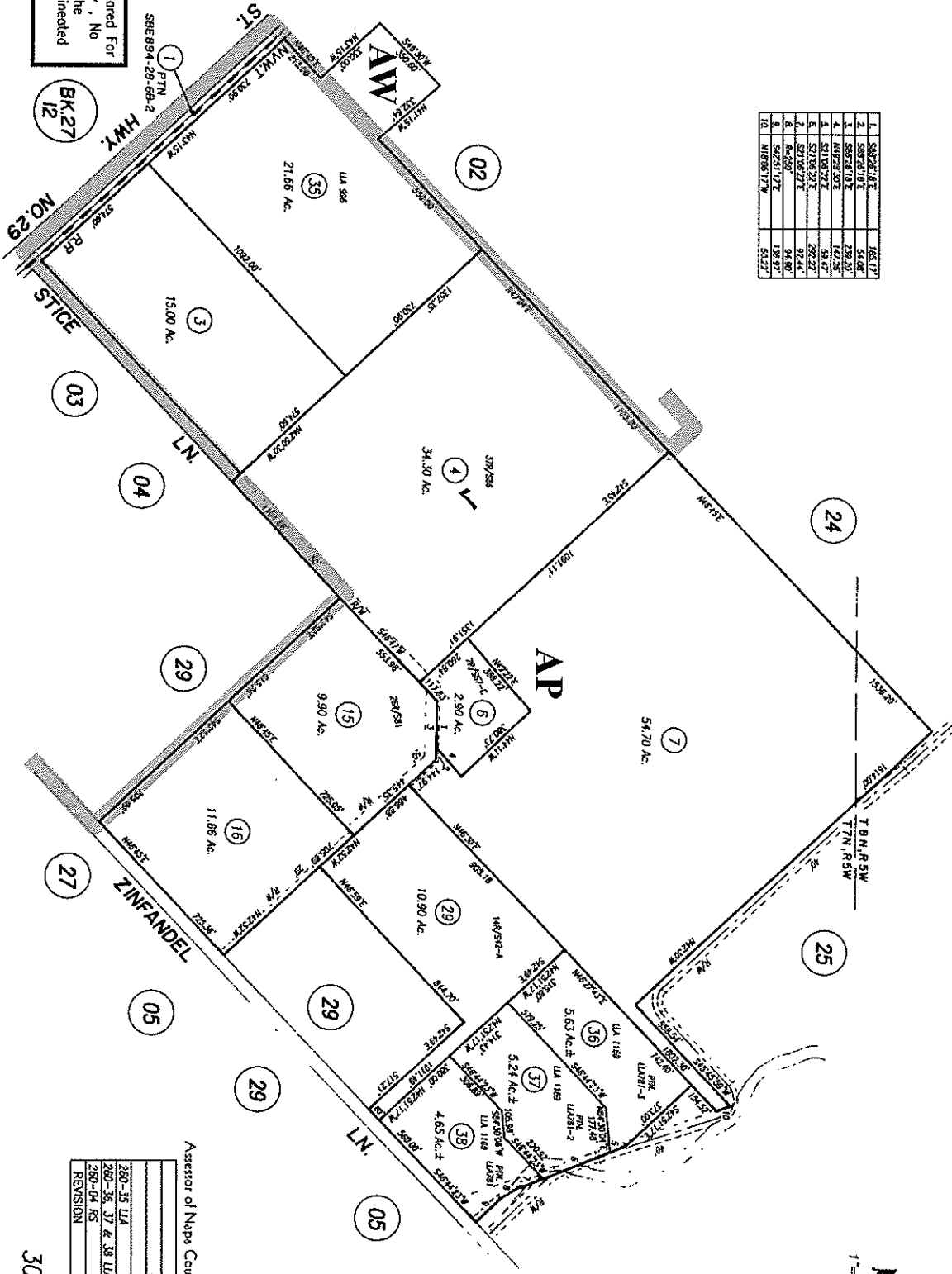
COUNTY ASSESSOR'S PARCEL MAP PTN. CARNE HUMANA RANCHO

Tax Area Code
85001

30-26

1	S&B 21.18 E	148.17
2	S&B 21.18 E	54.06
3	S&B 21.18 E	228.20
4	S&B 21.18 E	141.26
5	S&B 21.18 E	54.47
6	S&B 21.18 E	228.20
7	S&B 21.18 E	32.44
8	S&B 21.18 E	94.80
9	S&B 21.18 E	138.87
10	S&B 21.18 E	50.37

NOTE: This Map Was Prepared For
Assessment Purposes Only, No
Liability Is Assumed For The
Accuracy Of The Data Delimited
Hereon.



10-09-91	10-09-91
11-12-92	11-12-92
4-22-93	4-22-93
5-13-96	5-13-96
200-36, 37 & 38 ULA 5-8-00	7-11-06
200-04 R5	DATE

30-26

01-02-2007

Assessor of Napa County 1973

Order No. 45611
Escrow No. SP-169758
Loan No.

Vol 1636 PAGE 814
RECORDED IN
OFFICIAL RECORDS M 1
OF NAPA COUNTY, CA. R 5
1989 FEB -6 AM 8:00
ELEANOR E. BROUGH F 3
COUNTY RECORDER LF 9

WHEN RECORDED MAIL TO:
PETTIT AND MARTIN
101 CALIFORNIA STREET, 35TH FLOOR
SAN FRANCISCO, CA 94111
ATTN: CHARLES OLSON

FIRST AMERICAN TITLE COMPANY

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:
RAYMOND VINEYARD & CELLAR, INCORPORATED
849 ZINFANDEL LANE
ST. HELENA, CA 94574

DOCUMENTARY TRANSFER TAX \$ 511.50
..... Computed on the consideration or value of property conveyed; OR
XX Computed on the consideration or value less liens or encumbrances
remaining at time of sale.
AS DECLARED BY THE UNDERSIGNED GRANTOR
Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, RAYMOND VINEYARDS, a California general partnership which was formerly known as and which acquired title as RAYMOND VINEYARD PARTNERSHIP, a general partnership

hereby GRANT(S) to

RAYMOND VINEYARD & CELLAR, INCORPORATED, a California corporation

the real property in the City of St. Helena
County of Napa

, State of California, described as

FOR LEGAL DESCRIPTION SEE EXHIBIT "A" ATTACHED HERewith AND MADE A PART HEREOF

A.P.N. #30-260-15

RAYMOND VINEYARDS, a California general partnership

By:

Roy A. Raymond, Jr.

By:

Walter R. Raymond

By:

Roy A. Raymond, Sr., as trustee of and on behalf of the Raymond Family Trust, "A"

By:

Roy A. Raymond, Sr., as trustee of and on behalf of the Raymond Family Trust "C"

Dated

January 31, 1989

STATE OF CALIFORNIA
COUNTY OF NAPA

On January 31, 1989

before me, the undersigned, a Notary Public in and for said State, personally appeared ROY A. RAYMOND, JR.,
WALTER R. RAYMOND, ROY A. RAYMOND, SR.,
TRUSTEE OF RAYMOND FAMILY TRUSTS "A" & "C"

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature

Cindy Aspegren



03392

(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

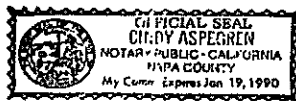
1002 (6/82)

5

STATE OF CALIFORNIA)
)
COUNTY OF NAPA)

On January 31, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared ROY A. RAYMOND, SR., as trustee, ROY A. RAYMOND, JR., and WALTER R. RAYMOND proved to me on the basis of satisfactory evidence to be the persons that executed the within instrument as general partners on behalf of RAYMOND VINEYARDS, a California general partnership, the partnership therein named and acknowledged to me that the partnership executed it.

WITNESS my hand and official seal.



Cindy Aspegren
Cindy Aspegren, Notary Public

(seal)

TRACT TWO:

PARCEL ONE:

Commencing at the most Western corner of the 21.66 acre tract of land described as Parcel Two in the Deed to Yaabel F. Berliner of record in Book 203 at page 162 of Official Records of Napa County; thence along the Southwestern line of said 21.66 acre tract South 42° 52' East 615.26 feet; thence North 46° 45' East 725.36 feet to the Northeastern line of said 21.66 acre tract; thence along said Northeastern line North 42° 52' West 445.81 feet to a corner thereof; thence North 88° 26' 18" West 239.97 feet to a corner thereof; thence South 46° 47' West 553.98 feet to a point the commencement.

PARCEL TWO:

A Right of Way, 50.00 feet in width, the South/^{easterly} line of which is the Southeasterly line of the lands of El Blanco Vineyards, a California limited partnership as described in the Deed recorded October 2, 1980 in Book 1178 at page 242 of Official Records of Napa County.

PARCEL THREE:

A 20 foot Right of Way to Zinfandel Lane as described in the Deed to Arthur J. Nicholson, et ux, recorded December 30, 1949 in Book 321 at page 350 of Official Records of Napa County.

A.P.N. #30-260-15

END OF DOCUMENT