

EXHIBIT A

FINDINGS

Wheeler Winery

Variance Application #P09-00347-VAR

Use Permit Application #P08-00672-UP and

Exception to Napa County Road & Street Standards #W09-00929

Assessor's Parcel #: 030-260-016

Environmental Determination:

The following findings have been made in order to adopt the Negative Declaration:

1. That the Planning Commission has read and considered the Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. That the Negative Declaration is based on independent judgment by the Planning Commission.
3. That the Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act.
4. That there is no substantial evidence in the record as a whole that the project will have a significant effect on the environment.
5. That the Secretary of the Planning Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Conservation, Development & Planning Department, 1195 Third Street, Room 210, Napa, California.
6. That considering the record as whole there is no evidence that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.

Variance Required Findings

The Commission has reviewed the above-described variance request and, in accordance with the requirements of Napa County Code Section 18.128.060, makes the following findings:

7. **The requirements set forth in Chapter 18.128 of the Napa County Code have been met.** The variance application has been filed and notice and public hearing requirements have been met. The hearing notice and notice of availability of the proposed Negative Declaration were posted on August 27, 2009, and copies were forwarded to property owners within 300 feet of the Property.
8. **Special circumstances exist applicable to the Property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. A combination of multiple factors creates the special circumstances applicable to this property requiring the variance.**

There are five special circumstances applicable to the property warranting grant of the variance: First, the subject property is constrained by two road setbacks (an arterial and a private road) as required under Napa County Code section [18.104.230 (A) (1.) & 2.]) for wineries located in open space areas. Second, the subject parcel has only a minimum amount of area available for development. Third, there are surrounding neighborhood areas in close proximity to the subject parcel. Fourth, without the variance, there would be greater impact resulting from the need to construction much longer main and secondary access roads to the winery. Fifth, the preservation of heritage trees is warranted.

1. Road Setbacks: The southeasterly property line of the site is bound by Zinfandel Lane, a County arterial road, requiring a 600 foot setback from the centerline of the road. The northeasterly property line is bound by a private road "used by the public" requiring a 300 foot setback for the centerline of the road. Adherence to the 600 foot setback from Zinfandel Lane would result in the winery being forced into the extreme northwesterly property line against the 20 foot rear yard setback. The property is further constrained by a 300 foot private road setback requirement from an existing on-site easement that runs through the northeasterly side of the subject property and provides access to several other property owners to the north. Together, these road setbacks constrain 91 % of the remaining net area of the parcel. Other surrounding parcels, having the minimum acreage to qualify for a winery use permit, are not subject to two road setback constraints.

2. Parcel size: The subject parcel is small in comparison to the median size of other parcels (18 acres) that have been granted winery use permits in the surrounding area. The site is 725 feet wide by 706 feet deep and totals 11.66 acres. This is only slightly over the minimum 10 acres required for a winery use to be established. If the required setbacks are applied, only a 110 foot by 400 foot area would remain available for possible development at the extreme northwest corner of the parcel. Even this area is still too small without some consideration for a variance to the required 600 foot setback and possibly the 300 foot setback depending on the final siting of the proposed winery. Pushing the winery to the northwest corner would also result in an overall poor site design because both the entrance and secondary driveways would be twice the length proposed resulting in the removal of additional vineyard. The longer access roads would also divide the vineyard into three smaller vineyard plots instead of two which would make farm management more costly and less efficient.

3. Close neighborhood proximity: Imposition of the required road setback would place the winery in very close proximity to 2 neighborhood residential areas. One is an enclave on Victoria Drive and the other is Zinfandel Subdivision beginning at Mountain View Avenue. Both these neighborhoods are located on the north side of Zinfandel Lane immediately west of the subject property. Adherence to the setbacks would force the winery into the northwest corner of the property positioning it to within 40 feet of the Victoria neighborhood. This location would also result in an increase in the neighbors' awareness of discernable noise levels produced by the daily activities of the winery activities for both these neighborhoods.

4. Additional access road construction/Access road relocation: Adherence to the required setback would result in the need for an additional 700 feet of road surface for both the main access and the secondary production road as well as 150 additional feet for the secondary production driveway. Besides creating a poor site design, the additional paved area would also require the removal of an additional quarter-acre of existing vineyard and contribute to increased runoff and road noise. Relocating the main access further to the west is not desirable either, since the winery entrance would likely be closer to the existing Raymond Winery entrance as well as the neighboring Victory Drive entrance resulting in greater traffic flow impacts along Zinfandel Lane.

5. Preservation of heritage trees: Four mature heritage valley oak trees line the entrance of the private road serving the subject parcel and three other parcels. While the trees belong to the adjacent property owner to the east, the tree root systems extend under the portion of the road located on the subject parcel. The trees range in size from 48 inches at breast height (DBH) to 60 inches DBH and were recently surveyed by a qualified arborist who deemed them all to be, "in good vigor with no signs of pests or disease." The applicant proposes to use that portion of private road on his property as a secondary access road for winery production purposes. Adherence to the required 600 foot setback would result in road improvements for this secondary access road to be extended an additional 350 feet north along the private road. Thus, all four heritage trees would be affected by the road improvements versus only three. A road exception for a longer section of road would also be needed for the purpose of preserving the trees.

- 9. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.** The AP (Agricultural Preserve) zoning district, in which the property is located, allows wineries and uses accessory to a winery, subject to the approval of a conditional use permit. The operation of legally constructed agricultural production facilities within the County's agricultural zoning districts is a substantial property right. As explained above, the property is constrained by its size and road setback requirements.

- 10. Grant of the variance will not adversely affect the health or safety of persons residing or working in the neighborhood of the Property and will not be materially detrimental to the public welfare or injurious to property or improvements in this neighborhood.**

Various County departments have reviewed the Project and commented regarding water, waste water disposal, access, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the Project to assure protection of public health and safety. Approval of the variance in the proposed location will not adversely affect the health and safety of area residents. The variance allows the applicant to place the winery and associated main driveway at a greater distance from neighboring residences on both the east and west property boundaries. Re-use of the existing development envelope is consistent with the setbacks of neighboring bed and breakfast inns and residential uses on Zinfandel Lane. Creation of the "front yard" landscape will make the winery more compatible with existing residential uses and landscaping. Finally, the variance allows for the protection of the eastern and western mountain ridge views as well as views to Mt. St. Helena, one of the most important view areas in the County thus benefiting both residents and motorists without adversely effecting safety or quality of life.

- 11. Grant of the variance is not subject to the requirements of Napa County Code Section 13.15.010 for groundwater basins because the subject property is not located in a "groundwater deficient area" as defined in this section.**
- 12. Grant of the variance will not affect approval or waiver of a groundwater permit under Napa County Code Section 13.15.070 or 13.15.080 nor has substantial evidence been presented demonstrating that the grant of the variance might cause a significant adverse affect on any underlying groundwater basin or area which does not overlay an identified groundwater basin.**

Use Permit Required Findings:

- 13. The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the property.**

Analysis: The project is consistent with AP (Agricultural Preserve) zoning district regulations. A winery (as defined in Napa County Code § 18.08.640) and uses in connection with a winery (see Napa County Code § Section 18.16.030) are permitted in an AP zoned district with an approved use permit. Provisions required under the Winery Definition Ordinance (ORD. 947, 1990) and Napa County Code (zoning regulations as amended) can be met.

- 14. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code (Use Permits) have been met.**

Analysis: The use permit application has been filed and notice and public hearing requirements have been met. The hearing notice was posted on August 27, 2009 and copies were forwarded to property owners within 300 feet of the subject parcel.

- 15. The grant of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.**

Analysis: Granting a use permit for the winery as proposed and conditioned will not affect the health, safety or welfare of the County. Various County departments have reviewed the project and commented regarding water, waste water disposal, access, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the protection of the public health and safety.

16. Compliance with the General Plan

Analysis: The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan. The Winery Definition Ordinance (WDO) was established to protect agriculture and open space and to regulate winery development and expansion in a manner that avoids potential negative environmental effects. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the applicable provisions of the Napa County Zoning Ordinance (Title 18, Napa County Code).

General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guides the County to, “preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.” General Plan Agricultural Preservation and Land Use Goal AG/LU-3 states the County should, “support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.” Approval of this project furthers both of these key goals.

The subject parcel is located on land designated Agricultural Resource on the County’s adopted General Plan Land Use Map. This project is comprised of an agricultural processing facility (winery), along with wine storage, bottling, and other WDO-compliant accessory uses as outlined in and limited by the approved project scope. (See Exhibit ‘B’, Conditions of Approval.) These uses fall within the County’s definition of agriculture and thereby preserve the use of agriculturally designated land for current and future agricultural purposes.

As approved here, the use of the property for the “fermenting and processing of grape juice into wine” (NCC Section 18.08.640) supports the economic viability of agriculture within the county consistent with General Plan Agricultural Preservation and Land Use Policy AG/LU-4 (“The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/ open space...”) and General Plan Economic Development Policy E-1 (The County’s economic development will focus on ensuring the continued viability of agriculture...).

The General Plan includes two complimentary policies requiring that new wineries, “...be designed to convey their permanence and attractiveness.” (General Plan Agricultural Preservation and Land Use Policy AG/LU-10 and General Plan Community Character Policy CC-2). The proposed winery, to the extent that it will be publicly visible, will convey permanence and attractiveness.

Agricultural Policy AG/LU-13 of the County General Plan recognizes wineries, and any use clearly accessory to a winery, as agriculture. The Land Use Standards of the General Plan Policy AG/LU-2 list the processing of agricultural products as one of the general uses recognized by the AW and AR land use designations. The proposed project allows for the continuation of agriculture as a dominant land use within the county and is consistent with General Plan Agricultural Policy AG/LU-13.

Finally, the project is consistent with General Plan Conservation Policy CON-53 and CON-55, which requires that applicants, who are seeking discretionary land use approvals, prove the availability of adequate water supplies which can be appropriated without significant negative impacts on shared groundwater resources. As analyzed below, the proposed winery will not interfere substantially with groundwater recharge based on the criteria established by Napa County Public Works Department.

The “Right to Farm” is recognized throughout the General Plan and is specifically called out in both this Element and in the County Code. “Right to Farm” provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa

County's adopted General Plan reinforces the County's long-standing commitment to agricultural preservation, urban centered growth, and resource conservation. On balance, this project is consistent with the General Plan's overall policy framework and with the Plan's specific goals and policies.

17. The proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Napa County Code § 13.15.070 or § 13.15.080.

Analysis: Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is assumed not to have a significant effect on groundwater levels.

Based on the submitted phase one water availability analysis, the subject parcel is below the established threshold for groundwater use on the parcels and would not result in a substantial depletion of groundwater supplies. The 11.66 acre parcel is located on the Napa Valley floor, in an area that has an established acceptable water use criteria of 1 acre foot per acre per year resulting in a threshold for the property of 11.66 acre feet per acre per year. The estimated water demand for the site at Phase II build-out would be 10.73 acre-feet of water per year.

Exception to Road and Street Standards:

The Commission has reviewed the attached described Road and Street Standards exception request in accordance with Road and Street Standards Section 3 and makes the following findings:

18. The requested exception is necessary to protect and ensure the preservation of unique features of the natural environment.

The area that is relevant to this exception request is an existing private road with flat to gentle slopes where four large, heritage Valley oak trees (*Quercus lobata*) ranging in size from 48 inches diameter at breast height (DBH) to 60 inches DBH are growing adjacent to the road. This road serves the subject parcel as well as three other properties to the north. The exception is being requested to allow a portion of the private road, with proposed improvements, to be used as a secondary access road for the proposed winery employees and delivery vehicles only.

The portion of the secondary access road affected by this request is located on the east side of the subject winery property and is 40 feet north from its intersection with Zinfandel Lane and continuing 200 lineal feet to the point where it intersects with the winery production driveway. The Exception will allow this section of the roadway to be constructed to a width of twelve (12) feet with 2 foot shoulders with chip seal over the existing gravel section. Because the root systems of the heritage trees grow under this portion of the road, widening of the roadway to meet the Standards (18 ft. wide with 2 ft. shoulders) would cause significant disturbance to the root systems. A letter from Joe Borden, a Certified Arborist from Britton Tree Service, suggests that all the trees are, "in good vigor, with no signs of pests or disease" and that all grading should be avoided in the roadway adjacent to the four oak trees because standard road excavation, "would remove a significant portion of the trees' western root system and in the case of the southern most oak, the excavation would extend into the root plate and could render the tree unstable in the soil." (See Tree Report Attachment.)

Section 3 of the Standards states that, "standards that affect native trees or other geologic features are prime examples of those circumstances where exceptions may be reviewed." The County Planning and Public Works Departments have reviewed the request and are supportive that the request is consistent with this goal provided the conditions of approval for the new private access roads and driveways outlined in the comments memorandum from Drew Lander, Assistant Engineer, Department of Public Works, dated August 19, 2009, are met.

- 19. The Road and Street Standards exception allows a situation that provides the same overall practical effect as the Standards does in providing defensible space, and does not adversely effect the life, safety, and welfare of the public or persons coming to the property.**

The Commission's approval of an exception will improve emergency vehicle access and general traffic flow along the subject new private access roads and driveways above existing conditions while protecting the unique features of the natural environment near the roadway. These unique features of the natural environment include four large, heritage Valley oak trees (*Quercus lobata*) ranging in size from 48 inches diameter at breast height (DBH) to 60 inches DBH situated adjacent to the portion of the private road on the subject property. In accordance with their conditions of approval, Public Works will require the applicant to provide equivalent standards for construction and maintenance of the road section as required in their comments memorandum dated August 19, 2009. Periodic horizontal and vertical trimming of roadside limbs as required by the Napa County Fire Marshall (See comments dated June 17, 2009) will allow for adequate passage for vehicles and emergency vehicles. Thus, the Project has been designed to comply with emergency access and response requirements including Napa County Fire Protection requirements for defensible space, fire department access and public safety and has been reviewed by the Napa County departments responsible for emergency services; it will not have a negative impact on the health, safety, or welfare of the public or persons coming to the property.