

## **EXHIBIT A**

### **NAPA COUNTY PLANNING, BUILDING & ENVIRONMENTAL SERVICES DEPARTMENT**

**PLANNING COMMISSION HEARING – March 20, 2013**

#### **FINDINGS – TAMBER BEY VINEYARDS WINERY USE PERMIT (#P12-00233-UP) & VARIANCE (P13-00001-VAR) APN: #017-160-010**

#### **ENVIRONMENTAL:**

The Planning Commission (Commission) has received and reviewed the proposed Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Commission has read and considered the Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. The Negative Declaration is based on independent judgment by the Commission.
3. The Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act.
4. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
5. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building & Environmental Services Department, 1195 Third Street, Room 210, Napa, California.
6. Considering the record as a 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:**

The Commission has reviewed the variance request in accordance with the requirements of the Napa County Code §18.124.060 and makes the following findings:

7. That the procedural requirements set forth in Chapter 18.128.060 have been met.

**Analysis:** An application and required processing fees has been submitted for a variance accompanied with a statement from the applicant outlining the reasons for the request. Site plans depicting the location of the project and elevation drawings showing the appearance of the proposed winery have also been submitted. Noticing and public hearing requirements have been met.

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.

**Analysis:** The proposal herein is to convert existing structures that were constructed as part of a large private or personal use equestrian facility for winery uses. The two structures intended for production and accessory uses comply with the 600-foot setback from Tubbs Lane which is considered an arterial roadway by the Zoning Ordinance. A third, 1,925 sq. ft. storage building, lies within the 600-foot setback and is approximately 475-feet from the centerline of Tubbs Lane. This building is intended for storage of winery related equipment. Converting an existing building is preferable to building a new structure. To construct a new building for storage purposes near the other winery building would necessitate removing existing improvements associated with the equestrian facility. A portion of the structure proposed for conversion to winery production uses is approximately 19-feet from the side property line where 20-feet is required. The structure was built at about a 45-degree angle to the property line so only one corner post encroaches a little under one foot into the setback. Again, converting this existing structure is preferable to removing the structure or other existing improvements and constructing a new building.

9. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.

**Analysis:** The property is located within the Agricultural Preserve zoning district in which wineries are permitted upon approval of a use permit. As noted above the predominate portion of the site is developed with a large equestrian facility. In addition, the site also includes an existing residence, tennis court, outbuildings accessory to the residence, on-site waste disposal areas and, two wells. Converting the two existing structures that fall within the required setbacks is preferable to removing the buildings and/or removing other existing improvements to construct new buildings.

10. Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.

**Analysis:** There is nothing included in the variance proposal that would result in a measurable impact on the public health, safety, or welfare of the County of Napa. Construction of the new winery would be subject to County Codes and regulations including but not limited to uniform building codes, fire department requirements, and water and wastewater requirements.

#### **USE PERMIT:**

The Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code §18.124.070 and makes the following findings:

11. 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 § 18.16.030) are permitted in an AP - zoned district



subject to use permit approval. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code), as applicable.

12. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code have been met.

**Analysis:** The use permit application has been filed and noticing and public hearing requirements have been met. The hearing notice was posted on February 27, 2013, and copies of the notice were forwarded to property owners within 300 feet of the Property.

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

**Analysis:** Various County divisions and departments have reviewed the project and commented regarding water, waste water disposal, access, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the ongoing protection of public health and safety.

14. 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.

**Analysis:** 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 remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code), as applicable.

**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 Resources (AR) on the County's adopted **General Plan Land Use Map**. This project is comprised of an agricultural processing facility (winery), along with wine storage, marketing, and other WDO - compliant accessory uses as outlined in and limited by the approved project scope (see attachment B, Condition of Approval No. 1 et seq.) 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 §18.08.640) and for uses accessory thereto 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 addition to the existing building incorporates the architectural style, materials and details of winery buildings located throughout the County and will be fully in keeping with the permanence and attractiveness of older long standing structures. The proposed production building is designed to fit into and harmonize with the surrounding hillside.

As analyzed at item #15, below, the winery will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level. The project is consistent with **General Plan Conservation Policies CON - 53 and CON - 55**, which require that applicants for discretionary land use approvals prove the availability of adequate water supplies which can be appropriated without significant negative impacts on shared groundwater resources.

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.

15. 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.

**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 22.41 acre parcel has a water availability calculation of 22.41 acre feet per year (af/yr). Existing water usage on the parcel is approximately 19.45 af/yr, including 0.5 af/yr for the existing single-family home, 16.85 af/yr for existing irrigated pastures and horses, and 2.1 af/yr for landscaping. This application proposes conversion of existing buildings and structures to create a new winery and new employees. The proposal also includes irrigating some of the existing pastures with recycled winery process water resulting in an estimated water use of 19.42 af/yr, including 0.5 af/yr for the home, 1.59 af/yr for the winery, 2.15 af/yr for landscaping and 15.23 for the pastures and horses. The existing residence receives water from the City of Calistoga, however, an estimated water demand is included in this analysis. As a result of the foregoing, annual water demand for this parcel would decrease slightly from 19.45 to 19.42 af/yr due to the use of recycled water for a portion of the horse pasture. Based on these figures, the project would remain below the established fair share for groundwater use on the parcel. The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.