

**PLANNING COMMISSION HEARING – OCTOBER 2, 2013  
EXHIBIT A – FINDINGS**

**KITCHAK WINERY  
USE PERMIT P13-00062 MAJOR MODIFICATION  
1094 HARDMAN AVENUE  
APN 039-190-055**

**ENVIRONMENTAL:**

The Planning Commission (Commission) has received and reviewed this project 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 proposed project is Categorically Exempt pursuant to the State CEQA Guidelines, Section 15301, Class 1, Existing Facilities – Existing Roads and Section 15304, Class 4, Minor Alterations to Lands which exempts minor alterations to an existing private road, and Section 15303, Class 3 New Construction or Conversion of Small Structures which exempts the construction of a small structure. This project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5. (See attached CEQA Memorandum for further analysis.)

**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:

2. The exception is necessary to accommodate other limiting factors such as recorded historical sites or legal constraints.

Analysis: There is a Roadway Maintenance Agreement (the "Agreement") recorded against the property in 2004 which allocates responsibility between the Applicant and a neighboring property owner, TK and Madelaine Chiang, for maintenance and repair of the roadway. Under the terms of the Agreement, the Applicant must seek permission from this particular neighboring property owner prior to initiating repairs or maintenance of the roadway. The existing roadway is lined with approximately fifty-five mature Italian Cypress trees which would have to be removed or relocated in order to widen the road in compliance with the Road and Street Standards. Widening the roadway would increase the costs and burdens associated with its maintenance and repair. The Applicant provided written correspondence documenting Applicant's effort to seek consent from the neighboring property owner to widen the roadway but the neighboring property owner refused consent to removal of the trees on either one or both sides of the roadway to accommodate the road widening. It is unclear whether the Agreement gives the neighboring property owner the right to object to removal or relocation of the trees and whether the roadway must remain in its current configuration and width. However because the neighboring property owner noted the importance of the trees and existing roadway and his reliance on them when he invested substantial sums to improve his property, it is possible that removal of the trees and widening of the roadway could subject the Applicant and the County (as the approving agency) to litigation over the scope and intent of the Agreement and the increased maintenance and repair costs. Grant of the exception is necessary to accommodate this legal constraint.

3. Grant of the Road and Street Standards Exception will provide the same overall practical effect as the Standards do in providing defensible space, and does not adversely affect the life, safety, and welfare of the public or persons coming to the property.

Analysis: The existing roadway configuration and proposed improvements in the Request, subject to recommended conditions of approval by Engineering Services and the Fire Marshall, will serve as an alternate method by which adherence to the RSS may be achieved and would provide the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public.

The access road starting from the public road and loop road which are set forth in Delta Engineering's Kitchak Cellars Use Permit Plans dated September 18, 2013 consisting of 8 pages and one letter dated September 24, 2013 all of which is incorporated by reference as though set forth in full are approved for the existing winery and accessory uses, and the proposed Use Permit Modification based on substantial evidence for exceptions to the Road and Street Standards ("RSS").

#### **USE PERMIT:**

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

4. 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) and AW (Agricultural Watershed) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Sections 18.16.030 and 18.20.030) are permitted in an AP and AW zoned districts with an approved use permit. 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.

5. 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, noticed and public hearing requirements have been met. The hearing notice was posted on August 23, 2013, and copies were forwarded to property owners within 300 feet of the subject parcel.

6. The granting of the 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 the public health and safety.

7. 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 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).

The subject parcel is located on land designated Agricultural Resource (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, 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.

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."

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..."). Policy **AG/LU-8** also states, "The County's minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units and General Plan Economic Development Policy **E-1** (The County's economic development will focus on ensuring the continued viability of agriculture...). Approval of this project furthers these key goals.

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 AWOS 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**.

The project is also consistent with General Plan Conservation Policy **CON-53** and **CON-55** which require 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.

Finally, the “Right to Farm” is recognized throughout the General Plan and is specifically called out in Policy **AG/LU-15** 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.

8. The proposed use would not require a new water system or improvements 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 Section 13.15.070 or Section 13.15.080.

Analysis: The subject property is not located in a “groundwater deficient area” as identified in Section 13.15.010 of the Napa County Code. 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 20.01 acre subject valley-area parcel has a water availability calculation of 20.01 acre feet per year (af/yr), which is arrived at by multiplying its approximately 20.01 acre size by a one acre feet per year per acre fair share water use factor. The Water Demand Calculations submitted for the project placed water demand for existing uses on the property (a residence, a winery, landscaping and existing vineyard) at 3.78 af/yr. The proposed increase in production, visitation and marketing activities, as well as, the operation of the winery barrel storage and wine tasting building place water demand at 3.91 af/yr. Based upon this figure, the project would be well below the established threshold for groundwater use on the property. The County is not aware of, nor has it received any reports of, groundwater shortages near the project area. 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.