**EXHIBIT A**

**BACKGROUND**

LMR Rutherford Estate Winery, P13-00167

1790 St. Helena Highway South, Rutherford, CA 94573

Assessor’s Parcel No. 030-100-016

**Owner/Applicant**: LMR Rutherford Partners, LLC, c/o Ted Hall; P.O. Box 477 Rutherford, CA 94573

**Representative**: Jon Webb, Albion Surveys, Inc; 1113 Hunt Avenue, St. Helena, CA 94574

**Zoning**: Agriculture Preserve – AP

**GP designation**: Agricultural Resource – AR

**Filed**: May 13, 2013; Complete: April 15, 2014

**Parcel Size**: 30± acres

**Existing Development**: There is a developed commercial farming area which includes a barn, an open air pavilion, a water tower, a bathroom building, a greenhouse, two (2) wells, and 2± acres of non-vineyard vegetable crops and orchards. In addition, there is a farm labor dwelling, a series of Photovoltaic (solar) Panels, and a few outbuildings on the property. A barn previously located on the winery site has been removed. There are approximately 21± acres planted in vineyards.

**Proposed Winery Characteristics**:
**Winery Size (Proposed)**: 19,328± sq. ft. production building; a portion of an existing 2400 sq. ft. pavilion for tasting/hospitality; 1360 sq. ft. office building; and 816 sq. ft. winery equipment storage barn.

**Production Capacity (Proposed)**: 100,000 gallons per year

**Development Area (Proposed)**: 22,400 sq. ft., 0.5 acres

**Winery Coverage (Proposed)**: 40,000; 0.9 acres; 3.1% of the 30 acre parcel (Maximum 25% or 15 acres)

**Accessory/Production Ratio (Proposed):** 4,164 sq. ft. accessory and 20,144 sq. ft. production; 21% (maximum 40% allowed)

**Number of Employees (Proposed)**: Total 9: 6 full-time and 3 part-time

**Visitation (Proposed)**: Hosted private tours and tastings for wine trade personnel and consumers by appointment only; maximum of 50 visitors per day between the hours of 10:00am and 4:00pm; 350 visitors per week.

**Marketing Program (Proposed)**:
Private Promotional tastings and meals 24 times per year up to 35 people per event, between the hours of 10:00am and 11:00pm;
Six (6) Marketing events per year such as barrel tastings, auctions and other social events, including meals and music in the Pavilion or on the south porch of the winery building between the hours 10:00am and 11:00pm; and
Two (2) harvest party events per year for up to 100 people per event between the hours of 10:00am and 8:00pm
All proposed food service will be catered and prepared off-site.

**Days and Hours of Operation (Proposed)**: 7 am to 6 pm, daily.

**Parking (Proposed)**: Expansion of an existing 4-space parking lot for a total visitor parking of 12 spaces; the construction of a 20’ wide driveway to the office building; and the relocation of an existing greenhouse to construct a 7-space employee parking area. There will be a total of 19 parking spaces.
Parking for events will be on-site in the vineyards, and off-site utilizing shuttle service.

**Setbacks (Required)**: 20’ side, 20’ rear, 600’ from State Highway 29
**Setback (Proposed)**: 890± feet rear; 20’ side; and 380’±; 160’±, and 260’± State Highway 29. The proposal includes a variance to encroach three of the winery structures approximately 380’±, 160’±, and 260± from State Highway 29.

**Adjacent General Plan Designation/ Zoning / Land Use**

North
Agricultural Resource (AR) /Agricultural Preserve Zoning (AP)/Agricultural use (vineyards) and residential use
South
Agricultural Resource (AR) / Agricultural Preserve Zoning (AP)/Agricultural use (vineyards) and residential use
East
Agricultural Resource (AR) /Agricultural Preserve Zoning (AP)/Agriculture (vineyards)
West
Agricultural Resource (AR) /Agricultural Preserve zoning (AP)/Agricultural use (vineyards), residential use, and wine production use (Grgich Winery)

**Nearby Wineries (located within 1 mile of the project)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Winery | Address | Floor Area (sq. ft.) | ProductionGal/yr. | Tours & Tastings visitors/wk (average)  | Employees |
| Whitehall Lane | 1536 St. Helena Hwy | 24,547 | 125,000 | Public 500/wk | 4.5 |
| Franciscan Winery | 1178 Galleron Rd | 118,694 | 1,200,000 | Public 3500/wk | 94.5 |
| Rutherford Grove | 1673 St Helena Hwy | 6,200 | 35,000 | Public 150/wk | 2.5 |
| Provenance Vineyards | 1695 St Helena Hwy | 16,000 | 85,000 | Public 300/wk | 5 |
| Alpha Omega Winery | 1155 Mee Ln | 17,419 | 144,000 | Public 1350/wk | 22 |
| Grgich Hills Cellars | 1829 St Helena Hwy | 44,886 | 250,000 | Public 1000/wk | 44 |
| Sullivan Family Estates | 1090 Galleron Rd | 5,000 | 22,500 | APPT 7/wk | 3.5 |
| Fleury Family Winery | 950 Galleron Ln | 8,700 | 20,000 | APPT 37/wk | 5 |
| Niebaum Coppola Estate | 1991 St Helena Hwy | 74,879 | 250,000 | Public 3391/wk | 78 |
| Beaulieu Vineyards | 1960 St Helena Hwy | 274,840 | 1,800,000 | Public 3150/wk | 59 |
| Star Vineyards | 8514 St Helena Hwy | 2,800 | 30,000 | Public 20/wk | 4 |
| Peju Vineyards | 8466 St Helena Hwy | 2,7841 | 120,000 | Public 450/wk | 16 |
| ***LMR Rutherford Estate Winery*** | **1790 St. Helena Hwy**  | **20,308±**  | **100,000**  | **APPT – 270/wk**  | **9**  |

**Parcel History and Evolution of this Application**

A lot line adjustment was approved on December 24, 2013, creating the existing 30± acres in area. Since the property was subject to a recent lot line adjustment, a new revised Agricultural Contract was recorded on May 14, 2013. The property has a long history of being within the Agricultural Contract program.

**Code Compliance History**There are no open or pending code violations for the subject site.

**Discussion Points**

Setting - The 30 acre subject parcel is located on the east side of State Highway 29, approximately ¼-mile north of the State Highway 128 / State Route 29 intersection. The project site abuts Bale Slough which flows along its northeasterly property boundary line. A majority of the property is within the Napa River 100 year flood plain in which the building design and construction will be subject to County flood control regulations. There are approximately 21± acres planted in vineyard and 2± acres planted in non-vineyard vegetable crops and orchards. The applicant also owns the adjacent parcel to the south, which is also planted in vineyards. The existing agricultural roads will allow these grapes to be brought to the winery via internal agricultural roads, avoiding State Highway 29.

There is an existing developed commercial farming operation, located approximately 230 feet south of the proposed production building, with a 2,400 sq. ft. sales pavilion, commercial gardens and associated buildings (barn, wash house, water tower/farm storage building, greenhouse). A portion of the existing sales pavilion will be converted to the winery hospitality and marketing center. A single family residence, the homestead site of the other parcel which was a part of the lot line adjustment, was removed in 2013 and the proposed winery will be located in that cleared area. The washroom building will be remodeled and incorporated into the winery project, and the greenhouse will be relocated approximately 25 feet east from its current site to allow construction of the new employee parking area. The barn will be removed, but the existing water tower will remain and be used for farm storage. The existing residence, a farm labor dwelling, is estimated to have been built in the 1880’s, but since there have been many alterations of the building, the State of California Parks and Recreation records indicate that this residence would not appear to be eligible for the National Register of Historical Places. There are two existing wells; one will serve the existing dwelling and the second well will serve the winery.

New Winery Proposal - As proposed, the winery complex will take direct access from State Highway 29. The proposed production building will be located 380± feet from State Highway 29. The winery structure will be an 11,000 sq. ft. building with a 4,164 sq. ft. outside covered fermentation tank area and a 4,164 sq. ft. covered crush pad, for a total 19,328 sq. ft. In addition, a 1360 sq. ft. administrative office building, to be located 160 feet from the State Highway, and a 816 sq. ft. winery equipment storage building, located 260 feet from the State Highway, are proposed. The existing pavilion will be used for the hospitality/marketing area with no changes proposed to the pavilion. The project proposes that 70,000 gallons of the winery production will be for white wine utilizing estate fruit and the remaining 30,000 gallons of production will be for red wine grapes, utilizing 18,000 gallons estate red grapes. The remaining 12,000 gallons will be processed from 70 tons of grapes to be brought in from neighboring properties, utilizing public roads.

The proposed 19,328 sq. ft. wine production facility will consist of two buildings, 40’1½” in height, with a covered tank area between the buildings and a covered crush pad attached to the southerly building. The buildings are galvanized corrugated steel, covered with a stainless steel vine wall on the exterior north, south and west elevations. The two winery buildings will have corrugated metal roofs with solar panels on the southerly-facing roof. The tank pad between the buildings will be covered by corrugated metal panels to match the roof on steel I-beams. The office structure and the winery storage building will also be constructed of corrugated steel, to be softened by plantings. The landscape plan indicates that a “Living Wall” of vines will be installed on the stainless steel vine wall on the north, west and east side of the winery production building. The proposed winery production building and the remodeled restrooms are located within the 100-year floodplain of the Napa River. Because these buildings are non-residential structures, any portion of the winery or restroom structures located below the base flood elevation must be watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Flood Plain Management permit will be required and these two structures will be subject to FEMA regulations. The proposed office building and winery equipment storage building are located outside the Napa River floodplain and are not subject to the flood regulations.

Setback Variance Request – A variance is being requested to allow the construction of a 19,328 sq. ft. new winery building 380± feet from the centerline of State Highway 29; a 1360 sq. ft. administrative office building 160± feet from State Highway 29; and a 816 sq. ft. winery equipment storage building 260± feet from State Highway 29 in lieu of the required minimum 600 ft. winery road setback.

The applicant feels that there are exceptional, extraordinary circumstances and conditions that apply to this property, since the majority of the property is within FEMA National Flood Insurance Program Special Flood Hazard Area-100-year Floodplain Zone A, and any structures constructed in this area must comply with all FEMA and County Flood Zone regulations. There is a small, limited development area on the property outside of the flood zone on the southern tip of the property, where the proposed offices and winery storage buildings would be constructed. But, there is not enough area to construct a winery outside the Flood Hazard Area.
Further, the applicant has indicated that compliance with the winery setback would involve a tremendous amount of earthwork required to raise the facility above the base flood level, however, there will be earthwork involved at the proposed location also.

In addition, there is an environmentally sensitive area near and around Bale Slough, abutting the eastern boundary of the property, and the applicant proposes that constructing the winery closer to the highway would provide a safe enough distance away to avoid a potential impact.

The applicant states that granting the variance is necessary for the preservation and enjoyment of substantial property rights since the property complies with all of the development standards for a winery, except the 600 foot setback requirement and is consistent with the General Plan.

Furthermore, the applicant states that the health and safety of the neighborhood and of the County will not be affected by this project because if the reduced setback is approved, the winery will be built in an area that has been historically used for residential development on the ranch and will avoid development on a new area of prime agricultural soils and will avoid removal of vines. There are trees along much of the frontage of the property which will provide screening of the winery proposed winery.

Tours & Tasting/Marketing Events – The applicant is proposing daily hosted tours and tastings for wine trade personnel and consumers "By Appointment Only" for a maximum of 50 people between the hours of 10:00am and 4:00pm, as well as wine purchased at the winery to be consumed on-premise, consistent with Assembly Bill 2004. The Marketing plan would consist of: private promotional tastings with meals up to 24 times per year, for a maximum 35 people, between the hours of 10:00am and 11:00pm; barrel tastings, auctions, and other social events, including meals and music, six (6) times per year for a maximum 60 people, between the hours of 10:00am and 11:00pm; and two (2) harvest party events per year for a maximum 100 people, between the hours of 10:00am and 8:00pm. The proposed parking for the event will be on-site in the vineyards and off-site utilizing a shuttle service.

Staff has provided a table comparing marketing and tours and tastings visitation at other wineries with annual production of 100,000 gallons, below. The proposed visitation program falls roughly into the lower half amongst its peer group of wineries with an approved production capacity of approximately 100,000 gallons per year. The table also provides a comparison of winery building floor area for the wineries listed. As can be seen, the floor area for the proposed winery relative to its production capacity is near the middle of the spectrum, at 21,504± sq. ft., with other wineries ranging in size from a little over 9,800 square feet to over 72,000 square feet. To reflect the true and typical visitation patterns as previously discussed by the Commission, staff is recommending that the applicant be restricted to the following weekday and weekend visitation: Monday through Thursday-30 maximum; Friday through Sunday- 50 maximum, providing for a weekly visitation of 270 visitors. The applicant had proposed a daily average of 30 visitors/day.

**Note: Floor area includes**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Winery**  | **Approved cavesProduction**  | **Floor Area (sq. ft.)**  | **Location**  | **Tours & Tastingsvisitors/week(average)**  | **Marketing Eventsper year\***  | **Employees**  |
| **By Appointment Only** |  |  |  |  |  |  |
| Carevan Serai | 100,000  | 24,000 | Valley Floor  | 2,800 | 376 | 23 |
| Corona | 100,000  | 29,008 | Valley Floor | 280^ | 80 | 24 |
| Darioush Winery | 100,000  | 72,751 | Valley Floor | 350 (Pub)2,800 (Appt)^ | 429 | 55 |
| Dominari | 100,000 | 22,700 | Valley Floor | 140^ | 20 | 5 |
| Monticello Vineyards | 100,000 | 11,500 | Valley Floor | 84 | no data | 10 |
| Pahlmeyer winery | 100,000 | 56,057 | Valley Floor | 70 | 25 | 16 |
| Round Pond winery | 100,000 | 33,669 | Valley Floor | 360^ | 160 | 11 |
| **Public Tasting** |  |  |  |  |  |  |
| Moss Creek winery | 100,000 | 24,000 | Capell Valley | 600 | no data | 2 |
| Black Stallion | 100,000  | 43,600 | Valley Floor  | 350 | no data | 10 |
| Andretti winery | 100,000  | 13,400 | Valley Floor | 100 | no data  | 5 |
| Trinchero | 100,000 | 9,856 | Valley Floor | 930 | 215 | 9 |
| **No tasting** |  |  |  |  |  |  |
| CE2V (Cosentino - Pope Valley) | 100,000  | 33,795 | Pope Valley | 20\*\* | 36  | 5 |
|  |  |  |  |  |  |  |
| ***LMR Rutherford Estate Winery (proposed)*** | ***100,000***  | ***21,504*** | ***Valley Floor*** | ***270*** | ***32*** | ***9*** |

\* No Data - Attributed to older wineries with no marketing program proposed or approved.
\*\* Number authorized for retail sales only.
^ Maximum per week

Commercial Farm Stand/Winery Visitation conflict- The applicant intends to continue use of the pavilion for the commercial farming operation along with the winery's wine tasting/hospitality center. This creates a compatibility issue for the use of this building, since the farm stand is a permitted use and the winery use is subject to the conditions of the use permit and the Winery Definition Ordinance. Staff recommends that there needs to be a definite separation of the two uses. This may be accomplished because of the design of the structure, the two end portions of the pavilion are separately roofed, with a separate dormered central portion of the building. Staff has proposed a condition of approval requiring such a separation in this building, but would prefer recommending that the tasting occur in a separate structure, possibly within the winery itself.

Traffic & Parking – A Traffic Impact Report was prepared by Crane Transportation Group, dated January 13, 2013, which indicated that traffic counts were made in December 2013, at the proposed project entrance and the Grgich Hills Winery access point. The report concluded that the peak traffic hour is on Friday, between 4:00pm-5:00pm; Saturday, between 3:30pm-4:30pm; and Sunday, between 4:30pm-5:30pm. Using the seasonal traffic count information from CalTrans and other Napa County jurisdictions, it was determined that the early December counts should be increased about 13% to reflect peak harvest season volumes. The County General Plan EIR indicates that State Highway 29 currently experiences unacceptable Levels of Service (LOS E) during harvest Friday and Saturday and in 2030, the expected operation of State Highway 29 during harvest is expected to continue at unacceptable levels of service (LOS E).

The report concluded that based on the project proposal, the project would result in no significant off-site circulation system operational impacts nor any sight line impacts at the proposed project driveway connection to State Route 29 during the harvest Friday and Saturday Peak hour. Employees will have shift change hours outside the peak traffic periods to the maximum extent possible; visitor by appointment numbers will be low, and existing grape trucks now traveling from property vineyards to St. Helena will be removed from Mee Lane, and/or State Highway 29. A left turn is already provided on the State Hwy 29 southbound approach to the project entrance and the winery driveway connection will be designed to Caltrans standards. The standard conditions of approval will ensure the project is operated consistent with the project reviewed by the County Traffic Engineer.

General Plan EIR anticipates cumulative traffic increases and service level changes to State Highway 29 as existing wineries expand and/or new wineries are added over the next 20 years. Additional measures implemented by the County, including scheduling events and visitation outside of peak periods (currently a condition of approval), would further reduce long term conditions.

The project proposes a total of 19 parking spaces broken up into two areas (employee-7spaces and visitors-12 spaces). These parking spaces would be sufficient to accommodate parking needs during normal business days for employees and visitors. Additional parking will be required for larger marketing events. The applicant proposes parking for events on-site in the vineyards and off-site utilizing shuttle service. No parking will be permitted within the right-of-way of State Hwy 29. As proposed, tasting room daily appointments will be closed during these events.

Groundwater Availability - The subject parcel is located on the Valley Floor. Napa County has established a water availability threshold of 30 AF/YR for this parcel, which is calculated by applying a rate of 1.0 AF/YR multiplied by the acreage of the site. The water use for the property is currently 20.9 AF/YR, which includes a farm labor dwelling, vineyards and the commercial vegetable and fruit farming. The proposed water use for the winery with visitation and marketing activities, farm labor dwelling, landscaping, commercial vegetable/fruit farming is 22.5 AF/YR. Current water use for the vineyard is 20 AF/YR and is projected to change to 19 AF/YR. The project includes the development of a sanitary and primary process wastewater management system to be utilized for irrigation. The projected water use for the winery is 2.15 AF/YR. To date, the County is not aware of, nor has it received any reports of, ground water shortages near the project area. As estimated, the overall water demand of 22.5 AF/YR is below the threshold established for the parcel and is projected to decrease vineyard demand by 1.0 AF/YR due to changes in existing conditions. Furthermore, the recent discussion of the Groundwater Resources Advisory Committee (GRAC) revealed on that recent studies have found that groundwater levels in the Napa Valley Floor exhibit stable long-term trends with a shallow depth to water.

While the Draft Negative Declaration did not specifically address current climatic conditions, the County is cognizant of fluctuating environmental factors that could affect groundwater resources even in non-drought years as evident by the groundwater use condition of approval (see Condition 13.A. in Exhibit B) that has been included on winery approvals over the past 5 years since approximately 2009. This condition enables the County to collect additional data on the groundwater aquifer if it is determined that water usage at the winery is affecting, or would potentially affect groundwater supplies or nearby wells, due to changed circumstances or in light of significant new information provides substantial evidence that the groundwater system referenced in the permit would significantly affect the groundwater basin. This condition also allows the County to recommend additional reasonable conditions on the permittee as necessary (such as water use minimization through best available control technology, best water management conservation practices, and/or reduced groundwater extraction/use) to meet the requirements of the Napa County Groundwater Ordinance and protect public health, safety, and welfare.

Grape Sourcing -The subject property contains 21 acres of vineyards. The project would not require the removal of vines for the development of the winery. As previously discussed, the project proposes that the majority of the processing capacity is based upon processing estate grapes, grown on the subject parcel and the adjacent 11± acre parcel owned by the applicant. The applicant has indicated the grape source of the remaining 12,000 gallons (12%) will be in compliance with the 75% Napa Valley grape source requirement.

Greenhouse Gases/Climate Action Plan - The County requires project applicants to consider methods to reduce Green House Gas (GHG) emissions consistent with Napa County General Plan Policy CON-65(e), which requires GHG review of discretionary projects. The applicant has completed the Department’s Best Management Practices Checklist for Development Projects, which is attached to this report as part of the application materials. The applicant proposes to incorporate GHG reduction methods including: generation of on-site renewable energy with installation of photovoltaic array installation; preservation of developable open space in a conservation easement; accommodation of bicycles; vehicle charging infrastructure; use of Cool Roof; water efficient fixtures; roof rain water diversion; waste recycling; composting systems; sustainable purchasing and shipping program; green walls on structures; retention of existing shade trees; passive night air cooling; use of cover crops; and the continued organic farm stand.

GHG Emission reductions from local programs and project level actions, such as application of the CalGreen Building Code, tightened vehicle fuel efficiency standards, and more project specific on-site programs including those winery features noted above would combine to reduce emissions.

Public Correspondence - A letter from an adjacent property owner, dated May 12, 2014, was received requesting copies of additional information about the project and answers to questions regarding water, traffic and noise and the variance findings. Staff forwarded copies of the documents requested and advised the location of the staff report which will be posted on the County website. The letter was also forwarded to the applicant who has subsequently been in touch with the neighbor.

**Consistency with Standards**:

Zoning – The project is consistent with AP (Agricultural Preserve) Zoning District regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.16.030) are permitted in the AP District with an approved use permit. The project as conditioned complies with the Napa County Winery Definition Ordinance and all other requirements of the Zoning Code as applicable.

Environmental Health Division – Recommends approval with standard conditions in the attached Memorandum dated April 28, 2014.

Engineering Services Division – Recommends approval with standard conditions in attached Memorandum dated May 8, 2014.

Public Works Department (Ground Water and Traffic) - Recommends approval in the attached Memorandums, dated April 11, 2014 and May 21, 2014.

Fire Department – Recommends approval with standard conditions in the attached Inter-Office Memo dated June 26, 2013 and the e-mail dated April 24, 2014.