

**PLANNING COMMISSION HEARING – MAY 7, 2014
EXHIBIT A - FINDINGS**

**TITUS VINEYARDS WINERY
USE PERMIT MAJOR MODIFICATION #P13-00367-MOD & VARIANCE #P13-00366-VAR
2971 SILVERADO TRAIL, ST. HELENA, CALIFORNIA
APN 021-353-013**

ENVIRONMENTAL DETERMINATION:

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 Planning 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 exercised by the Planning Commission.
3. The Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. 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, and Environmental Services Department, 1195 Third Street, Room 210, Napa, California.
5. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
6. There is no evidence, in considering the record as a whole 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. That:

7. The procedural requirements set forth in Chapter 18.128 of the Napa County Code have been met.

Analysis: The variance application has been filed and notice and public hearing requirements have been met. The hearing notice was posted on April 17, 2014 and copies were forwarded to property owners within 300 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from April 17, 2014 to May 6, 2014.

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: A setback variance for Silverado Trail is being requested for this property due to its proximity to the 100 year FEMA designated floodplain for the Napa River and its flood way. Only a small strip of land along Silverado Trail is located outside of both the flood way and flood plain. Locating the proposed winery and required infrastructure outside of the required 600 foot setback would place the building partially within the flood way or in a location that would require extensive fill to ensure that the finished floor elevation of the winery is at least one foot above the base flood elevation as required by the County's Flood Plain Management Ordinance. By locating the proposed winery in the middle of the vineyard, the building would be visually prominent to motorist passing by on Silverado Trail instead of a low profile that the proposed project represents, as well as, require removal of vineyard outside the 3 acres that was previously removed by the applicant.

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 (AP) district, which allows wineries, and accessory uses are permitted upon approval of a conditional use permit. As discussed in the above special circumstances finding, the approval of this variance from the 600' setback requirement from Silverado Trail will allow the applicant to minimize further disturbance and avoid placing the new winery closer into the Napa River 100 year FEMA designated flood plain and possibly its flood way. In locating the new winery 178 feet at its closest point to Silverado Trail increasing to 223 feet, it would be nestled behind existing buildings (residence and agricultural barn) and vegetation (olive grove and other large trees), as well as, the proposed landscaping plan for the winery. Given all these elements, this location would serve as a visual barrier for drive-by-motorist and serve to screen winery activities from adjacent properties located across Silverado Trail, thereby, not result in degrading the visual character of the site and effectively mitigate any adverse impacts associated with locating the proposed winery closer to Silverado Trail.

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

Analysis: The granting of the variance to the winery road setback (within 178 feet into the required 600 foot setback for Silverado Trail) will not adversely affect the health or safety of persons residing or working in the neighborhood of the property. 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.

11. Grant of the variance in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, where grant of the variance cannot satisfy the criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080, substantial evidence has not been presented demonstrating that the grant of the variance might cause a significant adverse effect on any underlying groundwater basin or area which does not overlay an identified groundwater basin.

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, for purposes of the application of the County’s Groundwater Conservation Ordinance, assumed not to have a significant effect on groundwater levels. Based on the submitted *Phase One* water availability analysis, the 31.77 acre subject valley-area parcel has a water availability calculation of 31.77 acre feet per year (af/yr), which is arrived at by multiplying its approximately 31.77 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 the winery including hospitality functions and incidental retail and office use, vineyard, and landscaping at 14.2 af/yr. Existing conditions for water demand is 13.8 af/yr. The new project demand represents an increase of 0.4 af/yr due to changes in existing conditions. 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.

USE PERMIT MODIFICATION REQUIRED FINDINGS:

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. That:

12. 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 Section 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. 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.

13. 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 modification application has been filed, noticed and public hearing requirements have been met. The hearing notice was posted on April 17, 2014 and copies were forwarded to property owners within 300 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from April 17, 2014 to May 6, 2014.

14. 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 departments have reviewed the project and commented regarding water, waste water disposal, traffic and 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.

15. 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).

This proposal is consistent with the *Napa County General Plan 2008*. 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 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.

16. 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, for purposes of the application of the County’s Groundwater Conservation Ordinance, assumed not to have a significant effect on groundwater levels. Based on the submitted *Phase One* water availability analysis, the 31.77 acre subject valley-area parcel has a water availability calculation of 31.77 acre feet per year (af/yr), which is arrived at by multiplying its approximately 31.77 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 (residential - 0.75 af/yr and vineyards – 13.0 af/yr) at 13.8 af/yr. The proposed winery project places the new demand for the parcel (winery with visitation and marketing – 0.64 af/yr, residential – 0.75 af/yr, a reduction in vineyard – 11.5 af/yr, and existing/new landscaping – 1.3 af/yr) at 14.2 af/yr. Based upon this figure, the project would be well below the established threshold for groundwater use on the property and is projected to increase by 0.4 af/yr. 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.