

# **“APPLICANT PROPOSAL”**

## **PLANNING COMMISSION HEARING – JUNE 3, 2015 EXHIBIT A – FINDINGS**

### **REVERIE ON DIAMOND MOUNTAIN USE PERMIT MODIFICATION #P13-00027-MOD, USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS #P15-00141, & EXCEPTION TO THE NAPA COUNTY ROAD & STREET STANDARDS. 1530 DIAMOND MOUNTAIN ROAD, CALISTOGA, CA APN: 020-440-005**

#### **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 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. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
5. 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.
6. 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.

#### **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:

7. The exception will preserve unique features of the natural environment which includes, but is limited to, steep slopes, heritage oak trees, or other trees of at least 6”dbh and found by the decision-maker to be of significant importance, but does not include man made

environmental features such as vineyards, rock walls, ornamental or decorative landscaping, fences or the like.

Analysis: Although most of the approximately 1,000 ft. long private access road either presently meets the 18 ft. with 2 ft. shoulder road width, there are several sections where road width is proposed to remain as exists below the standard in order to avoid tree removal and further encroachments within creek setbacks. These exceptions have been reviewed by the County Engineering Services Division and Fire Marshal, and have determined that the requested exception will preserve unique features in the natural environment; thereby recommend approval of this request.

8. 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 Marshal, 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.

#### **USE PERMIT MODIFICATION 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:

9. 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 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 18.20.030) are permitted in an 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.

10. 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 May 13, 2015, and copies were forwarded to property owners within 1000 feet of the subject parcel. The CEQA public comment period ran from May 14, 2015 to June 2, 2015.

11. 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.

12. 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 Watershed and Open Space (AWOS) 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.

13. 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 39.83 acre hillside parcel has placed water demand for existing uses on the property (a residence, a winery and cave, landscaping and existing vineyard) at 10.21 af/yr. The proposed increase in production, visitation and marketing activities, as well as, the expanded winery size and recognition of the cave place water demand at 10.33 af/yr. Based upon this figure, the project would be well below the established threshold for groundwater use on the property. 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.

**The following findings must be made in order for the Commission to grant and exception to the Conservation regulations in the form of a use permit pursuant to County Code Section 18.108.040 for structural and road development projects.**

14. Roads driveways, buildings and other man-made structures have been designed to complement the natural landform and to avoid excessive grading;

Analysis: The cave portal wall is further away from the blue-line stream than the existing winery and there is an access drive between the portal wall and the stream that existed prior to County required stream setbacks. Although some minor grading may have been done about 15 years ago regarding the mature landscaping and minor improvements, the existing mature landscaping and minor improvements have stabilized the soil, prevent erosion into

Teal Creek, prevent flooding onto the property and the downstream neighbor's property, and protected the historic rock walls that are essential for keeping Teal Creek property channelized.

15. Primary and accessory structures employ architectural and design elements which in total serve to reduce the amount of grading and earthmoving activity required for the project, including the following elements:

- a. Multiple floor levels which follow existing, natural slopes,
- b. Foundation types such as poles, piles or stepping levels which minimize cut and fill and the need for retaining walls,
- c. Fence lines, walls and other features which blend with the existing terrain rather than strike off at an angle against it.

Analysis: This finding is not applicable as the portion of the cave portal wall currently exists within the stream setback.

16. The development minimizes removal of existing vegetation, incorporates existing vegetation into the final design plan, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects;

Analysis: The area between the cave portal wall and the blue-line stream did not and does not have existing vegetation due to the existence of the access drive and the winery. There are no known sensitive species or habitat identified along these stream corridors, nor are any affected by the asked for exceptions as detailed in the Biological Resources Baseline Conditions Report prepared by Firs Carbon Solutions, October 2014. As to Teal Creek, the removal of the mature vegetation and minor improvements would result in increased soil disturbance, potential erosion, potential flooding and damage to the existing rock walls.

17. Adequate fire safety measures have been incorporated into the design of the proposed development;

Analysis: This finding is not applicable. However, the project does include proposed fire safety features to bring the cave and portal to current fire safe standards.

18. Disturbance to streams or watercourses shall be minimized and setbacks shall be retained as specified in Section 18.108.025;

Analysis: The project site contains two streams which run adjacent to and through existing site improvements. As discussed in depth in the incorporate biological resource evaluation (Biological Resources Baseline Conditions Report prepared by First Carbon Solutions, October 2014), the stream channels and related top of bank stream corridors have been highly altered both prior to approval of the original winery and as a result of the winery development and other improvements in recent years. Many of these manmade improvements within the stream and top of bank existed likely for decades prior to the construction of the winery. When the winery was built, the County authorized installation of landscaping and paths within the stream setback. As to Teal Creek, removal of existing mature vegetation and/or man-made improvements would create more potential impacts to Teal Creek than what currently exists, even potentially damaging rock walls within the streambed during seasonally flooding.

19. The project does not adversely impact threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the County's environmental sensitivity maps;

Analysis: The project does not propose to undertake any work within the stream channel of either creek. There are no known sensitive species or habitat identified along these stream corridors, nor are any affected by the asked for exceptions as detailed in the Biological Resources Baseline Conditions Report prepared by First Carbon Solutions, October 2014.

20. An erosion control plan has been prepared in accordance with Section 18.108.080 and has been approved by the Director of his designee.

Analysis: Project specifications have been submitted and approved by the Engineering Services Division, as conditioned.