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Variance Application Packet

**FACTS SUPPORTING THE GRANTING OF A VARIANCE
FLYNNVILLE WINE COMPANY
3125 ST. HELENA HIGHWAY**

- 1. Please describe what exceptional or extraordinary circumstances or conditions apply to your property (including the size shape, topography, location of surroundings) which do not apply generally to other land, buildings, or use and because of which, the strict application of the zoning district regulations deprives your property of the privileges enjoyed by other property in the vicinity and under identical zoning classification.*

The subject property is subject to a number of constraints that in total limit potential winery development to a small area on the east as shown on the accompanying exhibit prepared by Summit Engineering. The property is surrounded on four sides by public or private roads: St. Helena Highway on the west, Maple Lane on the south. Both are public roads. Drew Lane, a private road used by the public borders the property on the north and Ida Lane to the east. The Napa River lies to the east of the property and borders one of the parcels that are part of this application. The combined lot depth of the parcels on which the winery will be constructed is less than 600 feet. The required setback from the centerline of St. Helena Highway is 600 feet and 300 feet from Maple Lane and the other private driveways. Thus the entire site on which the winery is proposed lies within a required winery setback. Drew Lane and Maple Lane have a winery setback of 300 feet that further limits development of the property. Setbacks from the Napa River and the presence of the 100-year flood plain further reduce development potential for winery use. The available area outside of the required setbacks is far too small to construct the proposed winery and necessary infrastructure to support the project.

Strict application of the required setbacks would pose a severe hardship to the applicants and preclude development of the property as a winery site and necessary infrastructure.

The subject property was developed with a variety of commercial and wine-related uses that fully conformed to the zoning standards that existed at the time permits were approved and buildings developed. The proposed winery buildings replace existing structures and are located no closer to Highway 29 and are further from Maple Lane than the existing buildings they replace. The existing buildings establish a development pattern that the new buildings will emulate and reinforce. Locating the buildings where proposed and essentially within the footprint of previously disturbed areas is consistent with the intent of the winery definition ordinance.

The original purpose of establishing setbacks for new winery buildings from public roads was to reduce the corridor effect of multiple wineries on the same road (note the pre-winery definition ordinance setback was only 20' from property lines), and to protect views from the public road. In the case, the new buildings replace buildings already within the visual landscape and are of similar scale, massing and location. In addition existing landscaping along the primary public road, Highway 29, already provides visual screening that will be retained as part of this project. New landscaping along Maple Lane and Ida lane will ensure that the proposed project will not have an adverse visual impact on the traveling public.

2. *Please state why the granting of your variance request is necessary for the preservation and enjoyment of your substantial property rights.*

Approval of the variance requests will allow the applicants to convert the property to a use that conforms to the existing agricultural watershed zoning designation and remove some outdated buildings that do not conform to existing zoning. In their place a state of the art winery, updated water and wastewater systems would be constructed. The exiting buildings to be removed would be replaced by a project of unified design, upgraded landscaping fitting for the agricultural area that surrounds the subject property.

Granting the requested variances will allow the applicant to preserve and enjoy these substantial property right, to construct a state of the art winemaking facility that otherwise complies with all county and requirements relative to siting and design. Finally, granting this variance would not confer a special privilege to this applicant as the subject parcel contains a unique combination of regulatory constraints, small parcel sizes and limited depth with a unique development and zoning history found nowhere else in the county.

3. *Please state why the granting of a variance request will not adversely affect the health or safety of persons residing or working in the neighborhood of your property, and will not be materially detrimental to the public welfare or injurious to property or improvements in your neighborhood.*

Granting the applicant the right to develop the proposed winery within the required road setbacks will not adversely affect the public health safety or welfare of the County. Rather it will remove some non-conforming uses, convert a number of nonconforming parcels into one conforming parcel and establish a use permitted in the AW zone. Finally, the project has been designed to comply will all applicable building codes, environmental health and fire safety codes and requirements.

PD Properties LLC
995 Vintage Avenue
St. Helena, California 94574



July 22, 2016

Jason R. Hade, AICP
Planner III
Department of Planning, Building and Environmental Services
County of Napa
1195 Third Street, suite 210
Napa, California 94559

Re: Facts Supporting the Grant of a Variance
Flynnville Wine Company Use Permit #P15-00225 and Variance #P12-00223
1184 Maple Lane Calistoga,

Dear Mr. Hade:

The purpose of this memorandum is to supplement the evidence submitted we previously submitted in September 2015 in support of a variance to the required winery setbacks as it may be applied to the Flynnville Wine Company property, 1184 Maple Lane, Calistoga.

Background

We are the owners of six (6) parcels of record located on State Highway 29 and Maple Lane, between St. Helena and Calistoga. A variety of industrial uses have been operating on the site since the early 1960s when the property was zoned Manufacturing (M). These uses were conforming under the M zone district as applied to the property. In 1968, the property was rezoned to Planned Development (PD). In 1977, industrial uses were excluded from the PD zone. In 1985, the zoning on the six (6) parcels was changed from PD to Agricultural Watershed (AW) for the four (4) parcels west of Ida Lane (APN 020-320-003) and Agricultural Preserve (4) for the two (2) parcels north of Ida Lane. The rezoning in 1977 and 1985 rendered the uses on the four (4) parcels west of Ida Lane non-conforming.

The current site plan reflects the location of the existing buildings for parcels 020-320-015 as approved by use permits issued between 1973 and 1983. The development pattern conformed to the standards in effect at the time the projects were approved. Uses on parcel 015 remain today. Use permits were issued in 1976 for parcel 020-320-006 and in 1997 for parcel 020-320-016, a conforming use. The approved uses on parcel 006 have been abandoned.

Proposal

As you know, our current application includes the demolition of all or portions of six (6) buildings totaling approximately 5,200 s.f. These include:

1. The buildings on parcel 016 approved for use as a utility service facility in 1997;
2. A 2400 s.f. building addition on parcel 015; and
3. The three (3) buildings on parcel 006, totaling 21,450 s.f. of buildings

The existing buildings and uses on parcel 015 would remain.

In place of the buildings being demolished we propose to construct a 60,000-gallon winery in two phases totaling approximately 24,000 s.f. A variance to the required 600' winery setback from State Highway 29 and 300' winery setback from Maple Lane, Ida Lane and Drew Lane is requested. These winery setbacks and property line setbacks, together with the constraint of the 100-year flood plain boundary, severely limit the developable area for a new winery to that small portion of the project area shown on sheet UP 4 as prepared by Summit Engineering.

Findings in Support of Issuing a Variance

Variances must satisfy the criteria in California Government Code section 65906 and County of Napa Code section 18.128.060.¹ Variances from the terms of zoning ordinances [such as winery setbacks] shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications.² The County of Napa has added additional findings that the commission must make to grant variances.³ County Counsel has advised that while the state findings are mandatory, the Commission has discretion with regard to the locally adopted findings.⁴

Generally, the findings for a variance must meet each prong of a three-prong test to satisfy the statutory requirements together with additional local findings contained in the County Code.⁵ An applicant must demonstrate that: 1) he or she will suffer practical difficulties and unnecessary hardships in the absence of the variance, 2) these hardships result from special circumstances relating to the property that are not shared by other properties in the area, and 3) the variance is necessary to bring the applicant into parity

¹ Memorandum from County Counsel to David Morrison, PBES Director January 20, 2016

² California Government Code section 65906

³ Napa County Code section 18.128.060(A1), (A3-7)

⁴ Comments made at January 20, 2016 hearing relating to the Summers Estate Winery project

⁵ Napa County Code section 18.128.060

with other property owners in the same zone and vicinity.⁶

Denial of the Variance Would Pose a Hardship to the Applicant

An unnecessary hardship occurs where the natural condition or topography of the land places the landowner at a disadvantage vis-à-vis other landowners in the area, such as peculiarities of the size, shape or grade of the parcel. The hardship must arise due to features inherent to the property, such as due to physical features mentioned above. A clear illustration of 'unnecessary hardship' occurs when the natural condition or topography of one's land places him at a disadvantage vis-à-vis other landowners in the zoning district. The hardship must relate to a unique condition of the property and not be self-induced or pertain to the plight of the owner. By way of example, courts have found that irregularly shaped lots, lots with steep or eroding slopes, and narrow lots with setbacks which limit the amount of overall developable area are all valid examples of hardship.⁷

The development pattern of this property was established when the property was first developed under the previous M and PD zoning district. When first developed, the property met all applicable development standards. The existing uses became non-conforming when the property was rezoned to the AW zoning district in 1985. The only strictly agricultural uses permitted in the AW zone either by right or with a use permit are agriculture, as defined, and wineries.

Imposition of the winery setbacks is a regulatory hardship that, together with the circumstance that the subject property is surrounded on all four sides by roads or driveways requiring setbacks, places the owners at a disadvantage vis-à-vis other landowners in the vicinity because of its location and extent of existing improvements. The combined parcels on which the winery would be built (11.84 acres) are smaller than the average size of parcels in the vicinity (16.40 acres). And none of the parcels in the vicinity are surrounded on all sides by roads or driveways. The size of the combined parcels together with the surrounding roads is a unique condition of the property, not created by any act of the owners. Imposition of a winery setback would result in insufficient area to develop a conforming use on the property without a variance and would deprive the owner of the ability to develop a use for the property that would conform to existing zoning. As shown on the attached exhibit, unlike the majority of parcels in the vicinity which are planted in vines or dedicated strictly to agricultural uses, the current state of improvements, buildings and paving on the subject parcel precludes this property's economic use as vineyard or farm because of the years of industrial use and resulting soil compaction.

Approval of a variance would allow the subject property to be converted to an agricultural use conforming to both the General Plan and to current zoning. Denial

⁶ Memorandum from County Counsel Op. Cit., page 3

⁷ Memorandum from County Counsel Op. Cit., page 2

of the variance would preclude any conforming agricultural use. Such a denial would deprive the applicants of development rights enjoyed by other properties in the vicinity.

This Property Has Unique Circumstances That Are Not Shared By Other Properties in the Vicinity

The subject property has a number of special circumstances that, in their totality, limit potential winery development to a very small area on the eastern flank, as is shown on the accompanying exhibit prepared by Summit Engineering UP 4 attached). These special circumstances include:

1. The current extent of physical improvements, buildings and paving installed over the years in conformance with the pre-existing zoning district;
2. The fact that the project site is surrounded on all four sides by roads or driveways, each of which would require a setback under current guidelines; and
3. Parcel size.

All of these conditions existed prior to the current ownership acquiring the property and none of these conditions was created by any act of the current owners.

The development pattern of the property where the winery is proposed was established when the property was first developed under the previous M and PD zoning district. When developed, the property met all applicable development standards. Subsequent rezoning of property resulted in the existing uses becoming non-conforming, precluding the expansion of the existing uses. Rezoning of the property to AW limited future uses of the property such that the only agricultural uses now permitted in the AW zone either by right or with a use permit are agriculture, as defined, and wineries. The extent of improvements, buildings and paving precludes the economic use of the property for vineyard or other agricultural uses on that portion of the property subject to winery setbacks. The only viable agricultural use of the property in its present, pre-existing configuration is a winery. However, a winery can only be developed with the grant of a variance.

As the attached map demonstrates, the property on which the proposed winery would be located is the only parcel in the vicinity that is surrounded on all four sides by existing roads or driveways for which either a 300' or 600' setback is required. This situation is unique to this property. The available area outside of the required setbacks is far too small to construct the proposed winery with the necessary infrastructure to support the project.

The subject property is composed of six (6) parcels ranging in size from 0.95 to 2.67 acres, far below the sizes of parcels in the vicinity. The combined parcels on which the winery would be built (11.84 acres) are smaller than the average size of parcels in the vicinity (16.40 acres). And none of the parcels in the vicinity are surrounded

on all sides by roads or driveways. The limited size of the combined parcels, together with the circumstance of the surrounding roads, are unique conditions of the property, that were not created by any act of the owners. As indicated on the attached map, the parcels in the vicinity of the subject property are all larger parcels with none being surrounded on all four sides by existing roads. The majority of them are developed with vineyards. Unlike these parcels, the subject property is unsuitable for vineyard use as a result of the pre-existing conforming development activities that occurred prior to the acquisition of the property by the current ownership.

Denial of the variance would preclude any conforming agricultural use, whether it be strictly agricultural or an agricultural processing facility. Such a denial would deprive the applicants of development rights enjoyed by other properties in the vicinity. Approval of a variance would allow the subject property to be converted to an agricultural use that would conform to both the General Plan and to zoning.

Approval of a Variance Will Allow the Applicant to Achieve Parity

Pursuant to the Napa County General Plan, agricultural and related activities should be encouraged as the primary land uses in Napa County.⁸ Unlike the majority of parcels in the vicinity, the extent of prior improvements and paving, with its concomitant soil compaction, precludes the conversion of the subject parcels to an economic agricultural use. Denial of a variance under these circumstances would pose a severe hardship on the owners and would deprive the applicant of the ability to develop this property for any conforming agriculture, either agricultural or agricultural processing facility. Approval of a variance to the winery setbacks will allow the subject property to be converted to an agricultural use that conforms to the General Plan and to zoning. Further, the variance would allow the applicants to achieve a degree of parity with other properties in the vicinity within the same zoning classification that are currently in agricultural use and that are not constrained by pre-existing conditions, parcel size or roadways. Approval of the variance request will allow the applicants to convert the property to a use that conforms to the existing agricultural watershed zoning designation and will allow them to remove certain outdated buildings that do not conform to existing zoning. In their place, a state of the art winery, updated water and wastewater systems would be constructed. The existing buildings to be removed would be replaced by a project of unified design and upgraded landscaping befitting the agricultural character of the area that surrounds the property.

Summary and Conclusions

The history and physicality of the Flynnville property is unique in its neighborhood in particular and in the Napa Valley in general. It was originally developed as an industrial complex to take advantage of the adjacent railroad tracks in the 1960s.

⁸ Napa County General Plan-Agricultural Preservation and Land Use Element, Goal AG/LU-1

The property was zoned Industrial (M) at that time. The first comprehensive development plan was approved in the 1970s after the property was rezoned to Planned Development (PD) in 1968. The conforming industrial uses became non-conforming after the county revised the PD district regulations in 1977. Future development options were similarly impacted when the zoning of the property was changed to Agricultural Watershed (AW) in 1985. This rezoning essentially froze the existing development pattern and associated infrastructure to the existing footprint of each. While non-conforming uses may be rebuilt within the footprint, expansion of use and footprint was prohibited.

In the mid-1980s, the former owner and the county explored various options for addressing existing commercial uses like Flynnville that were located outside of designated urban areas. The former owner applied for a general plan amendment (#GPA-88-7) to change the designation of Flynnville to a commercial or industrial designation. The Board of Supervisors denied this application in February 1991. In 1994, the former owner submitted a text amendment and rezoning to establish an agricultural support district on portions of the Flynnville property (94110/ORD/94197-RZG). This application was filed following action by the zoning administrator to deny nonconforming use status to former uses of the property located on the corner of Maple and Ida Lanes. The Board of Supervisors subsequently denied the proposed text amendment and rezoning.

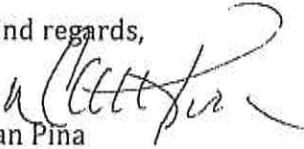
The current winery proposal represents the best opportunity to establish a conforming, agricultural use on the Flynnville property. No other conforming agricultural use is feasible on the property due to the extent of buildings, paving, driveways, septic and water systems. However, in order to construct a winery, a variance to winery road setbacks is required.

In addition to its unique history, the Flynnville property is subject to a number of special circumstances that in total limit potential winery development to a small area on the east as shown on the accompanying exhibit prepared by Summit Engineering UP 4 attached). As the attached map prepared by Summit Engineering Inc. demonstrates the property on which the proposed winery would be located is the only parcel in the vicinity that is surrounded on all four sides by existing roads or driveways for which either a 300' or 600' setback is required. This situation is unique to this property.

In light of the unique characteristics of the property and the predominant agricultural uses in the vicinity, denial of the variance would deprive the property owners of the right to use their property for a conforming agriculture use. As shown on the attached map prepared by Summit Engineering, the predominant use of parcels in the vicinity is agriculture. The Castello di Amorosa winery is across St. Helena Highway from the property. Approval of the variance to allow for a conforming agricultural use would result in agricultural use. Approval of the variance is necessary to bring the applicant into parity with other property owners in the same zone and vicinity.

In conclusion, staff and the Commission have a unique opportunity to resolve a long standing debate on how to best re-develop the Flynnville property to bring it into parity with the existing agricultural uses in the vicinity and within the parcel's zoning. However, the only way this can be accomplished is to approve the proposed variance. We strongly believe that the unique physical characteristics of this property support the issuance of a variance. We respectfully request your recommendation for its approval.

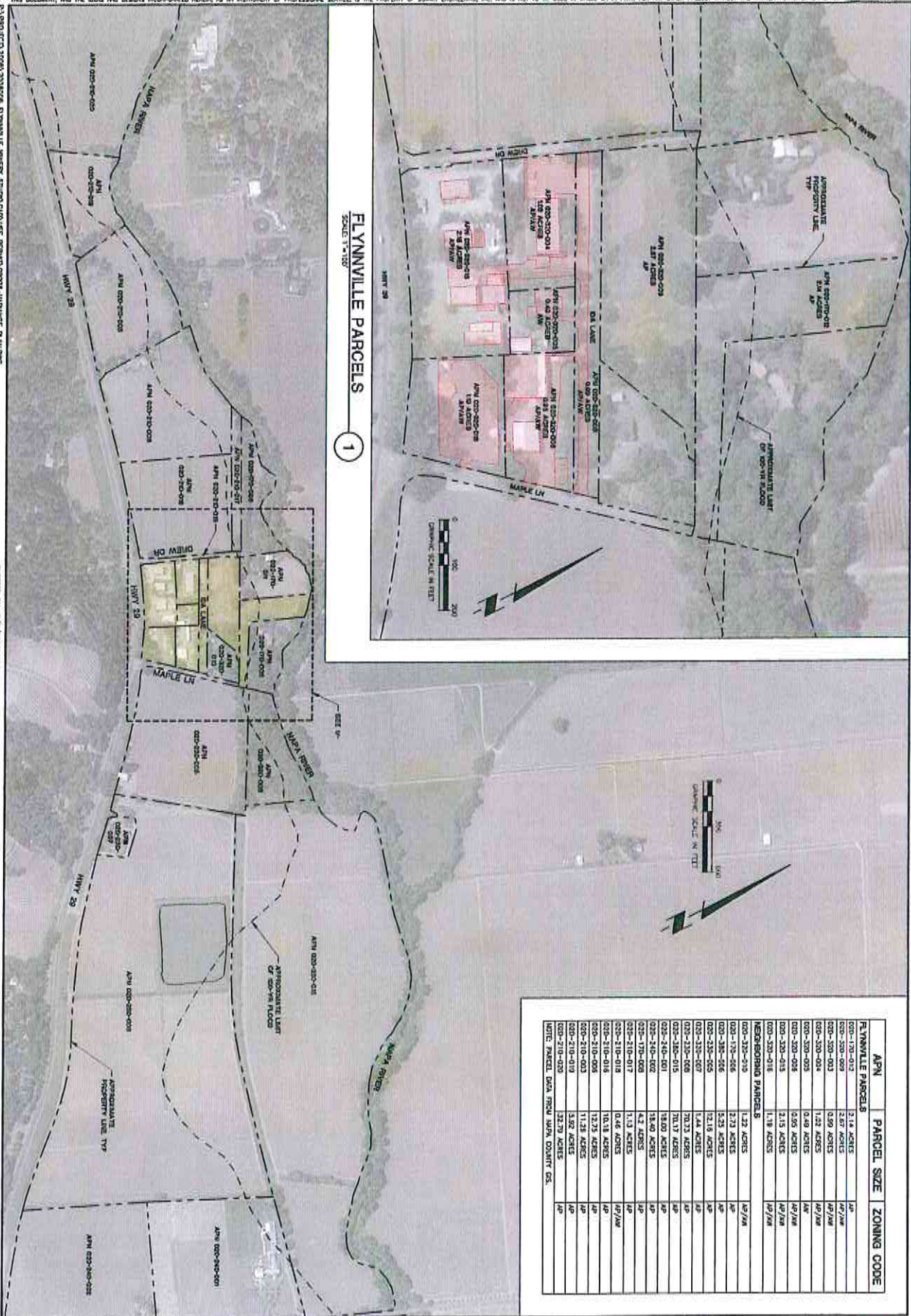
Kind regards,


Dan Piña
Flynnville Wine Company

CC: Jason Roberts, Summit Engineering, Inc.
Jeffrey Redding AICP

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FLYNNVILLE PARCELS
SCALE 1"=100'

1

APN	PARCEL SIZE	ZONING CODE
FLYNNVILLE PARCELS		
020-170-012	2.14 ACRES	AP
020-200-009	2.87 ACRES	AP/AM
020-200-003	0.29 ACRES	AP/AM
020-200-004	1.22 ACRES	AP/AM
020-200-005	0.49 ACRES	AP
020-200-008	0.95 ACRES	AP/AM
020-200-015	2.15 ACRES	AP/AM
020-200-018	1.18 ACRES	AP/AM
NEIGHBORING PARCELS		
020-325-010	1.22 ACRES	AP/AM
020-135-006	2.73 ACRES	AP
020-385-006	5.29 ACRES	AP
020-235-005	12.16 ACRES	AP
020-335-007	1.44 ACRES	AP
020-325-008	70.73 ACRES	AP
020-380-015	18.00 ACRES	AP
020-240-001	18.80 ACRES	AP
020-240-002	18.80 ACRES	AP
020-170-008	4.2 ACRES	AP
020-210-017	1.13 ACRES	AP/AM
020-210-018	0.46 ACRES	AP
020-210-018	18.18 ACRES	AP
020-210-008	12.75 ACRES	AP
020-210-003	11.28 ACRES	AP
020-210-019	3.92 ACRES	AP
020-210-020	32.79 ACRES	AP

DATE	2018-01-21
JOB NO.	20080008
SCALE	AS SHOWN
DRAWN BY	JF
CHECKED BY	AS
SHEET	1

USE PERMIT APPLICATION
SITE COVERAGE & NEIGHBORING PARCEL MAP

FLYNNVILLE WINE COMPANY
184 MAPLE LANE
CALISTOGA, CALIFORNIA
APN 020-320-003, 006, 009, 015, 018, & 020-170-012

SUMMIT
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