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## CEQA Memorandum



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**Planning, Building & Environmental Services**

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**David Morrison**  
Director

**MEMORANDUM**

To:	Planning Commission	From:	Wyntress Balcher, PBES
Date:	June 7, 2017	Re:	Addendum to the Negative Declaration adopted as part of the previous Use Permit #P13-00167-UP LMR Rutherford Estate Winery Modification #P16-00289-MOD and Variance #P16-00290-VAR APN:030-100-016

**Project Title**

LMR Rutherford Estate Winery Modification #P16-00289-MOD/#P16-00290-VAR

**County Contact Persons, Phone Number and Email**

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**Project Representatives' Name and Contact Information**

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**Project Location and APN**

The project is located on a ±30 acre project site on the east side of State Route 29, approximately ¼-mile north of the State Highway 128 / State Route 29 intersection. APN: 030-100-016. 1790 St. Helena Hwy South, Rutherford, CA 94573.

**Introduction**

The Planning Commission approved Use Permit application #P13-00167-UP and Variance application #P13-00185 on July 16, 2014. The variance approval allowed the construction of the proposed wine production building (winery) 160± feet from State Highway 29; the proposed administrative office building 160± feet from State Highway 29; and the proposed winery equipment storage building 260± feet from State Highway 29 in lieu of the required 600-ft. winery setback.

The Use Permit allowed the construction of a new winery with an annual production of 100,000 gallons, the construction of a new 11,000 ± sq. ft. wine production building, with a 4,164 sq. ft. covered tank pad and a 4,164 sq. ft. covered crush pad for a total 19,328 sq. ft.; a new 816± sq. ft. storage building; and, a new 1,360± sq. ft. administrative office building with conference rooms; the establishment of the existing open-air pavilion for use as the hospitality/visitor center only; six (6) full-time and three (3) part-time employees; hosted tours and tastings for wine trade personnel and consumers by appointment only on a daily basis up to a maximum 50 visitors Monday through Thursday and a maximum 40 daily visitors Friday and Saturday, limited to the open-air pavilion hospitality/visitor

center (maximum 330 per week); on-premise consumption of the wines produced on-site in the portion of the Open-air pavilion hospitality/visitor center or on the south porch of the winery in accordance with on AB 2004 (on-premises consumption of wine produced on-site and purchased from the winery); a Marketing Plan that includes the following: private promotional tastings with catered meals, 24 events per year for a maximum of 35 people per event; two (2) harvest party events per year for a maximum of 100 guests at each event; six (6) marketing events such as barrel tastings, auctions and other social events, including catered meals and non-amplified music, six (6) events per year for up to 60 people in the open air pavilion or on the south porch of the winery; establish winery hours of operation Monday through Sunday from 7:00 AM to 6:00 PM (non-harvest production hours); establish visitation hours Monday through Sunday 10:00 AM to 4:00 PM; the re-location of the existing driveway approximately 50 feet northward, to be located directly across from the driveway of the existing winery on the westerly side of the State Highway 29; the construction of a new 20' wide driveway to the new office building; the relocation of the existing commercial farm greenhouse approximately 30 feet to allow for the construction of the new 7-space employee parking lot; the expansion of the existing farm stand visitor parking area from 4 to 12 spaces, for a total of 19 parking spaces on-site; the remodel of the existing bathroom/wash area into visitor and employee restrooms; the construction of the new on-site winery process and domestic wastewater treatment system; the construction of the transient, non-community water system; the removal of the existing barn delineated on the site plan; the construction of new water storage tank(s) for fire suppression (6,000 gallons); and, new landscaping and signage.

Planning staff prepared an Initial Study for the project and the Planning Commission adopted a Negative Declaration on July 16, 2014.

### **Statutory Background**

Under the California Environmental Quality Act (CEQA Guidelines Section 15164), an addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent negative declaration have occurred. An addendum need not be circulated for public review but can be included or attached to the adopted negative declaration. The Commission shall consider the addendum with the adopted negative declaration prior to making a decision on the project.

This Addendum demonstrates that the environmental analysis and impacts identified in the prior Negative Declaration remain substantially unchanged by the situation described herein, and supports the finding that the proposed project does not raise any new issues and does not exceed the level of impacts identified in the previously adopted Negative Declaration.

### **Applicable Reports in Circulation**

This addendum is prepared as an addition to the LMR Rutherford Estate Winery Negative Declaration adopted by the Planning Commission on July 16, 2014. A copy of said document is available for review at the offices of the Napa County Planning, Building and Environmental Services Department, 1195 Third Street, Suite 210, Napa CA.

### **Project Description**

The applicant is requesting approval to modify the previously approved use permit to allow:

- 1) construction of an additional 5,878 sq. ft. building for barrel storage connected by a 5,667 sq. ft. covered pad. The approved winery production facility was previously authorized at ±11,000 sq. ft. production building and two (2), 4,164 sq. ft. covered pads;
- 2) reallocation of spaces within the winery production facility resulting in a 10,782 sq. ft. production building and 22,671 sq. ft. of covered exterior production areas for a total 33,353 sq. ft.;
- 3) the addition of 824 sq. ft. of covered outdoor porch space to the approved office building;
- 4) an increase of the approved winery equipment building from 816 sq. ft. by 200 sq. ft. to 1,016 sq. ft.;
- 5) construction of a 150 sq. ft. Fire Pump and Fire Equipment shed adjacent to the Visitor/Employee restrooms;
- 6) additional two (2) water storage tanks and to relocate the four (4) approved water storage tanks, each 48,000 gallons and 25 feet in height, to the east side of winery building.

No changes are proposed in production, tours and tastings, marketing, visitation, or number of employees.

### **Minor Technical Changes or Additions to the LMR Rutherford Estate Winery Negative Declaration.**

Air Quality - On June 2, 2010, the Bay Area Air Quality Management District's Board of Directors unanimously adopted thresholds of significance to assist in the review of projects under the California Environmental Quality Act. These Thresholds are designed to establish the level at which the District believed air pollution emissions would cause significant environmental impacts under CEQA and were posted on the Air District's website and included in the Air District's updated CEQA Guidelines (updated May 2012).

On March 5, 2012 the Alameda County Superior Court issued a judgment finding that the Air District had failed to comply with CEQA when it adopted the Thresholds. The court did not determine whether the Thresholds were valid on the merits, but found that the adoption of the Thresholds was a project under CEQA. The court issued a writ of mandate ordering the District to set aside the Thresholds and cease dissemination of them until the Air District had complied with CEQA. The Air District has appealed the Alameda County Superior Court's decision. The Court of Appeal of the State of California, First Appellate District, reversed the trial court's decision. The Court of Appeal's decision was appealed to the California Supreme Court, which granted limited review, and the matter is currently pending there.

In view of the trial court's order which remains in place pending final resolution of the case, the Air District is no longer recommending that the Thresholds be used as a generally applicable measure of a project's significant air quality impacts. Lead agencies will need to determine appropriate air quality thresholds of significance based on substantial evidence in the record. Although lead agencies may rely on the Air District's updated CEQA Guidelines (updated May 2012) for assistance in calculating air pollution emissions, obtaining information regarding the health impacts of air pollutants, and identifying potential mitigation measures, the Air District has been ordered to set aside the Thresholds and is no longer recommending that these Thresholds be used as a general measure of project's significant air quality impacts. Lead agencies may continue to rely on the Air District's 1999 Thresholds of Significance and they may continue to make determinations regarding the significance of an individual project's air quality impacts based on the substantial evidence in the record for that project.

The proposed project includes the construction of an additional barrel storage building and additional covered outdoor production areas, with no increase in employees; tours and tastings, marketing, or the number of employees for this previously approved but not constructed winery. Over the long term, emission sources for the previously approved winery project will consist primarily of mobile sources including vehicles visiting the site. The proposed project would not generate any additional traffic, would not contribute any additional air pollution, and would not conflict with or obstruct the implementation of any applicable air quality plan because the changes are solely related to changes to product storage square footage. The proposed project would not result in a cumulatively considerable net increase in any criteria pollutant for which the project region is in non-attainment under any applicable federal or state ambient air quality standard.

Greenhouse Gas Emissions-The County requires project applicants to consider methods to reduce GHG emissions consistent with the Napa County General Plan Policy **CON-63(e)**. The new building proposed will also utilize the generation of on-site renewable energy with installation of an additional photovoltaic array; will use Cool Roof systems; will use water efficient fixtures; will incorporate roof rain water diversion; will use green walls on the building; and will use passive night air cooling. The project does not require the removal of any trees, vineyards or other vegetation.

Pursuant to State CEQA Guidelines Section 15183, because this Addendum assesses a project that is consistent with an adopted General Plan for which an Environmental Impact Report was prepared, it appropriately focuses on impacts which are "peculiar to the project," rather than the cumulative impacts previously assessed. There will be no increase in emissions resulting from this project as there will be no increase in traffic. For these reasons, project impacts related to GHG emissions are considered less than significant.

While it is an ongoing project, the County's Climate Action Plan has not been finalized or adopted and cannot be considered a formal threshold of significance for CEQA purposes. The proposed winery barrel building and winery will include installation of solar thermal panels on the building roof; use cool roofing materials; include exterior work space to reduce cooling loads; install water efficient fixtures; use energy conserving lighting; use roof rain water diversion for landscape and fire suppression tanks; preserve developable open space in conservation easements; include landscape plant materials and planted trellises on the building walls; and the building has a southern orientation and is designed for passive night air cooling.

### Summary and Findings

A Negative Declaration was adopted as part of the approval of the LMR-Rutherford winery project in July 2014. The property owner has commenced development of the winery including obtaining permits and expending substantial expenses on construction. Proposed changes in the winery building design require a modification to the Use Permit and a Variance. While the changes increase the winery square footage within the setback from Highway 29, all impact-generating characteristics (i.e. production, visitation, employees, or water use) remain the same as those analyzed in the July 2014 negative declaration. Review of the project has concluded that the project will not result in new impacts beyond those analyzed in the LMR Rutherford Estate Winery Negative Declaration and none of the conditions described in CEQA Section 15162(a) calling for the preparation of a subsequent negative declaration have occurred.

"An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred." (CEQA Guidelines §15164(b)) The following findings are provided in accordance with CEQA Section 15164(e) concerning the decision not to prepare a subsequent negative declaration pursuant to CEQA Section 15162.

### Section 15162(a) Analysis

None of the following conditions calling for preparation of a subsequent Negative Declaration have occurred:

(1) Substantial changes are proposed in the project which will require major revisions of the previous ... negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

**Response** – The revised LMR-Rutherford project does not create new significant impacts or increase the severity of previously identified impacts. The modified winery does not increase production, visitation, employees, traffic, water use, or other impact-generating operational characteristics. Photo simulations provided by the applicant provide substantial evidence that the modified winery building remains screened by existing trees from Highway 29, so the less-than-significant aesthetic impacts are not increased in severity. The original approved winery proposed the installation of four (4) fire protection water storage tanks on the west side of the building, and visible from State Highway 29. The modified winery proposal relocates all of the tanks to the east side, the rear side, of the building, completely eliminating any view of the tanks from State Highway 29., which reduces the already less-than-significant aesthetic impact of those tanks.

2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous...Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects

**Response**– The winery's Negative Declaration was certified on July 16, 2014. The circumstances under which the winery was analyzed have not changed in the past two years. County regulations regarding wineries have not changed, and the General Plan's projections for growth have not been revised.

3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous...Negative Declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous ... negative declaration.

**Response**– Other than the proposed changes to the winery, there is no new information that was not known and could not have been known in July 2014. See above regarding conclusion that the modified winery will not have effects not analyzed in the July 2014 Negative Declaration.

B) Significant effects previously examined will be substantially more severe than shown in the previous [negative declaration].

**Response**– The less than significant impact of aesthetics will be the same or reduced as a result of the modified winery.

C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.

**Response** – No previous impacts required mitigation under the adopted Negative Declaration. No mitigation or alternative was previously found to be infeasible. Also, project proponent has not declined to adopt mitigation and has accepted all conditions of approval.

D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative

**Response** – There are no significant effects or impacts identified in the July, 2014 Negative Declaration, therefore, no different mitigation measures will be needed to reduce impacts. Also, project proponent has not declined to adopt mitigation if required and has accepted all conditions of approval.

This Addendum to the LMR Rutherford Estate Winery Negative Declaration finds that actions under the proposed project, as identified herein, will not result in any new significant environmental effects or result in the substantial increase of any previously identified impacts in the previous Negative Declaration.

The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice. They are based on a review of the Napa County Environmental Resource Maps, the other sources of information listed in the file, and the comments received, conversations with knowledgeable individuals, the preparer’s personal knowledge of the area; and, where necessary a visit to the site.

By: Wyntress Balcher, Project Planner

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*Signature*

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*Date*