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Conservation Regulations Exception Application Packet

Maxville Lake Winery P17-00225-MOD & Conservation Regulations
Exception P18-00189
Planning Commission Hearing August 1, 2018

**NAPA COUNTY
CONSERVATION, DEVELOPMENT & PLANNING COMMISSION**
1195 Third Street, Suite 210, Napa, California, 94559 • (707) 253-4417

**APPLICATION FOR USE PERMIT
EXCEPTION TO CONSERVATION REGULATIONS**

RECEIVED
OCT 30 2017

FOR OFFICE USE ONLY

Napa County Planning, Building
& Environmental Services

ZONING DISTRICT: _____ Date Submitted: _____
 TYPE OF APPLICATION: _____ Date Published: _____
 REQUEST: _____ Date Complete: _____

TO BE COMPLETED BY APPLICANT
(Please type or print legibly)

PROJECT NAME: Maxville Lake Winery Service Road
 Assessor's Parcel #: 025-020-023 Existing Parcel Size: 247.45 +/- acres
 Site Address/Location: 4105 Chiles-Pope Valley Road St. Helena, CA. 94574
No. Street City State Zip
 Property Owner's Name: Koko Nor Corporation c/o AWu Vice President/Treasurer
 Mailing Address: 4105 Chiles-Pope Valley Road St. Helena, CA. 94574
No. Street City State Zip
 Telephone #: (707) 965-9378 X-111 Fax #: () - _____ E-Mail: aoandasan@maxvillelakewines.com
 Applicant's Name: Anthony Hsu
 Mailing Address: 4108 Chiles-Pope Valley Road St. Helena, CA. 94574
No. Street City State Zip
 Telephone #: (707) 965-9378 Fax #: () - _____ E-Mail: ahsu@maxvillelakewines.com
 Status of Applicant's Interest in Property: General Manager/Owner's Representative

Representative Name: Land Use Planning Services
 Mailing Address: 2423 Renfrew Street Napa, CA. 94558
No. Street City State Zip
 Telephone #: (707) 255-7375 Fax #: () - _____ E-Mail: jreddingaicp@comcast.net

I certify that all the information contained in this application, including but not limited to the information sheet, water supply/waste disposal information sheet, site plan, plot plan, floor plan, building elevations, water supply/waste disposal system plot plan and toxic materials list, is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

Anthony Hsu 10-25-17
Signature of Applicant Date
Anthony Hsu
Print Name
Luping Wu 10-25-17
Signature of Property Owner Date
Luping Wu
Print Name

TO BE COMPLETED BY CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT

* Application Fee Deposit: \$ _____ Receipt No.: _____ Received by: _____ Date: _____

*Total fees to be based on time and material

SUPPLEMENTAL APPLICATION FORM
USE PERMIT EXCEPTION TO CONSERVATION REGULATION

1. Please explain the reason for the exception request.

A application to amend the Maxville Lake Winery (formerly Catacula Lake Winery) was submitted in June 2017. Part of the winery modification included a new, future driveway and entrance north of the existing entry way that will continue in use for the present time. A small (120' +/- lineal foot) segment of the road lies within the setback of Maxwell Creek and the setback of the associated wetland as shown on the enclosed exhibit, labeled UPEX, dated 9-14-17 as prepared by Summit Engineering.

The existing road is already wide enough to comply with the width requirements for a new commercial road such that minimal grading is required. Improvements to comply with county standards including a small (<2'high) curb will be constructed within the stream setback.

A biological assessment (hereinafter BRA) addressing potential impacts on the permit modification was prepared by WRA Inc., dated May 2017 and submitted with the application for permit modfcaiton. The BRA addressed potential impacts associated with the proposed modification including the future driveway. No potential adverse impacts were identified by the BAR.

2. Are there any alternatives to the project which would not require an exception? Please explain.

Yes, the alternative is to eliminate the proposed new entrance to the winery. The applicant prefers to construct the new visitors entrance in the future as funds become available. The new visitors access road and entrance will provide a superior sense of arrival and drive-up appearance for the visitor. Based on the findings of the BRA and the fact only minimal grading is required within the creek setback to bring the existing road up to county standards for commercial driveways, the construction of the new access driveway and entrance will have no impact on the Maxwell Creek, either directly or indirectly, individually or cumulatively.

3. Describe how the project can meet the findings described in Section 18.104.040 A (structural or road project), or Section 18.108.040B (agricultural project).

Section 18.108.040.A. Structural/road development projects

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

The proposed driveway follows the alignment of an existing, unimproved gravel driveway. This driveway will be improved to county standards. The existing road follows existing topography such that minimal grading is required to conform to county standards as the slope and width of the driveway already conform. The existing road already crosses Maxwell Creek on an existing culvert; the applicant has received all state and federal approvals to replace the existing culvert. Any required widening will take place away from the Maxwell Creek

A potential of four (4) trees may be impacted by the proposed improvements. These trees, identified on page UP 6 of the updated plan set will either be relocated or replaced on a 2:1 basis as required by county regulations. The BAR prepared by WRA concluded that due to the large number of trees that will remain and to be replanted, improving the new access road within the required stream and recommended wetland setback will have no potential adverse impact on biological resources.

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

N/A—see response in paragraph (a) above

- c. The development project minimizes removal of existing vegetation , incorporates existing vegetation into final design plans, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects.

N/A-- see response in paragraph (a) above

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

The proposed access road will be designed and improved to county standards for a two-way commercial road. In addition, conforming fire water storage, fire pumps and on-site turnaround areas are or will be provided.

5. Disturbance to streams and watercourses shall be minimized, and setbacks shall be retained as specified in Section 18.108.025.

A BRA was prepared by WRA Inc., in May 2017 and submitted with the June 2017 application for permit modification. The BRA addressed the potential impacts associated with the entire proposed modification including the improvements to the existing gravel access road and entrance. The BRA concluded that with the mitigation measures recommended within the assessment, the impacts to Maxwell Creek and associated wetlands will be reduced to less than significant levels. Please see pages 29-33 of the May 2017 BRA. These mitigation measures include the requirement to file an erosion control plan with the subsequent building and/or grading permits to reduce potential impacts on Maxwell Creek and adjacent wetlands to less than significant levels.

6. 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.

A BRA addressing potential impacts on the permit modification was prepared by WRA Inc., in May 2017 and submitted with the June 2017 application for permit modification. Excerpting from page 33 of the BRA:

In total four sensitive biological plant communities were identified within the project area and are given special protection under CEQA and other applicable federal, state, and local laws, regulations and ordinances. The majority of the project area is developed or disturbed habitat; neither of which are considered a sensitive habitat.

No special-status plants occur in the project area. Two special-status plants were observed in the rare plant survey, and one special-status plant has the potential to occur in habitat surveyed at the property. The project area does not contain habitat for these three special-status plants. Therefore neither improvements to the existing gravel access road nor the project described in the June 2017 permit application will have a impact on special-status plants.

A total of 14 special-status wildlife species, five of which were observed present, and nine of which have a moderate, or high potential to occur in the project area. No federal or state listed species were observed within the project area during the conduct of these surveys. However, because the project footprint occurs primarily on disturbed habitat and the project has been designed to avoid sensitive habitat communities including wetlands and streams, project associated impacts are anticipated to be insignificant. For the few anticipated impacts to sensitive biological communities and special-status species, project avoidance, minimization and inclusion of suggested mitigation measures contained in the BRA will result in any potential project impacts less than significant.

Section 18.108.040.B. Agricultural projects, or Agricultural roads as defined by Napa County Department of Public Works:

7. The erosion rate that results two years from the completion of the proposed agricultural development does not exceed the soil tolerance factor approved by the Natural Resource Conservation Service for the soil type, topography and climatic conditions in which the project is located; (Please attach a copy of the USLE worksheet used to determine the erosion rate).

N/A

8. Impacts on streams and watercourses are minimized, and adequate setbacks along these drainageways are or will be maintained.

N/A

9. The project does not adversely impact sensitive, rare, 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.

N/A

INDEMNIFICATION AGREEMENT

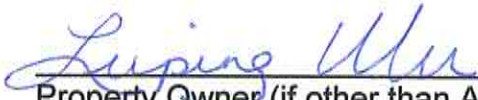
Pursuant to Chapter 1.30 of the Napa County Code, as part of the application for a discretionary land use project approval for the project identified below, Applicant agrees to defend, indemnify, release and hold harmless Napa County, its agents, officers, attorneys, employees, departments, boards and commissions (hereafter collectively "County") from any claim, action or proceeding (hereafter collectively "proceeding") brought against County, the purpose of which is to attack, set aside, void or annul the discretionary project approval of the County, or an action relating to this project required by any such proceeding to be taken to comply with the California Environmental Quality Act by County, or both. This indemnification shall include, but not be limited to damages awarded against the County, if any, and cost of suit, attorneys' fees, and other liabilities and expenses incurred in connection with such proceeding that relate to this discretionary approval or an action related to this project taken to comply with CEQA whether incurred by the Applicant, the County, and/or the parties initiating or bringing such proceeding. Applicant further agrees to indemnify the County for all of County's costs, attorneys' fees, and damages, which the County incurs in enforcing this indemnification agreement.

Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the Applicant desires to pursue securing approvals which are conditioned on the approval of such documents.

In the event any such proceeding is brought, County shall promptly notify the Applicant of the proceeding, and County shall cooperate fully in the defense. If County fails to promptly notify the Applicant of the proceeding, or if County fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County. The County shall retain the right to participate in the defense of the proceeding if it bears its own attorneys' fees and costs, and defends the action in good faith. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.



Applicant



Property Owner (if other than Applicant)

10-25-17

Date

Project Identification

