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## Variance Application Packet

Ballentine Vineyards Use Permit Major Modification P18-00382 &  
Variance P19-00006  
Planning Commission Hearing September 2, 2020



**STATEMENT IN SUPPORT OF A VARIANCE**  
**Ballentine Vineyards**  
**2820 St. Helena Highway No., St. Helena, California**  
**APN 022-220-003**

**Background**

Chapter 18.104.230(A1) requires that all new freestanding structures built after adoption of the Winery Definition Ordinance (hereinafter WDO) and used for winery purposes be setback 600 feet from the centerline of St. Helena Highway (State Route 29).

The applicant is the owner of a 21-acre parcel located on the east side of St. Helena Highway, adjacent to Markham Winery. The applicant received approval to establish the winery within two (2) new buildings in 1993. A new barrel storage building was approved in 1997. Variances to the required 600-foot winery setback were approved in 1993 and 1997 (permit # 93081-VAR and 97023-VAR, respectively). Two (2) other non-winery/existing buildings were converted to winery use in 2003. The variances have established the current site plan and wine production configuration.

The project site also contains a residence, garage and agricultural equipment storage buildings. All existing buildings on the subject property are within the 600-foot setback required for new winery buildings constructed after 1990. In addition to the existing buildings, the project site contains 15 acres of vineyard.

**Proposal**

The applicant proposes to construct a new, freestanding covered work area, and pomace storage bin on the existing developed pad directly east of the existing winery complex. Chapter 18.104.230 (A1) requires that all new freestanding structures are located a minimum of 600 feet from the centerline of Highway 29. The covered work area (hereinafter canopy) would be located approximately 375' from the centerline of Highway 29, within the required setback area. The covered pomace bin is located approximately 430' from the centerline of St. Helena Highway. Since the last time county approvals were sought, the county now mandates a cover over all new production/work areas as part of any production increase.

The applicant is seeking a variance to the 600-foot setback to allow the required covered canopy and work area to be located adjacent to the fermentation and barrel storage building on the existing paved area. Locating the new covered canopy as proposed allows for the retention of existing vineyard, and proximate to existing utilities, and other existing winery improvements. Factors in support of the request are outlined below.

## Factors in Support of the Variance

In its 2016 memorandum outlining the purpose and required findings to grant a variance, County Counsel provided a three -prong test needed to satisfy the required findings to grant a variance:<sup>1</sup>

1. The applicant will suffer practical difficulties and unnecessary hardships if the requested variance is denied;
2. These hardships result from special circumstances relating to the property that are not shared by other properties in the area, and were not created by any act of the owner; and
3. The variance is necessary to bring the applicant into parity with other property owners in the same zone and vicinity.<sup>2</sup>

### 1. 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. The hardship must relate to a unique condition of the property and not created by an act of the owner. An unnecessary hardship occurs when the natural condition or topography . . . places him [sic] at a disadvantage vis-à-vis other landowners in the zoning district. By way of example courts have found that irregularly shaped lots, lots with steep or eroding slopes, and narrow lots which limit the amount of overall developable area are all valid examples of hardship.”<sup>3</sup>

The fact that the entire winery complex is located within either the flood plain or floodway of the Napa River is an unnecessary hardship that places the applicant at a disadvantage when compared to other nearby wineries. The fact that approximately 25% of the parcel is located in the floodway sets this parcel apart from other winery owners in the identical zoning district. Portions of the parcel not currently improved with structures include 15+ acres of vineyard and a wastewater storage pond, a combination of conditions not shared by nearby winery owners.

Reviewing the attached map prepared for county GIS sources, Ballentine Vineyards is one of five wineries located in the “neighborhood.” Neither Revanna, Morlet nor St. Clement are located within the floodway. Markham winery has portions of its property partially within the floodway but has adequate area available on its site outside of the floodway, requiring no vineyard removal where a new addition may be constructed to avoid impacting the floodway.

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<sup>1</sup> Memorandum to David Morrison, PBES Director from Laura J. Anderson and Chris R.Y. Apallas, Summers Winery Request for Variance January 2016

<sup>2</sup> Memorandum from County Counsel Op. Cit., page 3

<sup>3</sup> Ibid., page 2

Locating the new structures in compliance with the 600-foot winery setback would place the new structures in a location that would require the extension of the driveway, filling up to 6' to create a new building pad that is above the Base Flood Elevation. In addition to the costs of materials to create the new pad and driveway extension, locating the new building pad and driveway extension would result in the removal of approximately 1+ acres of existing vineyard. These constraints and costs associated with regulatory compliance pose a severe hardship to the applicant, hardships not faced by nearby winery owners placing the applicant at a severe disadvantage as compared to nearby wineries.

In the case of the proposed project, by utilizing the existing footprint for the required canopy the applicant retains the maximum amount of vineyard acreage and minimizes the cost of development by reducing the amount of grading and earthmoving, infrastructure and road extension as compared to locating the proposed canopy within the 600-foot setback. To wit:

- Income Loss from Permanent Vineyard Removal. Locating the proposed canopy 600-feet from the centerline of St. Helena Highway will result in a **permanent** loss of an additional 1.0 acres of vineyard vs. 0.05 acres if the winery additions were constructed where proposed.

According to the applicant the varieties planted in this portion of the property (Chenin Blanc and Malvasia) yields 7 tons per acre. The area where the conforming driveway extension and pad would be located was planted 3 years ago. According to the client the two varieties are valued at \$3,000 per ton. <sup>4</sup> At a value of \$3000 per ton, an annual loss of approximately \$21,000 would be projected for the **permanent** loss of vineyard acreage taken out of production if the structure is built in compliance with the 600' setback. Conservatively, the life span of a vineyard is 25 years.<sup>5</sup> With an estimated remaining productive life of 22 years, **an annual loss of \$21,000 would result in a cumulative loss of approximately \$483,000!** A severe hardship resulting from denial of the requested variance! when compared to other nearby wineries.

- Increased Construction Costs Associated with Setback Compliance. Constructing the structures in compliance with the 600' setback would result in increased costs of construction when compared to locating the structures where proposed. Costs associated with the required structures include specials studies, permitting and approvals by both federal and local agencies; filling up to 6' to place the pad and buildings above the base flood elevation;

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<sup>4</sup> See email from Frank Ballentine to Jeffrey Redding AICP, dated December 7, 2018 incorporated herein by reference.

<sup>5</sup> Letter to Emily Henderson, Planner III regarding Chanticleer Winery Variance Statement, dated August 25, 2016

costs associated with construction of a new elevated pad and driveway access. The attached table was prepared by MHA, project architect and compares the costs of constructing the proposed canopy in the proposed location in compliance with the 600' winery setback.

As shown on the attached table, the costs of constructing the proposed canopy in a compliant location would result in a cost difference of over \$350,000 when compared to the proposed location without a corresponding benefit to either the public or applicant, The costs of compliance with the 600-foot setback would add an additional 60% to the costs of the project in order to comply with current county regulations without a corresponding and equivalent public benefit being realized.

In summary, locating the structure where proposed retains the maximum amount of vineyard acreage and preserves long-term revenue streams; facilities efficient wine production by locating all phases of the operation proximate to the existing winery; reduces the visual impact to the traveling public and our neighbors; results in a costs saving of over \$350,000 in increased development and infrastructure costs; retains the maximum of floodwater storage; and allows the applicant to enjoy privileges of other properties in the vicinity and under identical zoning classifications.

When the incremental costs of compliant development are added to the permanent revenue lost with permanent vineyard removal, and the costs of obtaining suitable grapes to replace the loss of on-site vineyard replacing is considered in total, the hardship to the applicant through denial of the requested variance is readily apparent.

## **2. This Property Has Unique Circumstances That Are Not Shared By Other Properties in the Vicinity**

As noted above, Placing the covered work area and pomace in conformance with the 600-foot setback would result in the primary element of wine making (i.e. crush operations) being located well away from the winery complex, resulting in processing inefficiencies. The subject property does have a combination of unique circumstances that are not shared by other wineries in the area. Reviewing the attached map from county GIS sources, Ballentine Vineyards is one of five wineries located in the "neighborhood." Neither Revanna, Morlet nor St. Clement are located within the floodway. Markham winery has portions of its property partially within the floodway but has adequate area available on its site outside of the floodway, requiring no vineyard removal where a new addition may be constructed to avoid impacting the floodway.

## **3. Approval of a Variance Will Allow the Applicant to Achieve Parity**

As demonstrated in section above, denial of the requested variance would result in a severe hardship for the applicant due to permanent loss of revenue, and increased

infrastructure costs. No other winery in the vicinity has this unique combination of site and regulatory constraints. Approval of the requested variance would allow the applicant to achieve parity with another property in the same zone and vicinity.

In summary, the Ballentine Vineyards Winery parcel has unique circumstances peculiar to the property that is not shared by other properties in the vicinity of the parcel. Requiring the proposed structures to be located 600' from the centerline of St. Helena Highway would pose a severe hardship to the applicant and would place the applicant at a disadvantage vis a vis other winery owners in the vicinity. Locating the structure where proposed would bring the applicant into parity with the nearby wineries by retaining an efficient wine production, avoiding removal of existing vineyards, ensuring the protection of downstream properties and avoiding and increased construction costs.

While not strictly a variance findings the proposed location is consistent with the reason the winery setback rule was adopted in 1990. 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. The proposed buildings are not visible from St. Helena Highway and are tucked in behind the larger fermentation building. Contrarily if the proposed structures were to be located 600 feet from St. Helena Highway, they would be visible from St. Helena Highway, deer Park Road and possibly Silverado Trail. This location would be contrary to the reason the winery setbacks were originally established.

We believe that the required findings to grant the requested variance can be made based on the unique combination of circumstances present on the subject property; the fact that compliance with the 600' setback would place the applicant at a disadvantage when compared to other winery properties in the vicinity; and impacts both regulatory and financial hardships on the applicant not faced by its neighbors.



## MH ARCHITECTS

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**Ballentine Winery**  
 2820 St. Helena Highway, St. Helena CA 94574  
 Dec 26, 2018

### Cost Estimation Existing and New Construction of Tasting Room

BALLENTINE PRODUCTION AND TASTING ROOM LOW EVALUATION, EXISTING	
\$	500 per sf, metal building
\$	700 per sf, tasting room
\$	3,500,000 cost of existing production building
\$	574,000 cost of existing tasting room
<b>\$</b>	<b>4,074,000 TOTAL, LOW EVALUATION OF EXISTING</b>

BALLENTINE PRODUCTION AND TASTING ROOM HIGH EVALUATION, EXISTING	
\$	750 per sf, metal building
\$	900 per sf, tasting room
\$	5,250,000 cost of existing production building
\$	738,000 cost of existing tasting room
<b>\$</b>	<b>5,988,000 TOTAL, HIGH EVALUATION OF EXISTING</b>

BALLENTINE PRODUCTION AND TASTING ROOM AVERAGE EVALUATION FOR NEW CONSTRUCTION	
\$	625 per sf, metal building
\$	800 per sf, tasting room
-	cost of existing production room
\$	548,000 cost of existing tasting room
<b>\$</b>	<b>548,000 TOTAL, NEW ADDITION TO TASTING ROOM</b>

NO CHANGE TO PRODUCTION BUILDING  
 11% PERCENTAGE OF NEW CONSTRUCTION COST TO EXISTING

### Cost Estimation Crush Pad Canopy Variance

CRUSH PAD CANOPY, PROPOSED LOCATION	
<b>TOTAL COST ESTIMATE</b>	<b>\$ 202,070</b>
*less contractor fees and insurance	

CRUSH PAD CANOPY, COMPLIANT LOCATION					
ITEMIZED COST ESTIMATES					
Category	Cost per s.f.	Area / Qty.	Unit	Cost	
<b>1. General Conditions and Supervision</b>					
1a			I.s.		10000
1b			I.s.		2000
1c			I.s.		5000
<b>2. Site Work</b>					
2a	\$ 25 (c.y.)	3,667	c.y.	\$	91,667
2b	\$ 20	10,000	s.f.	\$	200,000
2c			I.s.	\$	10,000
<b>3. Metal Building</b>					
3a	\$ 30	3,500	s.f.	\$	105,000
3b	\$ 20	3,500	s.f.	\$	70,000
3c	\$ 1,500 (ea.)	10	qty.	\$	15,000
3d	\$ 85	80	I.f.	\$	6,800
3e			I.s.	\$	10,000
<b>4. Utilities</b>					
4a	\$ 55	250	I.f.	\$	13,750
4b	\$ 55	350	I.f.	\$	19,250
4c			I.s.	\$	5,000
<b>TOTAL COST ESTIMATE</b>					<b>\$ 563,467</b>

CRUSH PAD CANOPY, COST DELTA BETWEEN PROPOSED AND COMPLIANT	
Proposed Location	\$ 202,070
Compliant Location	\$ 563,467
<b>COST DIFFERENCE (DELTA)</b>	<b>\$ 361,397</b>



REVISION	DATE
1	11.02.18

PLANNING DEPARTMENT: INITIAL  
 COMPLETION LETTER  
 FIRE DEPARTMENT: MERCK-PANELER

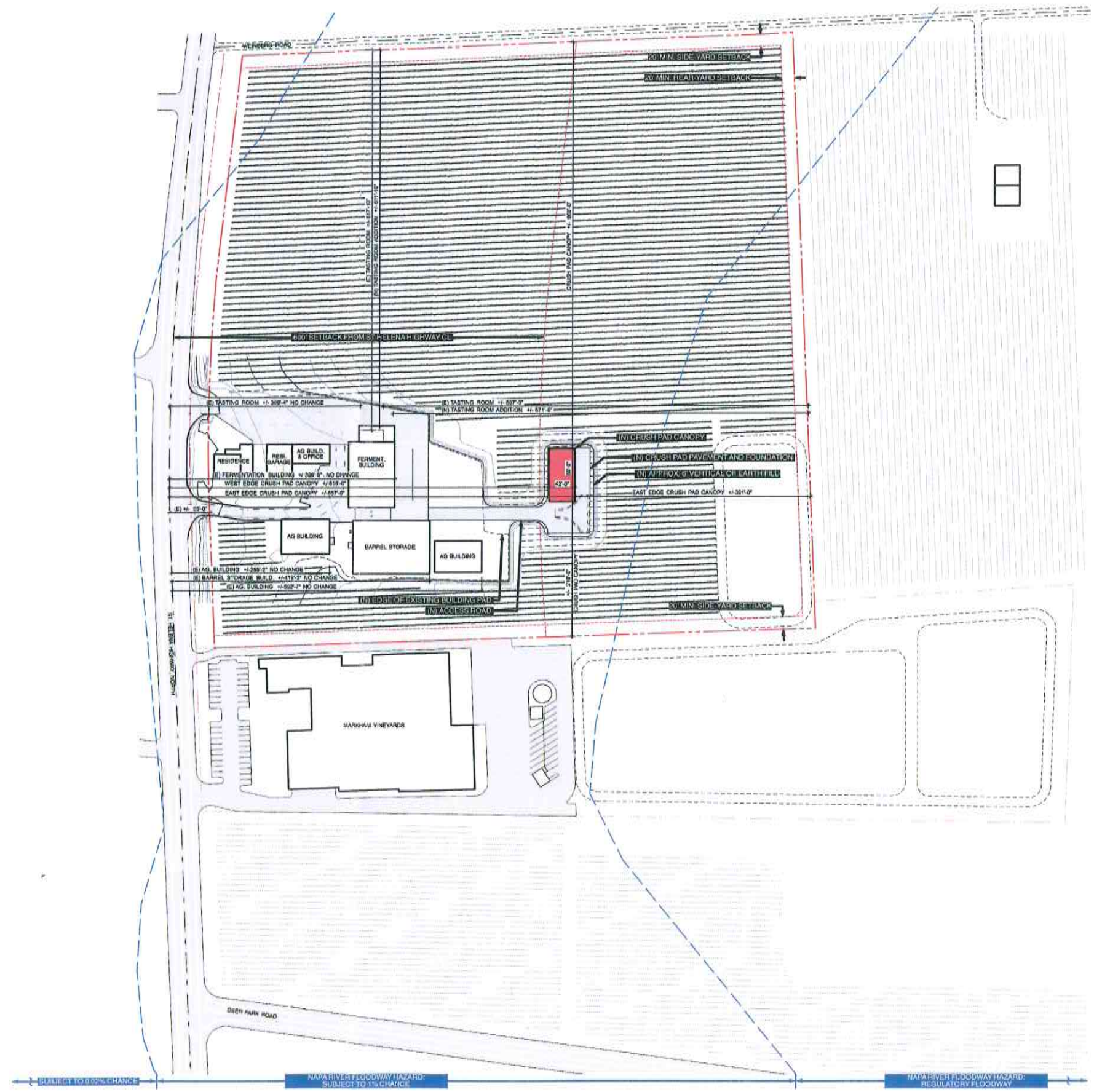
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 Date: 11.02.2018  
 Drawn by: CS  
 Project No: 1801  
 Scale: SEE DRAWING

**VARIANCE FOR COVERED CRUSH PAD**

SHEET NO: **A0.02**



FEMA FLOOD MAP 28



NAPA RIVER FLOODWAY HAZARD: SUBJECT TO 1% CHANCE  
 NAPA RIVER FLOODWAY HAZARD: REGULATORY FLOODWAY

SITE PLAN Scale: 1:1000 01



