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Variance Application Packet



A Tradition of Stewardship
A Commitment to Service

FILE # _____

NAPA COUNTY
PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES
1195 Third Street, Suite 210, Napa, California, 94559 • (707) 253-4417

APPLICATION FORM

FOR OFFICE USE ONLY

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

TO BE COMPLETED BY APPLICANT

PROJECT NAME: Variance Request for Chateauneuf du Pott Winery Use Permit

Assessor's Parcel #: 034-100-046 Existing Parcel Size: +/-58.32 acres

Site Address/Location: 2072 Mt. Veeder Road Napa CA 94558
No. Street City State Zip

Property Owner's Name: Claire & Aaron Pott

Mailing Address: 1849 Pine Street St. Helena CA 94574
No. Street City State Zip

Telephone #: (____) _____ - _____ Fax #: (____) _____ - _____ E-Mail: aaron@pottwine.com

Applicant's Name: Owner is Applicant

Mailing Address: _____ No. Street City State Zip

Telephone #: (____) _____ - _____ Fax #: (____) _____ - _____ E-Mail: _____

Status of Applicant's Interest in Property: _____

Representative Name: George H Monteverdi, Monteverdi Consulting, LLC

Mailing Address: PO Box 6079 Napa CA 94581
No. Street City State Zip

Telephone # (707) 761-2516 Fax #: (707) 255-5368 E-Mail: george@monteverdiconsulting.c

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, floor plan, building elevations, water supply/waste disposal system site 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.

Signature of Property Owner

OCT 13, 2019
Date

Signature of Applicant

Oct 13, 2019
Date

Aaron Pott
Print Name

Aaron Pott
Print Name

TO BE COMPLETED BY PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES
Total Fees: \$ _____ Receipt No. _____

Received by: _____ Date: _____

Please see attached narrative

REASONS FOR GRANTING A VARIANCE

1. Please describe what exceptional or extraordinary circumstances or conditions apply to your property (including the size, shape, topography, location or 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.

See attached narrative

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

See attached narrative

3. Please state why the granting of your 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.

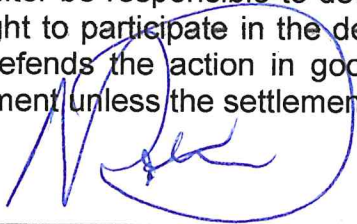
See attached narrative

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.

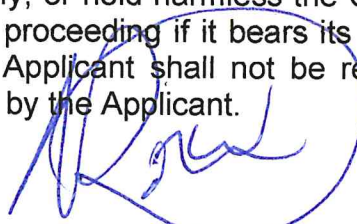
Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, 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

10-17-2019
Date



Property Owner (if other than Applicant)

(034-100-046)
Project Identification

CHATEAUNEUF DU POTT
WINERY USE PERMIT APPLICATION
BASIS FOR GRANTING OF VARIANCE

1. **Special circumstances exist applicable to the property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.**

Analysis:

(a) Special Circumstances

The Applicant's property has special circumstances unique to it that are not shared by other properties in the vicinity, and that make requiring a setback inconsistent with the aesthetics the 300-foot setback is intended to protect. Napa County Code Section 18.104.230 requires a 300-foot setback from Mt. Veeder Road. This Section's intent and purpose are to protect views of the traveling public along Mt. Veeder Road.

The existing historic development area on the subject parcel (APN 034-100-046) lies entirely within the roadway setback and was formerly developed with a single-family dwelling, wooden barn, carport and a steel pole barn. All structures, except for the steel pole barn, and landscaping were destroyed by fire in October 2017. Except for the existing development area, the parcel is characterized by steep slopes, unstable slopes and mature forest. The parcel is bisected by Pickle Creek. It is not physically possible, therefore, to develop the winery facilities outside of the 300-foot setback from the centerline of Mt. Veeder Road without very significant earthmoving and tree removal on the steep wooded hillsides. Other Napa County wineries, including ZD Winery and Sawyer Winery, have been granted Variances from the regulation allowing for development within the setback that is no closer to the centerline than the existing development (Per Napa County Code Section 18.104.230.B). The proposed winery will not be visible from vehicles driving along Mt. Veeder Road due to the natural topography and existing mature vegetation. This design provides screening and viewshed protections consistent with the intent and spirit of the setback regulations described in the Napa County Winery Definition Ordinance (WDO) and Code Section 18.104.230. The proposed development location is entirely within the sole existing development footprint as well as the historic development area that pre-dates the WDO.

(b) Hardship

The only alternative to utilization of the existing historic development area would be to establish a new development area and infrastructure across Pickle Creek on the eastern side of the Property. Such a development would require extensive grading on steep slopes (>50%) and the permanent removal of +/-3-5 acres of mature trees (see attached topographic map of the Parcel). Location outside of the 300-foot setback would also make the facility directly visible from Mt. Veeder Road. Requiring the Applicant to convert existing natural woodland habitat to buildings and impervious surfaces, instead of a modest development on an existing historic development area screened from view, would be a severe hardship to Applicant without concomitant public benefit.

The additional construction costs entailed in building an equivalent winery located on the outside of the 300-foot roadway setback would likely total more than \$3,000,000.00. This total includes: (1) the additional costs of grading to develop a County-compliant access roadway and bridge to a new development site on the east side of Pickle Creek, (2) the additional costs of grading and fill to develop a level building site on the east side of Pickle Creek; (3) the additional cost of widening, grading and paving the existing driveway on the west side of Pickle Creek to the alternate location; and (4) the additional cost of establishing water, electric, sewer, and septic pipes and other infrastructure to this location.

As proposed, the winery development modifications would require only minimal removal of existing mature vegetation. Equivalent development outside of the 300-foot setback (i.e., on the east side of Pickle Creek) would result in the permanent conversion of 3-5-acres of mature woodlands, which is contrary to Napa County's desire to limit loss of existing woodland habitat. The loss of the natural landscape along Pickle Creek would also be severe hardship to the Applicant. When all of these financial and environmental costs are considered together, there is no question that an extraordinarily severe hardship will result from a denial of the requested variance.

(c) Parity

As referenced above, several properties in the County under similar or identical zoning classification enjoy permitted wineries (and subsequent expansions) within the setback. These wineries include ZD, LMR Rutherford, Cakebread, Madrigal, and Gandona. Thus, in addition to avoiding severe hardship to the Applicant, approval of the requested variance will allow the Applicant to achieve parity with other properties.

2. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.

Analysis:

The Napa County General Plan and WDO permit wineries and accessory uses in the Agricultural Watershed Zoning District. Two goals of the WDO are to preserve agricultural lands and to reduce visual impacts for the travelling public. Here, the Applicant has an existing historic development area and proposes to develop a winery within the 300-foot setback from Mt. Veeder Road. Approval of this request would afford reasonable and responsible development and assure retention of the existing ecology by avoiding unnecessary earthmoving and tree removal and confining new development to the historic and existing development area. Development was proposed facilitates efficient site access, maximizes operational efficiency and provides the superior land use solution.

The distance from the roadway centerline to the closest point of the winery structure is +/- 66 feet. Development in an alternative location, while meeting the 300-foot setback requirement, would require removal of an additional +/-3-5 acres of mature woodlands, development of a new building site through grading on steep slopes, would require development of entirely new infrastructure on the east side of Pickle Creek and would make the facility directly visible from the public roadway (see attached topographic map of the Parcel). As such, the proposed location

represents development that is more consistent with the intent of the setback and viewshed regulations, and County woodlands preservation.

From a cost standpoint, it is anticipated that the proposed winery constructed in the existing development envelope can be built at a cost of approximate total cost of +/- \$2M. Development in an area east of Pickle Creek would require substantial and additional earthmoving, redevelopment of a bridge across Pickle Creek, construction of multiple large retaining walls and tree removal to afford compliant access and establish a stable building pad. Development, as proposed in the existing development envelope, eliminates the need for expansive grading of steep hillsides and the removal of +/- 3 acres mature trees. It is anticipated that construction the outside the setback would result in development costs (primarily due to site preparation costs) of >\$3M). The proposed development is located entirely within the existing development area and, as such, approval of the current Variance request would be consistent with the findings made for previous approvals at similarly situated Napa County wineries.

Moreover, the proposed project is consistent with the longstanding goals for the WDO and Napa County Oak Woodlands Management Plan which seek to afford intelligent development of Napa County wineries while minimizing the impact those wineries have on the natural environment. The project, as proposed, will minimize impacts on native woodlands and reduce visual impacts inherent in developing new hillside structures. The proposed development has been carefully designed to be low profile as well as energy and water efficient, and to take advantage of the existing topography and dense vegetation that limits the visibility from Mt. Veeder Road.

As a result of the topographical, ecological, regulatory, and other constraints discussed above, any alternate location outside the setback would require: (1) the winery building to be more visible from the Mt. Veeder Road; (2) the removal of existing mature trees and the conversion of native woodlands; (3) extensive and unnecessary grading on steep hillsides (>50%); (4) the importation of offsite fill in order to level an alternate site; (5) development of an extensive system of retaining walls; (6) increased impervious surfaces at the property due to additional roadway development; and (7) the establishment unnecessary infrastructure and other improvements without tangible benefit to the travelling public. Thus, locating new structures in full compliance with the required setback would severely impact Applicant's enjoyment of substantial property rights by requiring Applicant to severely disrupt and denude a natural woodland hillside ecosystem without a corresponding public benefit.

Lastly, the property is located within the Agricultural Preserve zoning district in which wineries are permitted upon approval of a use permit, and in which numerous wineries have been permitted, including several nearby wineries. It is well-settled that the operation of legally constructed and operated agricultural production facilities within the County's agricultural zoning districts is a substantial property right. The requested Variance will allow a reasonable development of the winery facilities that will meet Applicant's business needs, and represents a more efficient and environmentally superior operation. Thus, a Variance is necessary to allow the Applicant to utilize its existing rights more sustainably and efficiently, and to construct and operate the very type of agricultural facility for which the parcel is zoned.

3. Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis:

As proposed, winery activities and structures will be completely screened from the nearest residential structures by the existing topography and mature vegetation. Development outside of the road setback would necessarily place the structure across Pickle Creek and would substantially reduce screening from Mt. Veeder Road of the structure and its associated activities.

The proposed winery development will occur within an area that has been developed for over 50 years, initially with residential and agricultural structures. These uses existed continuously until the wildfires of October 2017. The proposed winery structures will be screened from view from Mt. Veeder Road and adjacent residences by the natural topography and existing mixed woodland vegetation. The proposed development will include driveway access in full compliance with the Napa County Road and Street Standards, affording improved emergency access to all structures on the property.

Due to the design elements described above, the proposed development is a superior design solution that will have no material effect on the health and safety of any person.

There is nothing included in this Variance request that would adversely impact the public health, safety, or welfare of the County of Napa. Construction of the proposed winery would be subject to County Codes and regulations including, but not limited to, California building codes, fire department requirements, and water and wastewater requirements. The granting of the Variance will not adversely affect the health or safety of persons residing or working in the neighborhood of the property. In fact, development of the winery in the existing development envelope would dramatically minimize environmental impact on the property relative to development outside the roadway setback.

General Plan Conservation Goal CON-6 guides the County to "(p)reserve, sustain, and restore forests, woodlands, and commercial timberland for their economic, environmental, recreation, and open space values." Furthermore, General Plan Conservation Policy CON-24 established a desire for the County to, "Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including... a) Preserve, to the extent feasible, oak trees and other significant vegetation that occur near the heads of drainages or depressions to maintain diversity of vegetation type and wildlife habitat as part of agricultural projects."

Approval of a Variance would preserve and maintain existing oak woodland habitat and place the proposed winery in a more suitable location that will maximize visual screening while minimizing earthmoving, tree removal and other ecological impacts. Moreover, existing native vegetation and terrain will visually screen the proposed building located within the 300-foot setback from Mt. Veeder Road, thereby meeting the intent of the setback. Thus, visual and ecological impacts of the proposed winery have been addressed through careful siting and design. Strict compliance with the setback would increase, not decrease, visibility, sound, environmental and land use impacts.

Approving a variance in this instance will have no negative impacts on the public welfare, or property or improvements in the area, but instead will have a positive effect. California law requires local governments to allow for variances from local regulations such as setbacks in special situations (Government Code §65906). Based on the facts presented above, the Applicant believes that the County of Napa can make all findings necessary to approve this Variance request.