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Variance Application Packet



FILE # P21-00229

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

A Tradition of Stewardship
A Commitment to Service

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: Amizetta Family Estate Winery

Assessor's Parcel #: 025-390-010 Existing Parcel Size: 20 +/- acres

Site Address/Location: 1089 Greenfield Road St. Helena, CA. 94574
No. Street City State Zip

Property Owner's Name: Clark Trust c/o Perry Clark

Mailing Address: 1099 Greenfield Road St. Helena, CA. 94574
No. Street City State Zip

Telephone #: (707) 477-5029 Fax #: () N/A E-Mail: perry@amizetta.com

Applicant's Name: Perry Clark

Mailing Address: 1099 Greenfield Road St. Helena, CA. 94574
No. Street City State Zip

Telephone #: () same as above Fax #: () E-Mail: same as above

Status of Applicant's Interest in Property: Owner

Representative Name: Land Use Planning Services

Mailing Address: 2423 Renfrew Street Napa, CA. 94558
No. Street City State Zip

Telephone # (707) 255-7375 Fax #: () None E-Mail: ireddingaicp@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, 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] 8/23/21
 Signature of Property Owner Date Signature of Applicant Date

PERRY CLARK
 Print Name Print Name

TO BE COMPLETED BY PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES

Total Fees: \$ _____ Receipt No. _____ Received by: _____ Date: _____


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.

PERRY CLARK
Applicant


Property Owner (if other than Applicant)

8/23/21
Date

Project Identification

Statement in Support of Variance Application
Amizetta Small Winery Conversion
Use Permit #19-00132
1099 Greenfield Road St. Helena
APN 025-390-010

The existing winery driveway is subject to the 300' winery road setback required pursuant to Napa County Code ("NCC") section 18.104.230(A)(2) due to it technically meeting the definition of "used by the public" since it provides access to one additional parcel beyond the winery parcel. This additional abutting parcel is owned by the same family that owns the winery. The driveway is used only by the winery owner's family who reside on the abutting parcel and invited guests of Amizetta Estate Winery. No other parcel has access to or use of the existing driveway. The applicant proposes to construct a new addition to the existing winery within this 300' setback area due to site constraints that make it infeasible to meet the setback distance, therefore requiring a variance.

Driveways like the one serving guests of Amizetta Estate Winery and the family home on the adjacent parcel are considered used by the public if the it provides primary access to at least one parcel other than the winery parcel. If a driveway meets this definition, with some exceptions, any new winery building must be setback 300' from the centerline of the driveway. Alternatively a variance to the required setback can be requested. The applicant respectfully requests approval of the variance so that the proposed project can be approved as currently submitted.

In order to approve a variance, the decision maker must make findings required by section 65906 of the California Government Code and section 18.120.060 of the zoning ordinance.

Compliance with California Government Code Section 65906

Generally the findings for a variance must meet each prong of a three-prong test per California Government Code section 65906:

1. The applicant will suffer practical difficulties and unnecessary hardships in the absence of a variance;
2. These hardships result from special circumstances relating to the property that are not shared by other properties in the areas; and
3. The variance is necessary to bring the applicant into parity with other property owners in the same zoning classification and vicinity.

In addition to these findings the decision maker must also make findings relating to preservation of substantial property rights and compatibility with the health, safety and welfare of Napa County as specified by NCC 18.120.060 of the zoning code. Each of these factors is explained below:

Hardship

The winery driveway subject to the winery road setback is hardly a road used by the public as that term is defined in NCC section 18.104.230(A)(2) of the zoning ordinance. Imposition of the 300' setback will result in practical difficulties and a hardship to the applicant unless the variance is granted.

The subject parcel has a limited development envelope due to steep slopes, wooded hillsides and mature hillside vineyards. The existing winery and improvements are located on an existing level bench area that comprises about 15,000 s.f. or about 1/3 of an acre. The remainder of this bench area is where the proposed improvements including the hospitality building, terrace and related improvements are proposed to be located due to it being the most feasible and practical area available on the parcel. The proposed development comprises an additional 11,000 s.f. for a total development area of just over 25,000 s.f. (1/2-3/4 acre) or less than 5% of the entire 21+-acre parcel that is significantly constrained due to topography and vegetation.. The remainder of the parcel as illustrated by the attached Easement Setback Exhibit is comprised of steep slopes, wooded hillsides and mature hillside vineyards that limit the ability to develop outside of the setback without significant additional economic and environmental costs associated with vegetation removal and grading that could result in additional soil erosion, stormwater runoff, and biological impacts.

As illustrated by the attached exhibit entitled Easement Setback, prepared by ACE, the area outside of the existing 1/2-3/4 acre bench area is comprised of steep slopes, forested areas or planted with mature vineyard. The location of the hospitality building and associated improvements are designed to allow for ready integration with the existing cave, production, water, and storm drainage and wastewater systems. In addition locating the hospitality building at the terminus of the proposed exit cave portal, though within the winery road setback allows the cave portal to be screened from any view of the public traveling on the winery road.

While some earthmoving will be required to construct the proposed hospitality building complex, locating the hospitality, terrace and related improvements outside of the 300-foot setback would require extensive earthmoving and grading on steep slopes when compared to the proposed project as submitted. In addition constructing the improvements proposed outside the 300' setback would require the construct of a very tall retaining wall(s) and expose the 'public' traveling on the existing winery access road to greater visual impacts when compared to the location of the proposed improvements. Specifically the project engineer has estimated that re-locating the improvements to comply with a 300' road setback would result in:

- An approximate 40' cut into the existing hillside area with the concomitant impacts to steep slopes and existing vegetation;

- This cut slope will require the construction of a 40' high retaining wall, very visible not only to the traveling public but potentially to other off-site residents;
- Approximately **7,000** cubic yards of additional soil that would need to be removed when compared to the proposed project;
- Disposal of the additional soil would require up to 1200 , 10-wheeler dump truck trips with concomitant noise and other impacts to Greenfield Road and the neighborhood residents;
- The estimated costs of this additional grading and disposal operation are estimated between \$350,000 to \$500,000. This cost does not include the costs of redesigning a key project component or the costs of additional retaining walls, drainage systems, and infrastructure extensions.

Beyond the financial implications the potential environmental and visual impacts of a setback compliant project impacts could well render the project infeasible. The potential benefits to the view of the limited, invited travelers using the winery driveway do not outweigh the substantial economic and environmental and visual impacts of requiring a 300' setback in the context of this winery application. Requiring compliance with the 300' setback would be a severe hardship to the applicant without a corresponding public benefit.

Special Circumstance Applicable to the Amizetta Winery Parcel

The requirement for winery setbacks of between 300' and 600' feet was adopted in 1990 with the setback for private roads used by the public adopted later. The intent of both was to reduce visual impacts of new/expanding wineries to the traveling public. Traveling public in the context of Highway 29, 128 or Silverado Trail with the thousands of cars that pass by daily is far different than the traveling public in the context of the Amizetta Estate Winery. Use of the private driveway is limited to guests and employees of the winery and residents of the abutting family owned and occupied resident. No other parcel has access or use of the private driveway. Yet the same 300' setback applies to Amizetta Estate Winery as applies to new and expanding wineries on the valley floor. Is this requirement reasonable as applied when the only beneficiaries of this view protection setback are the owner's family or invited guests of the winery?

In terms of special circumstances applicable to this property, a review of county records reveals that there are no other parcels in the vicinity of Amizetta Winery that contain a producing small winery and related improvements for which a winery setback is required. Because of this all other properties in the vicinity of Amizetta Estate Winery can construct new or expand existing buildings within 300' of an existing driveway used by the public, Amizetta cannot. Other parcels located in the vicinity of the subject property in the same AW zoning classification can construct either new buildings or additions to existing buildings within 28' from centerline of an existing , shared non-winery access road. The Amizetta Winery property is unique as the only parcels in the vicinity subject to a 300' setback requirement. This

unique and special circumstance applies only to the Amizetta Winery. Compliance with the required 300' setback deprives the Amizetta property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. See also the discussion of topographical and vegetation constraints discussed above as a special circumstance.

Parity

Variances are intended to bring the property up to parity with such other properties located in the vicinity and zoning classification as the Amizetta property. There must be an affirmative showing the subject property differs substantially from other parcels in the same (in this case) AW zoning district. An applicant must provide sufficient information that the granting of the variance does not result in a special privilege to the applicant.¹

The property on which the Amizetta winery is located, substantially differs from other properties in the vicinity and in the AW zone. As noted above, the subject property is the only property in the vicinity in the same zoning district that contains an existing winery. Only wineries are subject to the 300' winery road setback as required by section 18.104.230A2. Further, all properties of at least 10 acres in size located in the zoning district are allowed to develop or expand wineries subject to a use permit so allowing it in this case with a variance to address site specific topographical constraints does not create a special privilege.

When such special circumstances have been found to be present on other winery parcel winery parcels in the AW zoning district, the county has granted variances to the 300' setback requirement to other wineries in the same zoning classification to avoid hardships to an applicant resulting from the imposition of the 300' winery road setback. These include the recently approved Chateau du Pott on Mt Veeder Road and Gandona on a private road off State Highway 128 on Pritchard Hill

Compliance with Section 18.120.060

In addition to the criteria in Government Code section 65906, the decision makers must make additional findings in section 18.128.060 as discussed below:

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

Agriculture and agricultural uses have historically been considered as the primary land use in Napa County. This commitment to agriculture and wineries as agricultural uses is embedded in the County General Plan Land Use and Agricultural Preservation. Agricultural Preservation and Land Use Goal LU-1-3 state as goals

¹ Ibid page 3

that the county will plan for agriculture and related activities as the primary land uses in Napa County (LU-1). LU- defines agriculture as the production and processing of agricultural products; and related marketing, sales . . .” LU-3 goes on to state the county will “support the economic viability of agriculture including grape growing and winemaking . . .” Wineries have been permitted in the county agricultural watershed zoning district since the 1970s and remain a conditional use under Current County zoning regulations

In 1990 the county adopted standards (the WDO) governing the operation and development of new and expanding wineries. Included with the new standards were limitations on lot coverage and setbacks for new and expanding wineries that range from 300-600’ from select county roads. These setbacks were established to reduce visual impacts to the traveling public on these select county roads.

The requirement for a 300’ setback for private driveways used by the ‘public’ was adopted following adoption of the WDO. Yet these standards apply to all private roads and driveways that access a winery parcel regardless of the number of travelers using the road or driveway. In the case of the Amizetta Family Winery the traveling public are those residents of the abutting family owned parcels and the limited guests of the winery. A key project component that is essential to the success of the project is a new hospitality building, terrace and related winery improvements that would be located approximately 200 feet from the centerline of the existing access road and within the 300’ setback.

The existing winery and proposed hospitality building is located on the existing development area measuring approximately 1/3 acres. When completed the proposed project would be confined to the existing development area that totals approximately 1/2-3/4 acre portion of the 21+ acre property. The proposed improvements have been carefully designed and located proximate to the existing winery complex and infrastructure for efficient integration with the existing winery and winery-related infrastructure, including the existing cave system. As illustrated in the attached exhibit prepared by ACE Engineering, locating the proposed project outside of the 300’ setback would require encroachment into steep slopes, and forested or is planted with mature hillside vineyards. Up to an additional 7000 cubic yards of earth would need to be removed. Approximately 1200 truckloads of dirt would be required to move the spoil to a disposal area. Estimated costs for trucking the additional spoil has been estimated by the project engineer as between \$350-\$500,00. A 40’ cut and retaining wall would be required to hold back the steep hillside if a setback compliant project was required. On the other hand, approving of the requested variance allowing the new hospitality building, terrace and related winery improvements within the 300’ setback would reduce the quantity of earthmoving required, thus reducing the erosion potential and visual impacts associated with the additional grading and earthmoving needed to comply with the 300’ setback. Reducing soil erosion and potential water quality impacts are extremely important in that project site lies within the drainage of Lake Hennessey

In addition to the potential environmental and visual impacts that would be avoided by approval of the requested variance, compliance will result in significant added costs for grading, construction of up to 40' high retaining walls and disposal of the added spoil. These additional costs would likely render the entire project infeasible. These added financial costs and the resulting visual impacts resulting from a setback compliant project poses significant hardships to the applicant without a concomitant benefit to the few public travelers of the private winery road.

The proposed project is consistent with long-standing goals of the general plan to minimize earthmoving and existing topography, reduce potential soil erosion and resulting water quality impacts; removal of existing vegetation while minimizing visual impacts inherent in the development on steep slopes which is the alternative to the granting of the variance. The proposed project has been carefully designed to be low profile, take advantage of existing development pattern and reduces visibility to the travelers of the private winery road.

The property is located in the AW zone that allows wineries upon the approval of a use permit. Denial of the requested variance would deprive the applicant of the ability to expand an existing winery in a manner that reduces grading and earthmoving, denies him the right to take advantage of existing development envelope and infrastructure and would add substantial development costs that could well render the proposed project infeasible. Approval of the requested variance is necessary to allow the applicant to utilize existing entitlement that meets the applicant's business plan and represents a more efficient and environmentally superior project alternative—this is a right enjoyed by other owners in the same zoning classification and vicinity.

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

The proposed project is located at the terminus of Greenfield Road. The requested variance affects the distance the hospitality building complex must be from the presumed centerline of a private driveway—used only by the present and future guests of the winery and residents of the family home on the adjacent parcel. The project as designed complies with remaining standards governing winery expansion and conversion of approved small wineries to use permit status. Because of the required distance for this limited number of traveling public, the applicant would incur significant economic hardship owing to the added construction costs for compliance. In addition to the economic costs, the compliant setback alternative would require significantly more earthmoving (up to an additional 7000 cubic yards of spoil) when compared with the preferred alternative. And the compliant alternative would result in greater visibility of the project and the earthmoving scares necessary to achieve the additional 80-100' from the winery road. As applied in this winery context setback results in a severe hardship to the applicant and imposes an unfair burden on him without a concomitant benefit to the traveling public.

The proposed project involves the renovation and upgrading of an existing small winery approved in 1984. The existing winery and related winery infrastructure was developed in compliance with all development standards in effect at the time that the winery was constructed. Currently not regulated by use permit, conversion of the small winery to use permit status allows for additional county oversight to ensure that the project will not adversely affect public health, safety and welfare of the county of Napa. In addition all required technical studies—water and groundwater, wastewater, storm drain and conceptual driveway improvements—have all been reviewed and approved by applicable county agencies. The proposed project is required to comply with all applicable county and state regulations, subject to final inspections to ensure compliance with all applicable county codes. On the contrary, approval of the requested variance will preserve the viewshed of travelers on the winery road when compared to strict compliance with the 300’ setback. In addition approval of the requested variance is consistent with the principles in the viewshed, hillside development and the county conservation and watershed protection programs. The proposed project in its entirety is consistent with fundamental principles embedded in the county general plan, including policies LU 1-3.

This project was filed pursuant to the voluntary compliance program. All life safety issues have been resolved. There are no other active zoning enforcement matters. The courtesy notice distributed by the county earlier in the summer resulted in no comment from neighbors.

The proposed project is not located in a groundwater basin determined to be in overdraft conditions. And the groundwater studies completed as part of this project confirms that the proposed project will not adversely impact local groundwater conditions.

Summary and Conclusions

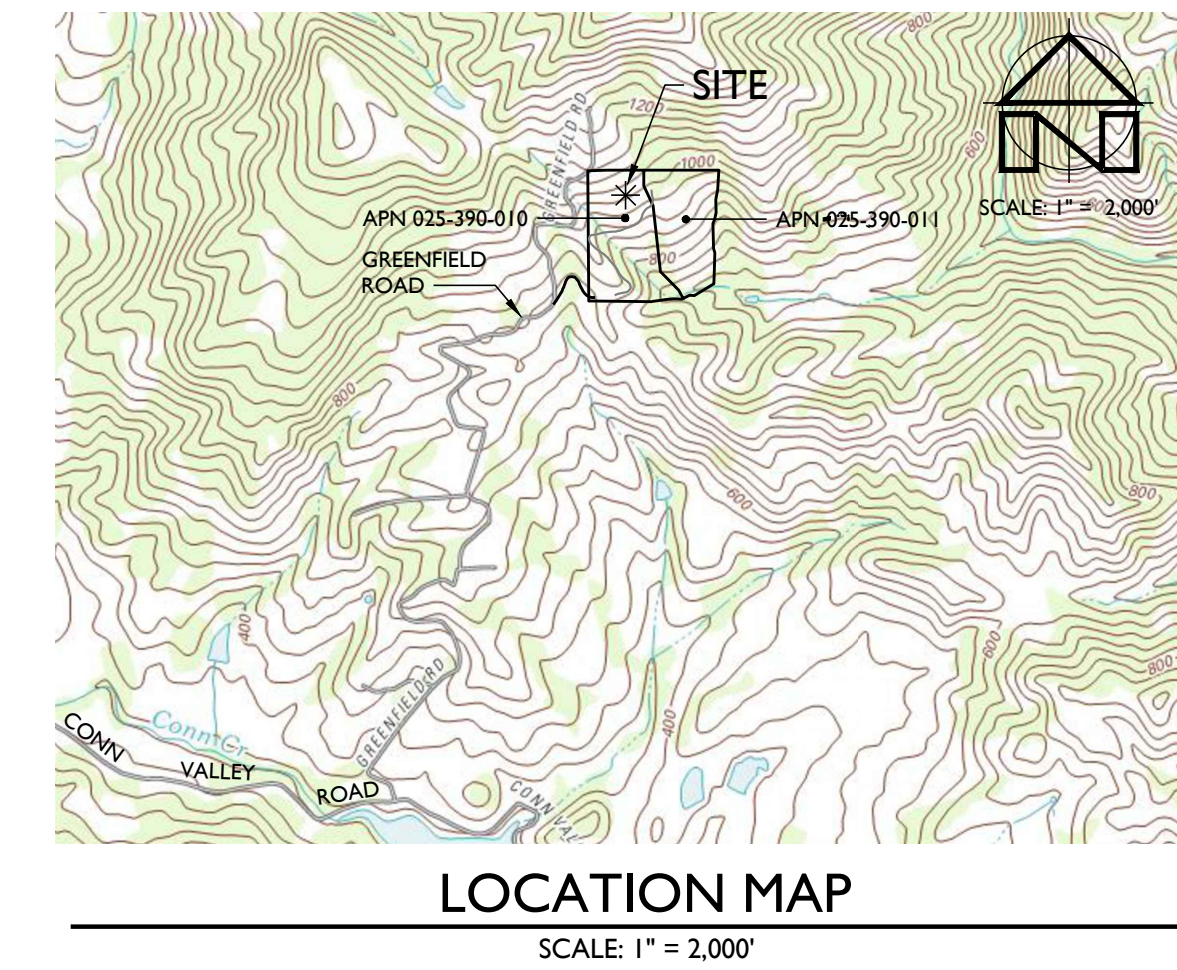
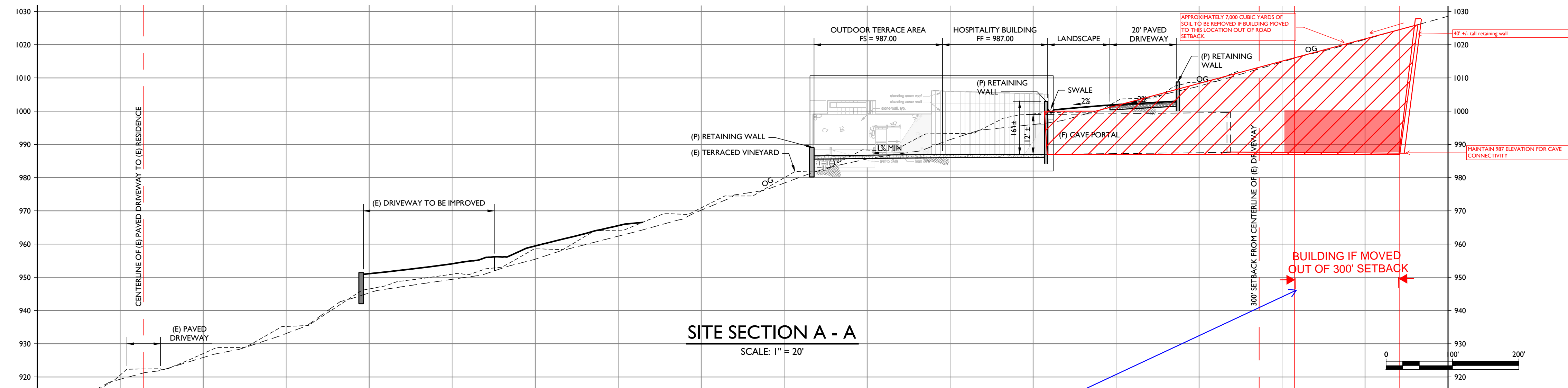
The proposed hospitality building complex is approximately 200’ feet from the presumed centerline of the winery driveway. The proposed improvements within the setback area have been designed and sited for efficient integration with the existing winery and cave system and are located on the existing building envelope. To comply with the 300’ setback for the benefit of the limited travelers on the winery driveway would require significantly more earthmoving and off haul of up to 7000 cubic yards of dirt, significant costs associated with the off haul of added spoil (up to \$500,000) construction of large (up to 40’ high) retaining wall(s) much more visible to the travelers of the winery access road when compared to the proposed location. Compliance with the 300’ setback could also result in potentially significant water quality, vegetation, and visual impacts. As such the proposed location represents a development that is more consistent with the intent of the winery road setback, county view shed protection and preservation of hillsides.

The added costs and environmental impacts result directly from the special circumstances possessed by the only producing winery with a winery driveway in the vicinity of the subject parcels parcel—a requirement to comply with the 300' setback. Compliance with this setback as applied to this project imposes a severe economic burden and hardship on the applicant with minimal public benefit.

Approval of the variance will result in an efficient use of the existing development envelope, existing winery infrastructure, allow the applicant to better preserve the adjacent hillside areas and result in a project that has less visual impact than a project that complies with the required 300' setback. Approval of the variance is requested.

AMIZETTA WINERY

USE PERMIT CONCEPTUAL SITE IMPROVEMENT PLANS - EASEMENT SETBACK EXHIBIT



PROJECT INFORMATION:

PROPERTY OWNER & APPLICANT:

CLARK & AMIZETTA TRUST
1089 GREENFIELD ROAD
SAINT HELENA, CA 94574

SITE ADDRESS:

1089 GREENFIELD ROAD
SAINT HELENA, CA 94574

ASSESSOR'S PARCEL NUMBER:

025-390-010

PARCEL SIZE:

21.5 ± ACRES

PROJECT SIZE:

1.5 ± ACRES

ZONING:

AGRICULTURAL WATERSHED (AW)

DOMESTIC WATER SOURCE:

PRIVATE WELLS

FIRE PROTECTION WATER SOURCE:

STORAGE TANK

WASTEWATER DISPOSAL:

ONSITE TREATMENT AND DISPERSAL

PROJECT DESCRIPTION:

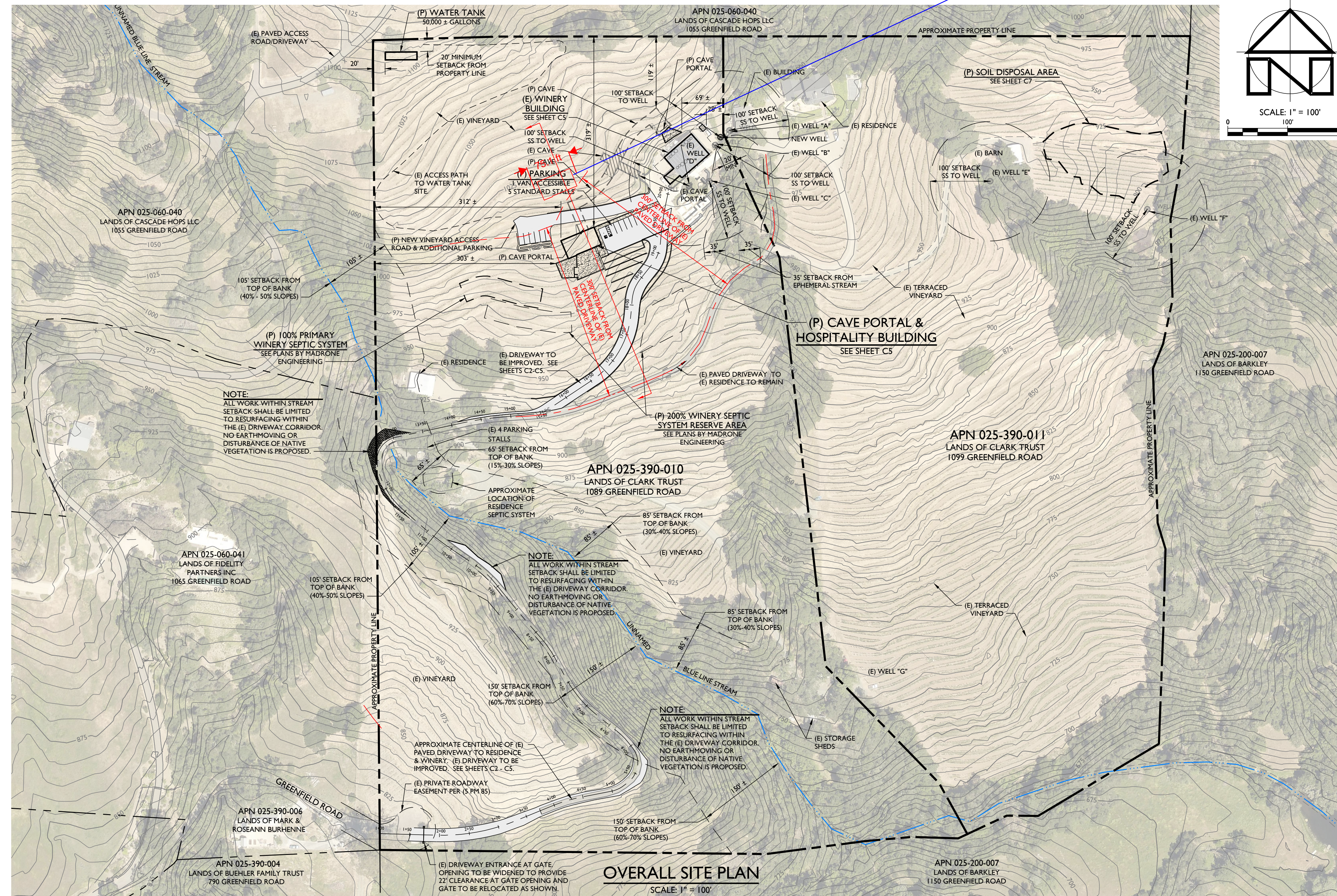
THE PURPOSE OF THIS PROJECT IS TO MODIFY THE EXISTING WINERY FACILITY VIA A NEW USE PERMIT. THESE PLANS ILLUSTRATE THE CONCEPTUAL DESIGN OF THE PROPOSED SITE IMPROVEMENTS ASSOCIATED WITH THE PROPOSED USE PERMIT.

FLOOD HAZARD NOTE:

ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) MAP NUMBER 06055C0270E EFFECTIVE SEPTEMBER 26, 2008, THE PROJECT SITE IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA.

NOTES:

- FADED BACKGROUND REPRESENTS EXISTING TOPOGRAPHIC FEATURES. TOPOGRAPHIC INFORMATION ON SHEET C1 WAS TAKEN FROM THE NAPA COUNTY GEOGRAPHIC INFORMATION SYSTEM DATABASE. TOPOGRAPHIC INFORMATION ON ALL OTHER SHEETS WAS TAKEN FROM THE TOPOGRAPHIC MAP OF A PORTION OF THE LANDS OF AMIZETTA WINERY PREPARED BY TERRA FIRMA SURVEYS, INC., DATED DECEMBER 10, 2018 AND UPDATED JANUARY 9, 2020. APPLIED CIVIL ENGINEERING INCORPORATED ASSUMES NO LIABILITY REGARDING THE ACCURACY OR COMPLETENESS OF THE TOPOGRAPHIC INFORMATION.
- AERIAL PHOTOGRAPHS WERE OBTAINED FROM THE NAPA COUNTY GEOGRAPHIC INFORMATION SYSTEM (GIS) DATABASE, TAKEN APRIL TO JUNE 2018 AND MAY NOT REPRESENT CURRENT CONDITIONS.
- CONTOUR INTERVAL:
SHEET C1: FIVE (5) FEET, HIGHLIGHTED EVERY TWENTY FIVE (25) FEET.
OTHER SHEETS: ONE (1) FOOT, HIGHLIGHTED EVERY FIVE (5) FEET.
- BENCHMARK: NAVD 88.
- THE PROPERTY LINES SHOWN ON THESE PLANS DO NOT REPRESENT A BOUNDARY SURVEY. THEY ARE APPROXIMATE AND ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.



PREPARED UNDER THE DIRECTION OF:



DRAWN BY: PowerCAD LLC

CHECKED BY: MRM

DATE: AUGUST 2021

REVISIONS: BY: AUGUST 2021 YMS USE PERMIT EXHIBIT

- 1
- 2
- 3
- 4

JOB NUMBER: 18-155
FILE: 18-155EXH-ESMT.DWG
ORIGINAL SIZE: 24" X 36"
SHEET NUMBER: