



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

FOR OFFICE USE ONLY

ZONING DISTRICT: AWDate Submitted: 11/16/07

REQUEST: _____

Date Complete: _____

Date Published: _____

Applicant is requesting a Use Permit Exception for a parcel that has slopes over 30% covering all but 1 small building area that is relatively flat in the southeast corner that also encroaches into the stream setback. This one area would minimize grading and allow the applicant to construct a home that is consistent with other homes in the area. The applicant, under a separate permit is also requesting a variance to the road and front yard set backs.

ZA CDPC BS APPEAL

Hearing _____

Action _____

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

Applicant's Name: BRIAN BURKETelephone #: (707) 541 - 0570 Fax #: (707) 541 - 0574 E-Mail: BRIAN@DRYCREEKRE.COMMailing Address: PO BOX 5844 SANTA ROSA CA 95402
No. Street City State ZipStatus of Applicant's Interest in Property: OWNERProperty Owner's Name: MANALIRA INCTelephone #: (707) 541 - 0570 Fax #: (707) 541 - 0574 E-Mail: BRIAN@DRYCREEKRE.COMMailing Address: PO BOX 5844 SANTA ROSA CA 95402
No. Street City State ZipSite Address/Location: 0 TUCKER RD CALISTOGA CA 94515
No. Street City State ZipAssessor's Parcel #: 020-262-010 Existing Parcel Size: _____

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.

Brian Burke 10/16/07
Signature of Applicant DateBrian Burke 10/16/07
Signature of Property Owner DateBRIAN BURKE
Print NameBRIAN BURKE - MANALIRA INC
Print Name

TO BE COMPLETED BY CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT

*Total Estimated Fee: \$5000.00 Receipt No. 65966 Received by: TA Date: 11/16/07

*Total Fees will be based on actual time and materials

SUPPLEMENTAL APPLICATION FORM
USE PERMIT EXCEPTION TO CONSERVATION REGULATION

1. Please explain the reason for the exception request.

The applicant is requesting a use permit exception to construct a home on average slopes steeper than 30% and within the creek setback. The entire parcel is characterized by steep slopes and located entirely within the creek setback. Without granting of an exception, development on the parcel is virtually impossible. The proposed project is concurrently applying for a variance to grant exceptions to the front and side setbacks to achieve the proposed site layout.

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

The proposed location for development is the only area on site with a feasible building pad contiguous to an access road. All other building locations would require excessive grading and pose access difficulties.

So virtually any alternate design for a house comparable to what others in the area (with the same zoning and lot size) are allowed would require an exception. To not allow an exception would render the site unbuildable.

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:

We have attempted to design all the features of this project to reduce the amount of grading and fill to fit naturally with the existing sloping site. Starting with the driveway, we elected to enter the property on the higher side (West) so we could gently slope it down to the garage following the existing grades as much as possible and end up with a minimal retaining wall at the front of the Garage. This approach allows the main floor level to be close in elevation so that there is little transition to enter the house from the garage and the street. It also prevents the main floor from being down in a pit.

We have staggered the floors and their elevations to avoid digging into the hillside and tried to maintain natural water flows. The whole concept was to get a project that "fits" into its environment and relates to the given constraints as much as possible. We have provided a short retaining wall along the front property line to allow for transitional grading, and then there is a space between it and the structure. The house structure is then allowed to have its own foundation and relationship to the grades.

- 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.

The design of the house has the features of a main level that relates to the roadway and entrance and takes advantage of the amenities of the site while allowing it to have higher ceilings and daylighting features for energy conservation. Then, the lower floors are stepped down the slope in such a way as to fit the building envelope and reduce foundation lines while at the same time avoid digging major cuts into the terrain. At some points, the upper levels are cantilevered so that the foundation is held back away from the steeper slopes.

We will be utilizing a drilled pier and grade beam concrete foundation that will allow us to reduce the amount of grading needed for the foundation.

The layout of the building, driveway, landscape walls and fencing is intended to be one that is as sensitive as possible to the existing topography and siting. The minimal cuts are balanced by a minimal amount of fill in the front yard to make the transition from the street to the house.

No new fences or other site walls are proposed beyond the immediate area of the front yard.

- 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.

There are trees within the footprint of the building that will need to be removed as part of this project. The property is densely populated with trees, and it would not be practical to build anything on it without removing some trees. This happens to be the only place on the site that's buildable. The good news is that we are maintaining the existing grade around the nearby trees that are to remain so that the root zones are not affected. We will be adding vegetation to the front yard area to control erosion and soften the transition from hardscape to building.

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

The fire safety measures that will be employed are:

1. Residential fire sprinklers 2. Cement plank horiz. siding; 3. Fire resistive roofing; 4. Brush and grass clearing as recommended by the Fire District; 5. A minimal amount of exterior raised decks and cantilevers to trap flames from a potential fire sweeping up the canyon with enhanced fire protection on those elements. 6. A fire monitoring, reporting and warning system linked to a third party security contractor.

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

It is impossible to retain the creek setback as the entire parcel falls within the setback. Included with this application is a letter prepared by Stephen Rae, Biologist, with MUSCI stating that water course flowing through the property is subject to County jurisdiction meeting the definition of a Class II stream. Mr. Rae provides a compelling argument that while the watercourse meets the County stream definition, it has no above ground continuity, and the low gradient of the lower channel would prevent sediment from entering the Napa River. The proposed development is located approximately 82' from the lower channel. With the installation of proper erosion control measures and best management practices during construction, the existing hillside should be protected from erosion and no sediment should enter the stream as a result of the construction.

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.

The parcel falls within the known spotted owl territory according to the Napa County environmental sensitivity maps. Mr. Rae also addresses the spotted owl issue in his attached letter. There are no roosts or nests on site and the nature of the surrounding area proves extremely difficult to perform a spotted owl survey as explained in Mr. Rae's letter. Additionally, construction would only occur during the summer months when the spotted owls are not breeding.

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.

The parcel is characterized by steep slopes ranging from 30% to in excess of 50% and a Class II stream whose setbacks envelope the entire parcel. There is a small, relatively flat area of 30% to 46% slopes feasible for development in the eastern lot corner. To construct a modest size home with the same amenities, such as a garage and outdoor deck, as enjoyed by similar homes in the area, the building must encroach on the front and side yard setbacks to avoid excessive grading on slopes over 50% and encroaching further into the creek setback. The proposed project is concurrently applying for a use permit exception to grade on average slopes steeper than 30% and to encroach in the creek setback.

2. Please state why the granting of your variance request is necessary for the preservation and enjoyment of your substantial property rights.
It has not been the position of Napa County to declare a lot unbuildable. Without granting of the use permit exception and variance requests, this parcel is in fact not buildable. The creek setback envelopes the entire parcel and the only relatively flat building pad, that would minimize grading on steep slopes, further encroachment into the creek setback and extreme construction costs, requires a variance to front and side setbacks to achieve a modest size home, consistent with other homes in the area. The parcel is zoned Agricultural Water Shed (AW) in which the proposed use of a single family dwelling is consistent with the zoning regulations within this district.

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.
The land under Tucker Road is privately owned by the property owners on which property the ROW is physically located. However, all property owners in the subdivision have the right to use Tucker Road for ingress/egress. Encroaching into the centerline setback and the front yard setback will not adversely impact the health, safety or welfare of persons in the area. Encroachment into the centerline setback will include a driveway approach, fire turnout, and grading and drainage improvements. Encroachment into the front yard setback will include a portion of the proposed residence, grading and drainage improvements and landscaping. Additionally, landscaping will be installed along the eastern property boundary where the proposed residence encroaches in the side yard setback.