

Exhibit A

Findings

**Carver-Sutro Winery Variance and Use Permit
#P09-00044-VAR and #P09-00043-UP
3106 Palisades Road, Calistoga
Assessor's Parcel #017-230-034 & 035**

Approval of a Variance to allow the following:

- a winery structure to be constructed 281 feet from the centerline of a public road (Palisades Road) and a cave portal with an entry pad that can be seen from Palisades Road to be constructed 225 feet from the centerline of this public road where 300 feet is required for both the winery and the cave portal/entry pad structures.

Approval to of a Use Permits to establish a new 20,000 gallon per year winery with:

- a 3,265 square foot single story winery building that includes a covered crush pad, and 6,700 square feet of caves for a winery totaling 9,965 square feet;
- two full-time and two part-time employees;
- eight parking spaces;
- tours and tasting by appointment only with a maximum of 20 visitors per day and a maximum of 120 visitors per week;
- a marketing plan with: seven 30-person events per year; two 30-person events per year; and, one 100 person wine auction event (all events to be catered);
- will hold no temporary events;
- custom crush production not exceeding the allowable production total;
- installation of two fire protection water tanks totaling 12,000 gallons; and,
- installation of a new engineered process and domestic wastewater treatment system.

Environmental Determination

This project is Categorically Exempt pursuant to Section 15303 and 15305 of the California Environmental Quality Act (Class 3 – New Construction or Conversion of Small Structures and Class 5 – Minor Alteration in Land Use Limitations) and Appendix B, Class 3 (New Construction or Conversion of Small Structures Item #10: Small Wineries) of the Napa County's Local Procedures for Implementing the California Environmental Quality Act

The Class 3 exemption applies because the project meets the criteria of the Napa County's Local Procedures for Implementing the California Environmental Quality Act in Appendix B, Class 3 (New Construction or Conversion of Small Structures), item # 10: Small Wineries: Construction and operation of small wineries that: (a) are less than 5,000 square feet in size excluding caves; (b) will produce less than 30,000 gallons of wine per year; (c) will generate less than 40 vehicle trips per day and 5 peak hour trips except on those days when marketing events are taking place; (d) will hold no more than 10 marketing events per year, each with no more than 30 attendees, except for one wine auction event with up to 100 persons in attendance; AND (e) hold no temporary events.

The following findings have been made pursuant to CEQA:

1. That the Planning Commission considers the project categorically exempt.

Variance Required Findings

The Commission has reviewed the above-described variance request and, in accordance with the requirements of Napa County Code Section 18.128.060, makes the following findings:

2. The requirements set forth in Chapter 18.128 of the Napa County Code have been met. The variance application has been filed and notice and public hearing requirements have been met. The hearing notice was posted on July 2, 2009 and copies were forwarded to property owners within 300 feet of the Property.
3. 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. A combination of multiple factors creates the special circumstances applicable to this property requiring the variance. They include the following:

A.) The location for the construction of the caves is critical to the project. Although caves could be dug along the southern side of the vineyard, an access road for other adjacent properties runs along the entire southern edge of the vineyard. A 300 foot variance from this private road would be required instead of the 19 foot variance requested and would require the removal of numerous tree within the existing oak woodland whereas the requested site requires the removal of no trees of significance.

The only other possible site would be along the northern edge of the vineyard east of the existing residential buildings. Any site on this side of the vineyard would channel all commercial traffic directly through the middle of the residential compound raising serious, ongoing safety concerns. Additionally, the only access road to such a site goes through existing buildings which are 12 feet apart, creating a dangerous bottle neck which is impossible to improve without moving or destroying the buildings. This location is also farmed with vineyards running north to south and any winery operation would create constant conflicts over equipment. The proposed site, by contrast, is closer to Palisades Road facilitating commercial traffic, does not require that traffic interfere with residential uses, does not interfere with farming practices and minimizes removal of existing vineyard and existing natural oak woodland habitat.

B.) The required 300 foot setback from Palisades Road places the winery building (which is already the minimum size for a small winery of less than 3,600 square feet) approximately 13 feet from the residential use, and restricts ready access to existing septic tanks and pool overflow drain and maintenance of other fixed location equipment.

C.) The required 300 foot setback will also place the commercial use unreasonably close to the existing residential structure subjecting the occupants to obvious threats of on-going winery-related noise and smells.

By constructing the caves in this location, the minimal new earth disturbing activities would be necessary with the least amount of vineyard and natural habitat being removed. The combination of the location of existing structures, vineyard, existing access roads, oak woodland and suitable cave locations coupled with the 300 foot setback from Palisades Road within the narrow valley of the parcel are the special circumstance requiring the variance.

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

The parcel is designated AW (Agricultural Watershed) zoning district which allows wineries and uses accessory to a winery, subject to the approval of a conditional use permit. As discussed above, a variance approval from the required 300 foot public roadway setback from Palisades Road is necessary to allow for quiet enjoyment of the existing residential use while still allowing for ready access to and maintenance of existing equipment. In addition, any location other than the one proposed will create significant safety issues, require the removal of more vineyard and oak trees, require a greater setback from the existing on-site private

road and conflict with farming operations. The operation of legally constructed and operated agricultural production facilities within the County's agricultural zoning districts is considered a substantial property right.

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

Various County departments have reviewed the Project and commented regarding water, waste water disposal, access, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the Project to assure protection of public health and safety.

6. Grant of the variance in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, where grant of the variance cannot satisfy the criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080, substantial evidence has not been presented demonstrating that the grant of the variance might cause a significant adverse affect on any underlying groundwater basin or area which does not overlay an identified groundwater basin.

Minimum thresholds for water use have been established by the Department of Public Works using reports by the U.S. Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is assumed not to have a significant effect on the affected groundwater levels.

Based on Phase I Water Availability Analysis, the 80.22 acre parcel (post Lot Line Adjustment) has a water availability calculation of 40.11 acre feet/year (af/yr). Existing water usage on the subject parcel is approximately 6.56 af/yr. The proposed winery expansion is anticipated to use an additional .69 af/yr, resulting in an annual water demand for the parcel of approximately 7.25 af/yr. Based on these figures (as reviewed by the County Public Works Department) the project would be below the established threshold for groundwater use on the parcel and will not result in substantial depletion of groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.

Winery Use Permit Required Findings

The Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code Section 18.124.070 and makes the following findings:

7. **The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the property.**

Analysis: The project is consistent with AW (Agricultural Watershed) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Section 18.20.030) are permitted in an AW zoned district with an approved use permit. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code) as applicable.

8. **The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code (Use Permits) have been met.**

Analysis: The use permit application has been filed, noticed and public hearing requirements have been met. The hearing notice was posted on July 2, 2009, and copies were forwarded to property owners within 300 feet of the subject parcel as well as properties with access onto Palisades Road.

9. The granting of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Various County departments have reviewed the project and commented regarding water, waste water disposal, traffic and access, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the ongoing protection of the public health and safety.

10. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan.

Analysis: The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan. The Winery Definition Ordinance (WDO) was established to protect agriculture and open space and to regulate winery development and expansion in a manner that avoids potential negative environmental effects. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the applicable provisions of the Napa County Zoning Ordinance (Title 18, Napa County Code).

General Plan Agricultural Preservation and Land Use **Goal AG/LU-1** guides the County to, “preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.” General Plan Agricultural Preservation and Land Use **Goal AG/LU-3** states the County should, “support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.” Approval of this project furthers both of these key goals.

The subject parcel is located on land designated Agricultural Watershed on the County’s adopted General Plan Land Use Map. This project is comprised of an agricultural processing facility (winery), along with wine storage, bottling, and other WDO-compliant accessory uses as outlined in and limited by the approved project scope. (See Exhibit ‘B’, Conditions of Approval.) These uses fall within the County’s definition of agriculture and thereby preserve the use of agriculturally designated land for current and future agricultural purposes.

As approved here, the use of the property for the “fermenting and processing of grape juice into wine” (NCC Section 18.08.640) supports the economic viability of agriculture within the county consistent with General Plan Agricultural Preservation and Land Use Policy **AG/LU-4** (“The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/ open space...”) and General Plan Economic Development Policy **E-1** (The County’s economic development will focus on ensuring the continued viability of agriculture...).

The General Plan includes two complimentary policies requiring that new wineries, “...be designed to convey their permanence and attractiveness.” (General Plan Agricultural Preservation and Land Use **Policy AG/LU-10** and General Plan Community Character **Policy CC-2**). The proposed winery, to the very limited extent that it will be publicly visible, will convey permanence and attractiveness.

Agricultural **Policy AG/LU-13** of the County General Plan recognizes wineries, and any use clearly accessory to a winery, as agriculture. The Land Use Standards of the General Plan **Policy AG/LU-2** list the processing of agricultural products as one of the general uses recognized by the AW and AR land use designations. The proposed project allows for the continuation of agriculture as a dominant land use within the county and is consistent with General Plan Agricultural **Policy AG/LU-13**.

Finally, the project is consistent with General Plan Conservation **Policy CON-53 and CON-55**, which requires that applicants who are seeking discretionary land use approvals, prove the availability of adequate water supplies which can be appropriated without significant negative impacts on shared groundwater resources. As analyzed below, the proposed winery will not interfere substantially with groundwater recharge based on the criteria established by Napa County Public Works Department.

The "Right to Farm" is recognized throughout this Plan and is specifically called out in both this Element and in the County Code. "Right to Farm" provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa County's adopted General Plan reinforces the County's long-standing commitment to agricultural preservation, urban centered growth, and resource conservation. On balance, this project is consistent with the General Plan's overall policy framework and with the Plan's specific goals and policies.

11. The proposed use would not require a new water system or improvements causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Napa County Code Section 13.15.070 or Section 13.15.080.

Analysis: Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is assumed not to have a significant effect on groundwater levels.

Based on the submitted phase one water availability analysis, the subject parcel is below the established Napa County standard calculation for groundwater use on the parcels and would not result in a substantial depletion of groundwater supplies. The **80.22** acre parcel (Post Lot Line Adjustment) is located in a Mountain Area. In an area that has an established acceptable water use criteria of **0.5** acre feet per acre per year on a **80.22** acre parcel (Post Lot Line Adjustment), the resulting Napa County standard calculation for the existing uses on the property is **40.11** acre feet per acre per year. The estimated water demand for the site after the expansion would be **7.25** acre-feet of water per year. Based on these figures, the project would be below the established Napa County threshold for groundwater use on the parcels and is deemed not to result in a substantial depletion of groundwater supplies.

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