

## **Exhibit A**

### **FINDINGS**

#### **Grgich Hills Estate**

**Use Permit Major Modification Application № P08-00648-MOD and Variance**

**Application № P08-00656-VAR**

**1829 and 1849 St. Helena Highway, Rutherford, Calif. 94573**

**Current Assessor's Parcel №s 027-470-005 (3 acres) & 027-470-024 (21.5 acres)**

### **ENVIRONMENTAL DETERMINATION**

The Conservation, Development, and Planning Commission (Commission) has received and reviewed the proposed Subsequent Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA and makes the following findings:

1. That, prior to taking action on the Draft Subsequent Mitigated Negative Declaration and the proposed project, the Commission read and considered said Declaration.
2. That the Subsequent Mitigated Negative Declaration is based on independent judgment exercised by the Commission.
3. That the Subsequent Mitigated Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act.
4. That considering the record as whole, there is no substantial evidence that the project will have a significant effect on the environment.
5. That the Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. Records are located at the Napa County Conservation, Development, and Planning Department, 1195 Third Street, Room 210, Napa, Calif.

### **VARIANCE**

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

6. 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 and notice of availability of the proposed Subsequent Mitigated Negative Declaration were posted on October 1, 2009 and copies of the notice were forwarded to property owners within 300 feet of the Property.

7. 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. The residence and barn structure proposed for renovation/replacement here were built before the applicants came into possession of the property. By allowing the applicants to convert one of these older structures to a hospitality facility and the other to winery storage uses, the existing visual character and development pattern of the site are best preserved. The construction of a stand-alone building outside of the required setbacks and in the middle of the existing vineyard would result in significantly more site disturbance and would necessitate a much more extensive conversion of existing agricultural land (land which is mapped as Prime Farmland by the State of California, certified biodynamic, and currently under active viticultural use) than the adaptive reuse of already disturbed land and already existing facilities proposed here. The existing development pattern of the site, having not been created by the applicants, and the high value, special State-listed status, and biodynamic certification of the existing Grgich Hills vineyard combine to create special circumstances which deprive the applicant of privileges enjoyed by other property in the vicinity and under identical zoning classification.
8. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights. The AP (Agricultural Preserve) zoning district, in which the property is located, allows wineries and uses accessory to a winery, subject to the approval of a conditional use permit. The applicant has a vested right to produce and market wine on this property as established by Use Permit No. U-407677 and the modifications following thereupon. As discussed in the above special circumstances finding, a variance from required 600 and 300 foot winery roadway setbacks is required to allow the construction of additional legitimate winery-accessory facilities on the property in a manner which preserves the existing development pattern of the site and protects special status farmland. The operation of legally constructed and operated agricultural production facilities within the County's agricultural zoning districts is a substantial property right. Additionally, the grant of this variance will not confer a special privilege to the applicants, as the Commission has previously granted

variances to allow conversion of and additions to existing structures within winery road setbacks.

9. 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. The requested variance will allow for the maintenance of the existing development pattern in the project vicinity.
10. The subject property is not located in a “groundwater deficient area” as identified in Section 13.15.010 of the Napa County Code.
11. 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 that 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 13.25 acre post-lot-line-adjustment parcel which would result from the project has a water availability calculation of 13.25 acre feet per year (af/yr). Existing water usage on the parcel is approximately 10 af/yr, including .75 af/yr for residential use, 6.63 af/yr for the winery, 2.4 af/yr for established vineyards, and 0.25 af/yr for landscaping. This application proposes abandonment of the residential use (.75 af/yr) and its replacement with .26 af/yr of water use associated with the proposed winery hospitality center. As a result of the foregoing, annual water demand for this parcel would actually decrease to 9.54 af/yr. Based on these figures, the project would be below both existing water extraction levels and the established threshold for groundwater use on the resulting parcel. The project will not 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**

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

12. The Commission has the power to issue a use permit under the Zoning Regulations in effect as applied to the Property. The project is consistent with AP (Agricultural Preserve) zoning district regulations. A winery (as defined in Napa County Code §18.08.640) and uses in connection with a winery (see Napa County Code § 18.20.030) are permitted in an AP-zoned district subject to use permit approval. 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.
13. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code have been met. The use permit modification application has been filed and noticing and public hearing requirements have been met. The hearing notice and notice of availability of the proposed Subsequent Mitigated Negative Declaration were posted on October 1, 2009 and copies of the notice were forwarded to property owners within 300 feet of the Property. The CEQA public comment period ran from October 1 through October 20, 2009.
14. The grant of a use permit modification, as conditioned, 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 the ongoing protection of public health and safety.
15. 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. Subject to the variance approved hereby, 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.

**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 Resource (AR) on the County’s adopted **General Plan Land Use Map**. This project is comprised of an agricultural processing facility (winery), along with wine storage, marketing, and other WDO-compliant accessory uses as outlined in and limited by the approved project scope (see attachment B, Condition of Approval № 1 et seq.) 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 §18.08.640) and for uses accessory thereto 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 hospitality structure and winery storage barn will mimic the architectural style and cladding of the existing winery and will be fully in keeping with the permanence and attractiveness of that long-standing structure.

As analyzed at item № 16, below, the winery will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level. The project is consistent with **General Plan Conservation Policies CON-53 and CON-55**, which require that applicants for discretionary land use approvals prove the availability of adequate water supplies which can be appropriated without significant negative impacts on shared groundwater resources.

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.

16. The proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin. 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 13.25 acre post-lot-line-adjustment parcel which would result from the project has a water availability calculation of 13.25 acre feet per year (af/yr). Existing water usage on the parcel is approximately 10 af/yr, including .75 af/yr for residential use, 6.63 af/yr for the winery, 2.4 af/yr for established vineyards, and 0.25 af/yr for landscaping. This application proposes abandonment of the residential use (.75 af/yr) and its replacement with .26 af/yr of water use associated with the proposed winery hospitality center. As a result of the foregoing, annual water demand for this parcel would actually decrease to 9.54 af/yr. Based on these figures, the project would be below both existing water extraction levels and the established threshold for groundwater use on the resulting parcel. The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.