

Exhibit B

FINDINGS

Swanson Winery
Use Permit Application № P08-00550 and Variance Application № P08-00551
7711 Money Road, Oakville, Calif., 94562
Assessor's Parcel №. 031-040-033

ENVIRONMENTAL DETERMINATION

The Conservation, Development, and Planning Commission (Commission) has received and reviewed the proposed **Revised Recirculated Mitigated Negative Declaration** and **Mitigation Monitoring and Reporting Program** 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. That:

1. Prior to taking action on the Revised Recirculated Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and the proposed project, the Commission read and considered said Declaration.
2. The Revised Recirculated Mitigated Negative Declaration is based on independent judgment exercised by the Commission.
3. The Revised Recirculated Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared and considered in accordance with the requirements of the California Environmental Quality Act.
4. Considering the record as whole, there is no substantial evidence that the project will have a significant effect on the environment.
5. 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 § 18.128.060 and makes the following findings. That:

6. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code have been met. The use permit application has been filed and noticing and public hearing requirements have been met. The hearing notice and notice of availability of the proposed revised recirculated mitigated negative declaration were posted on April 11, 2012 and copies of the notice were forwarded to property owners within 300 feet of the Property. The CEQA public comment period ran from April 11 through May 10, 2012.
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 location of the floodway of the Napa River on the subject parcel greatly restricts structural development on all but an approximately 150 foot wide strip of property directly adjacent to Money Road, all of which is located within the required 300 foot winery road setbacks and nearly 1/3 of which is also located within required sideyard and road setbacks. The proposed winery would replace existing structures, portions of which are likewise located within required setbacks. Elsewhere in the AP zoning district and in the vicinity of this project wineries are commonly developed on properties which are both smaller than the 74 acre subject parcel and which have more developable area located outside of the restricted floodway zone.

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. As discussed in the above special circumstances finding, the Commission finds that a variance from the 300 foot winery road setback is warranted to allow the construction of a wine production facility on the property as allowed by and encouraged in (for reference see **Economic Development Policy E-1**) the General Plan. The operation of legally constructed and managed agricultural production facilities within the County's agricultural zoning districts is a substantial property right. The grant of this variance will not confer a special privilege to the applicants, as the Commission has previously granted variances to allow the construction of new winery facilities within winery road setbacks on properties with the same zoning and substantially similar property characteristics.
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 development of an allowed agricultural processing facility in furtherance of the goals and policies of the Napa County General Plan.
10. The subject property is not located in a "groundwater deficient area" as identified in Section 13.15.010 of the Napa County Code. 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 74 acre subject valley-area parcel has a water availability calculation of 74 acre feet per year (af/yr), which is arrived at by multiplying its 74 acre size by a one af/yr/acre fair share water use factor. According to the applicant, existing water usage on the parcel is approximately 17.5 af/yr, including .5 af/yr for residential use, 9.8 af/yr for irrigation of established vineyards, and 7.2 af/yr for frost protection. This application proposes an additional 2.15 af/yr of winery water use, .5 af/yr for landscaping, and no decrease in vineyard water use despite the fact that 1.2 acres of vines are to be removed. As a result of the foregoing, annual water demand for this parcel would increase to 19.65 af/yr. Based on these figures, the project would be below the established threshold for groundwater use on the property. The County is not aware of, nor has it received any reports of, groundwater shortages near the project area. 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.

USE PERMIT

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

11. 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 § 18.16.030) 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, *as amended*) and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code), as applicable.
12. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code have been met. The use permit application has been filed and noticing and public hearing requirements have been met. The hearing notice and notice of availability of the proposed revised recirculated mitigated negative declaration were posted on April 11, 2012 and copies of the notice were forwarded to property owners within 300 feet of the Property. The CEQA public comment period ran from April 11 through May 10, 2012.
13. The grant of a use permit, 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, 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.
14. 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), the 2009-2010 Winery Definition Ordinance Update (Ord. No. 1340, 2010), and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code), all 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 Exhibit C, Condition of Approval No 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 winery has a distinguished architectural design and quality materials and will be fully compliant with the requirements of policies AG/LU-10 and CC-2.

As analyzed at item **No 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.

15. 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 74 acre subject valley-area parcel has a water availability calculation of 74 acre feet per year (af/yr), which is arrived at by multiplying its 74 acre size by a one af/yr/acre fair share water use factor. According to the applicant, existing water usage on the parcel is approximately 17.5 af/yr, including .5 af/yr for residential use, 9.8 af/yr for irrigation of established vineyards, and 7.2 af/yr for frost protection. This application proposes an additional 2.15 af/yr of winery water use, .5 af/yr for landscaping, and no decrease in vineyard water use despite the fact that 1.2 acres of vines are to be removed. As a result of the foregoing, annual water demand for this parcel would increase to 19.65 af/yr. Based on these figures, the project would be below the established threshold for groundwater use on the property. The County is not aware of, nor has it received any reports of, groundwater shortages near the project area. 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.