

Exhibit B

FINDINGS

Lands of Corey

Tentative Parcel Map № P11-00045, Variance № P12-00235, and Conservation Regulations Use Permit Exception № P12-00388

**No address presently assigned, Scally Lane, Napa, Calif., 94558
Assessor's Parcel Nos. 033-210-016 and 033-210-014**

ENVIRONMENTAL DETERMINATION

The Planning Commission (Commission) has received and reviewed the proposed **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 Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and the proposed project, the Commission read and considered said Declaration.
2. The Mitigated Negative Declaration is based on independent judgment exercised by the Commission.
3. The 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 Planning, Building, and Environmental Services Department, 1195 Third Street, Room 210, Napa, Calif.

CONSERVATION REGULATIONS STREAM SETBACK EXCEPTION

The Commission has reviewed the Conservation Regulations Stream Setback Exception request in accordance with the requirements of Napa County Code § 18.108.040 and makes the following findings. That:

6. Roads, driveways, buildings and other man-made structures have been designed to complement the natural landform and to avoid excessive grading.

Finding: Maintaining the existing alignment of Scally Lane requires less grading and has a smaller footprint than would a realigned roadway. Improvement of the existing roadway requires minimal grading from stations 10+00 to 20+00 along the shoulders to provide approximately two feet of additional asphalt and two feet of base rock. Improvement of stations 20+00 to 56+00 would

require scarifying the existing road approximately six inches and the addition of base rock and asphalt emulsion to the surface. All grading would be conducted on slopes averaging zero to five percent. Conversely, a new alignment outside the creek setback would result in grading on slopes over thirty percent and significant additional earthwork.

7. 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.

Finding: No structural improvements are proposed and none are approved hereby.

8. The development project minimizes removal of existing vegetation, incorporates existing vegetation into the final design plan, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects.

Finding: The proposed project includes only a land division; no development is actually proposed at this time. While the construction of driveways is foreseeable to the extent they will serve multiple parcels, those driveways will primarily be located on lower valley-floor portions of the property, where only scattered trees exist. A total of three trees will foreseeably be removed (see submitted plans, Station 50+00). As mitigated, the project includes ample tree and other vegetation protection. Standard conditions of approval require tree replacement at a 2 to 1 ratio.

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

Finding: The Fire Marshal has reviewed this application and recommends approval.

10. Disturbance to streams and watercourses is minimized, and the encroachment is the minimum necessary to implement the project.

Finding: A review of the proposed site plan makes it clear that the proposed driveway is located as far away from Chimney Canyon Creek as is practicable given the constraints imposed by property boundaries and site topography. The encroachment is the minimum necessary to implement the project.

11. 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.

Finding: As mitigated, this project has been found to have a less than significant impact on biological resources.

12. An erosion control plan, or equivalent NPDES stormwater management plan, has been prepared in accordance with Section 18.108.080 and has been approved by the director or designee.

Finding: Preliminary erosion control plans have been reviewed and found adequate by the Engineering Services Division. A final erosion control plan, or equivalent NPDES stormwater

management plan, will be prepared and approved prior to issuance of a building or grading permit for this project in accordance with NCC §18.108.080.

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:

- 13.** 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.

Finding: The hearing notice and notice of availability of the proposed Mitigated Negative Declaration were posted on December 3, 2012 and copies of the notice were forwarded to property owners within 300 feet of the Property.

- 14.** 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.

Finding: The nonconforming width to depth ratio of two of the parcels proposed in the submitted tentative parcel map application is driven by and entirely a result of the existing parcel shape and topography of the property. As currently configured, the property includes a relatively narrow lowland stream valley and the upslope watershed surrounding it. The property boundary follows the form and topography of the natural watershed and that shape, small at the base and branching upward and outward from there, does not easily comply with the more orthogonally-premised requirements of the NCC §18.104.110. These facts represent special circumstances which would otherwise deprive the applicant of privileges enjoyed by other property in the vicinity and under identical zoning classification.

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

Finding: The AW (Agricultural Watershed) zoning district, in which the property is located, allows for the creation of new parcels where they can meet a very large 160 acre minimum parcel size. The parcels proposed here meet that requirement. Under a strict application NCC §18.104.110 it is possible, and even likely, that no more than three parcels could be created on the Corey property; thereby depriving the applicant of one otherwise-conforming developable 160+ acre parcel, a substantial property right. The grant of this variance will not confer a special privilege to the applicants, as the Commission has previously granted minor variances to the physical requirements of the Zoning Code where the intent and chief requirements of the Code, such as minimum lot sizes, are otherwise complied with.

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

Finding: The various divisions of the Planning, Building, and Environmental Services Department, as well as other responsible County and State agencies, 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.

17. The subject property is not located in a “groundwater deficient area” as identified in Section 13.15.010 of the Napa County Code.

Finding: 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 County’s standard *Phase One* water availability analysis, each of the approximately 160 acre parcels which would result from the proposed division would have a hillside-area water availability calculation of 80 af/yr, which is arrived at by multiplying its 160 acre size by a ½ af/yr/acre hillside fair share water use factor. The existing open space use on the property results in no water demand. Planning staff has calculated the water use associated with the foreseeable, but not presently proposed, residential development of each of the the four parcels proposed here thus: (1 primary residence x .75 af/yr) + (1 second unit x .30 af/yr) + (1 guesthouse x .20 af/yr) = 1.25 af/yr. Based on these figures, the project would be below the established threshold for groundwater use on each of the resulting parcels. 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.

TENTATIVE PARCEL MAP

The Commission has reviewed the tentative parcel map request in accordance with the requirements of the Napa County Subdivision Ordinance. Section 17.14.060 of that ordinance requires that the Commission “shall deny approval of a tentative map if it makes any of the following findings:”

18. *The proposed map is not consistent with applicable general and specific plans.*

Finding: The project site is designated as AWOS (Agriculture, Watershed, and Open Space) on the County’s adopted General Plan Land Use Map and is zoned AW (Agricultural Watershed). General Plan **Agricultural Preservation and Land Use Policy AG/LU-20** allows for the creation of new lots within the AWOS, where those lots have a 160 acre minimum lot area. The map is consistent with the AWOS minimum lot size.

19. *The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

Finding: Provided the requested variance from the lot width to depth requirements of NCC

§18.104.110 (see finding № 14, above) and the requested Conservation Regulations use permit exception (see finding №s. 6-12, above) are granted, the design and improvements proposed here are fully consistent with the County's adopted General Plan.

20. *The site is not physically suitable for the type of development.*

Finding: The very large lot sizes required by the property's AWOS General Plan designation and AW zoning are designed to ensure that the proscribed types of development allowed on properties so-designated are fully appropriate and physically suitable.

21. *The site is not physically suitable for the proposed density of development.*

Finding: The very large lot sizes required by the property's AWOS General Plan designation and AW zoning are designed to ensure that densities allowed on properties so-designated are fully appropriate and physically suitable. Any development eventually occurring on the four approved 160+ acre parcels will be exceptionally low density at the parcel scale.

22. *The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

Finding: A mitigated negative declaration has been drafted and approved as a component of this project. As analyzed and mitigated therein, the project will not cause substantial environmental damage or have a significant adverse impact on fish, on wildlife, or on any sensitive habitat.

23. *The design of the subdivision or the type of improvements is likely to cause serious public health or safety problems.*

Finding: The proposed tentative parcel map is consistent with the AW zoning district and with the County's adopted General Plan. A mitigated negative declaration has been drafted and approved as a component of this project. As analyzed and mitigated therein, the project will not cause serious public health or safety problems.

24. *The design of the subdivision or of the improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.*

Finding: There are no public access easements applicable to this property.