

**EXHIBIT A
PLANNING COMMISSION HEARING – DECEMBER 4, 2013
FINDINGS**

**THEOREM WINERY
USE PERMIT #P13-00019-MOD
255 PETRIFIED FOREST RD, CALISTOGA, CALIFORNIA
APN 020-430-007-000**

ENVIRONMENTAL DETERMINATION:

The Planning Commission (Commission) has received and reviewed the proposed Subsequent 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. That:

1. Prior to taking action on the Subsequent Negative Declaration and the proposed project, the Commission read and considered said Declaration.
2. The Subsequent Negative Declaration is based on independent judgment exercised by the Commission.
3. The Subsequent Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act.
4. Considering the record as a 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, Second Floor, Napa, Calif.
6. There is no evidence, in considering the record as a whole that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.

USE PERMIT MODIFICATION:

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

7. The Commission has the power to issue a use permit modification 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 modification set forth in Chapter 18.124 of the Napa County Code (Use Permits) have been met.

Analysis: The use permit modification application has been filed, noticed and public hearing requirements have been met. The hearing notice was posted on November 14, 2013, and copies

were forwarded to property owners within 300 feet of the subject parcel and all other interested parties. The public comment period on the Subsequent Negative Declaration ran from November 14, 2013 through December 3, 2013.

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

Analysis: Various County divisions and departments have reviewed the project and commented regarding water, traffic and access, 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).

This proposal is consistent with the *Napa County General Plan 2008*. The subject parcel is located on land designated Agriculture, Watershed, and Open Space (AWOS) on the County's adopted General Plan Land Use Map. This proposal is for an agricultural processing facility (winery), along with other modifications to an existing 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.

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."

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..."). Policy AG/LU-8 also states, "The County's minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units and General Plan Economic Development Policy E-1 (The County's economic development will focus on ensuring the continued viability of agriculture...). Approval of this project furthers these key goals.

The General Plan includes two complimentary policies requiring that 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 modification 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 AR &

AWOS 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.

The project is also consistent with General Plan Conservation Policy CON-53 and CON-55 which require 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.

Finally, the "Right to Farm" is recognized throughout the General Plan and is specifically called out in Policy AG/LU-15 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 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: 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, for purposes of the application of the County's Groundwater Conservation Ordinance, assumed not to have a significant effect on groundwater levels. Based on the submitted *Phase One* water availability analysis, the 41.5 acre subject hillside area parcel has a water availability calculation of 20.7 acre feet per year (af/yr), which is arrived at by multiplying its approximately 41.5 acre size by a 0.5 acre feet per year per acre fair share water use factor. The Water Demand Calculations submitted by the applicant engineer indicated water demand for existing uses on the property (winery, residence, landscaping, and vineyard) as 6.81 af/yr and the proposed changes would increase the water use to 7.06 af/yr. Based upon this figure, 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.