

## Mount Veeder Stewardship Council

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Planning Commission Mtg.

JUN 4 2014

Agenda Item # 9C

June 2, 2014

RECEIVED

JUN 03 2014

Napa County Planning, Building  
& Environmental Services

Napa County Planning Commission  
County Administration Building  
1195 Third Street, Suite 201  
Napa, CA 94559

Re: Napa County Planning Commission Notice of Intent to Adopt Negative Declaration  
LRM Rutherford Winery Use Permit No. P13-00167 and Variance No. P13-00185  
Hearing Scheduled for June 4, 2014

Dear Planning Commission:

The Mount Veeder Stewardship Council submits the following letter in Opposition to the LRM Rutherford Winery Use Permit Application currently pending before the Napa County Planning Commission, and urges the Planning Commission to reconsider its intent to adopt a Negative Declaration for the Winery Use Permit.

The goal of the Mount Veeder Stewardship Council is to encourage sustainability of our natural resources and to ensure that the rich biodiversity and rural quality of life in the private and public lands of our pristine watershed are respected, conserved and protected for future generations through education, local community involvement and outreach to government and business stakeholders. At this time, the Mount Veeder Stewardship Council is concerned about the approval of new uses for water, during this serious drought.

Based upon our review of the LMR Rutherford Winery Use Permit Application and subsequent submittals, it is our opinion that the Planning Commission should not adopt the proposed Negative Declaration, due to the fact that an adequate analysis of actual water available for the project was not performed, nor did the Planning Department take into consideration, while reviewing this application, the fact that Northern California is currently in a serious drought.

### Notice to Neighbors

In Napa County, with a large percentage of properties located in the County, the notice which was provided to neighboring properties, only those neighbors who own a property within 300 feet of the project property, were provided notice. Given the fact that the impact of the project extends well beyond 300 feet of the subject parcel, the notice by the County should really be

extended to a distance of 1,000 feet of the subject parcel, to alert neighbors to the proposed project and allow them to contact the applicant directly or contact the County regarding their concerns for the proposed project.

### **Greenhouse Gas Impacts of the Project**

The County includes a Greenhouse Gas Checklist with any use permit application. Completion of the **current** checklist should be mandatory. Since the County of Napa sets forth one of its tasks to be stewardship of this County and its natural resources, the County should require all applicants to complete the current checklist. In addition, the applicant should be required to implement a certain number of the items in the current checklist.

In the LMR Rutherford Winery use permit application, the applicant first uses an outdated form, which does not include all of the options available to applicants on the current checklist form (dated 07/03/2013). So, for example, there is no discussion of whether or not the applicant is going to engage in practices with unmeasured green house gas potential. Essentially, the applicant is missing options such as whether or not the applicant is going to be a Certified Green Business or certified as a Napa Green Winery or a Certified Napa Green Land. The applicants outdated checklist appears to be missing BMP's 26 through 33 on the Greenhouse Gas Checklist.

### **The Project Fails to Consider Several Water Related Concerns**

Currently, the State of California is experiencing one of the most significant droughts in the State's recorded history. Yet, the Planning Department, in its evaluation of the LMR Rutherford Winery Use Permit application, fails to take the drought into consideration.

Not only does the Planning Department fail to consider the drought, it fails to require the applicant to provide any actual water availability data in support of its application. While the applicant does say that it has maybe two wells which produce 15 and 50 gallons per minute, which will be the source of water for the project, there is no data to back up that claim.

The Water Availability Analysis for Napa County presumes that there is 1.0 acre feet of water per year available under each acre of land on the Valley Floor, presumes that there is 0.5 acre feet of water per year available under each acre of land on the Hillsides, and presumes that there is 0.3 acre feet of water per year available under each acre of land in the M-S-T. These presumptions were formed years ago, when California was not experiencing a drought, and these presumptions are flawed. In the midst of the drought, to assume that the same amount of water is available, as during a year with normal or higher than normal rainfall, after two winters with less than normal rainfall is not supported by any evidence. Followed by the current winter, which is clearly a drought year.

California Water Code section 106 states "It is hereby declared to be the established policy of this State that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation."

Water Code section 1254 states "In acting upon applications to appropriate water the board shall be guided by the policy that domestic use is the highest use and irrigation is the next highest use of water."

The use of water, for a winery, is neither domestic, nor is it irrigation, accordingly, it is a less important use of water, as set forth by the State of California.

The Planning Department has failed to consider state law in the allocation of scarce water; that domestic water use is the primary use of water, and irrigation is secondary use of water. The proposed LMR Rutherford Winery is neither domestic use nor is it irrigation. It falls into a category lower than domestic and irrigation uses.

#### **The Project Fails to Address Actual Water Availability for the Project**

While the application indicates that there are two wells which produce 15 and 50 gallons per minute, there is no hard data to back up this claim. There are no well tests, or pump tests submitted with the application, to substantiate this claim. There is only a number written on a line on the application, nothing more.

Furthermore, the amount of water used by the existing winery, appears to be based upon numbers provided by the County, rather than actual records showing what the actual amount of water is which is being used by the current winery operation.

The lack of analysis of the water availability for the site, by the applicant and the Planning Department, as well of the lack of consideration of the current drought, and how the drought has and will impact the water availability at the site, the lack of required controls for water usage on the project, to deal with what could be a prolonged drought, all suggest that the Planning Department failed to perform a thorough review of the actual water available for this project. Instead, the Planning Department appears to have just accepted the flawed information which the applicant decided to provide in their application, without verification, and whether the information is correct or not, does not seem to have been considered.

If the applicant is incorrect about the amount of water which its well can really produce during this drought, the applicant may be in a position where their well does not produce enough water for the vineyard on the property and the proposed winery. If the applicant runs out of water and has to begin hauling water to support the existing vineyard and winery, where will that water come from? Has the Planning Department or Planning Commission even considered this

scenario? How does this scenario affect the adjacent parcels and their permitted uses?

The adoption of a negative declaration for this project is not appropriate. At the very minimum, the applicant should be required to provide an in-depth water availability analysis and comply with CEQA and be required to perform an Environmental Impact Report addressing water availability, water conservation measures, as well as water availability for fire protection.

### **The County Fails to Consider, the Cumulative Impact of the Project on Napa County**

Before any issuance of a Negative Declaration for the LMR Rutherford Winery Use Permit application, applicant and the County must consider how the addition of yet another winery, with more events for visitors, will impact the County as a whole. There has been no such consideration or discussion of how the continued approval of winery after winery will impact the County of Napa. At what point does the County reach a level of saturation of wineries? This analysis should consider all predictable and cumulative impacts such as traffic, noise, waste water, water, air, carbon and quality of life for those of us who call Napa County our home.

### **Visitation for the LRM Rutherford Winery Is Supposed to Be By Appointment Only**

Since visitation for the LMR Rutherford Winery is "By Appointment Only" it is improper for the applicant to have another business operating at this same location, which is open to walk in (or drive in) visitors. Having the farm produce location at the same location as the winery clearly implies that the LMR Rutherford Winery will be open to the public on a walk in basis and not by appointment only. This is unacceptable and accordingly, the Planning Commission should not approve the LMR Rutherford Winery Use Permit Application.

### **Adoption of a Negative Declaration for the LMR Rutherford Winery Project Would Set a Bad Precedent in the County**

In the County of Napa, any approval of a use permit application must comply with California law, including the California Environmental Quality Act, and the California Water Code, as well as County policy. As set forth above, the LMR Winery Use Permit application fails to comply with CEQA.

The LMR Rutherford Winery Use Permit application raises the question as to whether the Napa County General Plan even contemplates approval of water intensive uses, in this case a winery, in areas in the County which are lacking in water resources. The Mount Veeder Stewardship Council believes that it does not.

Furthermore, there has been no discussion by the Planning Department addressing this drought and how the drought impacts water availability on the applicant's parcel, or neighboring parcels

and any domestic water supply.

The core of the 1976 Land Use Element (since protected by Measure J) was an analysis of the "intrinsic suitability" of land for development, which took into account the County's understanding of water availability, at that time. Today, the County has a better, but still incomplete, understanding of water use and water availability throughout the County. There is increased competition for water from springs, streams and wells. Today, more rural properties are suffering the effects of water shortages.

There is a problem with water availability in the Agriculture, Watershed and Open Space areas, even in years of "normal" rainfall. This is not a year of even normal rainfall; California is in a severe drought.

The adoption of a Negative Declaration for the LMR Rutherford Winery Use Permit, at this time, without an adequate study of the actual amount of water available for the project, would set the stage for a whole class of applications, whose cumulative impacts would severely harm the County, its resources, and their neighbors.

Accordingly, this use permit and any upcoming permit applications should be seriously weighed by the Planning Commission, and should contain a complete and thorough analysis of actual water availability, during this, California's worst drought, in the history of the State, instead of resting upon the faulty assumption upon which the County currently relies for water calculations.

The Mount Veeder Stewardship Council objects to the adoption of a Negative Declaration for the LMR Rutherford Winery Use Permit Application on the basis that there has been no consideration of the current drought, no consideration of the actual amount of water available for the proposed permitted activity, other than a statement that wells on the property produce 15 and 50 gallons per minute at that location. There are no pump tests, nothing to support that presumption. Furthermore, there is no analysis of the reduced aquifer recharge and subsequent water availability analysis in the face of significantly reduced rainfall.

For the foregoing reasons, the Mount Veeder Stewardship Council respectfully requests that the Planning Commission not adopt the Negative Declaration for the LMR Rutherford Winery Use Permit.

Respectfully Submitted.

MOUNT VEEDER STEWARDSHIP COUNCIL

  
Gary Margadant, President

**DARYL E. GALUSHA**

JUN 4 2014

General Contractor  
Roofing Contractor  
License No. 301127

Agenda Item # 9C

3 June 2014

To: Napa County Planning Department  
Re: LMR Rutherford Estate Winery  
P13-00167-UP & P13-00185-VAR  
APN: 030-100-016

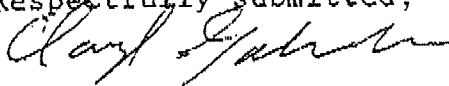
To Whom It May Concern:

Mr. Ted Hall and his representative John Webb have met with my wife and me on a couple occasions. We have also had several phone conversations regarding the winery project at 1790 St Helena Highway, Rutherford.

Our questions have been answered and our concerns have been addressed. We feel that with the revised placement of the winery buildings as proposed by Mr. Hall, our views will be preserved.

Therefore we no longer have an objection to the variance granted by the Planning Department for this winery.

Respectfully submitted,



Daryl & Lynette Galusha

cc: Ted Hall

P.O. BOX 218 RUTHERFORD, CA 94573 707-963-7027



Planning Commission Mtg.

JUN 4 2014

Agenda Item # 9C

June 3, 2014

Napa County Planning Commission  
1195 Third Street - Suite 305  
Napa, CA 94558

RE: Use Permit Application #P13-00167-MOD & Variance #P13-00185-VAR

Dear Planning Commissioners,

This letter is written in support of the project proposed by Long Meadow Ranch on Highway 29 in Rutherford. In recent years, I have developed a tremendous respect for Ted Hall and his family. As evidenced in the other Long Meadow Ranch operations in Napa County, the Hall family is truly engaged in local agriculture. This engagement goes beyond grapes to other crops, such as olives and tomatoes, and beyond those crops to their respected farm-to-table restaurant in St. Helena. As you are well aware, wineries are only allowed in our agriculturally zoned areas because of their connection to the local grape crop. I have every confidence that this project would be a fantastic example of a winery rooted in agriculture.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Ruel', is written over a horizontal line.

Jon Ruel  
President  
Trefethen Family Vineyards

ONE FAMILY    ONE ESTATE    ONE PASSION    FOR OVER 40 YEARS

1160 OAK KNOLL AVENUE • PO Box 2460 • NAPA, CA 94558 • 707.255.7700 • WWW.TREFETHEN.COM

# LMR Rutherford Winery Grape Sourcing Analysis

On-site grape production      Off-site grape sourcing

Block	Varietal	Tons	Gallons/ton	Gallons
S	SB	370	170	62,900
L-SB	SB	70	170	11,900
L-ME	Merlot	50	155	7,750
B	CS	50	150	7,500
Total		540		90,050
			Local Utilization (%)	90%

Total Capacity (gal)	100,000
On-site Utilization (gal)	90,050
Available capacity (gal)	9,950
Tons per gallon (CS)	150
Outside Sources (tons)	66
Outside Utilization (%)	10%

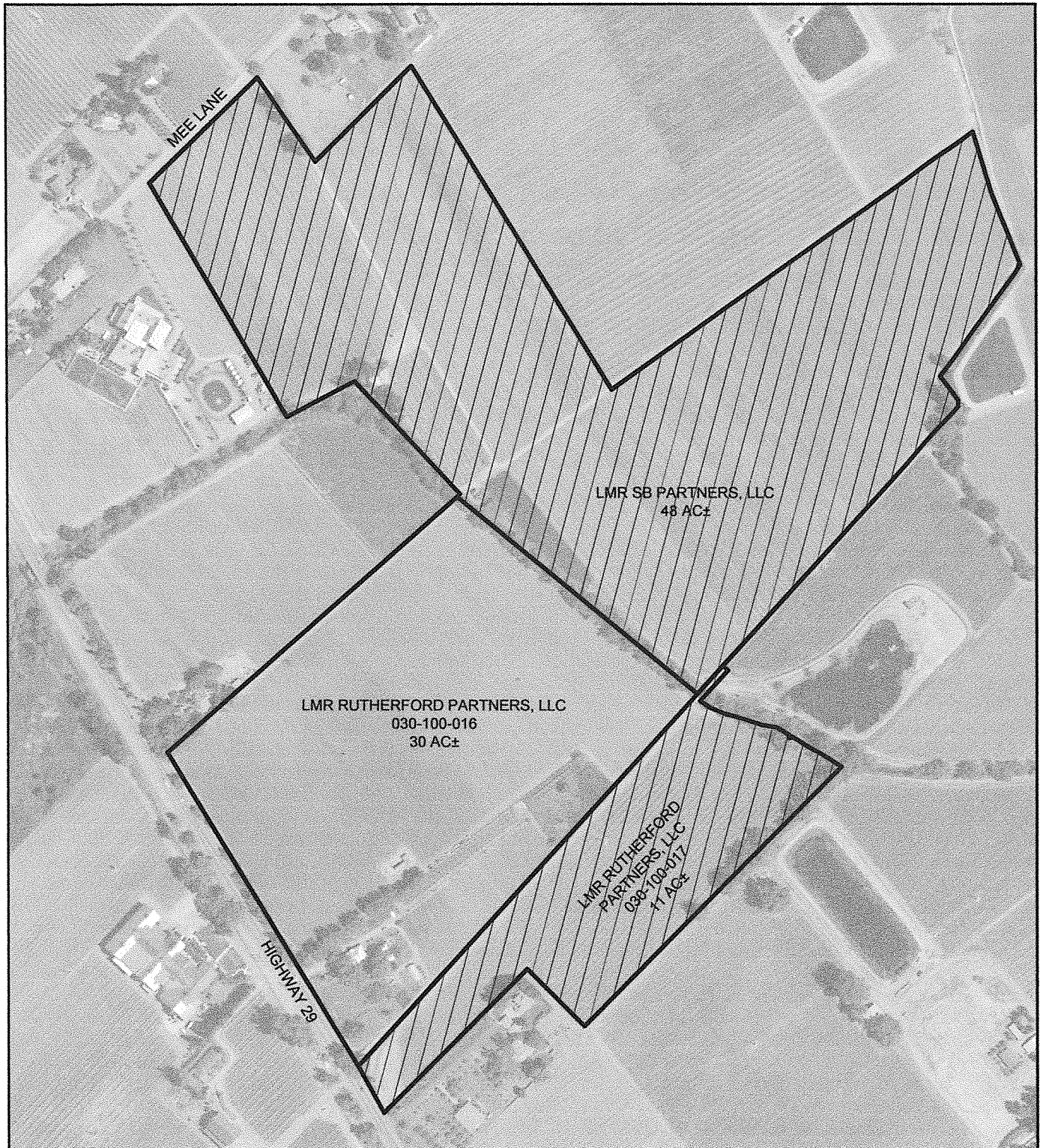
Planning Commission Mtg.

JUN 04 2014

Agenda Item # 9C



6-4-14 PC 9C



**EXHIBIT OF  
LMR VINEYARDS**

WITHIN N.C.A.P. 030-100-015, -016 & -017  
COUNTY OF NAPA, STATE OF CALIFORNIA



SCALE: 1"=400'

PREPARED BY  
ALBION SURVEYS, INC.



JUNE 3, 2014

C3D PROJECT 1075  
1075-07 EXH.dwg