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## Recommended Findings

**PLANNING COMMISSION HEARING – JULY 1, 2020  
RECOMMENDED FINDINGS**

**ALTA NAPA VALLEY VINEYARDS WINERY  
USE PERMIT #P19-00372-UP & VARIANCE #P19-00373-VAR  
2125 SILVERADO TRAIL, NAPA 94558  
APN 039-270-005**

**ENVIRONMENTAL DETERMINATION:**

The Planning Commission has received and reviewed the proposal pursuant to the provisions of the California Environmental Quality Act (CEQA), and finds that:

1. Because of the minimal construction and limited operations, find the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under Section 15303, Class 3 New Construction or Conversion of Small Structures and under Section 15304 Class 4 Minor Alterations to land Class; and Appendix B of Napa County’s Local Procedures for Implementing the California Environmental Quality Act under Class 3(10) New Construction or Conversion of Small Wineries. See project CEQA Determination prepared by Napa County, June 19, 2020, Attachment C of Napa County Planning Commission July 1, 2020 Staff Report.
2. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.
3. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building & Environmental Services Department, 1195 Third Street, Second Floor, Napa, California

**VARIANCE REQUIRED FINDINGS:**

The Commission has reviewed the above-described variance request and, in accordance with the requirements of Napa County Code Section 18.128.060, makes the following findings. That:

4. The procedural requirements set forth in Chapter 18.128 of the Napa County Code have been met.  
  
Analysis: The variance application has been filed and notice and public hearing requirements have been met. The hearing notice was posted on June 20, 2020, and copies were forwarded to property owners within 1000 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from June 21, 2020, to June 30, 2020.
5. 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.

Analysis: The parcel on which the proposed winery sits is wedged between Silverado Trail and the Napa River. All but a small corner of the property – where the existing houses are and proposed structure is to be located – lies within the Floodway of the river. The parcel is thus atypical of its neighbors even on the same portion of Silverado Trail but on the opposite side of the street. For example, Judd’s Hill Winery, located across Silverado Trail and just to the north, but setback 600 feet from the roadway, has no such restrictions from the Floodway, as the Floodway is only on the west side of Silverado Trail. Thus, the property is unique, in that its neighbors on the east side of Silverado Trail can meet the requirements without impacting the Floodway, while Alta cannot. As such, a variance is appropriate and required to allow Alta to build the winery portion of its building outside of the Floodway.

Nearby parcels that are similarly situated to Alta between Silverado Trail and the Napa River likewise feature winery structures located farther from the river and closer to Silverado Trail. For example, Luna Vineyards’ parcel (approximately one mile north from the subject parcel on the west side of Silverado Trail) too is between the Napa River and Silverado Trail. Avoiding the river required the Luna winery to be closer to Silverado Trail, significantly closer to the road (less than 80-feet from the centerline) than the proposed Alta Winery. Yet, unlike Luna, Alta has a small portion of its property that is not in the Floodway. As such, with a variance it can avoid significant construction that would impact the Floodway or risk loss by being placed therein. Thus, Alta would only be similarly situated to other wineries in the area by the grant of the variance, not granted any special privilege, and asks to be afforded the ability to construct a winery facility while avoiding impacts on the Floodway.

The parcel is also atypical of similarly zoned parcels located slightly further north on Silverado Trail where the elevation brings the road further above the Napa River and its Floodway. As such, the 600-foot winery setback, which on a typical, similarly sized parcel would not create location issues for a winery, when applied to this unique parcel, would force a winery building to be built in the Floodway. It would also force the winery to remove developed vineyard, replacing active agricultural land with a new structure.

The strict application of the winery setback rule to this parcel would deprive the applicant of the ability to build outside of the Floodway, creating an unnecessary hardship on the Winery and undermining the County’s Floodplain Management regulations.

6. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.

Analysis: Absent granting such a variance, both the environment and the applicant will suffer genuine and unnecessary hardship. The applicant would be unable to utilize the property to its full potential without impacting the Floodway. The parcel is planted in approximately 15 net acres of vines. In order to make estate wine on the parcel, a winery needs to be built on the property. The applicant wants to minimize the impact of the winery on the environment, and as such, in order to preserve their enjoyment of their property rights, need relief from the provision that would otherwise force them to build their winery in the Floodway. The parcel has a relatively small buildable area located outside of the Floodway, which is the only portion of the property that has been built upon in light of the restrictions. This one corner of the property is noticeably elevated from the remainder of the property, raising it out of the Floodway. These hardships are not shared by other properties in the area because they are situated in ways that allow them to operate outside of the Floodway while meeting setback requirements or, alternatively, are located entirely in the Floodway where such impact is unavoidable.

Requiring the applicant to build a second, stand-alone winery building on the property located in the Floodway in order to operate is unnecessary, is contrary to the intent of the Floodplain Management regulations, could impact the Floodway and would place a zoning technicality above the best interests of the County and the property owner. The costs attendant thereto would be prohibitive, estimated at nearly a million additional dollars in costs and vineyard destruction just to comply with the Floodway regulations and construct the proposed structure near the river in the existing vineyard, even if only one structure were still to be built (See RSA+ letter to W. Balcher, dated March 23, 2020). But because the required Silverado Trail Setback (90 feet from the centerline) for the house, and because the Oliai family would not desire nor be required to build their home in the Floodway in any event, the costs would increase by nearly \$2.5 million, as two structures would need to be built instead of the one proposed combined-use building now (See MH Architects memo to W. Balcher, dated March 12, 2020 and accompanying alternative site plan). The costs of building a separate winery building in the floodway would thus amount to an additional nearly \$3.4 million, a substantial and avoidable hardship.

As described in the accompanying preliminary analysis of RSA+ and MH Architects, the required Floodway study, extensive grading to offset the development to maintain the base flood level – the success of which is not guaranteed -- significant vineyard removal, and the costs attendant to construction two structures instead of one would be so expensive as to render the winery not feasible. Requiring the Applicant to nevertheless work in the Floodway in order to use the property would burden the Applicant in a way that other like-zoned properties in the same area are not so limited.

It would also significantly change the proposed project such that its likelihood of approval could be rendered suspect. Were the project proposed without the setback variance, a reasonable conclusion could be reached that it was inconsistent with the County's Floodplain Management regulations which are specifically designed to discourage development in the Floodway. The project was thus designed to avoid those concerns at the outset to protect Applicant's substantial rights to use and enjoy its property in similar ways to its neighbors.

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

Analysis: There will be no negative impact on the health or safety of persons residing or working in the neighborhood of the property by the granting of the variance. To the contrary, any impact would be positive by avoiding work in the Floodway, and in the location of the current structures on the property. It will require building only one structure on the property instead of two.

Further, the variance will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood. The existing property features two old houses and a carport. Those structures will be replaced with one new residence with a winery on the ground floor. Even without the winery on the ground floor, the same building could be built in the same place as purely a residence. Thus, the winery component of the structure that requires the variance will have little impact on the appearance of the property.

Moreover, applicant believes that locating the residence and winery in one building located closer to Silverado Trail actually improves the property appearance for all of the winery's neighbors. Doing so puts it further away from the Trancas Crossing Park on the west side of the river. It also places the building further from its neighbor to the south. By placing the

structure where proposed, although closer, it will be less visible to the neighboring Strawberry Stand to the north, as a tall, dense stand of trees sits along the property line between the fruit stand and the proposed building: the winery would actually be more visible from the Strawberry Stand if it were set further back on the parcel. Finally, there are no visible neighbors to the east, across Silverado Trail that could be impacted by the building being located where proposed.

If any, the principal impact from locating the winery closer to Silverado Trail would be on those driving past. But the proposed project would indeed be consistent with the other properties in the area from such a standpoint, with the Strawberry Stand, veterinarian clinic, and Luna Vineyards, for example, all located nearer to Silverado Trail. Moreover, the winery's plans call for green screening between the building and the roadway. As such, the winery will actually be less visible than the current, visibly unappealing, older structures, which are currently the first structures that are highly visible driving north on Silverado Trail into the County from the City of Napa. Applicant respectfully submits that its proposed structure represents a far more appealing first impression of Napa County to visitors than the property presents currently, and as such grant of the variance would be a positive to the community as a whole.

8. Grant of the variance in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, where grant of the variance cannot satisfy the criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080, substantial evidence has not been presented demonstrating that the grant of the variance might cause a significant adverse effect on any underlying groundwater basin or area which does not overlay an identified groundwater basin.

Analysis: The project is consistent with General Plan Conservation Policies CON-53 and CON-55, which require that applicants, who are seeking discretionary land use approvals, prove that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources. The project is categorized as being located within the Valley Floor in an area that has an established acceptable water use criteria of 1.0 acre foot per acre per year based upon current County Water Availability Analysis policies. Based upon those criteria, the Allowable Water Allotment for the project site is 22.65 acre-feet per year (af/yr), determined by multiplying the 22.65 acre Valley floor site by a one AF/YR/acre fair share water use factor. There are three existing wells on the property.

According to the Water Availability Analysis for Alta Wines 2125 Silverado Trail, Napa, CA 94558, APN: 039-270-005, prepared by RSA (dated August 16, 2019), the total proposed water demand of the project would be 7.76 af/yr, a decrease in the existing water use of 7.91 af/yr. Therefore, the project is considered not to have a potential to significantly impact groundwater resources. Because the projected water demand for the project is below the estimated water availability acre feet per year for the parcel, the requested Use Permit Major Modification is consistent with General Plan Goals CON-10 and CON-11, as well as the policies mentioned above that support reservation and sustainable use of groundwater for agricultural and related purposes. The project will not require a new water system or other improvements and will not have a negative impact on local groundwater.

## **USE PERMIT MODIFICATION REQUIRED FINDINGS:**

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

9. The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the property.

Analysis: The project is consistent with AP (Agricultural Preserve) 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 18.16.030) are permitted in an AP 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.

10. The procedural requirements for a use permit 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 June 20, 2020 and copies were forwarded to property owners within 1000 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from June 20 to June 30, 2020.

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

Analysis: Various County departments have reviewed the project and commented regarding water, waste water disposal, 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.

12. 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 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, bottling, and other WDO-compliant accessory uses as outlined in and limited by the approved project scope. (See Attachment 'B', Recommended 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.”

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 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, to the extent that it will be publicly visible, 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 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. As analyzed below, the proposed winery will not interfere substantially with groundwater recharge based on the criteria established by Napa County Public Works Department.

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.

13. The proposed use would not require a new 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. The project is consistent with General Plan Conservation Policies CON-53 and CON-55, which require that applicants, who are seeking discretionary land use approvals, prove that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources. The project is categorized as being located within the Valley Floor in an area that has an established acceptable water use criteria of 1.0 acre foot per acre per year based upon current County Water Availability Analysis policies. Based upon those criteria, the Allowable Water Allotment for the project site is 22.65 acre-feet per year (af/yr), determined by multiplying the 22.65 acre Valley floor site by a one AF/YR/acre fair share water use factor. There are three existing wells on the property.

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