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Agenda Date: 8/14/2018
Agenda Placement: 9B
Set Time: 9:25 AM PUBLIC HEARING
Estimated Report Time: 1.5 Hours
Continued From: June 12, 2018

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: Jason Hade, Planner III - (707) 259-8757
SUBJECT: Oakville Winery LLC-Dry Creek-Mount Veeder Winery Appeal

RECOMMENDATION

Consideration and possible direction regarding an appeal filed by **Oakville Winery, LLC** to a decision by the Napa County Planning Commission on April 18, 2018 to deny Use Permit No. P17-00343-UP, Variance No. P17-00345-VAR and a request for continuance of the public hearing on the Use Permit and Variance. The project requested approval of a 30,000 gallon per year winery, a visitation and marketing plan and related infrastructure improvements on a 55.50-acre parcel located at the northern end of Mt. Veeder Road at its intersection with Dry Creek Road, Napa, California (APN 027-310-039). In denying the project, the Planning Commission also denied the applicant/appellant's request for a continuance to further address Commissioners' concerns that arose during the hearing.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared and circulated but not adopted. According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures on biological resources, geology and soils, noise, transportation/traffic, and tribal cultural resources. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. State CEQA Guidelines Section 152870 provides: CEQA does not apply to projects which a public agency rejects or disapproves. A denial is not subject to CEQA review.

(CONTINUED FROM JUNE 12, 2018)

EXECUTIVE SUMMARY

The matter before the Board involves the applicant's appeal of the Planning Commission's decision to deny (3:2 – AYES: Cottrell, Scott and Gallagher; NOES: Basayne, Hansen) Oakville Winery, LLC's (the Applicant or Appellant) application for a use permit and variance for construction of a new 30,000 gallon per year winery, a modest visitation and marketing program, and related infrastructure improvements (the Project, Oakville Winery or the

Winery) on a 55.5 acre parcel located at the northern end of Mt. Veeder Road at its intersection with Dry Creek Road, Napa, California (APN 027-310-039).

PROCEDURAL REQUIREMENTS:

1. Chair introduces item and invites Staff Report presentation.
2. Chair opens the public hearing and invites testimony from Appellant and Appellant's witnesses as previously disclosed on the witness list and in the order noted on the witness list attached as **Attachment B**.
3. Chair invites any other interested members of the public to testify regarding the appeals.
4. Chair then invites Appellant to have final rebuttal.
5. Chair closes the public hearing and invites disclosures from Board members.
6. A motion of intent is made and seconded to deny, uphold, and/or remand the appeal.
7. Chair refers the matter to County Counsel's office for preparation of a Resolution of Findings and Decision on Appeal. Because of the current workload, good cause exists for County Counsel's office to have up to ninety days to prepare the Resolution of Findings and Decision on Appeal. Consequently, Staff recommends that the Board direct County Counsel's office to return to the Board on October 23, 2018 at 9:15 a.m. with the proposed Resolution for the Board's consideration and adoption.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

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BACKGROUND AND DISCUSSION

All documents associated with the Oakville Winery including, but not limited to, the application materials, Mitigated Negative Declaration, Planning Commission Staff Report, comments and correspondence, transcript of the Planning Commission meeting, the appeal and the supplemental materials submitted by Appellant can be accessed at: <https://www.countyofnapa.org/2291/Appeal---Dry-Creek-Mt-Veeder-Winery>.

This matter involves an appeal of the Planning Commission's decision to deny an application for a use permit and a variance for construction of a new 30,000 gallon per year winery, with a modest visitation and marketing program, and related infrastructure improvements on a 55.5 acre parcel located at the northern end of Mt. Veeder Road at its intersection with Dry Creek Road. The proposal included one winery building totaling 2,400 square feet as well as a 17,220 square foot cave and a 619 square foot owner/winemaker residence. A variance was requested so that the proposed covered crush pad and winery building could be located within the required 300-foot winery setback

from Mount Veeder Road. The covered crush pad is proposed approximately 84 feet from the centerline of Mount Veeder Road and the winery building is proposed approximately 104 feet from the centerline of Mount Veeder Road. Appellant asserted that strict application of the required setbacks would result in development of the proposed Winery on steep slopes in excess of 30 percent. According to Appellant, meeting the setback would present a practical difficulty and would result in detrimental environmental impacts associated with vegetation removal, destruction of plant and animal habitat, soil loss, and water quality. Appellant also asserted significant financial hardship in excess of \$1,100,000 would be required to meet the setback.

There are six other existing wineries located within two miles of the project site. For comparison and context, the other wineries have permitted production levels between 10,000 and 144,000 gallons annually. The Oakville Winery production of 30,000 gallons would be at the lower end for facilities within two miles of the project site. The application proposes a maximum of 10 visitors per day and 11 marketing events per year, which would be catered. The largest event would host up to 100 guests. The winery comparison tables in the Planning Commission Staff Report compare the proposed Oakville Winery with other wineries that currently have an annual permitted production capacity of 30,000 gallons. (See Attachment K of Planning Commission April 18, 2018, Staff Report.) The Oakville Winery has a smaller sized visitation and marketing plan comparable to by-appointment only wineries and the marketing is not out of scope with what has been approved at similarly sized wineries.

Code Compliance:

There are no active code violations at the project site.

Public Process:

The Oakville Winery Use Permit and Variance application was submitted on September 14, 2017. Resubmittal applications were provided on November 15, 2017 and January 18, 2018.

The application was determined to be complete on February 27, 2018.

On December 19, 2017, a New Project Submittal Courtesy Notice (dated December 19, 2017) was mailed to all property owners within 1,000 feet of the subject property and emailed to those persons on the general CEQA document notification list.

On March 15, 2018, the Public Notice for the Planning Commission hearing and Notice of Intent to adopt a Mitigated Negative Declaration was mailed to all property owners within 1,000 feet of the subject property as well as any other persons who had requested notice. (It should be noted that the County's requirements to notice all property owners within 1,000 feet far exceeds the State mandate of noticing all owners within 300 feet.) Notice was also provided to those persons on the general CEQA document notification list. The Notice was published in the paper on March 16, 2018.

Topics considered by the Planning Commission during the public hearing on April 18, 2018, included whether the Variance findings could be met and in particular if the property has special or unique circumstances not shared by other properties in the vicinity. The presence of special or unique circumstances on the property is one of the Variance findings required by Napa County Code Section 18.128.060 (A)(2). The Commission also considered the remoteness of the Winery, the lack of grapes grown on-site and/or within the vicinity to support the Winery's production, and the overall appropriateness of the site for a Winery.

At the time the April 18, 2018 Staff Report was posted, no written comments had been received. However, written comments from the California Department of Fish and Wildlife as well as two project neighbors were received after the initial Staff Report posting. These attachments were uploaded to Granicus on April 17, 2018.

Findings:

When reviewing the proposed Project, the Planning Commission based its decision on a series of Findings, as required under both County Code and State law. The Board of Supervisors must also consider all of the same Findings in reaching their decision. In order to uphold the Planning Commission's denial of the Project and denial of the Appeal, the Board must determine that the Project is not consistent with at least one (or more) of the Findings. Alternatively, to approve the Project, the Board must determine that the Project is consistent with each of the following Findings:

CEQA: (CEQA Guidelines Section 15074)

1. The Board of Supervisors has read and considered the Mitigated Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. The Mitigated Negative Declaration is based on independent judgment exercised by the Board of Supervisors.
3. The Mitigated Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. There is no substantial evidence in the record as a whole, that the project as mitigated will have a significant effect on the environment.
5. 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.
6. The site of this proposed project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.

Variance: (Napa County Code Section 18.128.060)

1. That the procedural requirements set forth in this chapter have been met.
2. 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.
3. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.
4. Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.
5. That grant of the variance will not cause a significant adverse affect on any underlying groundwater basin.

Use Permit: (Napa County Code Section 18.124.070)

1. The Board of Supervisors has the power to issue a Use Permit under the Zoning Regulations in effect as applied to the property.
2. The procedural requirements for a Use Permit set forth in Chapter 18.124 of the County Code (zoning regulations) have been met.
3. The grant of the Use Permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.
4. The proposed use complies with applicable provisions of the County Code and is consistent with the policies and standards of the Napa County General Plan and any applicable specific plan.
5. That 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 in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Sections 13.15.070 or 13.15.080 of the County Code.

Appeal:

On May 9, 2018, a timely appeal packet was filed by Appellant Oakville Winery, LLC to the Planning Commission's decision to deny the Project. (Please see **Attachment A**.) Pursuant to the County's appeals ordinance (Napa County Code Chapter 2.88) a public hearing on the appeal must be scheduled not less than fifteen days nor more than ninety calendar days from submittal of an appeal. To accommodate all parties' schedules, on June 12, 2018 the Chair opened and continued the hearing (with the consent of all parties) to August 14, 2018. No testimony was taken on June 12th.

Pre-Hearing Conference:

In an effort to clarify the County's procedural requirements and expectations regarding land use appeals, the County Counsel's office has initiated a voluntary program whereby a pre-hearing conference is held with the parties and the Chair of the Board to discuss estimates on presentation lengths, scope of evidence, and testimony to be presented, together with witness lists. Any witness not appearing on a witness list at the pre-hearing conference is treated as an ordinary member of the public and allotted the usual three minutes of speaking time.

A pre-hearing conference was held on June 13, 2018, with Appellant's counsel and Winery representatives, Chair Wagenknecht and members of the County Counsel's office. At that time, Appellant agreed to provide a list of its respective witnesses along with the subject matter of testimony and time estimates. The Chair informed the Appellant that it is allocated a maximum of 45 minutes for Appellant's presentation including rebuttal to be allocated at Appellant's discretion. A summary of the witness information by name, subject matter of testimony and time estimates that was provided by Appellant is attached as **Attachment B**.

Appellant also agreed to provide the Chair with any requests for "good cause" to either supplement the record with new information and/or to have the appeal heard de novo (e.g., a fresh hearing). As part of the appeal packet, Appellant requested that "good cause" be found for a de novo hearing. On June 13th and July 3, 2018, Appellant submitted an additional "good cause" request to augment the record with documentary evidence in the form additional exhibits and documents about the Winery operations. A copy of Appellant's request is attached as **Attachment C** and can also be viewed online at: <https://www.countyofnapa.org/2291/Appeal---Dry-Creek-Mt-Veeder-Winery>.

The Chair denied Appellant's request for a de novo hearing but found "good cause" to allow the documentary record to be supplemented with enhanced visual aids and exhibits. The Chair also denied Appellant's request to include written evidence regarding the Winery's business plan and operations because that evidence could have and should have been submitted as part of the use permit and variance application or to the Planning Commission in advance of the hearing. A copy of the Determination of Good Cause decision issued by the Chair is attached as **Attachment D**. Pursuant to County Code Section 2.88.090 (B), the Chair's decision is final unless one of the parties requests that a majority of the Board overrule the decision. Appellant informed County Counsel's office that Appellant does not wish to request that a majority of the Board overrule the Chair's prior good cause determinations.

At the pre-hearing conference, Appellant further agreed to provide any supplemental information not to exceed 5 pages that the Appellant wished to have considered by the Board in advance of the hearing. Included as **Attachment E** is the supplemental information that was provided by Appellant. The information is also available for review online at: <https://www.countyofnapa.org/2291/Appeal---Dry-Creek-Mt-Veeder-Winery>.

Appeal Hearing Public Comments:

Public notice of this appeal hearing was mailed and provided to all parties who received notice of the Planning Commission hearing on June 1, 2018. The notice ran in the paper on June 1, 2018.

On June 12, 2018, the Board opened the public hearing and continued the item to August 14, 2018 without taking testimony.

The public comment period on this appeal will have run for 64 days by the time the hearing is held on August 14, 2018.

Stated Basis for Appeal:

For convenience, Staff has numbered each issue within Appellant's appeal, and provided a general summary of the ground of appeal followed by Staff's response. However, Staff recommends that the Board review the actual appeals. Correspondence that has been received as of August 2, 2018 is attached as **Attachment F**.

Grounds of Appeal:

The following outlines the basis of the appeal as contained in Appellant's Appeal dated May 15, 2017. (See **Attachment A**) For convenience, staff has bracketed each ground of appeal and provided a summary below, but recommends the Board review the actual Appeals for details.

Appeal Ground No. 1: Prior to the Planning Commission hearing, Appellant received the Staff Report in which Staff found the Winery consistent with the Zoning Ordinance and applicable policies of the General Plan and that the variance findings could be met. Appellant appears to assert that because the Commission acted contrary to the Staff Report that the hearing was unfair and that such action was a prejudicial abuse of discretion.

Staff Response: Appellant is correct that the Staff Report prepared for the Winery recommended conditional approval. Based upon Staff's review of the submitted materials, Staff believed that the Project could be found consistent with the Zoning Ordinance and applicable General Plan policies. Moreover, staff included recommended findings for approval of the Variance application. It is important to note that Staff's recommendations are merely advisory. They are not binding and have no legal effect. (*Ocean Harbor House Homeowners Assn. v. California Coastal Com.* (2008) 163 Cal.App.4th 215, 225, fn. 6 [recognizing that decisions of the Commission may be "'different than those proposed by the staff in the staff recommendation'"]; *Benson v. California Coastal Com.* (2006) 139 Cal.App.4th 348, 354 [staff recommendation not "binding" on Commission]) Furthermore, Staff's recommendations are based on information provided prior to the public hearing and without benefit of public comment, Commissioner Observations or the applicant's presentation. While somewhat uncommon, it is not unprecedented for the Planning Commission to deny or modify a project despite a recommendation of support or a finding of consistency from Staff. Recent examples include the Palmaz personal use heliport which was denied by the Commission, Bouchaine Vineyards where the Commission reduced recommended visitation levels and the Reverie Winery where the Commission imposed an estate grape requirement.

A variance is a constitutional safety valve to prevent a property from becoming unusable if the zoning code were strictly applied. It protects against an unconstitutional taking by allowing the owner to seek a deviation from the applicable zoning so as to enjoy the benefits afforded to other properties in the applicable zone. Variances are typically applied to provide relief from design or development standards including height, density, setback, floor area ratio, parking, or other requirements when those standards would otherwise prevent an owner from making use of their property.

Courts view variances as an exception rather than the rule. Requirements for variances under California law are very strict and variance approvals are often overturned in litigation due to insufficient findings or a lack of relevant evidence to support the findings. The landmark case of *Topanga Assn. for a Scenic Community v. County of Los Angeles* specifically acknowledged judicial concerns about an agency's approvals of unjustified variances and stated that "many zoning boards employ adjudicatory procedures that may be characterized as casual." (*Topanga*

Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 518.) Under Topanga and a long line of variance cases since then, the courts have reiterated that the local agency must make findings to “bridge the analytic gap between the raw evidence and the ultimate decision or order.” Variance findings should be as detailed as possible, and provide specific facts to support each of the three-prongs. (*Levi Family Partnership, LP v. City of Los Angeles* (2015) 241 Cal.App.4th 123.) A summary of the findings required for grant of a variance is attached as **Attachment G**.

The Planning Commission reviewed the Staff Report, listened to and considered the Applicant and staff presentations as well as public testimony. All but one Commissioner visited the property. After considering all of the evidence in the record, a majority of the Commission ultimately exercised its independent judgment in determining that the Variance findings could not be met. A majority of the Commission found that the record was devoid of substantial evidence demonstrating that special circumstances exist on the Winery property which is one of the required Variance findings per Napa County Code Section 181.28.060 (A)(2). In particular, the majority found that the steep slopes, dense vegetation, and seasonal drainages on the Winery property are similar to and no different than physical features and constraints on other parcels in the Mount Veeder area.

Specifically, Commissioner Gallagher stated “You know, the parcel is said to be unique, however it's really not that unique in terms of Mount Veeder. There are steep slopes all over Mount Veeder.” (See Certified Planning Commission Hearing Transcript April 18, 2018, page 43:19-22). Chair Cottrell further noted her concerns about the application when she stated “I'm not seeing the rationale to support the variance findings. Specifically the special circumstances that would be required. I don't see this parcel as different from other parcels in the neighboring area.” (See Certified Planning Commission Hearing Transcript April 18, 2018, page 44:20-28). Commissioner Scott shared the same concerns as Commissioner Gallagher and Chair Cottrell stating “In my case, for me, I've come to the conclusion that the comment that my--that Commissioner Gallagher made rings truest with me, and that is, we're trying to pound a square peg into a round hole. It does not fit. It doesn't work for me. And in--my recommendation would be that we deny the proposed project.” (See Certified Planning Commission Hearing Transcript April 18, 2018, page 47:21-26).

Commissioners Gallagher, Hansen and Cottrell also questioned whether grant of the variance would result in a special privilege to the Oakville Winery. The comparison wineries that exist within the setback (Far Niente and Harlan) and relied upon as support for the variance are pre-Winery Definition Ordinance wineries, not subject to the same current regulations and therefore not comparable. Also, the Futo project involved a driveway not a winery building and likewise was not considered a fair comparison. (See Certified Planning Commission Hearing Transcript April 18, 2018, pages 8:1-28; 9:1-28; 10:17-28; 11:1; 43:12-28; 44:1-28; and 45:1-11).

Based on their independent review of the evidence provided, a majority of the Planning Commission found that special circumstances do not exist applicable to the Winery property and therefore the findings necessary to support the variance request could not be met and the Project was denied.

Appeal Ground No. 2: Appellant contends that the Commission's decision to deny the Appellant's initial request for a continuance less than 24 hours after visiting the Project site and expressing their concerns constituted a prejudicial abuse of discretion. According to Appellant, there was no evidence presented supporting a majority of the Commission's decision that more time would not have resulted in better information upon which a final decision could be made.

Staff Response: Although Appellant alleges that no evidence was presented supporting a majority of the Commission's decision that more time would not have resulted in better information upon which a final decision could be made, the transcripts reveal otherwise. For example, Commissioner Gallagher stated “I think my feeling is just that if this project could be done differently then I don't know why it didn't come to us differently in the first place, you know. I think if it could be done without a variance, then I would think it would have been presented that way. And so I don't feel very confident that there's anything that's going to come back that's going to change my

decision.” (See Certified Planning Commission Hearing Transcript April 18, 2018, page 48). Chair Cottrell also mentioned “well, I think we have a couple of different viewpoints at this point. I think where I come down, I mean I think I'm not sure quite where significant re-tooling and brand new project merge or mesh, where the spectrum is. My concern is I just don't favor, or see the evidence supporting a variance at this site. So, I am not sure what re-tooling would change that. And so perhaps I'm in agreement with Commissioners Gallagher and Scott that that may not be the option.” (See Certified Planning Commission Hearing Transcript April 18, 2018, page 49).

A majority of the Planning Commission found that the site was inappropriate for a winery based on its steep topography, which appeared to be a common terrain feature of parcels in the area, its remote location, the landslides on-site, the unsuitability and instability of the soil, the creek and other site constraints. Several Commissioners noted that not all parcels greater than ten acres are appropriate for a winery. Commissioners also found that this project is unlike others where trips are taken off the road or reduced because the on-site grapes will no longer need to be transported to an off-site processing facility. For this project, all of the trips generated by the Oakville Winery would be new trips. The Winery is not decreasing travel time, or distance for grapes or employees. For all of these reasons, the Commission believed that even allotting more time for significant project revisions would not overcome the conclusion that this site is inappropriate for a winery.

The Commissioners who supported a continuance of the Project (Basayne, Hansen) identified the following issues to be addressed: (1) enhanced visual buffering and screening; (2) a reconfigured parking lot layout; (3) revised site planning to avoid the need for a variance; (4) provision of additional grape sourcing details; (5) development of a Vehicle Miles Traveled (VMT) reduction plan; and (6) installation of electric vehicle (EV) charging stations. At the Planning Commission hearing, the Appellant's Counsel indicated a willingness to consider these suggestions further if the application were continued.

Appeal Ground No. 3: Appellant asserts that the Commission's decision to deny the Appellant's initial request for a continuance constituted a lack of a fair hearing as there was no opportunity for Appellant to address the Commission's concerns. Appellant contends that concerns regarding the “speculative” nature of future grape sourcing, whether the grant of the variance would set a “precedent,” and protection of streams and watercourses, among others, could have all been addressed in due time. Because Appellant had no opportunity to address the additional concerns raised, Appellant was denied a fair hearing.

Staff Response: The decision to grant or deny a request for a continuance lies solely within the Planning Commission's discretion. A fair hearing requires impartiality, though there are no rigid procedures for the protection of fair procedure rights. Courts have recognized that an individual has the right to a tribunal which meets standards of impartiality. Biased decision makers are impermissible and even the probability of unfairness is to be avoided. The factor most often considered destructive of administrative board impartiality is bias arising from pecuniary interests of board members. Personal embroilment in the dispute will also void the administrative decision although neither prior knowledge of the factual background which bears on a decision nor pre-hearing expressions of opinions on the result disqualifies an administrative body from acting on a matter before it. (*Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1170.) Aside from a complaint about not being granted a continuance, Appellant has not provided any evidence that the Planning Commission was biased or did not act in an impartial manner.

Appellant claims that additional grape sourcing details could have been provided; HOWEVER Appellant failed to provide such information at time of application submittal on September 14, 2017 and at any point prior to or even during the hearing before the Commission. Commissioner Gallagher expressed concern that no grapes were proposed or planned on site and questioned whether the property owners have grapes nearby to process at the Winery. Appellant's counsel testified that the Property owners have “no direct ownership ...” and “that for this Winery to get going, it would need to develop relationships with independent growers in the area. This is, you know, having an actual home for them would be good first step for that relationship to start.” (See Certified Planning Commission Hearing Transcript April 18, 2018, page 38:5-12). While Appellant's counsel represented

generally that there are 1,000 acres of grapes on Mount Veeder, no evidence of a particular grape source or contract was provided.

As stated by Chair Cottrell at the hearing, “[t]he location of the parcel far from the main thoroughfare with no grapes on site, no plans to plant grapes. I understand the hope that the applicant could make contracts with growers nearby, but that’s quite speculative. So, we can’t rely on that in any kind of analysis” (See Certified Planning Commission Hearing Transcript April 18, 2018, page 45:13-24). Based on the factors cited by Chair Cottrell, a majority of the Planning Commission found that the grape sourcing issues could not be addressed in “due time.”

As stated in Staff Response to Appeal Ground No. 1 above, a majority of the Planning Commission found that the findings for the variance request could not be met. Specifically, they determined that special circumstances did not exist for the Winery property as compared to typical topography and natural site constraints for other parcels throughout the Mount Veeder area. Accordingly, no amount of “due time” would result in special circumstances being created for the subject site other than the selection of another potential alternative site for the proposed Winery.

Board Considerations and Staff Recommendation:

The following options are provided for the Board’s consideration regarding possible action on the appeals:

- 1 Deny the appeal in its entirety and uphold the Planning Commission’s denial of the use permit and variance for the Oakville Winery. If the appeal is denied, the applicant can resubmit this project or a modified project within one year of the date of this decision.
- 1 Uphold one or more grounds of the appeal and reverse the Planning Commission’s decision, thereby approving the Variance and Use Permit.
- 1 Uphold one or more ground of the appeal and deny the variance but approve the use permit and proposed winery to be located outside of the setback. This option would require further environmental review of the potential impacts related to increased vegetation removal, grading, soil loss, water quality, and wildfire risk likely to be needed to accommodate the adjusted site plan. A Use Permit Exception to the Conservation Regulations application would also likely be required to accommodate grading on slopes in excess of 30 percent.
- 1 Remand the matter to the Planning Commission with direction.

In Staff’s opinion, none of the information provided in the Appeal and/or other public comments received to date substantively challenges or requires modification of the decision reached by the Planning Commission regarding this matter. As a result, Staff recommends that the Board deny the appeal in its entirety and uphold the Planning Commission’s denial of the Project.

SUPPORTING DOCUMENTS

- A . Appeal Packet
- B . Witness List
- C . Good Cause Request
- D . Chair's Good Cause Determination
- E . Appellant's Supplemental Information
- F . Public Correspondence
- G . Variance Information

CEO Recommendation: Approve

Reviewed By: Helene Franchi