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Agenda Date: 4/6/2011

Agenda Placement: 9A

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission

**FROM:** John McDowell for Hillary Gitelman - Director  
Conservation, Development & Planning

**REPORT BY:** DONALD BARRELLA, PLANNER III - 707-299-1338

**SUBJECT:** Black Forest Vineyard Use Permit Exception #P09-00243-UP and Agricultural Erosion Control Plan #P09-00385-ECPA

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### **RECOMMENDATION**

#### **BLACK FOREST VINEYARD / ANTHONY PEJU - USE PERMIT EXCEPTION #P09-00243-UP and AGRICULTURAL EROSION CONTROL PLAN #P09-00385-ECPA**

**CEQA Status:** Mitigated Negative Declaration prepared. According to the proposed mitigated negative declaration, if mitigation measures are not included, the proposed project would have potentially significant environmental impacts to Biological Resources. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

**Request:** This item requires two approvals:

**A.) Conservation Regulations Use Permit Exception #P09-00243-UP:** to reduce the stream setbacks required pursuant to Chapter 18.108.025 of the Napa County Code (Conservation Regulations - Stream setbacks) ranging from 85 to 105 feet down to between 61 and 42 feet to allow the retention of approximately 0.44-acres (19,170 square feet) to 0.5-acres (21,780 square feet) of existing vineyard and associated improvements developed within required stream setbacks without the benefit of a Use Permit Exception.

**B.) Agricultural Erosion Control Plan #P09-00385-ECPA:** required pursuant to Chapter 18.108.080 of the Napa County Code (Conservation Regulations - Agricultural erosion control plans) for land disturbing activities on slopes greater than 5% to allow the retention and development of approximately 14.2-acres of vineyard consisting of the following: 1) maintenance of erosion control measures associated with approximately 7.8-acres of existing vineyard planted without benefit of an erosion control plan; and 2) earthmoving activities and installation and maintenance of erosion control measures associated with the development of approximately 6.4-acres of new vineyard (5.5-acres of which has already been cleared of vegetation). The project is located on a 87.86-acre parcel located on Dutch Henry Canyon Road approximately 0.25 miles north of its intersection with the Silverado Trail and within the AW (Agricultural Watershed) zoning district. APN: 018-060-068, 321 Dutch Henry Canyon Road, Calistoga.

**Staff Recommendation:** Adopt the mitigated negative declaration and mitigation monitoring and reporting plan and approve the requested use permit and erosion control plan as mitigated and conditioned.

**Staff Contact:** Donald Barrella, 299-1338 or [donald.barrella@countyofnapa.org](mailto:donald.barrella@countyofnapa.org)

## **EXECUTIVE SUMMARY**

### **Proposed Action:**

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Program for the Peju Black Forest Vineyard, based on findings 1-6 of Exhibit A;
2. Approve Use Permit Exception No. P09-00243 based on findings 7-10 of Exhibit A and subject to the recommended conditions of approval (Exhibit B); and,
3. Approve Agricultural Erosion Control Plan #P09-00385-ECPA subject to the recommended conditions of approval (Exhibit B).

### **Discussion:**

In 2005 and 2006 approximately 13.3-acres of the project area was cleared of vegetation. In 2007 approximately 7.8-acres of the cleared area was planted to vineyard (existing Vineyard Blocks 1 and 2) , the remaining 5.5-acres of cleared area (proposed Vineyard Blocks 3 and 5 and approximately 1.8-acres of proposed Vineyard Block 4) is currently planted with a vegetated cover crop . Approximately 0.9-acres of the project area has not been disturbed: proposed Vineyard Block 6 (0.5-acres) and a portion of proposed Vineyard Block 4 (0.4-acres).

These land clearing, earth-disturbing, and vineyard development and planting activities were conducted without benefit of an approved Agricultural Erosion Control Plan (ECPA) pursuant to Napa County Code (NCC) Section 18.108.080. As part of the vineyard development activities approximately 0.5-acres of vineyard and associated improvements (vineyard avenue, trellises, endposts, and irrigation lines) were installed within creek setbacks required pursuant to NCC Section 18.108.025: required setbacks within the areas of encroachment range from 85 to 105 feet. Pursuant to NCC Section 18.108.040 a Use Permit Exception (UP) is required for those portions of vineyard occurring within stream setbacks. Furthermore, these vineyard development activities displaced approximately 275 linear feet of an approximate 835 foot watercourse located below the existing reservoir on the property that would have been subject to Fish and Game Code Section 5650.

The applicant is requesting a UP Exception to reduce the stream setbacks down to between 61 feet or 42 feet to retain approximately 19,170 square feet ( $\pm 0.44$ -acres) to approximately 21,780 square feet ( $\pm 0.5$ -acres) of existing vineyard, and approval of the proposed ECPA to retain the existing 7.8-acres of vineyard and complete development of 6.4-acres of new vineyard. The purpose of these applications are to bring the property into compliance with the County Conservation Regulations (Chapter 18.108 NCC) and the Stipulated Judgment Case No. NCS 26-39559, which was entered into due to vegetation clearing, earth-disturbing activities, and the planting of vineyard conducted without required approvals.

As part of the earth-disturbing and vineyard development activities previously conducted, the owner/applicant displaced and piped approximately 275 linear feet of an approximate 835 foot watercourse located below an existing reservoir on the property. Displacement of this watercourse was a violation of Fish and Game Code Section 5650 requiring a Lake and Streambed Alteration Agreement (LSAA) pursuant to Section 1600 et seq. of the Fish and Game Code. A Stipulated Judgment (NSC No. 26-39559) was entered into (April 2009) to address the displacement of this watercourse. Please refer to the background section of this report for a more detailed discussion of this matter: the Stipulated Judgment is included as Attachment H.

The owner/applicant has included, as part of the project, the removal and restoration of approximately 2,610 square feet (0.06-acres) of existing vineyard located in the southeastern corner of Vineyard Block 2 that currently encroaches into the required setback so that the required soil loss/erosion rate finding (pursuant to NCC Section 18.108.040.B.1) could be achieved. As an alternative to vineyard removal to reduce soil loss below specified tolerances the County Conservation Division and the Napa County Resource Conservation Division (RCD) considered measures that could be incorporated into the ECPA to reduce soil loss below required tolerances and allow for the retention of this 2,610 square feet of vineyard. Thus the reason for the range in creek setbacks requested.

The owner/applicant has prepared an ECPA in accordance with Section 18.108.080 for the proposed project, that is both technically adequate pursuant to RCD standards and consistent with applicable code requirements and General Plan policies as detailed in the Proposed Initial Study and Mitigated Negative Declaration (Attachment E).

Therefore, the Commission has an option to consider: 1) the UP and ECPA as proposed, which includes the removal and restoration of approximately 2,610 square feet of existing vineyard area; 2) the UP and ECPA with the incorporation of alternative measures specified to retain this 2,610 square feet of vineyard area; or, 3) deny the UP exception and approve the ECPA without allowing any encroachments into the required creek setbacks as part of the vineyard development.

Given the extent of the proposed stream setback encroachments and stream setbacks provided for the entire vineyard development, either as proposed or with incorporation of the alternative measures, and the overall scope and scale of the vineyard development, staff believes that the required findings can be made to adopt the IS/MND and support the requested creek setback exception and erosion control plan. We recommend adoption of the mitigated negative declaration and approval of the use permit and erosion control plan as mitigated and conditioned.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** Mitigated Negative Declaration prepared (State Clearinghouse SCH#2010122095). According to the proposed mitigated negative declaration, if mitigation measures are not included, the proposed project would have potentially significant environmental impacts to Biological Resources. As mitigated, 0.4-acres of proposed vineyard area would be removed from the development plan for a total development of approximately 13.8-acres. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

### **Discussion:**

The Proposed Initial Study and Mitigated Negative Declaration (IS/MND) was submitted to the State Clearinghouse and publically noticed for a 30-day public review period commencing on January 3, 2011: the review period ended February 1, 2011. During the comment period the County Received comment letters from the following agencies:

- | California Department of Fish and Game (DFG)
- | California Department of Forestry and Fire Protection (CalFire)

## I Regional Water Quality Control Board San Francisco Bay Region (RWQCB)

Attachment D includes the referenced comment letters and draft responses to these comments. Based on review of the comments received, no new, potentially significant impacts beyond those identified in the Proposed IS/MND would occur, no mitigation measures or project revisions must be added to reduce impacts to a less than significant level, and none of the grounds for recirculation of the Proposed IS/MND as specified in State CEQA Guidelines Section 15073.5 have been identified. All potential impacts identified in the Proposed IS/MND were determined to be less-than-significant with proposed mitigation and conditions incorporated. The responses to comments, once finalized, in combination with the Proposed IS/MND, completes the Final IS/MND.

All of the commenting agencies indicated that the owner/applicant may still need to acquire individual permits or approvals from that agency, either for the proposed activities or past activities that needed such permits, to implement the project and/or for the restorative measures required pursuant to the Stipulated Judgement, and that such permits may be subject to fines or penalties associated with acquisition of them. As conditioned, an approval would be contingent on the owner/applicant obtaining any and all other local, state, or federal permits necessary to implement the project prior to the commencement of work associated with the project or for past activities that required such permits. Any approving action by the Commission would not absolve the owner/applicant from the need to acquire any and all other necessary permits or payment of penalties/fines associated with those permits, as determined by the issuing agency, for proposed work, whether or not work requiring such permit has already been conducted. Also see Attachment C for Conditions of Approval and Attachment D for greater detail.

### **BACKGROUND AND DISCUSSION**

**Owner:** Anthony and Herta Peju

**Applicant:** Anthony Peju

**Representative:** Jeffery Redding AICP

**Zoning:** AW (Agricultural Watershed)

**General Plan Designation:** AWOS (Agriculture, Watershed, and Open Space)

**Filed:** June 10, 2009 **Complete:** December 9, 2010

**Vineyard Size:** Approximately 14.2 gross acres (approximately 12 net vine acres)

**Parcel Size:** 87.68-acres

#### **Surrounding General Plan Designation/ Zoning / Land Use:**

##### **North**

General Plan Designation: Agriculture, Watershed, and Open Space (AWOS)

Zoning Designation: Agricultural Watershed (AW)

Open space and forested parcels including +2,900-acres of land under the Napa County Land trust and +2,100-acres owned by the State of California.

##### **South**

General Plan Designation: AWOS and Agriculture Preserve (AP)

Zoning Designation: AW and Agriculture Preserve (AP)  
Vineyards, scattered residences and wineries.

#### East

General Plan Designation: AWOS

Zoning Designation: AW

Open space and forested lands including 600-acres of land under the Napa County Land trust and the 167 acre Calistoga Ranch Resort.

#### West

General Plan Designation: AWOS

Zoning Designation: AW

Open space and forested lands including 425-acres owned by Clover Flat Landfill.

### **Parcel History and Evolution of this Application:**

#### October 2004

Property acquired by Anthony and Herta Peju.

#### 2005

Approximately 6 to 7-acres of land cleared for vineyard development and prepared for vineyard development

#### 2006

An additional 6 to 7-acres of land cleared of land cleared and prepared for vineyard development: land clearings total approximately 13.3-acres.

#### September 2006 through March 2007

The California Department of Fish and Game in conjunction with the County Department of Public Works and the County Conservation Division investigates earthmoving and grading at the property and identifies violations of Chapter 18.108 NCC (Conservation Regulations) related to clearing and planting activities, including the diversion of a watercourse that would have been subject to Section 1600 of the Fish and Game Code.

#### Spring 2007

Vineyard Block 1 (2.9-acres) and Vineyard Block 2 (3.3 acres) planted with vineyard.

#### Fall/Winter 2007 through December 2008

Settlement agreement meetings with District Attorney, owner, owner's attorney, the California Department of Fish and Game, the owner's engineer (Monticello Engineering), and the County Conservation Division.

#### June 25, 2007

Pre-application held with Royce Cunningham of Monticello Engineering.

#### April 13, 2009

Stipulated Judgment NSC No. 26-39559 endorsed.

#### June 10, 2009

Creek Setback Use Permit Exception application submitted.

#### June 16, 2009

Pre-application meeting for associated ECPA application conducted with Royce Cunningham of Monticello

Engineering.

August 26, 2009

ECPA application submitted.

October 2009 through November 2010

Ongoing meetings and site inspections with agent(s), the Napa County RCD, the County Conservation Division and the District Attorney associated with review of applications, plans, and the stipulated judgment to complete the applications and plans so the environmental document could be prepared and circulated.

January 2011

Proposed Initial Study and Mitigated Negative Declaration Circulated.

### **Code Compliance History:**

The subject applications have been submitted to correct pending code violation issues. Having discussed the application with Enforcement staff, toured the property, and reviewed the Department's files, planning staff is not aware of any other code compliance issues on the subject parcel.

### **Discussion Points:**

#### Setting

The 87.86-acre subject parcel is located in the northeastern end of the Napa Valley approximately 2.25 miles east of the City of Calistoga (see Attachment A). More specifically the parcel is located in the southern end of Dutch Henry Canyon within the foothills of the Eastern mountain range on Dutch Henry Canyon Road approximately 0.25 miles north of its intersection with Silverado Trail. An existing paved access drive/road running in a north south direction that bisects the western half of the property provides access to the property.

In 2006 and 2007 approximately 13.3-acres of the project area was cleared of vegetation and approximately 7.8-acres of the cleared area was planted to vineyard (existing Vineyard Blocks 1 and 2): approximately 0.5-acres of existing vineyard and associated improvements are within required creek setbacks. These activities also displaced approximately 275 linear feet of an approximate 835 foot watercourse located below the existing reservoir on the property.

The applicant is proposing the retention of approximately 7.8-acres of existing vineyard and development of approximately 6.4-acres of new vineyard (total 14.2-acres). The purpose of these applications are to bring the property into compliance with the County Conservation Regulations (NCC Chapter 18.108) and the Stipulated Judgment.

#### Stipulated Judgment NCS No. 26-39559

Please refer to Figure 4 of Attachment E, which includes a map of the watercourses described below: the Stipulated Judgment is included as Attachment H. As part of the earth-disturbing and vineyard development activities previously conducted, the owner/applicant displaced and piped approximately 275 linear feet of an approximate 835 foot watercourse located below the existing reservoir on the property. Pursuant to the Stipulated Judgment the displacement of this watercourse was a violation of Fish and Game Code Section 5650 that would have required a Lake and Streambed Alteration Agreement (LSAA) pursuant to Section 1600 et seq. of the Fish and Game Code.

Pursuant to the Stipulated Judgment, the displaced drainage course (referred to unnamed Tributary #2) is required to be rerouted/reestablished around the existing vineyard located in that area (i.e. existing Vineyard Block 1) and connect to an existing water course (referred to as unnamed Tributary #1) located to the south of Vineyard Block 1.

Specifically, per Section III of the Stipulated Judgment (Mandatory Injunctive Conditions Applicable to the Dutch Henry Defendants) the owner is required to prepare a remediation plan for the southern vineyard area (i.e. existing Vineyard Block 1) that includes:

I) A plan to prevent erosion and sedimentation of the bed bank and channel of Unnamed Tributary No. 1 to Dutch Henry Creek, including a minimum 5-foot wide permanently maintained vegetated setback between the bank of Unnamed Tributary No. 1 and any road, vineyard avenue or turnaround. This provision has been included as part of the pending ECPA.

II) A plan to reroute/reestablish the course of Unnamed Tributary No. 2 starting at the upstream opening of the existing 24" culvert and flow-diffusion basin. The flow-diffusion basin shall be removed and the existing culvert through which this tributary is directed shall be permanently sealed. The watercourse shall be rerouted to cross the lower vineyard area (i.e. southern or Vineyard Block 1) such that it takes a south-westerly direction from the existing flow-diffusion basin and around the perimeter of the existing vineyard. Such watercourse shall be designed and installed to have a sufficient capacity to handle maximum downstream flows calculated for the watershed of Unnamed Tributary No. 2 and shall connect with and be continuous with Unnamed Tributary No. 1. There shall be a minimum ten (10) foot setback of the watercourses from the vineyard or any vineyard avenue or turnaround, located wholly on the subject property. The setback shall be seeded with a permanent ground cover suitable for erosion control and shall be permanently maintained. The watercourse shall be designed and installed to minimize any sedimentation arising from water flow into and through it. Most of these provisions have been included as part of the pending ECPA: the designed specifications that the rerouted watercourse has sufficient capacity to handle maximum downstream flows calculated for the watershed of Unnamed Tributary No. 2 are not included with the ECPA.

The terms of the Stipulated Judgement were primarily negotiated with the Department of Fish and Game and the District Attorney, and include rerouting/reestablishing of the watercourse, and the payment of penalties totaling \$86,003.23: \$13,192.48 of which went to the Department of Fish and Game. Any plans associated with the Stipulated Judgement shall be submitted for review to the Napa County Department of Conservation, Development and Planning, the Napa County Department of Public Works, and the California Department of Fish and Game.

#### Conservation Regulations: Creek Setbacks

There are two primary seasonal drainage features occurring on the property: 1) Dutch Henry Creek which generally bisects the eastern portion of property in a north south direction; and, 2) an unnamed drainage/tributary that enters the property from the west and flows to an existing pond located in the southwest portion of the property, from the pond this watercourse flows in a south/southwest direction to an existing drainage course along the southern end of the property. This unnamed drainage course ultimately outfalls into Dutch Henry Creek to the east (see Figures 2 and 4 of Attachment E for greater detail). This unnamed drainage course has been altered in the past due to agricultural and residential development occurring prior to 1940 on the adjacent parcel to the south and development of the on-site pond that occurred prior to 1993/1987, as well as, the recent modifications made by the owner/applicant as described below.

The development proposes to retain approximately 19,170 square feet ( $\pm 0.44$ -acres) to approximately 21,780 square feet ( $\pm 0.5$ -acres) of existing vineyard located along the west side of Dutch Henry Creek that encroach into required stream setbacks. These areas of encroachment occur along the eastern periphery of existing Vineyard Block 2 (Figure 2 Attachment 2). Required creek setbacks along this portion of Dutch Henry Creek range from 85 feet to 105 feet depending on the percent of slope as measured between the top of bank and earth-disturbing activities. Proposed creek setback encroachments range from 1 to 50 feet: typically averaging from 30 to 40 feet. Remaining creek setback area provided after encroachment range from 61 to 140 feet (typically 70 feet) except for an approximate 180 foot stretch at the southeast corner of Vineyard Block 2 which ranges from 42 to 110 feet. All other required stream setbacks of the proposed project, including those associated with any existing vineyard, conform to NCC Section 18.108.025, which range from 45 feet to 105 feet.

As part of the earth-disturbing and vineyard development activities previously conducted, the owner/applicant displaced and piped approximately 275 linear feet of an approximate 835 foot watercourse located below the existing reservoir on the property as (also see Figure 4 of Attachment E). Due to existing conditions it was not possible to evaluate the characteristics of the watercourse to determine if it met the County definition of a stream (Section 18.108.030 NCC). However this unnamed watercourse is not shown on the Napa County Geographical Information System (GIS) stream map or on the USGS Topographical Maps as a Blue Line stream (USGS 1993, Calistoga quadrangle), and the County GIS Vegetation map does not show this area as containing riparian vegetation (see Figure 5 of Attachment as E), which are criteria used in identifying definitional streams subject to setbacks. Additionally, the undisturbed portions of this watercourse do not have a channel depth of 4 feet or greater, which is another criteria used in identifying definitional streams. Therefore, it is uncertain if this watercourse (or portions thereof) would have been subject to stream setbacks, however, the undisturbed portions of the watercourse is provided with setbacks consistent with NCC Section 18.108.025.

#### Conservation Regulations: Use Permit Exception

The primary purpose and intent of the Conservation Regulations, as related to these applications is; 1) to ensure the long term viability of agriculture resources of the county by protecting county lands from excessive soil loss and erosion; 2) minimize soil erosion caused by human modifications to the natural terrain; 3) maintain and improve existing water quality by regulating the quantity and quality of runoff entering local watercourses; and, 4) preserve riparian areas and other natural habitat by controlling development near streams and rivers.

The owner/applicant is requesting a UP Exception to reduce stream setbacks down to between 61 feet or 42 feet to retain approximately approximately 19,170 square feet ( $\pm 0.44$ -acres) to approximately 21,780 square feet ( $\pm 0.5$ -acres) of existing vineyard that currently encroaches into required creek setbacks. Staff encourages compliance with required creek setbacks as part of vineyard developments; however, the owner has elected to pursue the UP Exception to retain vineyard installed within creek setbacks rather than restore these areas.

One of the UP Exception findings (NCC Section 18.108.040.B.1) requires that erosion rates of the proposed development not exceed the soil loss tolerance factor for the soil type considering its setting. The owner/applicant has included, as part of the project, the removal and restoration of approximately 2,610 square feet (0.06-acres) of existing vineyard located in the southeastern corner of existing Vineyard Block 2 that currently encroaches into the required setback so that required soil loss (erosion rates) can be achieved. As an alternative to vineyard removal to reduce soil loss below specified tolerances the County Conservation Division and the Napa County RCD considered measures that could be incorporated into the ECPA to allow for the retention of this 2,610 square feet of vineyard. Thus the range in creek setbacks requested. These measures include surfacing of the entirety of the eastern vineyard avenue of Vineyard Block 2 with rock as specified by the RCD (Attachment G) and relocating the existing fencing along this perimeter to no greater than 20 feet from the end of vinerows as specified in the ECPA. As detailed in the IS/MND, the minimum soil loss tolerance factor for soils located within the project area is 4 tons per acre (USDA, Soil Survey of Napa County, 1978), the maximum post project soil loss is anticipated to be 1.54 tons per acre.

Staff and the RCD believe this alternative measure (surfacing the avenue with rock) would result in a more effective long term vineyard practice, as opposed to a vegetative covered vineyard avenue, in reducing soil loss, erosion and associated sediment delivery to Dutch Henry Creek by providing a more permanent filtering mechanism and by armoring and protecting the avenue itself from turnaround and through traffic. Furthermore, ensuring that vineyard avenue width is no greater than 20 feet in width and associated fencing is limited to the avenue perimeter would minimize creek setback encroachments to the maximum extent practical.

The Proposed IS/MND evaluated the retention of all existing vineyard in the context of the alternative outlined above and found that with either configuration (removal of the 2,610 square feet of vineyard or retention with alternative measures), specified erosion rates would be met, and no significant impacts would result in retaining this vineyard



area (in whole or in part).

In order to approve a UP exception to the Conservation Regulations, the Commission must make a number of findings related to soil loss and erosion, impacts to watercourses, and impacts to sensitive species. As detailed in the Proposed IS/MND, soil loss and runoff as a result of the project will not be increased above pre-development conditions, mitigation measures have been incorporated into the proposed project to reduce impacts to water course and/or associated riparian vegetation, and no impacts to sensitive species were identified.

Therefore, the Commission has an option to consider: 1) the UP and ECPA as proposed, which includes the removal and restoration of approximately 2,610 square feet of existing vineyard area; 2) the UP and ECPA with the incorporation of alternative measures specified above to retain this 2,610 square feet of vineyard area; or, 3) deny the UP Exception and approve the ECPA without allowing any encroachments into the required creek setbacks as part of the vineyard development. Staff is recommending the Commission consider the UP and ECPA with the incorporation of alternative measures specified above to retain this 2,610 square feet of vineyard area.

As discussed in this report and the Proposed IS/MND, staff believes findings can be made to support the use permit exception as shown in Exhibit A.

Should the Commission determine that the proposed project does not minimize impacts to watercourses, the Commission could consider restoration of an approximate 0.25-acre area within the northwest corner of proposed Vineyard Block 4 that is mapped as riparian woodland in the Napa County GIS vegetation layer (see Figure 5 of Attachment E). According to the project biologist, and as discussed in the IS/MND, the existing vineyard development and cleared areas, which includes this 0.25-acre area, have been confined to upland vegetation and have not affected riparian vegetation, however, it is within an area mapped as riparian woodland. Additionally, the Commission could consider a program to eradicate non-native and invasive plant species along watercourses, within riparian areas, or within creek setbacks: in particular Unnamed Tributary No.1.

#### Agricultural Erosion Control Plan

The owner/applicant has prepared an ECPA in accordance with Section 18.108.080 for the proposed project, that is both technically adequate pursuant to RCD standards and consistent with applicable code requirements and General Plan policies as detailed in the Proposed IS/MND.

#### **Consistency with Standards:**

##### Zoning

The project is consistent with AW (Agricultural Watershed) zoning district regulations. Agriculture (as defined in Napa County Code § 18.08.040) is permitted in the AW district. The project requires an approved agricultural erosion control plan and use permit exception. These applications comply with the Conservation Regulations (18.108 NCC) and, where exceptions to the requirements of the Zoning Code are requested, required findings can be made.

#### **Procedural Requirements:**

Pursuant to NCC Sections 18.108.070(B) and 18.108.080(G) no permitted agricultural earthmoving activity shall commence until an erosion control plan in compliance with the requirements of NCC Section 18.108.080 has been approved by the Director or designee. Because the Commission is considering the use permit exception to required creek setbacks associated with the erosion control plan the Director has designated the Commission as the approving authority for the erosion control plan.

As noted in the Environmental Impact section of this report mitigation measures have been agreed to by the owner/applicant and incorporated into the project that reduce the project area by approximately 0.4-acres for a total

vineyard project of 13.8-acres. Required plan changes due to mitigation, conditions of approval, and/or the Commission's action on the applications shall be shown on revised plans. Prior to commencement of work the owner/applicant shall submit revised plans for review and authorization by the Director to confirm conformance with project mitigation measures and conditions of approval.

**SUPPORTING DOCUMENTS**

- A . Exhibit A - Findings
- B . Exhibit B - Conditions of Approval
- C . Response to Comments on the Mitigated Negative Declaration
- D . Initial Study and Mitigated Negative Declaration
- E . Mitigation Monitoring and Reporting Program
- F . Napa County RCD Memo, September 25, 2010
- G . Stipulated Judgment NSC No. 26-39559
- H . Application Forms - Peju Black Forest Vineyard
- I . Site Location Map

Napa County Planning Commission: Approve

Reviewed By: John McDowell