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ITHACA, NEW YORK 14853-4901

May 23, 2007

Mr. Robert Hughes, Chair
Town of New Paltz Planning Board
1 Veterans Drive
New Paltz, NY 12561

Re: Rivendell Winery, LLC, PB2007-12

Dear Mr. Hughes:

Robert Ransom, the president of the petitioner Rivendell Winery, LLC (Rivendell), has requested that I provide the Planning Board with an opinion as to the appropriateness of the Planning Board requiring Rivendell to obtain a variance from the Town's zoning ordinance in order to conduct its business as a farm winery on the subject property. In my opinion, Rivendell's operation of a farm winery on the property, including the operation of a tasting room for the sampling and sale of wine for either on-premises or off-premises consumption, is a permitted use on the property as currently zoned and no variance for such uses should be required by the Town.

Rivendell is licensed as a farm winery under Section 76-a of the Alcoholic Beverage Control Law of the State of New York (*NY CLS Al Bev §76-a*) (copy attached). Pursuant to the ABC Law, "farm winery" means and includes any place or premises, located on a farm in New York State, in which wine is manufactured and sold. Thus, to be a farm winery in New York the licensed premises i) must be on a farm, and ii) wine must be manufactured. Rivendell meets both of these requirements. Furthermore, farm wineries are by definition agricultural (a point acknowledged by the building inspector) and must produce their wine solely from grapes grown in New York State (though not necessarily grown on the farm winery's property) and may only sell New York State wines.

The scope of permitted uses and rights granted to farm wineries under the ABC Law is quite broad and reflects the state's strong public policy of encouraging agriculture in New York. The Farm Winery legislation, first enacted in 1976 (the first in the nation) and as subsequently amended over the past 30 years, highlights the importance of farm wineries to the economic well-being of agriculture in New York State. Under the law, farm wineries, such as Rivendell, are authorized to manufacture wine at the premises specifically designated in the license. The license also authorizes the sale of wine in bulk from the licensed premises of the products manufactured under the license to any winery, any other farm winery, any distiller or to a

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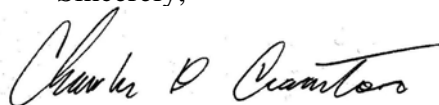
permittee engaged in the manufacture of products which are unfit for beverage use, and to sell or deliver such wine to individuals outside the state pursuant to the laws of the place of such sale or delivery. The farm winery is also authorized to sell its wine from the licensed premises to a licensed wholesaler or retailer, or to a corporation operating railroad cars or aircraft for consumption on such carriers, or at retail for consumption off the premises. The license likewise includes authorization to sell from its tasting room cider and wine at retail for consumption on or off the premises and New York state labeled wine produced or manufactured by any other New York state winery or farm winery. All of these rights are included in the farm winery's basic license to operate in New York State without any additional permitting from the New York State Liquor Authority. To the best of my knowledge, every farm winery in the state sells wine to consumers out of its tasting room at its winery.

The only time when local zoning becomes an issue for farm wineries is when the licensee wishes to operate its business in a non-agricultural zone that does not permit such use (such as in an area zoned purely residential). If the farm winery is located in an area zoned as agricultural, then it has the right to conduct its business there consistent with its rights under the ABC Law.

These rights do have limits; however, and farm wineries, as other land owners, are subject to applicable health and safety requirements in the building codes, and reasonable restrictions such as applicable set-backs, signage and the like included in the local zoning ordinances. Rivendell is not contesting any of the Town's requirements in this regard.

I hope that this brief description regarding the scope of a farm winery's rights to conduct its business under its farm winery license has been helpful to the Planning Board. If the Board would like further elaboration on any of these points, I would be glad to speak with you, other members of the Planning Board, or Town planning personnel.

Sincerely,

A handwritten signature in cursive script that reads "Charles D. Cramton". The signature is written in black ink and is positioned above the printed name.

Charles D. Cramton

cc: Robert Ransom

Attachments:

- Sections 12 and 76-a of the New York State Alcoholic Beverage Control Law
- Biography of Charles D. Cramton, Esq.