

July 17, 2011

Mr. Chris Cahill
Napa County Conservation, Development and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559

RECEIVED

JUL 21 2011

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

Dear Mr. Cahill,

I am responding to the Public Notice concerning Swanson Winery Use Permit PO8-00550 and Variance PO8-00551 with the following comments and questions.

FLOODING

The plans show that the winery is to be constructed in an area that is known to experience substantially flooding from time to time, most recently in 2005. During that flood, it was not possible for me to reach my property (located near the end of the paved road that forms the northwest boundary of the subject property) for almost a day. The construction of the winery and associated buildings will put an impervious surface on thousands of square feet of land that currently mitigates flooding by absorbing water. As a result, the inconvenience and damage caused by future floods will be worsened by either causing higher flooding or extending the period of time that roads in the area will be inaccessible. What can be done to reduce this inconvenience to residents of the area?

SETTLING POND

It is not apparent to me whether the winery will have a settling pond and, if so, where it will be located. I don't want to assume that an operation this size will not have one just because I can't find it in the plans. Settling ponds are fairly standard devices for the removal of suspended contaminants in waste water and are places that collect odoriferous organic sulphur compounds, herbicides, fungicides and other waste. The current plan shows a five-acre pond at the northern corner of the property. It is a feature that will be bordered by Money Road on the northeast and the paved road mentioned above on the northwest. If this is to be used as a settling pond, residents and tourists who currently travel those roads will be subjected to the unpleasantness of the pond. This will be most objectionable when the pond is being cleaned out. I would appreciate knowing whether there will be a settling pond, and if so, where it will be located. If one is not included in the plans, how is the waste management normally associated with a settling pond to be accomplished? If a settling pond is not included, is it precluded from being added later? If so, are there any restrictions on where on the property it can be located? If there are no restrictions on its location, I request that the Planning Commission limit a settling pond to a location where it is contained entirely within the Swanson Winery property and at least 200 feet from the perimeter of the property.

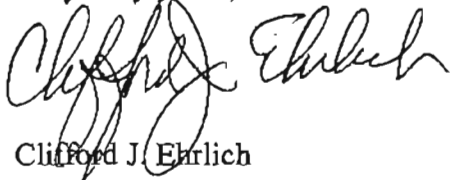
a location where it is contained entirely within the Swanson Winery property and at least 200 feet from the perimeter of the property.

WATER USEAGE

Finally, a winery with a Use Permit for 100,000 gallons can be expected to use 600,000 gallons of water a year according to an article by Paul Franson entitled "Water Use in the Winery" that appeared in the December 15, 2008 issue of Wine Business Monthly. This will create a substantial new demand for a natural resource of critical importance. It is difficult to imagine that the new demand created by the winery will not have a negative effect on the water available to adjacent land owners. What can be done to mitigate this potential damage to neighbors of reduced water availability?

Thank you for considering my views.

Very truly yours,



Clifford J. Ehrlich
Ehrlich Vineyard LLC

CC: W. Clarke Swanson, Jr.
Robert Navone
Thomas Gumina

RECEIVED

JUL 22 2011

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

July 20, 2011

Chris Cahill, Planner
Napa County Conservation
1195 Third Street Suite 210
Napa, CA 94559

Re: Swanson Development Oakville Cross Road

Dear Mr. Cahill:

In regard to the public notice concerning the Swanson Winery Project located on Oakville Cross Road in Oakville I have the following concerns:

1. The variance allowance states a setback of 300 feet is required. The proposal for this property is 56 feet. Although the property has adequate space to follow the set ordinance, I question why this would not be followed or why ordinances are in place if they can be broken.
2. While they are not officially building in the flood zone as set by the government, history has shown that indeed floods have occurred from the Napa River to Conn Creek and beyond, as I have evidenced personally in the several years I have owned property on Oakville Cross Road. This winery may add problems to the area when it does in fact flood.
3. Allowance of the leech lines to be put in the flood zone along fresh water is a hazard if water were to be contaminated.
4. The parking lot entrance will be at grade level, which could flood and create a hazard and safety issues.
5. Due to the proposed entrance and exit, traffic congestion will be exacerbated at the intersection of Oakville Cross Road and Money Lane where runners, bikers and cars that drive to excess speeds, are constantly present. There is the potential for safety concerns amongst these groups.
6. The amount of scheduled events average 2.5 per week with an average of 200 visitors per day. The enhancement of the intensity of traffic, and noise are of concern as a property owner and resident of Oakville Cross Road. Excess traffic, breaks down roads, as has the Oakville Cross Road Bridge deterioration occurred from both time and use, requiring additional maintenance.

Yours truly,



James Del Bondio
919 Oakville Cross Road
Oakville, CA 94562

CDPC
MEETING

LAW OFFICES OF

JAMES R. ROSE

AUG 03 2011

AGENDA ITEM
NO. 9A

1500 RAILROAD AVENUE
ST. HELENA, CALIFORNIA 94574
JAMESROSELAW@SBCGLOBAL.NET

JAMES R. ROSE
KATHARINE HELDT FALACE

July 20, 2011

TELEPHONE: (707) 967-9656
FACSIMILE: (707) 963-0771

Napa County Planning Commission
1195 Third Street, Suite 210
Napa, CA 94559

Re: *W. Clark Swanson, Jr., et al.*
Use Permit P08-00550 & Variance P08-00551

Dear Members of the Planning Commission:

Please be advised this law firm represents Robert and Gayle Navone, who own property adjacent to the above-referenced project. The Navone Family strongly objects to this proposed project. The project in total is substantially too large for the parcel and its impact on surrounding residences and will overburden traffic on Oakville Cross Road. Simply put, a 100,000 gallon per year winery, with approximately a 35,500 square feet footprint, a 3,000 square foot hospitality building, 14,000 square feet of covered and uncovered patio areas, and 30 full-time employees is simply out of place for this area.

The winery setback requirement of 300' and 48' respectively, is to lessen the winery activities burden on surrounding property owners. To reduce the setbacks from 300' to 56' and from 48' to 30' is simply placing a building footprint that is too large for the parcel on which it is being proposed. Imposing the winery activities, with all of the noise, activity, light, and odors so close to surrounding property owners is simply not acceptable. The Swanson Family simply needs to reduce the size and scope of this project so that it does not create a nuisance on the surrounding property owners.

The Navone Family lives full-time at their property, which is located at 7769 Money Road. The operation of such a proposed project will materially affect the quality, use and enjoyment of their property. With the private events that are being scheduled, once again, the noise activities will materially affect the quality, use and enjoyment of the Navones' property.

On an annual basis, the Swanson property floods. Any change in the contour of the Swanson property will divert flood waters over to the Navones' property.

RECEIVED

JUL 25 2011

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

Napa County Planning Commission
July 20, 2011
Page Two

The Swanson project is simply irresponsible as to its size and scope in the area which it is being proposed. This is not on Highway 29, which is a main corridor for large winery locations and tastings. It is respectfully requested that the Planning Commission instruct the applicant to reduce significantly the size and scope of this project so that its impact on the surrounding property owners will be at a minimum.

Respectfully submitted,

THE LAW OFFICES OF JAMES R. ROSE



JAMES R. ROSE

cc: clients

Coombs & Dunlap, LLP

ATTORNEYS AT LAW

Serving the Napa Valley since 1876

Business Law
Employment Law
Estate Planning &
Administration
Family Law
Immigration
Land Use
Litigation
Municipal Law
Real Estate
Wine Law
Writs & Appeals

July 21, 2011

RECEIVED

rskidmore@coombslaw.com
Direct Dial: 707.603.2395
Reply to Napa Office

JUL 21 2011

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

By Hand Delivery

Christopher M. Cahill, Planner
Conservation, Development & Planning Department
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559

RE: Swanson Winery Use Permit (No. P08-00550-UP) and Variance
Application (No. P08-00551-VAR)

Dear Mr. Cahill:

We represent David Durham and Marcy Bergman, who own the 12-acre parcel to the north of the Swanson property, APN 031-040-008.

Our clients have several concerns with regard to the proposed Negative Declaration. First, they request that staff require that there will be no access off of Money Road, nor any offsite parking on Money Road by visitors or employees of the winery, whether from the subject property or any adjacent property. This is a 35,000 square-foot facility which will produce up to 100,000 gallons of wine per year and support approximately 200 visitors on average per day. It is my understanding that both the applicant and staff support such conditions of approval, and my clients would certainly encourage them to do so at the public hearing on August 3rd.

Second, our clients are concerned about potential flooding impacts resulting from the development of these facilities. In that regard, I have enclosed an email attachment prepared by my clients which summarizes the history of flooding on their property since they bought it in 1982. I have also enclosed a letter from Brent Edwards, P.E., pointing out that there is no evidence to support the finding in the Negative Declaration that there is a "less than significant impact" on upstream flooding as result of the project. He proposes that a hydraulic study be completed to determine whether the proposed project is likely to affect flood water elevations on our clients' property.

Third, our clients are very concerned that 36 mature trees located along Money Road are proposed to be removed in order to accommodate an eight-foot berm along the perimeter of the property. Fourteen of these trees are native black walnut, and are on the endangered list. Some of these are more than 100 years old. The environmental checklist in the Negative Declaration concerning biological resources states that there is a

1211 Division Street
Napa, California
94559-3398
Tel 707.252.9100
Fax 707.252.8516

1312 Oak Avenue
St. Helena, California
94574-1943
Tel 707.963.5202
Fax 707.963.4519

www.coombslaw.com

“less than significant” impact “with mitigation incorporation.” The proposed mitigation is to harvest seedlings from these trees and plant them in a riparian environment near the Napa river to the north.

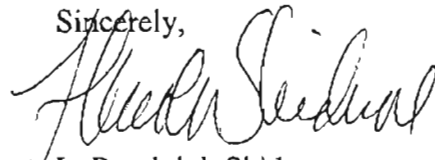
The California Environmental Quality Act provides that an applicant must prepare an Environmental Impact Report when the proposed project may “reduce the numbers or range of an endangered, rare, or threatened species.” 14 Cal. Code Reg. § 15065(a)(1); Pub. Res. Code § 21083(a). At least one court was alarmed when the lead agency under similar circumstances checked the line on the initial study labeled “potentially significant unless mitigation incorporated,” rather than making a mandatory finding of significance. *San Bernardino Valley Audubon Society v. Metropolitan Water Dist.* (1999) 71 Cal. App. 4th 382, 401; 83 Cal. Rptr. 2nd 836.

Our firm was retained on Friday, July 15th. We have not had sufficient time to retain an arborist to address the question of whether the proposed mitigation measures are or are not adequate to lessen the potentially significant impact of the black walnut tree removal for this project. Accordingly, I request an extension of the public comment period through August 3, 2011 so that we may consult with such an expert. It appears from the Negative Declaration that moving these facilities to the west and avoiding such substantial tree removal was not considered as a mitigation measure.

It is also unclear how noise mitigation will be addressed from what appear to be exposed bottling lines, nor do we have any information on whether the proposed leach lines for the waste disposal system might fail because of the high water table on the property.

Finally, our clients object to the Aesthetics findings in the Negative Declaration. The Negative Declaration says there is a “less than significant impact” upon scenic resources, including but not limited to, trees, nor will the project substantially degrade the existing visual character or quality of the site and its surroundings. The proposal to remove significant numbers of mature trees and replace them with an eight-foot high berm certainly has a substantial impact on the aesthetics of the neighborhood. We expect the applicant to argue that the proposed landscaping on the berm will mitigate these effects, but it is difficult to imagine how that can possibly be the case for generations to come.

Sincerely,



L. Randolph Skidmore

/lrs/22764-0001

Enclosures

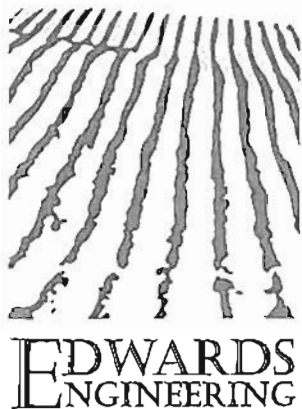
Cc (by email only):

Marcy J. Bergman, Esq.
David S. Durham, Esq.
Brent Edwards, P.E.
Richard Mendelson, Esq.

We have owned a 12.5 acre vineyard and residence located at 7817 Money Road since 1982. We are located on the west side of Money Road, approximately 1000' north of the proposed Swanson winery.

Since we have owned the property, we have experienced significant flooding episodes in 1986, 1995, 1997 and as recently as 2005 as I recall. In each of these instances the water comes from the north along the east side of Money Road. When it reaches the property owned by Maria Manetti-Farrow, a significant amount of water crosses Money Road onto the west side, enters our property and moves southerly toward our garage, pool and house. In the worst years, the water has flowed so strongly that it has pushed down our permanent wrought iron fence, flooded our swimming pool and barn and come within a couple of inches of flooding our guest house which is elevated approximately two feet above grade level. The water continues to flow south toward the corner of Money Road and the Oakville Crossroad where the proposed Swanson winery project is planned. In fact, the water on the corner of Money Road and the Oakville Cross Road has been several feet deep at times and is completely impassible by car. Significant amounts of water accumulate on the west side of Money Road in the existing Swanson vineyard during most winters, even when there is no overall flooding. We have never experienced flood water coming from the west (the Napa River) in our area.

We are very concerned that if the proposed project causes any significant impediment of the southerly flow of water, additional water will back up to the north and increase the flooding levels at our property.



July 20, 2011

Christopher M. Cahill
Napa County Conservation, Development and Planning Department
1195 3rd Street, Suite 210
Napa, CA 94559

RE: Swanson Winery Use Permit Application, No P08-00550-UP

Dear Mr. Cahill,

On behalf of my clients, David Durham and Marcy Bergman, I have reviewed the improvement plans and Initial Study checklist for the above-referenced project. My Client's residence is located $\pm 1,000'$ to the north (APN031-040-008) of the proposed project site. They have experienced flooding on their property over the last ± 30 -years and are concerned that the proposed development will increase floodwater elevations on their property.


I am writing to express my opinion that there is not adequate documentation to support the finding of "Less Than Significant Impact" on Section IX, "Hydrology and Water Quality", Part D of the Initial Study for the project. It is further my opinion that a hydraulic study using HEC-RAS or other appropriate computer model should be completed for the project to determine whether the proposed project is likely to affect floodwater elevations on my Client's property.

The project includes construction of several large structures and placement of $\pm 6,600$ cubic yards of fill material in the floodplain. The Plans indicate that the edge of the development is immediately adjacent to the boundary of the floodway.

If the project were located within the floodway, a hydraulic model evaluation of project effects on floodwater elevations within the immediate area would be required. As the location of the boundary of the floodway is a theoretical estimation of the limits of the floodway, it does not seem unreasonable that such a study would be required for a project of this large size located in such close proximity to the indicated floodway boundary on the FEMA flood maps.

Thank you for your consideration in this matter.

Sincerely,


Brent Edwards, P.E.

cc: Mr. David Durham and Ms. Marcy Bergman
Mr. Randy Skidmore, Coombs & Dunlap, LLP



1305 E STREET
NAPA | CALIFORNIA | 94559

PHONE:
(707) 258-6297

FAX:
(707) 258-8971



Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.dfg.ca.gov

CARLIS C.

July 22, 2011

RECEIVED

JUL 25 2011

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

Mr. Christopher Cahill
County of Napa
Conservation, Development and Planning Department
1195 Third Street, Room 210
Napa, CA 94559

Dear Mr. Cahill:

Subject: Swanson Winery Use Permit Application #P08-00550-UP and Variance Application #P08-00551, Mitigated Negative Declaration, SCH #2011062065, County of Napa

The Department of Fish and Game (DFG) has reviewed the Mitigated Negative Declaration (MND) for the proposed Swanson Winery Use Permit and Variance Project (Project) located at the intersection of Oakville Cross Road and Money Road in the County of Napa (County). The Project proposes to remove approximately 20 Northern California black walnut trees associated with the development of a new winery on a 74-acre parcel. DFG recommends adding mitigation measures to address potential impacts to nesting birds and bat colonies.

Fish and Game Code § 3503.5 states it is unlawful to take, possess, or destroy any birds in the orders of Falconiformes or Strigiformes (birds-of-prey or raptors) or take, possess, or destroy the nest or eggs of any such bird, additionally Fish and Game Code §3503 protects the nests or eggs of any bird. Activities such as staging, access, excavation, and other ground-disturbing activities may create substantial noise impacts which may cause nest abandonment or premature fledging of nesting birds. If Project activities are scheduled between February 1 and August 31, DFG recommends surveys and avoidance measures for nesting birds.

With respect to surveys for nesting bird and raptor species, DFG recommends that the Project specifies: 1) nest surveys be conducted no earlier than 14 days prior to tree removal and/or breaking ground (surveys should be conducted a minimum of 3 separate days during the 14 days prior to disturbance), 2) in the event that nesting birds are found, the Project applicant should consult with DFG and obtain approval for nest-protection buffers prior to tree removal and/or ground-disturbing activities, and 3) nest protection buffers will remain in effect until the young have fledged. All nest protection measures should apply to off-site impacts and within 300 feet of Project activities. If a lapse in Project-related work of 15 days or longer occurs, another focused survey and if required, consultation with DFG, will be required before Project work can be reinitiated.

Mr. Christopher Cahill
July 22, 2011
Page 2

The Project proposes to remove several mature trees which may provide suitable habitat for pallid bat (*Antrozous pallidus*), a Species of Special Concern. The pallid bat occurs throughout a variety of habitats including all types of woodland, grassland, and riparian areas if appropriate roosting sites are available. This species may seek shelter inside crevices and cavities found in natural features such as trees, cliffs, caves and rocky outcrops, as well as man-made features. Examples of threats to the pallid bat include mortality and/or loss of roosting habitat due to disturbance, exclusion, extermination, and pesticide use. DFG recommends a qualified biologist conduct a habitat assessment for potentially suitable bat habitat within six months of Project activities. If the habitat assessment reveals suitable bat habitat, then a qualified biologist should do a presence/absence survey during peak activity periods. If bats are present, then the qualified biologist should submit an avoidance plan to DFG for approval. The avoidance plan should evaluate the length of time of disturbance, equipment noise, and type of habitat present at the Project site.

DFG appreciates the opportunity to provide comments on the MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Ms. Suzanne Gilmore, Environmental Scientist, at (707) 944-5536; or Mr. Greg Martinelli, Senior Environmental Scientist, at (707) 944-5570.

Sincerely,



Carl Wilcox
Regional Manager
Bay Delta Region

cc: State Clearinghouse

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5541
FAX (510) 286-5559
TTY 711



*Flex your power!
Be energy efficient!*

July 25, 2011

NAPVar004
NAP-29-22.78

Mr. Christopher M. Cahill
Conservation Development and Planning
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559

RECEIVED

JUL 26 2011

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

Dear Mr. Cahill:

Swanson Winery – Negative Declaration

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Swanson Winery project. The following comments are based on the Negative Declaration and the August 26, 2010 Updated Traffic Analysis conducted by George W. Nickelson, P.E. As the lead agency, the County of Napa is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. Required roadway improvements should be completed prior to issuance of the Certificate of Occupancy.

Updated Traffic Analysis

Please evaluate the proposed project's impacts on State Route 29. If the proposed project will not generate the amount of trips needed to meet the Department's trip generation thresholds, an explanation of how this conclusion was reached must be provided.

Please feel free to call or email Sandra Finegan of my staff at (510) 622-1644 or sandra_finegan@dot.ca.gov with any questions regarding this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Arnold".

GARY ARNOLD
District Branch Chief
Local Development – Intergovernmental Review