

- MY CONCERNS ARE THAT WE NEED TO HAVE AN ESTABLISHED COMPLIANCE AND ENFORCEMENT PROGRAM IN PLACE BEFORE WE CONTINUE APPROVING ^{ANY} NEW PROJECTS OR MODIFICATIONS.

IF ^{INSTEAD OF A TRUE COMPLIANCE PROGRAM WE CONTINUE} THE AFTER-THE-FACT APPROVALS ~~ON THESE~~ WE BYPASS ADDRESSING THE IMPACTS OF THE OVERAGES AND WE BYPASS THE CEQA MITIGATIONS OF THE ORIGINAL APPROVALS, CREATING CUMULATIVE IMPACTS THAT WE LOSE ANY ^{TRUE} BASELINE FOR. WE HAVE A CUMULATIVE IMPACTS PROBLEM IN THE COUNTY MAINLY ^{REGULATED} TO BE VISITATION

THE RULES ARE IN PLACE NOT ~~AS~~ A HINDRANCE TO SOMEONE'S SUCCESS BUT RATHER AS PROTECTION FOR THE MORE VULNERABLE WITHIN OUR ENVIRONMENT AND COMMUNITY.

THE REASON WE MUST FOLLOW RULES AND LAWS IS NOT BECAUSE OF SOME ABSTRACTION OR DISCONNECTED REASON, BUT BECAUSE BY ~~FOLLOWING~~ ^{STAYING WITHIN} THEM WE STAY IN BALANCE WITH OUR

right now our community & economy are suffering from the cumulative impacts of control approval of stay within the high visitation project in rural area

geoff Ellsworth
geoffellsworth@yahoo.com

COMMUNITY AND ENVIRONMENT.

SO THE IDEA OF A PROPER ENFORCEMENT/
COMPLIANCE ^{program} ~~ISSUE~~ IS NOT ABOUT PUNISHMENT
IT'S ABOUT BALANCE.

IF WE DON'T STAY IN BALANCE ~~THE~~ OUR
LITTLE BOAT WILL TIP OVER.

I BELIEVE SUCH A COMPLIANCE / ENFORCEMENT
MECHANISM MUST INCLUDE PRODUCTION & VISITATION
LEVELS, ^{ON projects such as this} INCLUDING WATER USE AND ADHERENCE
TO WDO (WINERY DEFINITION ORDINANCE) FOOD AND
HOSPITALITY STIPULATIONS.

I BELIEVE IT ALSO MUST ADDRESS AND INCLUDE
TRANSPORTATION ISSUES, SUCH AS BICYCLE USE,
TOUR BUS USE AND LEVELS OF ALCOHOL CONSUMPTION
FOR PEOPLE LEAVING A PROPERTY.

UNTIL SUCH A ^{COMPLIANCE/ENFORCEMENT} PROGRAM IS IN PLACE
THE ENTIRE SYSTEM
MUST BE INCLUDED
TO UNDERSTAND THE
IMPACTS

I URGE THE PLANNING COMMISSION NOT TO
APPROVE ANY NEW PROJECTS OR MODIFICATIONS.

THIS IS TOUGH BECAUSE OBVIOUSLY
 FROGS LEAP YOU DOES MANY GOOD THINGS WITH DRY
 FARMING, ORGANIC FARMING, CHARITABLE
 EVENTS, ^{ITS THE KIND OF WINERY WE'VE ALL POINT TO WHEN WE'RE IN NV} BUT IT DOESN'T REALLY ADDRESS
 THE IMPACTS TO A RURAL AREA OF
 SOMEONE IS DOING ALL THESE EVENTS

WE HAVE TWO TWO LANE ROADS THAT
 FEED THE UPVALLEY

THE PROBLEM IS CUMULATIVE IMPACTS,
 NOT THAT ~~ONE~~ ONE WINERY IS PUSHING
 MORE EVENTS AND VISITATION BUT THAT
 IF HUNDREDS ARE

AND MORE CONTINUED APPROVALS ^{and} PROPOSALS
 WITH ^{and more}

we have two two lane roads that
 feed the up valley
 AT what point does do tourism
 impacts fatally disrupt our
 Ag Preserve

Geoff Elsworth
 Frog Leap Aug 17 2016
 www.ElsworthValley.com

AUG 17 2016

Agenda Item # 9A

McDowell, John

From: Patricia Larkin <larkin@smwlaw.com>
Sent: Tuesday, August 16, 2016 3:06 PM
To: McDowell, John; heather@vinehillranch.com; napacommissioner@yahoo.com; anne.cottrell@lucene.com; tkscottco@aol.com; JeriGillPC@outlook.com
Cc: Ellison Folk
Subject: Frog's Leap Winery, Use Permit Major Modification # P14-00054 and Revised Initial Study
Attachments: LTR to Planning Commission (August 17, 2016 Hearing) 08.16.2016.PDF

Dear Commissioners:

Please see attached a letter from Ellison Folk of this office, which letter is being sent concurrently via U.S. Mail to John McDowell. Please contact me should you have difficulty opening the pdf attachment.

Best Regards,

Patricia Larkin
Legal Secretary
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102-4421
v: 415/552-7272 x235
f: 415/552-5816
www.smwlaw.com



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SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

ELLISON FOLK
Attorney
folk@smwlaw.com

August 16, 2016

Via E-Mail and U.S. Mail

Members of the Planning Commission
Napa County
1195 Third Street, Suite 210
Napa, California 94559

Attn: John McDowell, Deputy Planning Director
John.McDowell@countyofnapa.org

Re: Frog's Leap Winery, Use Permit Major Modification # P14-00054 and Revised Initial Study

Dear Commissioners:

On behalf of Nancy Hammonds and Charlotte Blank, we submit these comments on the Revised Initial Study/proposed Negative Declaration ("Revised Initial Study") for the proposed Frog's Leap Winery Use Permit ("Project"). Although the County has now revised the Initial Study for the third time, the new document still fails to address key impacts from the Project. For this reason, we reiterate our request that the County prepare and environmental impact report before approving the Project.

First, the Revised Initial Study continues to reject the need for a left turn lane as a result of the Project even though traffic from the Project creates the need for one. Instead, the Revised Initial Study recommends paving of the shoulder so that vehicles can pass to the right of cars turning into Frogs Leap. As we previously commented on several occasions, this maneuver is inherently unsafe and will create risks to drivers and bicyclists alike.

Moreover, the paving of the shoulder will directly impact the heritage oak tree located across the street from the Frogs Leap's entrance. Even the County's arborist recognizes that paving within inches of the tree's base may negatively impact the tree and recommends several measures to protect the tree—including a proposal to end the paving 10 feet from the tree. (Britton Report at 2-3). The arborist also recommends a number of

other measures to minimize impacts to the tree. (Britton Report at 4).¹ Finally, although she recommends against a left turn lane to avoid impacts to other oak trees on the east side of Conn Creek Road, the arborist does not address the feasibility of a left turn lane by expanding the road on the west side of Conn Creek Road or by moving the Frogs Leap driveway as previously suggested by the County Public Works Department. As the attached letter from MRO demonstrates, the proposal is unsound from a traffic safety and engineering standpoint and does not address the inherently unsafe nature of using a paved shoulder instead of installing the left turn lane. See Attachment A to this letter.

In fact, the idea for a paved shoulder arose because Frogs Leap does not wish to move its driveway to a location that would accommodate either a left turn lane or to provide adequate sight lines, without adversely affecting natural resources. The various machinations that the County and the applicant have gone through to avoid addressing the need for a left turn lane and the impacts of either providing such a left turn lane or failing to do so demonstrate why an environmental impact report is required here. Each of the options proposed has significant drawbacks from both a public safety and natural resource perspective. As recognized by the court in *Lotus v. California Department of Transportation* in remarkably similar circumstances, this is exactly the situation that mandates preparation of an environmental impact report under CEQA:

The failure of the EIR to separately identify and analyze the significance of the impacts to the root zones of old growth redwood trees before proposing mitigation measures is not merely a harmless procedural failing . . . this shortcutting of CEQA requirements subverts the purposes of CEQA by omitting material necessary to informed decisionmaking and informed public participation. It precludes both identification of potential environmental consequences arising from the project and also thoughtful analysis of the sufficiency of measures to mitigate those consequences.

(2014) 223 Cal.App.4th 645, 658.

¹ Although the revised Initial Study asserts that the loss of the oak tree would not be a significant impact, this ignores the County's own oak tree protection guidelines, which recognize the numerous values associated with mature oak trees, including maintaining the rural, scenic character of an area, carbon sequestration, shading, and noise and air pollution mitigation. Napa County Voluntary Oak Woodland Management Plan at p. 10-11.

Second, the revised Initial Study continues to rely on existing, unpermitted activities to assess project impacts, and as a result, understates the Project's impact. Here, the Project includes approval of a use permit that would allow the applicant to increase its number of tasting visitors from 350 visitors per week (with a maximum of 50 visitors per day) by more than threefold to 1,100 visitors per week. Revised IS at 1-2. The Project would also allow for an additional 5,740 visitors each year for marketing events. *Id.* Yet the Revised Initial Study fails to consider impacts associated with many of these visitors, because it uses purportedly existing, unpermitted levels of winery operations as its baseline. *Id.* at 2.

Although the applicant has repeatedly suggested that this baseline is consistent with CEQA law, it is important to note that the cases it relies on involve changes that had already occurred and were an actual fact on the ground. *See. e.g., Citizens for East Shore Parks v. State Lands Commission* (2011) 202 Cal.App.4th 549 (addressing need to conduct environmental review of an oil refinery and pier that had been constructed before CEQA was enacted.) Here, by contrast, the unpermitted levels of use that have occurred over the past few years are not set in stone. They can be changed and they can be prohibited by the County through an enforcement actions.

The County's decision to allow these uses to continue and to be permitted has real consequences for the future because it establishes a level of use that cannot be easily modified. The public is not asking for the County to conduct environmental review of the initial decision to build the winery and vineyard, but to evaluate the impacts of a decision that legalizes certain activities at the winery and permits them to continue into the future.

Finally, the Revised Initial Study contains no serious analysis of the Project's noise impacts. Although the applicant seeks approval of a substantial number of events to host thousands of visitors throughout the year, no noise study was conducted to assess the impacts of these events on the rural, agricultural character of the area and surrounding residential uses. Instead, the Revised Initial Study simply concludes that noise impacts will be insignificant because outdoor amplified music will be prohibited. Setting aside the irony of relying on the applicant to comply with the terms of a permit when it has been violated its current permit for years, recent events demonstrate that this measure will not be effective. In fact, the Hammonds have often heard amplified music from events at Frogs Leap; in fact, Frogs Leap held such an event just a few weeks ago and amplified music was audible and disturbing to the neighbors throughout the day.

The County is under no obligation to approve Frogs Leap proposal. The winery already has permitted uses that are consistent with other post-WDO, appointment-only

Members of the Planning Commission
August 16, 2016
Page 4

wineries. The level of use requested by Frogs Leap is clearly more consistent with winery tourism than maintaining the agricultural base of Napa County. This proliferation winery tourism in the Conn Creek area and Napa County in general has dramatically increased traffic, raised significant safety concerns associated with inadequate facilities to accommodate new tasting and marketing-related traffic, and interferes with the agricultural and rural character of the community.

For over 30 years, the Blank family has owned property and grown grapes on Conn Creek Road across from the Frog's Leap site. Its wines are produced in St. Helena (by Grace Family Vineyards) from grapes grown on the Blank family's Rutherford property. Approval of the project without adequate environmental review and mitigation elevates the interests of a single winery over those of other vineyards, wineries, and property owners in the area, such as the Blank Family. It also violates California law. Without an EIR containing further information and analysis of the Project's likely impacts, the Commission cannot legally approve the Project. Consequently, the Commission should deny the application before it.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

Attachment

cc: Nancy Hammonds

810366.1

SHUTE, MIHALY
& WEINBERGER LLP

EXHIBIT A



August 16, 2016

Ms. Ellison Folk
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, California 94102

Subject: *Proposed Frog's Leap Winery Use Permit Modifications
Napa County, California*

Dear Ms. Folk:

In letters dated March 24 and April 13, 2016, MRO Engineers, Inc., (MRO) documented the results of our reviews of the various traffic analyses completed with respect to the proposed Use Permit modifications at Frog's Leap Winery on Conn Creek Road (State Route 128) in Napa County, California. In both cases, we addressed the need for a left-turn lane to serve traffic entering the project site from northbound Conn Creek Road. Even though the project's traffic studies documented the fact that the left-turn lane is warranted under the pertinent Napa County standard, County staff have granted an exception to that standard. Instead of requiring that a left-turn lane be constructed, County staff have indicated that it will be acceptable to construct a six-foot shoulder, which ". . . will provide an area where northbound traffic on Conn Creek Road could carefully bypass a waiting left-turning vehicle, if necessary."

However, as noted in our March 24, 2016 letter:

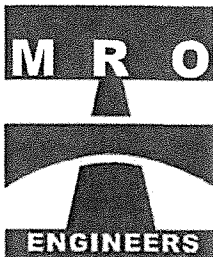
- Passing on the right is an illegal maneuver under California Vehicle Code Section 21755 (a);
- Passing on the right is unsafe;
- Insufficient width exists to construct a six-foot shoulder widening due to the presence of a heritage oak tree; and
- A six-foot shoulder would not safely accommodate most vehicle models.

In addition, our April 13, 2016 letter documented the fact that, in addition to meeting left-turn lane warrants as stated in the Napa County Roads and Streets Standards, a left-turn lane is also warranted under an updated version of the standard presented in the Caltrans *Highway Design Manual*. (Reference: National Cooperative Highway Research Program, *NCHRP Report 745 – Left-Turn Accommodations at Unsignalized Intersections*, 2013)

We have recently received a copy of a June 22, 2016 letter from the Napa County Department of Public Works to Mr. John Williams of Frog's Leap Winery. The letter reiterates the County's approval of the left-turn lane exception, including restating the County's four-point justification for this action. No response is provided to counter any of the points we made in either of our earlier letters.

Attached to the County's letter is a brochure from the Federal Highway Administration (FHWA) entitled "Safety Benefits of Walkways, Sidewalks, and Paved Shoulders." Among the benefits ascribed to paved shoulders are that they provide:

- A stable surface off of the roadway for pedestrians to use,



- Emergency stopping space for broken down vehicles, and
- An increased level of comfort for bicyclists.

Unfortunately, while these benefits often apply to shoulders that fully meet applicable design standards, they do not apply to the inadequate six-foot-wide shoulder proposed at Frog's Leap Winery. As described above, the primary purpose of the Frog's Leap shoulder is to serve as a bypass lane for vehicles driving around another vehicle waiting to turn left into the winery. As we noted in our March 24 letter, because no sidewalks or bike lanes exist along Conn Creek Road, pedestrians and bicyclists are forced to travel on the shoulder or along the right-most edge of the road. Motorists traveling at 55 MPH who drive on the shoulder to avoid a left-turning vehicle pose an obvious danger to such individuals.

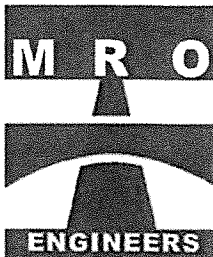
Further, vineyard workers and agricultural equipment sometimes occupy the shoulder, and law enforcement officers or other emergency vehicles might be parked on the shoulder in the course of their duties. They would also be endangered by fast-moving vehicles traveling on the shoulder.

Also attached to the County's letter are what appear to be three PowerPoint slides regarding pedestrian and bicyclist safety on state highways. One of the slides, which has the heading, "Rural Context: Shoulder Widening Benefits Bicyclists," presents misleading "before and after" pictures. In particular, the "after" photo illustrates a condition that only marginally reflects existing and proposed circumstances along Conn Creek Road. The illustrated roadway appears to meet or exceed all applicable design standards with respect to lane and shoulder width. Scaling distances from the photo and assuming that the travel lanes are the standard 12-foot wide, the shoulder illustrated there is approximately ten-foot wide, a substantial difference from the six feet proposed at Frog's Leap. Furthermore, there is no 56-inch oak tree adjacent to the roadway in the illustration.

Finally, a May 25, 2016 letter from Denice Britton, Consulting Arborist, is presented in support of construction of the six-foot shoulder. Among the conclusions presented in Ms. Britton's report are the following:

- Construction of six feet of new pavement along the entire eastern edge of the road (as proposed), could damage the tree,
- There would be less impact if the widening avoided the area 10 feet south and north of the tree, and
- Preferably, the area next to the tree should be left undisturbed for a distance of 10 feet from the center of the trunk in all directions.

The report also includes (on page 6 of 8) an illustration of the 10-foot area around the tree to be avoided. Ms. Britton's illustration also includes the notation that, "This would allow a car to go around a vehicle stopped to turn left and come back into the main lane well before encountering the tree." The basis for this statement is unclear. What design standards have been applied in determining the distance required for a car to transition from the shoulder to the through lane while traveling at 55 MPH? And what if the vehicle making that maneuver is not a passenger car, but is instead an 18-wheel tractor-trailer? And what if the shoulder is occupied by a pedestrian, or a bicyclist, or agricultural equipment, or a law enforcement officer? The reality is that the recommended truncation of the shoulder would require drivers to abruptly move from the shoulder back into the through lane while traveling at or near 55 MPH.



Based on Ms. Britton's recommendations, a revised version of the "State Route 128 Shoulder Improvements Exhibit" (Applied Engineering, August 2015) has been prepared. Attachment A contains a copy of the revised shoulder improvement plan, as well as a focused view of the area near the tree.

As shown there, implementing Ms. Britton's recommendation to end the shoulder 10 feet from the tree trunk would reduce the total length of the shoulder to approximately half of the initially recommended 280-foot length (i.e., about 140 feet), all of which would be south of the tree. Within that 140-foot length, the southernmost 25 feet would be used to transition from the northbound through lane onto the six-foot shoulder. At the north end of the widened section, approximately 10 feet would be allowed to transition from the shoulder back onto the main travel lane. The total length provided to the north of a "vehicle stopped to make a left turn" would be about 22 feet. Since this is only marginally longer than many passenger cars and substantially shorter than a tractor-trailer (or even many motor homes), it is difficult to believe that the required movement could be made safely.

The Caltrans *Highway Design Manual* provides guidance with respect to the distance needed to transition between varying pavement widths. Specifically, Section 206.3 – Pavement Reductions states:

When a lane is to be dropped, it should be done by tapering over a distance equal to WV , where W = Width of lane to be dropped and V = Design Speed. [Underline in original.]

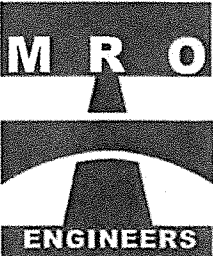
Even using the substandard six-foot shoulder width and applying the 55 MPH speed limit (which is certainly less than the highway's design speed), indicates a requirement for 330 feet of transition distance. As noted above, the proposed design includes approximately 22 feet of transition distance at the northern end of the shoulder.

In short, it is simply irresponsible to suggest that the proposed shoulder design would allow the illegal and ill-advised "passing on the right" maneuver to be made safely.

There seems to be an ongoing misconception with respect to the primary reason for installing a left-turn lane. As we have previously noted, page 6 of the January 13, 2016 letter prepared by the project's traffic consultant specifically (and mistakenly) says, "The Napa County Road and Street Standards for requiring a left-turn lane has [*sic*] no relationship on actual left-turn trips or safety issues." In reality, provision of a dedicated left-turn lane is primarily a safety issue and secondarily about road capacity. Having a standard left-turn lane to serve northbound traffic on Conn Creek Road at the Frog's Leap Winery will largely eliminate the potential for rear-end collisions involving vehicles waiting to enter the project site. The same cannot be said about the substandard shoulder that would be allowed under the exception granted by County staff.

CONCLUSION

We believe that the information presented here clearly demonstrates that, regardless of how it is configured, construction of a six-foot-wide shoulder in place of a standard left-turn lane at the Frog's Leap Winery driveway on Conn Creek Road constitutes a significant environmental impact, as it would "substantially increase hazards due to a design feature" of the project. More importantly, it represents an unacceptable danger to the traveling public.



*Ms. Ellison Folk
August 16, 2016
Page 4*

We hope this information is useful. If you have questions concerning anything presented here, please feel free to contact me at (916) 783-3838.

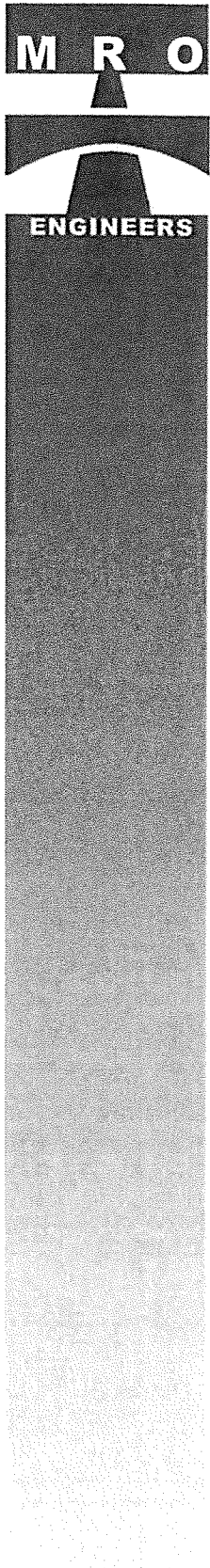
Sincerely,

MRO ENGINEERS, INC.

A handwritten signature in cursive script, reading "Neal K. Liddicoat".

Neal K. Liddicoat, P.E.
Traffic Engineering Manager

Attachment



ATTACHMENT A

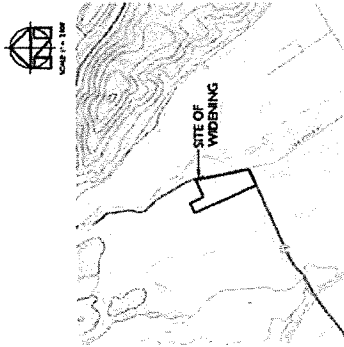
Revised State Route 128 Shoulder Improvements Exhibit

810500.1

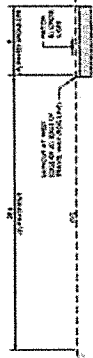
FROG'S LEAP WINERY

FROG'S LEAP WINERY

STATE ROUTE 128 SHOULDER IMPROVEMENTS EXHIBIT



LOCATION MAP
SCALE 1" = 100'

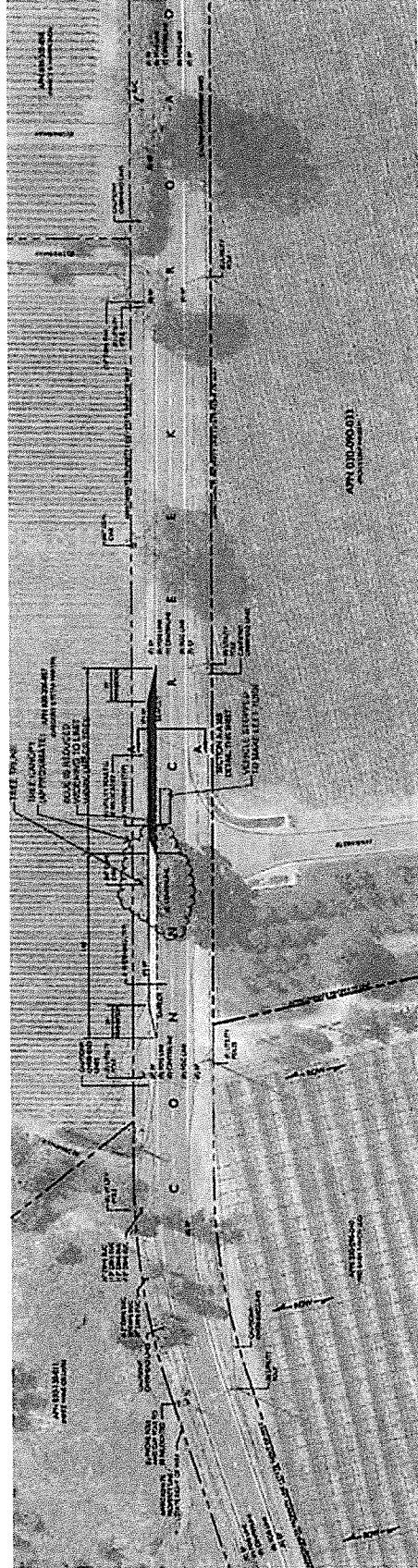
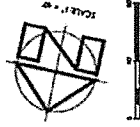


SECTION A - A
SCALE 1" = 10'

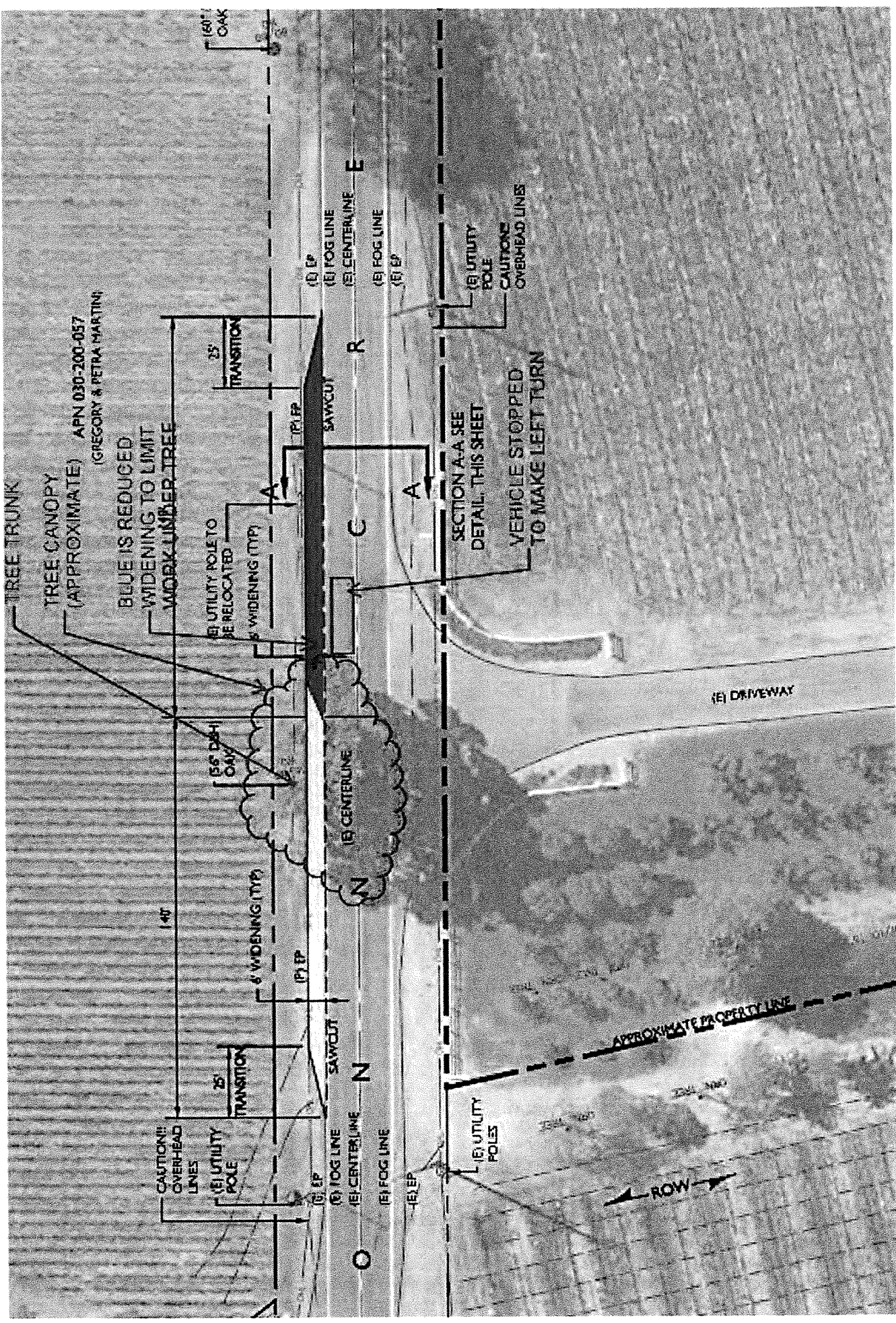
PROJECT INFORMATION
PROPERTY OWNER & APPLICANT:
 FROG'S LEAP WINERY
 8815 CONN CREEK ROAD
 ST. HELENA, CA 94574
SITE ADDRESS:
 8815 CONN CREEK ROAD
 ST. HELENA, CA 94574
ASSESSOR'S PARCEL NUMBER:
 030-090-033
PANSEL SIZE:
 38.92± ACRES
ZONING:
 AGRICULTURAL PRESERVE (AP)

NOTES:

1. THIS PROJECT IS A SHOULDERS WIDENING PROJECT. THE EXISTING ROADWAY AND SHOULDER WERE OBTAINED FROM THE "TOP OF ELEVATION" OF THE LANDS OF FROG'S LEAP WINERY PREPARED BY ALBERT SWETT & ASSOCIATES, INC. IN 1988. THE EXISTING ROADWAY AND SHOULDER WERE OBTAINED FROM THE TOPOGRAPHIC INFORMATION.
2. THE EXISTING ROADWAY AND SHOULDER WERE OBTAINED FROM THE TOPOGRAPHIC INFORMATION.
3. ACCORDING TO PERMITS AND REGULATIONS, THE EXISTING ROADWAY AND SHOULDER WERE OBTAINED FROM THE TOPOGRAPHIC INFORMATION.
4. THE INFORMATION USED IN THIS PROJECT IS FOR INFORMATION ONLY.



STATE ROUTE 128 SHOULDER IMPROVEMENTS EXHIBIT



TREE TRUNK

TREE CANOPY
(APPROXIMATE)

APN 030-200-057
(GREGORY & PETRA MARTIN)

BLUE IS REDUCED
WIDENING TO LIMIT
WORK UNDER TREE

UTILITY POLE TO
BE RELOCATED
8' WIDENING (TYP)

5.6' DBH
OAK

8' WIDENING (TYP)

CAUTION!!!
OVERHEAD
LINES

UTILITY
POLE

A

SAWCUT

R

A

SECTION A-A SEE
DETAIL THIS SHEET

VEHICLE STOPPED
TO MAKE LEFT TURN

C

SAWCUT

N

O

25'

TRANSITION

E

SAWCUT

R

25'

TRANSITION

E

SAWCUT

O

(E) FOG LINE

(E) CENTERLINE

(E) FOG LINE

(E) EP

(E) UTILITY
POLE

CAUTION
OVERHEAD LINES

(E) EP

(E) FOG LINE

(E) CENTERLINE

(E) FOG LINE

(E) EP

(E) UTILITY
POLES

(E) EP

(E) FOG LINE

(E) CENTERLINE

(E) FOG LINE

(E) EP

(E) UTILITY
POLES

CAUTION
OVERHEAD LINES

(E) DRIVEWAY

APPROXIMATE PROPERTY LINE

ROW

McDowell, John

From: Terence Mulligan <terence_mulligan@hotmail.com>
Sent: Tuesday, August 16, 2016 7:29 AM
To: napacommissioner@yahoo.com
Cc: Frost, Melissa; McDowell, John; heather@vinehillranch.com; anne.cottrell@lucene.com; tkscottco@aol.com; JeriGillPC@outlook.com
Subject: Letter of Personal Support for Frog's Leap Winery
Attachments: 08162016 Frog's Leap Letter of Support.docx

Dear Michael, Fellow Commissioners and County Staff:

Please find attached a letter of support regarding the Frog's Leap Winery Use Permit Modification.

Thank you very much.

Terence P. Mulligan

Terence P. Mulligan
2476 Balfour Court
Napa, CA 94558

August 16, 2016

Mr. Michael Basayne
Chair, Napa County Planning Commission
1195 Third Street, Suite 210
Napa, CA 94559

RE: Frog's Leap Winery, LLC – Use Permit Major Modification No. P14-00054-MOD

Dear Michael, Fellow Commissioners and County Staff:

I'm writing you today as a private citizen and resident of Napa County, although my brief comments, below, have been informed by what I've learned about Frog's Leap Winery in my work as the President/CEO of Napa Valley Community Foundation, a public charity.

I've know the Williams family for nearly ten years. In that time, they have been steadily and quietly generous to Napa Valley Community Foundation. Among other things, John and his family have donated the use of the winery for small events we organize that bring local donors together to talk about some of the big issues facing Napa County, like housing, climate change and food systems.

The very strong impression I have of John and his family is that they are deeply committed to stewardship, sustainability and making farming decisions today that will pay-it-forward for many years to come – such as a decision to diversify into orchard crops in a way that protects and compliments the substantial investments that they, and so many others, have made in Napa County viticulture.

Therefore, I respectfully voice my personal support for their Use Permit Modification.

Thank you very much.

Sincerely yours,

Terence P. Mulligan

McDowell, John

From: Steve Carlin <scarlin@carlincompanyllc.com>
Sent: Monday, August 15, 2016 9:17 PM
To: napacommissioner@yahoo.com
Cc: Frost, Melissa; McDowell, John; heather@vinehillranch.com; anne.cottrell@lucene.com; tkscottco@aol.com; JeriGillPC@outlook.com
Subject: Frog Leap Winery
Attachments: Frog's Leap Letter 81516.pdf

Dear Mr. Basayne - please see attached letter regarding Frog's Leap Winery and their hearing on Wednesday. Thank you for your consideration.

Steve Carlin

The Carlin Company | 707-257-7878 | P.O. Box 5594, Napa CA 94581
carlincompanyllc.com
oxbowventures.com

OXBOW VENTURES

August 15, 2016

Chairperson Michael Basayne
Napa County Planning Commission
1195 Third Avenue, Suite 210
Napa, Ca 94559

napacommissioner@yahoo.com

Dear Mr. Basayne:

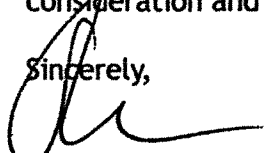
I am writing on behalf of Frog's Leap Winery in support of their request for modifications to their existing Use Permit. As a strong and long-time proponent of our local food shed, I am encouraged to see responsible Napa County property owners expand their horizons by investing in and providing a variety of locally produced organic foods and farm products. In my experience, there is significant demand (and need) for these high quality foods, especially when grown and produced with care and consideration for the environment and the community around it.

I was delighted to learn that the Williams' family was seeking to take full advantage of their orchards and gardens by enhancing their farm offerings to include more organic fresh produce and value added products grown on their ranch. I see this type of diversification throughout wine regions of the world but it has been slow to come here in Napa County. In my opinion, what they are proposing is the essence of a sustainable agricultural preserve and strengthens the one we already embrace.

On a personal note, I have known John and the William's family for more than 30 years. I have tremendous respect for them as people and as great land stewards and winery owners in this valley. They have been at the vanguard of the organic farming movement in California for years and this is just another example of how they would contribute, in a broader way, to include more local organic food production grown here in the Napa Valley. It's an idea that we should be supporting.

While I understand they are also proposing an expansion of their marketing and visitation rights at the winery, on balance, it seems like a reasonable request from a responsible and highly respected family in our community. Thank you for your consideration and for granting them the modifications they are requesting.

Sincerely,



Steve Carlin

cc: Melissa.frost@countyofnapa.org; John.McDowell@countyofnapa.org;
heather@vinehillranch.com; anne.cottrell@lucene.com; tkscottco@aol.com;
JeriGillPC@outlook.com;

McDowell, John

From: Barbara Barrera <BBarrera@dpf-law.com>
Sent: Wednesday, August 17, 2016 8:30 AM
To: napacommissioner@yahoo.com; Frost, Melissa; heather@vinehillranch.com; anne.cottrell@lucerne.com; tkscottco@aol.com; JeriGillPC@outlook.com
Cc: McDowell, John; Anderson, Laura
Subject: Frog's Leap UP Major Mod #P14-00054
Attachments: PC Ltr-FrogsLeap.pdf

Good morning – please find attached a letter from Dickenson, Peatman & Fogarty relating to the above-referenced matter.

Regards,

BARBARA BARRERA
ASSISTANT TO TOM ADAMS,
SCOTT GREENWOOD-MEINERT,
JOHN TRINIDAD AND JEFFREY T. DODD
DICKENSON, PEATMAN & FOGARTY
1455 FIRST STREET, STE. 301 | NAPA, CA 94559
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For current wine law news, visit www.lexvini.com

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From: Barbara Barrera
Sent: Wednesday, August 17, 2016 8:24 AM
To: Barbara Barrera
Subject: Scanned Document

JEFF DODD
jdodd@dpf-law.com

August 17, 2016

Planning Commission Mtg.

AUG 17 2016

Agenda Item #

9A

VIA EMAILNapa County Planning Commission
1195 Third Street, Suite 210
Napa, California 94559**Re: Frog's Leap Winery**

Dear Chair Basayne & Honorable Commissioners:

For the third time, you received a last minute submittal from Shute Mihaly & Weinberger ("SMW") regarding the Frog's Leap Project (the "Project"). The letter is referred to herein as the "Third SMW Letter." The Third SMW Letter reiterates previous comments made by SMW, which the County and the applicant have thoroughly vetted and addressed.

SMW continues to misinterpret and misapply the Napa County Road Standards (the "Road Standards") and the grant of an exception to those standards by the Director of Public Works. As a threshold matter, it is important to note three points: (1) the trigger for requiring a left turn lane under the Road Standards is not based on traffic safety criteria, it is based on daily volume of traffic trips (that does not consider actual left turn movements); (2) the Project, which is located on State Highway 128, is well-below CalTrans' threshold for installing a left turn lane, a threshold that is based on traffic safety; and (3) the County's traffic expert and the applicant's traffic engineer determined there are no traffic safety issues at the Project driveway under current conditions or with installation of a wider paved shoulder.

Ironically, SMW demands the installation of a turn lane that would remove *multiple* oak trees but then complains about Public Works' grant of an exception to the Road Standards because it harms one oak tree. It is evident from this that their objective is not traffic safety or preserving an oak tree. The County Department of Public Works tentative approval of the exception includes provisions to protect all of the oak trees, by avoidance and root protection measures.

The characterization of the shoulder widening as a significant traffic hazard does not have any evidentiary support. In fact, the argument that widening a shoulder creates a safety hazard is counterintuitive to well-recognized traffic planning principles and common sense. SMW cites Vehicle Code section 21755 as their only evidence, which states: "The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting that movement in safety. In no event shall that movement be made by driving off the paved or main-traveled portion of the roadway." The widening does not serve as a second lane to pass stopped vehicles, nor is it reasonable to assume motorists will violate law. Rather, as provided by Public Works, the shoulder widening provides an area where northbound traffic could carefully bypass a waiting left-turning vehicle, if necessary.

August 17, 2016

Page 2

SMW goes on to argue that the Initial Study's use of existing conditions as the baseline is inappropriate. However, this approach is consistent with the California Environmental Quality Act ("CEQA") and was approved by the County. This is an approach supported by a long line of appellate cases that hold that EIRs should use the actual environmental conditions existing at the time of CEQA analysis as a baseline, even when actual conditions violate current regulatory provisions or were not subject to previous CEQA review. (See *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, *Fairview Neighbors v. County of Ventura* (1999) 70 Cal.App.4th 238.)

SMW also complains about the noise analysis in the Initial Study, arguing it "simply concludes that noise impacts will be insignificant because outdoor amplified music will be prohibited." (Third SMW Letter, p. 3.) First, this statement is incorrect as the Initial Study's conclusions on noise impacts are based on extensive analysis and, second, it is disrespectful to County staff that put this comprehensive analysis together. Regarding the event with amplified music heard by SMW's client a few weeks ago, Frog's Leap secured a temporary event permit for its annual Peach Festival benefitting UpValley Family Centers. (Attached is a letter to the editor of *The Napa Valley Register* from UpValley Family Centers thanking Frog's Leap for raising funds for the non-profit, which provides services for local families working to achieve a better life.) This event was held during the day and the fact that it was heard does not provide a basis for concluding that it was in violation of the County noise ordinances. Further, this event is atypical (temporary event), since Frog's Leap is prohibited from having outdoor amplified music during its regular visitation and marketing events.

We trust that you can see through SMW's last ditch efforts to prevent Frog's Leap—a business and organization that has been a leader in our community—from moving forward with the Project. Thank you for your attention to this matter.

Sincerely,

DICKENSON, PEATMAN & FOGARTY



Jeff Dodd

Enclosure

cc: Laura Anderson, Deputy County Counsel
John McDowell, Deputy Planning Director
John Williams

Close

http://napavalleyregister.com/news/opinion/mailbag/thanks-for-support-of-family-centers/article_27a4c9c8-10a0-5cac-abebe-be4086836573.html

<

PREVIOUS

Tear down berm, restore turnout

>

Thanks for support of Family Centers

Jenny Ocon Aug 14, 2016

I am so grateful for the many ways our community opens its hearts to the families we serve at the UpValley Family Centers.

Today, I especially would like to thank John and Tori Williams and all the Frog's Leap team for supporting UpValley Family Centers through their amazing Peach Festival. For six years this fun, family-friendly afternoon at their gorgeous winery has raised funds for our programs, strengthening our ability to provide the services local families need to achieve a better life.

With delicious and plentiful food, wine, great music and children's activities, it's no wonder this special event sells out year after year!

Thank you team Frog's Leap -- from our families to yours!

Jenny Ocon, Executive Director

UpValley Family Centers

MORE INFORMATION

Thank you Bill Shaw and Cal Mart

Family Centers thank Vintners

We're grateful for Peach Festival staffers

Upvalley Family Center thanks Frog's Leap Winery