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Planning, Building & Environmental Services

1195 Third Street, Suite 210  
Napa, CA 94559  
www.countyofnapa.org

**David Morrison**  
Director

MEMORANDUM

To: Napa County Planning Commission	From: Jason R. Hade, Planner III
Date: December 18, 2018	Re: Bergman Family Winery Use Permit No. P17-00428

In response to public comments received during the 30-day public review period for the project's Initial Study/Mitigated Negative Declaration, staff recommends the attached changes shown in ~~strike through~~ and underline to the recommended conditions of approval (Attachment B).

Changes are recommended to address the following:

1. The prohibition of temporary events at the subject site in response to Engineering and CalFire staff recommendation on approval of the Exception to the Napa County Roads and Street Standard to ensure that there would be no visitors and marketing events at the winery site in order to protect public, health, and safety;
2. Clarification of the water usage and monitoring of groundwater with respect applicability to the project well; and
3. Strengthening of mitigation measures regarding biological resources to address State agency comments.

The attached recommended changes will be discussed in detail as part of staff's presentation at tomorrow's public hearing.

Attachment.

“B”

Revised Recommended Conditions of  
Approval and Final Agency Approval  
Memos

**PLANNING COMMISSION HEARING – DECEMBER 19, 2018**  
**REVISED RECOMMENDED CONDITIONS OF APPROVAL**

**Bergman Family Winery Use Permit**  
**Application Number P17-00428-UP & Road and Street Standards Exception Request**  
**3285 St. Helena Highway, St. Helena, CA**  
**APN 022-080-010**

This permit encompasses and shall be limited to the project commonly known as Bergman Family Winery, located at 3285 St. Helena Highway, St. Helena, CA. Part I encompasses the Project Scope and general conditions pertaining to statutory and local code references, project monitoring, and the process for any future changes or activities. Part II encompasses the ongoing conditions relevant to the operation of the project. Part III encompasses the conditions relevant to construction and the prerequisites for a Final Certificate of Occupancy. It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and guests of the winery to ensure compliance is achieved.

Where conditions are not applicable or relevant to this project, they shall be noted as “Reserved” and therefore have been removed.

When modifying a legally established entitlement related to this project, these conditions are not intended to be retroactive or to have any effect on existing vested rights except where specifically indicated.

**PART I**

**1.0 PROJECT SCOPE**

The permit encompasses and shall be limited to:

- 1.1 Approval of an exception to the Napa County Road and Street Standards to the State Responsibility Area Fire Safe Regulations for the road segment from the Bale Grist Mill gate to Stony Hill Vineyard driveway (Segment B – approximately 528 feet in length) and for the road segment from the fork in the road to the subject site entrance gates (Segment C – approximately 1,901 feet in length) to permit a road width of approximately 10 to 14 feet in various places. The RSS exception also requests a turning radius of less than 50 feet at two locations in Segments B and C (STA 24+00 and 29+00).
- 1.2 Approval of a Use Permit for an 8,000 gallon per year winery to allow the following:
  - a. Construction of a 6,113 square foot two-story (main roof height of approximately 32 feet) winery structure with a 485 square foot covered outdoor porch. The first floor will include a fermentation room, barrel aging area, lab, office, winery storage, restroom, and mechanical storage area while the second floor will include a second administrative office,

- employee break area and employee restroom. A 483 square foot utility and storage building is also proposed;
- b. Removal of the existing storage building and approximately 4,356 square foot of vineyards;
  - c. Daily hours of operation for winery production activities shall be limited to 6:00 AM to 6:00 PM (except during crush), seven days a week;
  - d. Maximum number of employees; two employees (two full time with one residing on-site) non harvest; two additional employees (two part time) during harvest, for a total maximum of four employees;
  - e. Number of parking spaces; two (2) parking spaces (one (1) standard space and one ADA space);
  - f. Upgrading of the existing wastewater system and associated infrastructure consistent with County Code;
  - g. Improvement of the existing access driveway to County standards except for the request noted in Condition of Approval No. 1.1 above; and
  - h. Installation of one 25,000 gallon water storage tank (domestic use) and one 10,000 gallon process wastewater tank.

The winery shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials and shall comply with all requirements of the Napa County Code (the County Code). It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and guests of the winery to ensure compliance is achieved. Any expansion or change in winery use or alternative locations for fire suppression or other types of water tanks shall be approved in accordance with the County Code and may be subject to the permit modification process.

## **2.0 STATUTORY AND CODE SECTION REFERENCES**

All references to statutes and code sections shall refer to their successor as those sections or statutes may be subsequently amended from time to time.

## **3.0 MONITORING COSTS**

All staff costs associated with monitoring compliance with these conditions, previous permit conditions, and project revisions shall be borne by the permittee and/or property owner. Costs associated with conditions of approval and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged to the property owner or permittee. Costs shall be as established by resolution of the Board of Supervisors in accordance with the hourly consulting rate established at the time of the monitoring and shall include maintenance of a \$500 deposit for construction compliance monitoring that shall be retained until issuance of a Final Certificate of Occupancy. Violations of conditions of approval or mitigation measures caused by the permittee's contractors, employees, and/or guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of a compliance deficiency is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the

program at the applicant's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if so warranted, to commence revocation proceedings in accordance with the County Code.

## PART II

### 4.0 OPERATIONAL CHARACTERISTICS OF THE PROJECT

Permittee shall comply with the following during operation of the winery:

#### 4.1 GENERAL PROVISIONS **[RESERVED]**

~~Consistent with the County Code, tours and tastings and marketing may occur at a winery only where such activities are accessory and "clearly incidental, related, and subordinate to the primary operation of the winery as a production facility."~~

~~Tours and tastings (defined below) may include food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery and is incidental to the tasting of wine. Food service may not involve menu options and meal service such that the winery functions as a café or restaurant.~~

~~Retail sales of wine shall be permitted as set forth in the County Code.~~

#### 4.2 TOURS AND TASTINGS/VISITATION **[RESERVED]**

#### 4.3 MARKETING **[RESERVED]**

#### 4.4 ON-PREMISES CONSUMPTION **[RESERVED]**

#### 4.5 RESIDENCE OR NON-WINERY STRUCTURES

Unless specifically authorized by this permit or a previously approved permit, the existing single-family residence and second unit shall not be used for commercial purposes or in conjunction with the operation and/or visitation/marketing program for the winery. If the residence is rented, it shall only be rented for periods of 30 days or more, pursuant to the County Code.

#### 4.6 GRAPE SOURCE

At least 75% of the grapes used to make the winery's still wine or the still wine used by the winery to make sparkling wine shall be grown within Napa County. The permittee shall keep records of annual production documenting the source of grapes to verify that 75% of the annual production is from Napa County grapes. The report shall recognize the Agriculture Commission's format for County of origin of grapes and juice used in the Winery Production Process. The report shall be provided to the PBES Department upon request, but shall be considered proprietary information and not available to the public.

4.7 COMPLIANCE REVIEW

Permittee shall obtain and maintain all permits (use permits and modifications) and licenses from the California Department of Alcoholic Beverage Control (ABC) and United States Tax and Trade Bureau (TTB), and California Department of Food and Agriculture (CDFA) Grape Crush Inquiry data, all of which are required to produce and sell wine. In the event the required ABC and/or TTB permits and/or licenses are suspended or revoked, permittee shall cease marketing events and tours and tastings until such time as those ABC and/or TTB permits and licenses are reinstated.

Visitation log books, visitor reports, custom crush client records, and any additional documentation determined by Staff to be necessary to evaluate compliance may be requested by the County for any code compliance. The permittee (and their successors) shall be required to participate fully in the winery code compliance review process.

4.8 RENTAL/LEASING **[RESERVED]**

~~No winery facilities, or portions thereof, including, without limitation, any kitchens, barrel storage areas, or warehousing space, shall be rented, leased, or used by entities other than persons producing and/or storing wine at the winery, such as alternating proprietors and custom producers, except as may be specifically authorized in this Permit or pursuant to the Temporary Events Ordinance (County Code Chapter 5.36).~~

4.9 GROUND WATER MANAGEMENT – WELLS **[RESERVED]**

4.10 AMPLIFIED MUSIC

There shall be no amplified sound system or amplified music utilized outside of approved, enclosed, winery buildings.

4.11 TRAFFIC

To the maximum extent feasible, scheduling of reoccurring vehicle trips to and from the site for employees and deliveries shall not occur during peak travel times (4:00 PM to 6:00 PM weekdays; 3:00 PM to 6:00 PM Saturdays and Sundays). All road improvements on private property required per Engineering Services shall be maintained in good working condition and in accordance with the Napa County Roads and Streets Standards.

4.12 PARKING

The location of visitor parking and truck loading zone areas shall be identified along with proposed circulation and traffic control signage (if any).

Parking shall be limited to approved parking spaces only and shall not occur along access or public roads or in other locations except during harvest activities and approved marketing events. In no case shall parking impede emergency vehicle access or public roads.

4.13 BUILDING DIVISION – USE OR OCCUPANCY CHANGES

Please contact the Building Division with any questions regarding the following:

In accordance with the California Building Code (CBC), no change shall be made in the use of occupancy of an existing building unless the building is made to comply with the requirements of the current CBC for a new building.

4.14 FIRE DEPARTMENT – TEMPORARY STRUCTURES

Please contact the Fire Department with any questions regarding the following:

The permittee and/or designee shall obtain a tent permit from the Fire Department for any temporary structures utilized for authorized marketing events allowed per COA No. 4.3 above.

4.15 NAPA COUNTY MOSQUITO ABATEMENT PROGRAM **[RESERVED]**

4.16 GENERAL PROPERTY MAINTENANCE – LIGHTING, LANDSCAPING, PAINTING, OUTDOOR EQUIPMENT STORAGE, AND TRASH ENCLOSURE AREAS

- a. All lighting shall be permanently maintained in accordance with the lighting and building plans approved by the County. Lighting utilized during harvest activities is exempt from this requirement.
- b. All landscaping and outdoor screening, storage, and utility structures shall be permanently maintained in accordance with the landscaping and building plans approved by the County. No stored items shall exceed the height of the screening. Exterior winery equipment shall be maintained so as to not create a noise disturbance or exceed noise thresholds in the County Code.
- c. The colors used for the roof, exterior walls and built landscaping features of the winery shall be limited to earth tones that will blend the facility into the colors of the surrounding site specific vegetation. The permittee shall obtain the written approval of the Planning Division prior to any change in paint colors that differs from the approved building permit. Highly reflective surfaces are prohibited.
- d. Designated trash enclosure areas shall be made available and properly maintained for intended use.

4.17 NO TEMPORARY SIGNS

Temporary off-site signage, such as “A-Frame” signs, is prohibited.

4.18 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES OPERATIONAL CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies’ requirements. Without limiting the force of

those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Engineering Services Division operational conditions as stated in their Memorandum dated April 16, 2018.
- b. Environmental Health Division operational conditions as stated in their Memorandum dated April 10, 2018.
- c. Building Division operational conditions as stated in their Memorandum dated January 11, 2018.
- d. Department of Public Works operational conditions as stated in their Memorandum dated January 10, 2018.
- e. Fire Department operational conditions as stated in their Inter-Office Memo dated April 17, 2018.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify this permit.

#### 4.19 OPERATIONAL MITIGATION MEASURES **[RESERVED]**

#### 4.20 OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT

- a. The parcel shall be limited to ~~8.152~~ 7.1 acre-feet of groundwater per year for all water consuming activities on the parcel which use the vineyard well as their water source. A Groundwater Demand Management Program shall be developed and implemented for the property as outlined in COA 6.15(a) below.

No new on-site or off-site water sources (other than those evaluated as part of this permit) proposed to be used for the winery, including but not limited to wells, imported water, new or existing ponds/reservoir(s) or other surface water impoundments, to serve the winery, shall be allowed without additional environmental review, if necessary, and may be subject to a modification to this permit. A new Water Availability Analysis shall be required prior to approval of any new water source(s) on the property.

In the event that changed circumstances or significant new information provide substantial evidence<sup>1</sup> that the groundwater system referenced in the Use Permit would significantly affect the groundwater basin, the PBES Director shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to



meet the requirements of the County Code and to protect public health, safety, and welfare.

- b. No visitation or marketing activities have been authorized for this winery.
- c. Retail sales of wine shall be permitted as set forth in the County Code.
- d. No temporary events set forth in the County Code shall be permitted.
- e. No winery facilities, or portions thereof, including, without limitation, any kitchens, barrel storage areas, or warehousing space, shall be rented, leased, or used by entities other than persons producing and/or storing wine at the winery, such as alternating proprietors and custom producers, except as may be specifically authorized in this Permit.

#### 4.21 PREVIOUS CONDITIONS [RESERVED]

### PART III

## 5.0 PREREQUISITE FOR ISSUANCE OF PERMITS

### 5.1 PAYMENT OF FEES

No building, grading or sewage disposal permits shall be issued or other permits authorized until all accrued planning permit processing fees have been paid in full. This includes all fees associated with plan check and building inspections, associated development impact fees established by County Ordinance or Resolution, and the Napa County Affordable Housing Mitigation Fee in accordance with County Code.

## 6.0 GRADING/DEMOLITION/ENVIRONMENTAL/BUILDING PERMIT/OTHER PERMIT PREREQUISITES

Permittee shall comply with the following with the submittal of a grading, demolition, environmental, building and/or other applicable permit applications.

### 6.1 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES – PLAN REVIEW, CONSTRUCTION AND PREOCCUPANCY CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies' requirements. The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Divisions, Departments and Agencies at the time of submittal and may be subject to change. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

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<sup>1</sup> Substantial evidence is defined by case law as evidence that is of ponderable legal significance, reasonable in nature, credible and of solid value. The following constitute substantial evidence: facts, reasonable assumptions predicated on facts; and expert opinions supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or clearly inaccurate or erroneous information do not constitute substantial evidence.

- a. Engineering Services Division plan review/construction/ preoccupancy conditions as stated in their Memorandum dated April 16, 2018.
- b. Environmental Health Division plan review/construction/ preoccupancy conditions as stated in their Memorandum dated April 10, 2018.
- c. Building Division plan review/construction/ preoccupancy conditions as stated in their Memorandum dated January 11, 2018.
- d. Department of Public Works plan review/construction/ preoccupancy conditions as stated in their Memorandum dated January 10, 2018.
- e. Fire Department plan review/construction/ preoccupancy conditions as stated in their Inter-Office Memo dated April 17, 2018.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify the permit.

#### 6.2 BUILDING DIVISION – GENERAL CONDITIONS

- a. A building permit shall be obtained for all construction occurring on the site not otherwise exempt by the California Building Code (CBC) or any State or local amendment adopted thereto.
- a. If there are any existing structures and/or buildings on the property that will need to be removed to accommodate construction activities, a separate demolition permit shall be required from the Building Division prior to removal. The permittee shall provide a “J” number from the Bay Area Air Quality Management District (BAAQMD) at the time the permittee applies for a demolition permit if applicable.
- c. All areas of newly designed and newly constructed buildings, facilities and on-site improvements must comply with the CBC accessibility requirements, as well as, American with Disability Act requirements when applicable. When alterations or additions are made to existing buildings or facilities, an accessible path of travel to the specific area of alteration or addition shall be provided as required per the CBC.

#### 6.3 LIGHTING – PLAN SUBMITTAL

- a. Two (2) copies of a detailed lighting plan showing the location and specifications for all lighting fixtures to be installed on the property shall be submitted for Planning Division review and approval. All lighting shall comply with the CBC.
- b. All exterior lighting, including landscape lighting, shall be shielded and directed downward, shall be located as low to the ground as possible,

shall be the minimum necessary for security, safety, or operations; on timers; and shall incorporate the use of motion detection sensors to the greatest extent practical. All lighting shall be shielded or placed such that it does not shine directly on adjacent properties or impact vehicles on adjacent streets. No flood-lighting or sodium lighting of the building is permitted, including architectural highlighting and spotting. Low-level lighting shall be utilized in parking areas as opposed to elevated high-intensity light standards. Lighting utilized during harvest activities is exempt from this requirement.

6.4 LANDSCAPING – PLAN SUBMITTAL **[RESERVED]**

6.5 COLORS

The colors used for the roof, exterior walls and built landscaping features of the winery shall be limited to earth tones that will blend the facility into the colors of the surrounding site specific vegetation. The permittee shall obtain the written approval of the Planning Division in conjunction with building permit review and/or prior to painting the building. Highly reflective surfaces are prohibited.

6.6 OUTDOOR STORAGE/SCREENING/UTILITIES

- a. Details of outdoor storage areas and structures shall be included on the building and landscape plans. All outdoor storage of winery equipment shall be screened from the view of residences of adjacent properties by a visual barrier consisting of fencing or dense landscaping. No stored item shall exceed the height of the screening. Water and fuel tanks, and similar structures, shall be screened to the extent practical so as to not be visible from public roads and adjacent parcels.
- b. New utility lines required for this project that are visible from any designated scenic transportation route (see Community Character Element of the General Plan and the County Code) shall be placed underground or in an equivalent manner be made virtually invisible from the subject roadway.
- c. Exterior winery equipment shall be located, enclosed or muffled so as not to exceed noise thresholds in the County Code.

6.7 TRASH ENCLOSURES

Adequate area must be provided for collection and loading of garbage and recyclables generated by the project. The applicant must work with the franchised garbage hauler for the service area in which they are located, in order to determine the area and the pedestrian and vehicle access needed for the collection site. The garbage and recycling enclosure shall meet the minimum enclosure requirements established by staff and the franchised hauler, which shall be included in the building permit submittal.

6.8 ADDRESSING

All project site addresses shall be determined by the PBES Director, and be reviewed and approved by the United States Post Office. The PBES Director reserves the right to issue or re-issue an appropriate situs address at the time of issuance of any building permit to ensure proper identification and sequencing of numbers. For multi-tenant or multiple structure projects, this includes building permits for later building modifications or tenant improvements.

6.9 HISTORIC RESOURCES **[RESERVED]**

6.10 DEMOLITION ACTIVITIES **[RESERVED]**

6.11 VIEWSHED – EXECUTION OF USE RESTRICTION **[RESERVED]**

6.12 PERMIT PREREQUISITE MITIGATION MEASURES

The permittee shall comply with the following permit prerequisite mitigation measures identified in the adopted Initial Study/Mitigated Negative Declaration and Project Revision Statement/Mitigation Monitoring and Reporting Program prepared for the project:

- a. Prior to commencement of vegetation removal and earth-disturbing activities during nesting season from March 15 to August 31, a qualified wildlife biologist shall conduct preconstruction surveys for Northern Spotted Owls using the U.S. Fish and Wildlife Service's (USFWS) *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (2012)* within 500-feet of earthmoving activities. The preconstruction survey shall be conducted no more than 14 days prior to vegetation removal and ground disturbing activities are to commence. A copy of the survey shall be provided to the County Planning Division and the California Department of Fish and Wildlife (CDFW) prior to commencement of work. If Northern Spotted Owls are found during preconstruction survey, a 500-foot no-disturbance buffer shall be created around active owl sites. These buffer zones may be modified in coordination with CDFW based on existing conditions at the project site. Buffer zones shall be incorporated into the project plans and maintained for the duration of the project. If a 15 day or greater lapse of project-related work occurs, another pre-construction survey and consultation with CDFW shall be required before project work can be reinitiated.

No surveys shall be required if construction activity occurs outside of the nesting season from March 15 to August 31.

Method of Monitoring: If construction activity is to occur during the nesting season from March 15 to August 31, the pre-construction survey prepared by a qualified wildlife biologist shall be submitted to Planning Division staff prior to issuance of the grading permit.

Responsible Agency: PBES

- b. The lithic scatter, as identified in the Historic Resources Study of the Property at 3285 St. Helena Highway (APN 022-080-010) St. Helena, Napa County, California, shall be avoided during project development. The area containing the archaeological site may be retained as vineyard with routine maintenance, including shallow disking and weed mowing, however the site area should not be disturbed by installation of pipelines, ripping, leveling, or trenching. Vines may be removed and replaced as needed; however, this should be conducted under the guidance of an archaeologist who meets the Secretary of the Interior's standards. Removal of vines should be done when the soil is slightly wet, by pulling them straight up to minimize ground disturbance.

Method of Monitoring: The grading plan shall reflect the installation of temporary protective fencing around the lithic scatter site prior to issuance of the grading permit. The temporary protective fencing shall remain in place throughout the duration of project construction and all construction personnel shall be advised by the project contractor to avoid any disturbance to the area.

Responsible Agency: PBES

- c. Prior to commencement of construction of project improvements at the project site, the permittee shall coordinate with a representative of Yocha Dehe Wintun Nation. Pre-construction coordination shall include a training of construction field crews, by a tribal representative of the potential for presence of Native American resources on the property, the potential types of resources that could be found on-site, and the procedures to follow in the event of discovery of such resources.

Method of Monitoring: Concurrently with submittal of the grading application for project improvements to Engineering and Building staff of PBES, the permittee shall submit confirmation of submittal of the grading plans to the tribal representative previously identified. If the permittee neglects to submit such confirmation to PBES, then Planning staff of PBES will convey a copy of the plans to the tribal representative upon receipt of the grading permit application.

Responsible Agency: PBES

- d. If construction, grading, vegetation removal, or other project-related improvements are scheduled during the nesting season of protected raptors and migratory birds January 31 to September 1, a focused survey for active nests of such birds shall be conducted by a qualified biologist within 7 days prior to the beginning of project-related activities.

No surveys shall be required if construction activity occurs outside of the nesting season from January 31 to September 1.

Method of Monitoring: If construction activity is to occur during the nesting season from January 31 to September 1, the pre-construction survey prepared by a qualified wildlife biologist shall be submitted to Planning Division staff prior to issuance of the grading permit.

Responsible Agency: PBES

- e. A qualified bat biologist, with documented experience conducting bat habitat assessments, shall conduct a bat habitat assessment of all trees proposed for removal at least 30 days prior to tree removal activities, to determine if any of the trees contain potential bat roost habitat. If any trees proposed for removal contain potential bat roost habitat, presence of roosting bats shall be presumed. All trees containing potential bat roost habitat shall be removed using a two-day phased removal method as described: On day 1, under the supervision of a qualified bat biologist who has documented experience overseeing tree removal using the two-day phased removal method, branches and small limbs not containing potential bat roost habitat (e.g. cavities, crevices, exfoliating bark) shall be removed using chainsaws only. On day 2, the next day, the rest of the tree should be removed.

All trees shall be removed during seasonal periods of bat activity: Prior to maternity season – from approximately March 1 (or when night temperatures are above 45°F and when rains have ceased) through April 15 (when females begin to give birth to young); and prior to winter torpor – from September 1 (when young bats are self-sufficiently volant) until about October 15 (before night temperatures fall below 45°F and rains begin).

Method of Monitoring: If construction activity is to occur during the seasonal periods of bat activity identified above, the bat habitat assessment prepared by a qualified bat biologist shall be submitted to Planning Division staff prior to issuance of the grading permit.

Responsible Agency: PBES

6.13 PARCEL CHANGE REQUIREMENTS **[RESERVED]**

6.14 FINAL MAPS **[RESERVED]**

6.15 OTHER CONDITIONS APPLICABLE TO THE PROJECT PERMITTING PROCESS

a. Groundwater Demand Management Program

1. The permittee shall install a meter on ~~each~~ the vineyard well serving the parcel. ~~Each~~ The meter shall be placed in a location that will allow for the measurement of all groundwater from the vineyard well used on the project parcel. Prior to the issuance of a grading or building permit for the winery, the permittee shall submit for review and approval by the Director of Public

Works a groundwater demand management plan which includes a plan for the location and the configuration of the installation of a meter on ~~all wells~~ the vineyard well serving the parcel.

2. The Plan shall identify how best available technology and best management water conservation practices will be applied throughout the parcel.
3. The Plan shall identify how best management water conservation practices will be applied where possible in the structures on site. This includes but is not limited to the installation of low flow fixtures and appliances.
4. As a groundwater consuming activity already exists on the property, meter installation and monitoring shall begin immediately.
5. For the first twelve months of operation under the Use Permit, the applicant shall read the meters at the beginning of each month and provide the data to the Public Works Director monthly. If the water usage on the property from the vineyard well exceeds, or is on track to exceed, ~~8.452~~ 7.1 acre-feet per year, or if the permittee fails to report, additional reviews and analysis and/or a corrective action program at the permittee's expense shall be required shall be submitted to the Public Works Director and the PBES Director for review and action.
6. The permittee's well shall be included in the Napa County Groundwater Monitoring program if the County finds the well suitable.
7. At the completion of the reporting period per 5 above, and so long as the water usage is within the ~~8.452~~ 7.1 acre-feet per year as specified above, the permittee may begin the following meter reading schedule:
  - a. On or near the first day of each month the permittee shall read the water meter, and provide the data to the Public Works Director during the first weeks of April and October. The Public Works Director, or his designated representative, has the right to access and verify the operation and readings of the meters during regular business hours.

## **7.0 PROJECT CONSTRUCTION**

Permittee shall comply with the following during project construction:

### **7.1 SITE IMPROVEMENTS**

Please contact Engineering Services with any questions regarding the following.

- a. **GRADING AND SPOILS**

All grading and spoils generated by construction of the project facilities shall be managed per Engineering Services direction. Alternative locations for spoils are permitted, subject to review and approval by the PBES Director, when such alternative locations do not change the overall concept, and do not conflict with any environmental mitigation measures or conditions of approval.
- b. **DUST CONTROL**

Water and/or dust palliatives shall be applied in sufficient quantities during grading and other ground disturbing activities on-site to minimize the amount of dust produced. Outdoor construction activities shall not occur when average wind speeds exceed 20 mph.

c. AIR QUALITY

During all construction activities the permittee shall comply with the most current version of BAAQMD Basic Construction Best Management Practices including but not limited to the following, as applicable:

1. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. The BAAQMD's phone number shall also be visible.
2. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, grading areas, and unpaved access roads) two times per day.
3. Cover all haul trucks transporting soil, sand, or other loose material off-site.
4. Remove all visible mud or dirt traced onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
5. All vehicle speeds on unpaved roads shall be limited to 15 mph.
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
7. Idling times shall be minimized either by shutting off equipment when not in use or reducing the maximum idling time to five (5) minutes (as required by State Regulations). Clear signage shall be provided for construction workers at all access points.
8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Any portable engines greater than 50 horsepower or associated equipment operated within the BAAQMD's jurisdiction shall have either a California Air Resources Board (ARB) registration Portable Equipment Registration Program (PERP) or a BAAQMD permit. For general information regarding the certified visible emissions evaluator or the registration program, visit the ARB FAQ [http://www.arb.ca.gov/portable/perp/perpfact\\_04-16-15.pdf](http://www.arb.ca.gov/portable/perp/perpfact_04-16-15.pdf) or the PERP website <http://www.arb.ca.gov/portable/portable.htm>.

d. STORM WATER CONTROL

The permittee shall comply with all construction and post-construction storm water pollution prevention protocols as required by the County



7.2 ARCHEOLOGICAL FINDING

In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required.

If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

7.3 CONSTRUCTION NOISE

Construction noise shall be minimized to the greatest extent practical and feasible under State and local safety laws, consistent with construction noise levels permitted by the General Plan Community Character Element and the County Noise Ordinance. Construction equipment muffling and hours of operation shall be in compliance with the County Code. Equipment shall be shut down when not in use. Construction equipment shall normally be staged, loaded, and unloaded on the project site, if at all practicable. If project terrain or access road conditions require construction equipment to be staged, loaded, or unloaded off the project site (such as on a neighboring road or at the base of a hill), such activities shall only occur daily between the hours of 8 am to 5 pm.

7.4 CONSTRUCTION MITIGATION MEASURES [RESERVED]

7.5 OTHER CONSTRUCTION CONDITIONS APPLICABLE TO THE PROJECT PROPOSAL [RESERVED]

**8.0 TEMPORARY CERTIFICATE OF OCCUPANCY - PREREQUISITES**

A Temporary Certificate of Occupancy (TCO) may be granted pursuant to the County Code to allow the commencement of production activities prior to completion of all project improvements. Permittee shall comply with the following before a TCO is granted:

8.1 TEMPORARY OCCUPANCY

All life and safety conditions shall be addressed prior to issuance of a TCO by the County Building Official. TCOs shall not be used for the occupancy of hospitality buildings and shall not exceed the maximum time allowed by the County Code which is 180 days. Departments and/or agencies with jurisdiction over the project are authorized as part of the TCO process to require a security deposit or other financial instrument to guarantee completion of unfinished improvements.

**9.0 FINAL CERTIFICATE OF OCCUPANCY – PREREQUISITES**

Permittee shall comply with the following before a Final Certificate of Occupancy is granted by the County Building Official, which upon granting, authorizes all use permit activities to commence.

**9.1 FINAL OCCUPANCY**

All project improvements, including compliance with applicable codes, conditions, and requirements of all Departments and Agencies with jurisdiction over the project, shall be completed.

**9.2 SIGNS [RESERVED]**

**9.3 GATES/ENTRY STRUCTURES**

Any gate installed at the winery entrance shall be reviewed by the PBES Department and the Fire Department to assure that the design allows large vehicles, such as motorhomes, to turn around if the gate is closed without backing into the public roadway, and that fire suppression access is available at all times. If the gate is part of an entry structure an additional permit shall be required pursuant to the County Code and in accordance with the Napa County Roads and Street Standards. A separate entry structure permit is not required if the entry structure is consistent with entry structure plans submitted, reviewed, and approved as part of this permit approval.

**9.4 LANDSCAPING [RESERVED]**

**9.5 ROAD OR TRAFFIC IMPROVEMENT REQUIREMENTS [RESERVED]**

**9.6 DEMOLITION ACTIVITIES [RESERVED]**

**9.7 GRADING SPOILS**

All spoils shall be removed in accordance with the approved grading permit and/or building permit.

**9.8 MITIGATION MEASURES APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY [RESERVED]**

**9.9 OTHER CONDITIONS APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY**

- a. Detailed plans, including elevations, materials, color, and lighting for any winery identification or directional signs shall be submitted to the Department for administrative review and approval prior to installation. Administrative review and approval is not required if signage to be installed is consistent with signage plans submitted, reviewed and approved as part of this permit approval. All signs shall meet the design standards as set forth in the County Code. At least one legible sign shall be placed at the property entrance with the words “No Tours and Tasting

Permitted” to inform the public of same. Any off-site signs allowed shall be in conformance with the County Code.

- b. All required meters shall be installed and all groundwater usage monitoring required in COA 4.20(a) and 6.15(a) shall commence prior to final occupancy.



A Tradition of Stewardship  
A Commitment to Service

**Planning, Building & Environmental Services**

1195 Third Street, Suite 210  
Napa, CA 94559  
www.countyofnapa.org

**David Morrison**  
Director

## MEMORANDUM

To: Jason Hade, Planning	From: Daniel Basore, Engineering
Date: April 16, 2018	Re: P17-00428 Bergman Family Winery Conditions of Approval - ENG APN: 022-080-010

The Engineering division has reviewed the use permit application P17-00428 for the Bergman Family Winery located on assessor's parcel number 022-080-010. In general the project proposes the following:

*"A new small winery with no tours, tastings, marketing plan, or food service."*

Based upon the information provided in the application, Engineering finds the application **complete** and recommends the following conditions of approval:

### RECOMMENDED APPROVAL CONDITIONS:

#### OPERATIONAL CHARACTERISTICS

1. The facility is designated as a discharger that discharges stormwater associated with industrial activity to waters of the United States. Therefore, the facility shall maintain or apply for coverage under the State Water Resources Control Board's Industrial General Permit (IGP), including meeting all applicable provision and protocols of the IGP. If the facility fails to meet the discharge prohibitions of the IGP, Napa County may require the facility to make the necessary improvements to eliminate all exposures to stormwater of the pollutant(s) for which the water body is impaired.

#### PREREQUISITES FOR ISSUANCE OF PERMITS

2. All roadway construction associated with this application shall conform to the Road Exception Evaluated composed by this Division, dated April 16, 2018 enclosed herin, and per the accepted construction and inspection practiced defined in Federal, State and Local codes. The property owner shall obtain a grading permit for all proposed roadway improvements.
3. Any roadway, proposed new or reconstructed, not included in the above mentioned Road Exception Evaluation shall meet the requirements as outlined in the latest edition of the Napa County Road & Street Standards for Commercial development at the time of use permit approval.

4. All on site civil improvements including but not limited to the excavation, fill, general grading, drainage, curb, gutter, surface drainage, storm drainage, parking and drive isles, shall be constructed according to plans prepared by a registered civil engineer, which will be reviewed and approved by the Engineering Division of the Napa County Planning, Building, and Environmental Services Department (PBES) **prior to the commencement** of any on site land preparation or construction. Plans shall be wet signed and submitted with the building and/or grading permit documents at the time of permit application. A plan check fee will apply.
5. Grading and drainage improvements shall be constructed according to the current Napa County Road and Street Standards, Chapter 16.28 of the Napa County Code, and Appendix J of the California Building Code.
6. **Prior to issuance of a building permit** the owner shall submit the necessary documents for Erosion Control as determined by the area of disturbance of the proposed development in accordance with the Napa Countywide Stormwater Pollution Prevention program Erosion and Sediment Control Plan Guidance for Applicant and Review Staff dated December 2014.
7. **Prior to issuance of a building permit** the owner shall prepare a Regulated Project Stormwater Control Plan (SCP) in accordance with the latest edition of the BASMAA Post-Construction Manual for review and approval by the Engineering Division in PBES.
8. **Prior to issuance of a building permit**, an Operation and Maintenance Plan shall be submitted and tentatively approved by the Engineering Division in PBES. **Before final occupancy** the property owner must legally record the "Operation and Maintenance Agreement", approved by the Engineering Division in PBES.

#### **PREREQUISITES DURING PROJECT CONSTRUCTION**

9. Required on-site pre-construction meeting with the Napa County PBES Engineering Division **prior to start of construction**.

#### **PREREQUISITES FOR TEMPORARY CERTIFICATE OF OCCUPANCY**

10. All roadway improvements shall be completed **prior to execution** of any new entitlements approved under this Use Permit. **\*\* If no temporary occupancy is requested, then this becomes a requirement prior to final occupancy.**

#### **PREREQUISITES FOR FINAL CERTIFICATION OF OCCUPANCY**

11. Operations and Maintenance Agreement for post construction Stormwater facilities must be legally recorded.
12. Site shall be completely stabilized to the satisfaction of the County Engineer prior to Final Occupancy.

**Any changes in use may necessitate additional conditions for approval.**

If you have any questions regarding the above items, please contact Daniel Basore from Napa County Planning, Building, and Environmental Services Department, Engineering and Conservation Division, at (707)259-8328 or by email at [Daniel.Basore@countyofnapa.org](mailto:Daniel.Basore@countyofnapa.org)



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A Commitment to Service

David Morrison  
Director

## MEMORANDUM

To: Jason Hade Planning Division	From: Daniel Basore Engineering Services
Date: April 16, 2018	Re: P17-00428 Bergman Family Winery <b>Road Exception Evaluation</b> APN: 022-080-010

### ROAD EXCEPTION REQUEST:

The Engineering Services Division received a request, dated March 5, 2018 for an exception to the Napa County Road and Street Standards (NCRSS) for the proposed Bergman Family Winery located at 3285 St. Helena Highway, St. Helena, California 94574. Access to the subject parcel is via a shared private driveway off of the west side of the State Route 29/ 128 (St. Helena Highway) approximately 0.6 miles north of the intersection of State Route 29 and Ehlers Lane.

The shared private lane currently provides access to State Park lands (Bale Grist Mill, Bothe- Napa Valley), Stony Hill Vineyard, and an existing residence and 2<sup>nd</sup> dwelling unit on the subject parcel. The shared private lane is approximately 4000 feet long prior to serving the subject parcel only and varies in width from 22 feet to 10 feet.

The Bergman Family Winery project proposes roadway improvements to provide safe ingress and egress while providing the same practical effect as the 2017 NCRSS. The project seeks an exception to the NCRSS to allow for a reduction in commercial roadway width from STA 10+00 to 36+00\*and to allow a turning radius less than 50 feet at two locations (STA 24+00 and 29+00).

### ENGINEERING DIVISION EVALUATION AND RECOMMENDATION:

Engineering Division staff has reviewed the Request noted above with the applicant’s authorized agents, Engineering staff and the Fire Marshal’s office. With respect to Section (3) of the NCRSS as adopted by Resolution No. 2017-156 by the Board of Supervisors on September 26, 2017, this division has determined the following:

\*All road stations referenced throughout this document are based on the associated Use Permit Plan Set entitled “Bergman Family Vineyards” dated March 5, 2018 prepared by Applied Civil Engineering

**COMMERCIAL ROADWAY WIDTH REDUCTION & SUB-STANDARD INSIDE RADIUS OF CURVATURE EXCEPTION:**

The request to an exception for a reduction in width to the commercial roadway standards from STA 10+00 to STA 36+00 and to allow a turning radius less than 50 feet at STA 24+00 and 29+00 is based upon legal constraints (existing access easement, see attached letter from Perkins Coi (international law firm) expanding upon the existing access easement and legal constraint), as allowed by the NCRSS Section 3, (d) iii. The improvement achieves the same overall practical effect of the RSS by providing defensible space and consideration toward life, safety and public welfare by providing the following permanent measures:

1. Horizontal and vertical vegetation management as described in the accompanying Road Exception Request prepared by Applied Civil Engineering dated March 5, 2018 attached as Appendix A of this document shall be implemented along the entire length of the private lane and around any existing and proposed structures to create defensible space.
2. The project scope was designed to keep average daily trips to a minimal level by requesting no public visitors or marketing events, and only two full time employees, one of who will live onsite. A more detailed assessment of average daily trips is included in the Road Exception Requested attached as Appendix A of this document.
3. A commercial driveway that fully complies with the 2017 Napa County Road and Street Standards will be constructed on the subject parcel to provide ingress and egress from the proposed winery to the private shared drive.

The road exception request has provided the necessary documentation as required by RSS Section 3(D) for the Engineering Division to support the Exception Request for approval by the required approving body. The following conditions are in addition to any and all conditions previously placed on the project as part of this discretionary application:

1. The roadway improvements shall be constructed and maintained to the approved condition prior to any new commercial use and/or occupancy and throughout the life of the parcel or until such time the County deems that future road design changes or changes in use of this roadway beyond the use proposed shall require re-evaluation of the roadway to comply with the requirements of adopted codes, standards and regulations and may require additional conditions.
2. The private drive surface shall be periodically maintained by the property owner to assure sufficient structural section for loading conditions equivalent to the H20-44 criterion and the design Traffic Index.

**Attachments:**

1. Exception Request Letter dated March 5, 2018 prepared by Applied Civil Engineering.
2. Legal Constraint letter dated March 12, 2018 prepared by Perkins Coie international law firm.



RECEIVED

MAR 21 2018

Napa County Planning, Building  
& Environmental Services

December 11, 2017  
March 5, 2018 – Revision #1

Job No. 14-129

David Morrison, Director  
Napa County Planning, Building and Environmental Services Department  
1195 Third Street, Suite 210  
Napa, California 94559

Re: Driveway Improvements and Request for Exception to the Napa County Road and Street Standards for the Proposed Bergman Family Vineyards Winery located at 3285 St. Helena Highway, St. Helena, CA 94574 Napa County APN 022-080-010

Dear Mr. Morrison:

This request for an exception to the Napa County Road and Street Standards is being filed concurrent with the Use Permit Application for a new winery to be located on the above referenced property. We are providing this information for your review and final decision by the Conservation, Development and Planning Commission, pursuant to Section 3 of the Napa County Road and Street Standards as adopted by the Napa County Board of Supervisors on January 26, 2016 (Resolution 2016-06). Section 3 of the Standards allows exceptions to the Standards provided that that the proposed driveway conditions, including the requested exceptions, still provides the same overall practical effect as the Standards towards providing defensible space and consideration towards life, safety and public welfare and:

1. The exception will preserve unique features of the natural environment which includes, but is not limited to, natural watercourses, steep slopes, geological features, heritage oak trees, or other trees of at least 6" dbh and found by the decision maker to be of significant importance, but does not include man made environmental features such as vineyards, rock walls, ornamental or decorative landscaping, fences or the like;
2. The exception is necessary to accommodate physical site limitations such as grade differentials; and/or



3. The exception is necessary to accommodate other limiting factors such as recorded historical sites or legal constraints.

It is our opinion that approving the subject Use Permit along with the proposed driveway improvements and granting this exception will:

1. Preserve mature native trees;
2. Minimize the need for grading on the steep slopes;
3. Abide by the limitations of the existing legal constraint (driveway easement);
4. Provide the same overall practical effect as the Standards towards providing defensible space and consideration towards life, safety and public welfare; and
5. Improve emergency vehicle access to the subject properties and the area in general.

The remainder of this letter describes the proposed project, provides background information regarding existing access conditions, outlines significant proposed driveway improvements that have been designed to meet the requirements of the Napa County Road and Street Standards, identifies the specific areas where an exception to the Standards is being requested and provides justification for the requested exception including measures to provide the same overall practical effect as the Standards.

### **Project Description**

The Use Permit application under consideration proposes the construction and operation of a new winery with the following characteristics:

- Wine Production:
  - The winery will be permitted for up to 8,000 gallons of wine per year. The primary focus of the new winery will be for processing fruit which is grown onsite and thus will eliminate the need to off-haul fruit from the site which currently accounts for approximately 12 to 16 truck trips during harvest.
- Employees:
  - There will be 2 full time employees. One of the two full time employees will live onsite and the other full time employee will come to the winery and may also work from offsite.
  - There will also be 2 part-time employees that will come to the winery on a limited basis when need for seasonal activities such as harvest and bottling.

- Marketing Plan:
  - There is no visitor or marketing plan proposed as part of this application. The project was specifically designed to not include a visitor or marketing program to minimize the traffic associated with the proposed winery.

Existing improvements on the property include a single-family residence, a second dwelling unit, accessory structures, approximately 8.6 acres of vineyard and the related access and utility infrastructure needed to support these uses.

### **Existing Access Road Conditions**

Access to the subject parcel is via a shared private driveway off the west side of State Route 29 / 128 (St. Helena Highway) approximately 0.6 miles north of the intersection of State Route 29 and Ehlers Lane in an unincorporated portion of Napa County. The shared driveway provides access to the Bothe Napa Valley State Park and other adjacent properties. Please refer to the Bergman Family Vineyards Winery Use Permit Conceptual Site Improvement Plans prepared by Applied Civil Engineering Incorporated for a detailed illustration of the project site relative to the existing public road and shared private driveway as well as the existing and proposed conditions along the subject 0.7 +/- mile stretch of shared private driveway that are generally outlined in the remainder of this letter.

#### Segment A: State Route 29/128 to Bale Grist Mill Gate

The existing driveway follows relatively gentle topography for the first 0.3 +/- miles from the intersection at State Route 29 / 128 to the gate at the entrance to the Bale Grist Mill. This section of driveway is relatively gently sloping, has a paved width exceeding 20 feet and generally complies with the Standards for a "Common Drive".

#### Segment B: Bale Grist Mill Gate to Stony Hill Vineyard Driveway (STA 10+00 to 16+75)

At this point the shared private driveway diverges from Segment A at a 90 degree left hand turn and continues another 0.1 +/- miles to a fork in the road. This segment of private driveway is shared with Stony Hill Vineyards and traverses relatively gently sloping lands with longitudinal slopes generally less than 10%. The surface is paved and is generally 10 feet wide. There is a 14' wide turnout at STA 14+00 that was recently created by the Applicants as part of driveway improvements that were made to serve the recently constructed second dwelling unit on the subject property. The Stony Hill Vineyard driveway intersection also serves as a functional turnout.

#### Segment C: Fork in Road to Subject Property Entrance Gates (STA 16+75 to 36+00)

The left fork in the private driveway continues another 0.36 +/- miles to the subject property and is used for access to the subject property only. This segment of driveway traverses steeply sloping and densely forested hillsides. However, despite the steep topography, the longitudinal slope of the road is generally moderate and generally averages less than 16% with a maximum slope of 18.8% for a very short stretch at STA 26+50 (slopes averaged over 50' intervals). The surface is paved with asphalt and is generally 10 feet wide except at the following locations where improvements were recently made to provide additional width to the extent possible within the easement and within the confines of the sloping topography and mature trees:

STA 20+00 – Total paved width is approximately 16 feet  
STA 24+00 – Total drivable width is approximately 16 feet  
STA 26+50 – Total paved width is approximately 16 feet  
STA 29+00 - Total paved width is approximately 16 feet  
STA 32+25 – Total paved width is approximately 14 feet

Segment D: Subject Property Entrance Gates to Proposed Winery Site (STA 36+00 to STA 52+50)

Where the private driveway enters the subject parcel there is a large paved apron with two gates. The left gate provides access to the existing residence and second dwelling unit and the right gate provides access to the vineyard and planned winery site. The vineyard/winery gate has a 22 foot wide clear opening. Access from this point to the proposed winery site will continue 0.31 +/- miles along existing gravel vineyard access roads to the winery site. These existing vineyard access roads are generally 8 to 12 feet wide, surfaced with gravel and have slopes ranging from less than 5% to in excess of 20%.

The existing driveway has provided adequate access to the subject property for at least 60 years and the owner has not reported any issues with the driveway providing proper access even during recent construction activities while the second dwelling unit was built, the vineyard was redeveloped and the infrastructure updated. This resulted in significant construction traffic without any issues with the driveway.

**Napa County Road and Street Standards Requirements**

The Napa County Road and Street Standards require that private access driveways serving winery uses provide two 10-foot-wide travel lanes (20 feet total), 22 feet of horizontal clearance, 15 feet of vertical clearance, 50 foot minimum inside turning radius and a maximum 16% longitudinal slope (provisions are made to allow slopes up to 20% in certain circumstances if the driveway is paved with asphalt).

**Proposed Driveway Improvements and Request for Exception to Napa County Road and Street Standards**

Proposed Driveway Improvements

In order to significantly improve access conditions the Applicant is proposing the following upgrades to the existing driveway:

**Segment A:**

This section of driveway fully complies with the Standards and thus no improvements are proposed.

### Segments B & C:

These sections of driveway were previously improved by the Applicant to the extent permitted by the State Parks within the confines of the access easement. No further improvements are proposed for these sections of driveway as the State Parks (as the owner of the property that these segments of driveway are located on) has indicated during past discussions regarding improvements that were recently constructed that that further improvements will not be allowed.

### Segment D:

This section of driveway will be improved to fully comply with the standards. This will include substantial grading and retaining wall improvements to provide the 20' minimum driveway width, 22 feet of horizontal clearance and slopes less than 20% in accordance with the Standards.

In total the proposed improvements will result in over 50% of the private driveway from State Route 29/128 to the project site being in full compliance with the Standards.

### Identification of Exception Areas

The request for an exception to the Napa County Road and Street Standards includes the following specific items:

- 1) To allow a reduced width along the existing paved driveway in Segments B and C
- 2) To allow turning radius less than 50 feet at two locations in Segments B and C (STA 24+00 and 29+00)

While the Applicant would very much like to implement further work to increase the width of the driveway for Segments B and C and improve the turning radii in the areas referenced above, they are not able to do so because these segments of driveway are located on land owned by the State Parks. The access easement is very limited and does not allow additional widening. Furthermore, any widening performed on these two segments of driveway would require removal of mature trees in this densely forested area of the State Park and grading on slopes that exist along both sides of the driveway in the State Park.

### Justification of Exception

As previously described, Section 3.D. of the Napa County Road and Street Standards, states that an exception to the Road and Street Standards may be granted if the exception will preserve unique features of the natural environment (including native trees, watercourses, steep slopes and geologic features) and the proposed project provides the same overall practical effect as the Standards towards providing defensible space, and consideration towards life, safety and public welfare.

In addition to the proposed substantial driveway improvements that will be constructed to improve ingress and egress to the subject property several other measures have been incorporated into the project design to provide the "same overall practical effect" as the Standards towards providing defensible space and consideration towards life, safety and public welfare. Below is a summary of the proposed measures:

### *Defensible Space*

1. Horizontal and vertical vegetation management will be implemented along the entire length of the existing driveway and around the existing and proposed structures on the subject property to create defensible space. This will include vegetation management and modification 10 feet horizontally and 15 feet vertically along all private access roads and 100 feet (or to the nearest property or easement line) around buildings in accordance with Napa County Fire Department requirements.

### *Life Safety and Public Welfare*

1. Address signage for existing and proposed uses on the subject property will be upgraded as needed to comply with County Fire Department Standards to improve emergency vehicle accessibility.
2. The project results in a minimal increase in ADT. The project scope was purposely kept to a minimal level to keep the ADT to the lowest level possible by including the following provisions as part of the project statement:
  - a. No public visitors or marketing events will be allowed at the winery.
  - b. There will be 2 full time employees. One of the two full time employees will live onsite and thus will not generate additional traffic above existing residential levels. The other full time employee will come to the winery and will also work from offsite. There will also be 2 part time seasonal employees that will come to the winery on a limited basis when needed for seasonal activities such as crush and bottling.
  - c. The onsite vineyard was recently replanted and is expected to produce approximately 27 to 35 tons of fruit which equates to 4,050 to 5,250 gallons of wine (assuming 150 gallons of wine per ton of grapes). Given the nature of the ripening process in the vineyard it could be harvested in six to eight different batches resulting in six to eight trucks hauling grapes from the site (twelve to sixteen twelve trips in and out). All fruit grown onsite will be processed in the proposed winery and thus no fruit will be hauled off thereby eliminating those twelve to sixteen truck trips. Approximately 18 to 26 tons of fruit will be hauled into the site when and if the winery grows to its full production capacity of 8,000 gallons per year. It is planned that this fruit will be brought in 10 ton batches to minimize truck trips bringing fruit to the winery. This would equate to two to three truckloads of imported fruit or 4 to 6 truck trips. Therefore the net reduction in truck trips associated with hauling fruit to and from the site will be 16 – 6 or 10 trips.

A more detailed assessment of anticipated vehicle trips for existing and proposed conditions for both harvest and non-harvest days is included as an attachment to this letter. As noted in the spreadsheets the proposed winery will add an estimated ADT of 3 trips per day during some non-harvest days for the one full time employee and winery deliveries. As previous noted the one full time employee will likely work offsite some days so these additional trips will only occur on days when the employee is working

onsite. Winery deliveries are expected to generate less than 1 trip per day on average. On a worst-case day during harvest when all employees are onsite the winery is expected to generate an estimated ADT of 6 trips per day, including winery employees and winery deliveries. These trips will be very seasonal and will only occur over the limited harvest period.

Section 3.F. of the Standards specifically identifies limiting of marketing events and visitors as a permit condition that can be used to help achieve the same overall practical effect as the Standards towards providing defensible space, consideration of life, safety and public welfare and not compromising civilian access or Fire Department access. The very minimal increase in ADT described above certainly meets the intent of Section 3.F.

3. All proposed structures will be outfitted with built in fire protection systems including sprinklers and a pressurized fire hydrant. The onsite water storage and pressurized fire hydrant will be a benefit to both the proposed winery building and the existing residential structures onsite.

Section 3.F. of the Standards specifically identifies that built in fire protection systems can be used to help achieve the same overall practical effect as the Standards towards providing defensible space, consideration of life, safety and public welfare and not compromising civilian access or Fire Department access.

#### Conclusions & Findings In Support of Exception Request

It is our opinion that this request to allow the existing access driveway to be approved with significant improvements and with segments that do not strictly comply with the Standards meets the criteria established in Section 3 of the Road and Street Standards. More specifically, approval of the proposed exception will:

1. Preserve mature native trees on steeply sloping hillsides;
2. Minimize the need for grading on steep slopes;
3. Abide by the limitations of the existing access easement on the State Park property;
4. Provide the same overall practical effect as the Standards towards providing defensible space and consideration towards life, safety and public welfare.

As previously described, there are mature native trees and steep hillside slopes along the existing driveway that are worthy of preservation. It is important to preserve the natural character of the area by minimizing the amount of grading on steep slopes and minimizing tree removal. Not only do the trees and topography contribute to the rural character of the woodlands and watershed areas, they also provide shelter and habitat for a wide range of animal and plant species. This is especially important given the State Park's requirements that the area be maintained in a natural state to the greatest extent possible.

Preservation of these features can be achieved by allowing an exception to the Standards in the areas previously described. The Applicant is willing to improve the private access road to the greatest extent practicable where it is beneficial while abiding by the limitations of the existing easement and minimizing unnecessary grading on steep slopes and while preserving mature native trees and forest areas located inside the State Park to the greatest extent possible. With the proposed improvements and mitigation measures, proper vegetation management and regular maintenance, there is no reason that these environmental features cannot be preserved while still achieving the same overall practical effect as outlined in the Standards. Furthermore, the driveway conditions that will result from the proposed improvements will be significantly better than what exists today and will therefore improve emergency vehicle access which is important to not only the property that is part of this application but the entire area in general.

We trust that this information is sufficient to process the subject Use Permit. Please contact us at (707) 320-4968 if you have any questions.

Sincerely,

Applied Civil Engineering Incorporated

By:

*Michael R. Muelrath*

Michael R. Muelrath, R.C.E. 67435  
Principal



Enclosures:

Bergman Family Vineyards Winery Use Permit Conceptual Site Improvement Plans  
Traffic Calculation Spreadsheets

Copy:

Alan and Pam Bergman, Bergman Family Vineyards LLC  
Donna Oldford, Plans for Wine

## Summary of Estimated Daily Traffic Trips

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	Existing	Proposed	Existing	Proposed
Category	Non-Harvest Day	Non-Harvest Day	Harvest Day	Harvest Day
Full Time Employees	0.0	2.0	0.0	2.0
Seasonal Employees	0.0	0.0	0.0	4.0
Residences (2)	20.0	20.0	20.0	20.0
Grape Deliveries	0.0	0.0	0.5	0.2
Winery Deliveries	0.0	0.1	0.0	0.1
Grand Total	20.0	23.0	21.0	27.0



## Traffic Trip Generation Assumptions

Number of People per Vehicle:		
Employees	1 person per vehicle	Napa County Winery Traffic Generation Characteristics
Trips per Vehicle & Peak vs Non-Peak:		
Employees	2 trips per vehicle, 50% peak	Napa County Winery Traffic Generation Characteristics
Residences	10 trips per day, 10% peak	Institute of Traffic Engineers - Trip Generation, 8th Edition
Deliveries:		
(E) Grape Offhaul Deliveries	27 to 35 tons of fruit hauled off in six to eight different batches over 30 day period (use 16 trips)	
(P) Grape Import Deliveries	Up to 10 tons brought in two to three loads over 30 day period (use 6 trips)	
General Deliveries	2.27 trips per year per 1,000 gallons	Napa County Winery Traffic Generation Characteristics
Visitor Counts and Marketing Event Characteristics:		
Tours and Tastings	None	
Marketing Events	None	
Assume typical day during harvest for analysis		

### Harvest Day (Existing Conditions)

Category	People per Day	People per Vehicle	Vehicles per Day	Trips per Vehicle	Peak Rate	Peak Trips	Non-Peak Rate	Non-Peak Trips	Total Daily Trips
FT Employees	0	1	0	2	50%	0.0	50%	0.0	0.0
Seasonal Employees	0	1	0	2	50%	0.0	50%	0.0	0.0
Residences (2)	n/a	n/a	10	2	10%	2.0	90%	18.0	20.0
Grape Deliveries	n/a	n/a	n/a	n/a	0%	0.0	100%	0.5	0.5
Winery Deliveries	n/a	n/a	0	2	0%	0.0	100%	0.0	0.0
Grand Total	0					2		19	21

### Non-Harvest Day (Existing Conditions)

Category	People per Day	People per Vehicle	Vehicles per Day	Trips per Vehicle	Peak Rate	Peak Trips	Non-Peak Rate	Non-Peak Trips	Total Daily Trips
FT Employees	0	1	0	2	50%	0.0	50%	0.0	0.0
Seasonal Employees	0	1	0	2	50%	0.0	50%	0.0	0.0
Residences (2)	n/a	n/a	10	2	10%	2.0	90%	18.0	20.0
Grape Deliveries	n/a	n/a	n/a	n/a	0%	0.0	100%	0.0	0.0
Winery Deliveries	n/a	n/a	0	2	0%	0.0	100%	0.0	0.0
Grand Total	0					2		18	20

## Harvest Day (Proposed Conditions)

Category	People per Day	People per Vehicle	Vehicles per Day	Trips per Vehicle	Peak Rate	Peak Trips	Non-Peak Rate	Non-Peak Trips	Total Daily Trips
FT Employees	1	1	1	2	50%	1.0	50%	1.0	2.0
Seasonal Employees	2	1	2	2	50%	2.0	50%	2.0	4.0
Residences (2)	n/a	n/a	10	2	10%	2.0	90%	18.0	20.0
Grape Deliveries	0	n/a	n/a	n/a	0%	0.0	100%	0.2	0.2
Winery Deliveries	n/a	n/a	n/a	n/a	0%	0.0	100%	0.1	0.1
Grand Total	3					5		22	27

**Note:**

The winery proposes two full time and two part time employees. It is assumed that one full time employee will live onsite and that their traffic generation is covered under the residence category.

### Non-Harvest Day (Proposed Conditions)

Category	People per Day	People per Vehicle	Vehicles per Day	Trips per Vehicle	Peak Rate	Peak Trips	Non-Peak Rate	Non-Peak Trips	Total Daily Trips
FT Employees	1	1	1	2	50%	1.0	50%	1.0	2.0
Seasonal Employees	0	1	0	2	50%	0.0	50%	0.0	0.0
Residences (2)	n/a	n/a	10	2	10%	2.0	90%	18.0	20.0
Grape Deliveries	0	n/a	n/a	n/a	0%	0.0	100%	0.0	0.0
Winery Deliveries	n/a	n/a	n/a	n/a	0%	0.0	100%	0.1	0.1
Grand Total	1					3		20	23

**Note:**

The winery proposes two full time and two part time employees. It is assumed that one full time employee will live onsite and that their traffic generation is covered under the residence category.

March 12, 2018

Brien F. McMahon  
BMcMahon@perkinscoie.com  
D. +1.415.344.7165  
F. +1.415.344.7365

Jason Hade, Planner III  
Patrick Ryan, Engineering Manager  
Napa County Planning Building & Environmental Services Department  
1195 Third Street, Suite 210, Napa, CA 94559

**RE: Bergman Family Winery—Use Permit No. P17-00428  
3285 St. Helena Highway, St. Helena, CA (APN 022-080-010)**

Dear Mr. Hade and Mr. Ryan:

I represent St. Helena Properties LLC (“St. Helena Properties”), owner of the above Napa County real property (the “Property”) on which it has applied to develop Bergman Family Winery. St. Helena Properties is the owner of an access easement consisting of a 16 foot wide right of way for ingress and egress over an old “wood road” (the “Road”) running northeasterly from the St. Helena Properties parcel through Bothe Napa Valley State Park to State Highway 29 (as reflected in a grant deed recorded January 22, 1953, in Book 405, page 180, Napa County official records) (the “Easement”). The Easement more particularly described as Parcel 5 in St. Helena Properties’ title report from Fidelity National Title Insurance Company dated July 30, 2013 (attached as Exhibit A). The location of the Road is plotted and on record with State of California State Department of Parks and Recreation (“State Parks”) and shown on that map titled “Bothe-Napa Valley State Park Land Ownership Record”, drawing number 29450, also designated as “E37” on sheet 3 of the map, which can be found in the office of State Parks, Sacramento. (State Parks’ letter dated May 29, 2013 acknowledging the Easement is attached as Exhibit B).

In our view, the Easement grants ingress and egress for any and all purposes, including those sought by St. Helena Properties pursuant to its use permit application.

Further, an exception to Napa County Road and Street Standards regarding width of the road Easement is necessary to accommodate legal constraints with State Parks that render any further requested amendment/expansion of the Easement futile. Specifically:

- In 2014, when St. Helena Properties applied for a second residence permit, State Parks advised Adobe Associates, Inc. (its prior civil engineering firm) that a 24’ wide road would not be allowed through the Bothe Napa State Park, and that St. Helena Properties’ access rights were limited to its 16 foot wide road.

March 12, 2018  
Page 2

- In 2015 and 2016, St. Helena Properties engaged in lengthy follow on communications with State Parks regarding the road widening issue in connection with certain improvements St. Helena Properties made to the Easement to facilitate Napa County emergency access to the Property. St. Helena Properties was unable to negotiate any amendment of the Easement that would allow any expansion of the Easement width to meet current Road & Street Standards.
- In its letter to you dated January 9, 2018 regarding the Bergman Family Winery use permit application, State Parks directly reiterated its fundamental opposition to allowing expansion of the Easement rights by commenting that the Easement has a “maximum uniform width of 16’ and that there is no provision or allowance to exceed the width through the state park”; “proposed new development/facilities [must be] fully accommodated within its parcel and will not directly or indirectly impact or reference private use of state park property”; “private use of state park property via a construction easement will not be allowed so Permittee shall design improvements with associated construction work to be fully contained within their parcel”; “the Project should be properly designed so that the project’s proposed use permit for commercial development (added to its current facilities) is fully contained within its property boundaries. More specifically, the State Parks comment letter asks whether the Permittee has “explored other road alternatives not going through park property” and encourages the County “to request and explore an alternative access outside of the state park.”

In sum, State Parks’ actions have clearly demonstrated its unwillingness to accommodate any expansion of Easement rights beyond the existing 16’ width. For the above reasons, Bergman Family Winery requests an exception to the County Road & Street Standards for 20’ road width and related turnouts.

Please feel free to contact me if you have any further questions.

Thank you.

Very truly yours,



Brien F. McMahon

BFM:sey



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## MEMORANDUM

To: Jason Hade, Planner	From: Armeda Simpson-Van Dam <i>AS</i>
Date: April 10, 2018	Re: Use Permit Application for Bergman Family Winery Use Permit Located at 3285 St Helena Hwy Assessor Parcel #022-080-010-000 Permit# P17-00428

Environmental Health Division staff has reviewed an application for a winery use permit for an 8,000 gallon per year winery. This Division has no objection to approval of the application with the following conditions of approval:

### Prior to building permit issuance:

- 1) Please be advised-requirements for process wastewater treatment systems in Napa County are being reviewed and may be modified to comply with Regional Water Quality Control Board (RWQCB) minimum standards. The owner will have to comply with process wastewater system requirements in place at the time the application for a building permit is filed and the sewage installation permit is secured.
- 2) Plans for the proposed alternative sewage treatment system shall be designed by a licensed Civil Engineer or Registered Environmental Health Specialist and be accompanied by complete design criteria based upon local conditions. No building clearance (or issuance of a building permit) for any structure that generates wastewater to be disposed of by this system will be approved until such plans are approved by this Division.
- 3) A permit to construct an alternative sewage treatment system must be secured from this Division prior to approval of a building clearance (or issuance of a building permit) for any structure that generates wastewater to be disposed of by this system.
- 4) Adequate area must be provided for collection of recyclables. The applicant must work with the franchised garbage hauler for the service area in which they are located, in order to determine the area and the access needed for the collection site. The garbage and recycling enclosure must meet the enclosure requirements provided during use permit process and be included on the building permit submittal. The designated area shall remain available and be properly maintained for its intended use.



- 5) The proposed water system to serve this project is not currently required to be regulated as a small public water system by this Division under California Code of Regulations, Title 22, or Napa County Code. Therefore, we have no comment as to its adequacy at this time. The applicant will be required to provide minimal information on the water system prior to approval of a building permit, and may wish to retain the services of a consultant in this matter.

**During construction and/or prior to final occupancy being granted:**

- 1) The applicant shall maintain regular monitoring of the above ground waste water treatment system as required by this Division which includes submitting quarterly monitoring reports. An annual operating permit is required for the waste water system.
- 2) During the construction, demolition, or renovation period of the project the applicant must use the franchised garbage hauler for the service area in which they are located for all wastes generated during project development, unless applicant transports their own waste. If the applicant transports their own waste, they must use the appropriate landfill or solid waste transfer station for the service area in which the project is located.

**Upon final occupancy and thereafter:**

- 1) Pursuant to Chapter 6.95 of the California Health and Safety Code, businesses that store hazardous materials above threshold planning quantities (55 gallons liquid, 200 cubic feet compressed gas, or 500 pounds of solids) shall obtain a permit, file an approved Hazardous Materials Business Plan to <http://cers.calepa.ca.gov/>, and be approved by this Division within 30 days of said activities
- 2) All solid waste shall be stored and disposed of in a manner to prevent nuisances or health threats from insects, vectors and odors.
- 3) All diatomaceous earth/bentonite must be disposed of in an approved manner. If the proposed septic system is an alternative sewage treatment system the plan submitted for review and approval must address bentonite disposal.



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Planning, Building, & Environmental Services

1195 Third Street, Suite 210  
Napa, CA 94559  
www.co.napa.ca.us

Main: (707) 253-4417  
Fax: (707) 253-4336

David Morrison  
Director

To: Jason Hade, Project Planner	From: Marie Taylor, Building Inspector
Date: January 11, 2018	Re: Use Permit – Bergman Family Winery File # P17-00428 Address: 3285 St. Helena Highway St. Helena, Ca. 94574 APN: 022-080-010

**Building Inspection Division; Planning Use Permit Review Comments**

The plans provided for the Use Permit application P17-000428 do not provide enough information in sufficient detail to determine code requirements. A complete plan check will be performed at the time of application and plan submittal to the building division for required permits. The following are provided to prepare the applicant for some standard submittal requirements for the plan review of the building permit process.

Any existing structures and/or buildings on the property that will be demolished require a separate demolition permit issued by The Napa County Building Division prior to demolition. The applicant will be required to provide a J number form Bay Area Air Quality Management District at the time of application for the permit.

The site and associated buildings are required to be accessible to persons with disabilities. This includes but not limited to, parking, accessible path of travel from parking to all buildings and areas on site that are available to employees and the public. Plans must also include all accessibility features for the interior work. An Accessible Upgrade Worksheet must be submitted with plans as a part of the permit process.

Occupant load will determine occupancy types, exiting requirements, and restroom facilities.

Any change in occupancy or use will require building to comply with the requirements of the California Building Code for a new occupancy or use.

Should you have any questions, please contact Marie Taylor at (707) 299-1359



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**Department of Public Works**

1195 Third Street, Suite 101  
Napa, CA 94559-3092  
[www.countyofnapa.org/publicworks](http://www.countyofnapa.org/publicworks)

Main: (707) 253-4351  
Fax: (707) 253-4627

**Steven Lederer**  
Director

## MEMORANDUM

To: PBES Staff	From: Mike Hawkins Interim Transportation Engineer
Date: January 10, 2018	Re: Bergman Family Winery P17-00428

Thank you for the opportunity to review the subject permit application. I offer the following comments from the Department of Public Works:

The proposed project consists of an 8,000 gallons per year winery with two full-time and two part-time employees. No visitation or on-site marketing is proposed as part of the permit application.

A trip generation sheet was included with the application. The project is expected to generate up to 10 daily vehicle trips and up to four peak hour trips based on the County's standard trip rates. This low level of trip generation, combined with the proposed winery's location and access point is not expected to create any significant impacts related to traffic or transportation. A traffic study is not needed.

The applicant has requested a *Road Exception Request* for the winery access road. This request will need to be approved by PBES and Fire prior to permit approval.

Please contact me at [Michael.Hawkins@countyofnapa.org](mailto:Michael.Hawkins@countyofnapa.org) or call (707) 259-8279 if you have questions or need additional information.



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Napa County Fire Department  
Fire Marshal's Office  
Hall of Justice, 2nd Floor  
1125 3rd Street  
Napa, CA 94559

Office: (707) 299-1461

Garrett Veyna  
Fire Marshal

## MEMORANDUM

TO: Planning Division	DATE: 4/17/2018
FROM: Chase Beckman Fire Department	
SUBJECT: <b>P17-00428</b>	APN: <b>022-080-010</b>

The Napa County Fire Marshal's Office has reviewed the submittal package for the above proposed project. The road exception request has provided necessary documentation for the Napa County Fire Department to support the exception request for approval. The following conditions are in addition to any and all conditions submitted and are required to be incorporated as part of permit issuance.

1. All construction and use of the facility shall comply with all applicable standards, regulations, codes and ordinances at time of Building Permit issuance.
2. Separate submittals required for Underground Fire Lines, Fire Pump, Automatic Fire Sprinklers, Fire Alarm Systems, Kitchen Hood Extinguishing Systems, High Piled Storage (any combustible stored over 12 feet in height).
3. All buildings, facilities, and developments shall be accessible to fire department apparatus by way of approved access roadways and/or driveways. The fire access road shall comply with the requirements of the Napa County Road & Street Standards.
4. Access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Provide an engineered analysis of the proposed roadway noting its ability to support apparatus weighing 75,000 lbs.
5. Provide fire department access roads to within 150 feet of any exterior portion of the buildings as measured by an approved route around the exterior of the building or facility.
6. Gates for driveways and/or roadways shall comply with the California Fire Code, section 503.5 and the Napa County Road & Street Standards and CA Fire Safe Regulations for projects within SRA.



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Garrett Veyna  
Fire Marshal

## MEMORANDUM

7. Residential - A water storage tank is required with a Wet Draft Hydrant in the amount of 2500 gallons for fire access only or if the proposed project is served by a community water system, no tank is required. The nearest hydrant shall be within 1,000 feet of the structure and shall be shown on the building plans.
8. Residential - Approved Wet Draft hydrants shall be installed within 250 feet of any exterior portion of the building as measured along vehicular access roads. Private fire service mains shall be installed, tested and maintained per NFPA 24 2013 edition.
9. An automatic fire sprinkler system shall be installed in accordance with provisions set forth in the California Fire Code as amended by the County of Napa and the applicable National Fire Protection Association Standard. Automatic fire sprinkler systems shall be designed by a fire protection engineer or C-16 licensed contractor.
10. Provide 100 feet of defensible space around all structures.
11. Provide 10 feet of defensible space fire hazard reduction on both sides of all roadways of the facility.

Please note that the comments noted above are based on a Fire Marshal review only. There may be additional comments or information requested from other County Departments or Divisions reviewing this application submittal package. Napa County Fire Marshal's Office Development Guidelines can be found @ [www.countyofnapa.org/firemarshal](http://www.countyofnapa.org/firemarshal). Should you have any questions of me, contact me at (707)299-1462 or email at [chase.beckman@fire.ca.gov](mailto:chase.beckman@fire.ca.gov)