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Application Submittal Documents

Use Permit Exception #P19-00153

MAR 29 2019

Napa County Planning, Building
& Environmental Services

DAVID B. GILBRETH
1152 Hardman Avenue
Napa, CA 94558

March 28, 2019

Charlene Gallina
Supervising Planner
Napa County Planning, Building and Environmental Services
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Bremer Family Winery
Application for Use Permit Exception to Conservation Regulations
APN: 021-400-002

Dear Ms. Gallina:

As you know I represent the owners of the Bremer Family Winery.

On their behalf, consistent with the recent Settlement Agreement, I am filing the Application for Use Permit Exception to Conservation Regulations which is attached and includes the Biological Report from FirstCarbon Solutions. I am also enclosing the title company's notification package and my client's check payable to Napa County in the sum of \$10,000.00 for the required deposit to process the application.

The independent professional Biological opinion clearly confirms that the improvements and walls, whether existing historically or recently permitted by Napa County or installed by the owners, who had no reasonable knowledge of the set back, do not impair the vital ecological functions of the creek. None of the improvements and walls are in the creekbed.

The photographs and site visit easily confirm that the creek is beautiful, free-flowing and pristine.

I believe the Application is complete. However, if you need any additional information please contact me and I will promptly provide it.

As always I appreciate your time and professional courtesy.

Very truly yours,



David B. Gilbreth

Enclosures
cc: Client



FILE # P19-00153-w/
except

NAPA COUNTY
PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES
1195 Third Street, Suite 210, Napa, California, 94559 • (707) 253-4417

A Tradition of Stewardship
A Commitment to Service

APPLICATION FOR USE PERMIT
EXCEPTION TO CONSERVATION REGULATIONS

FOR OFFICE USE ONLY

ZONING DISTRICT: Aw Date Submitted: 3/29/19
TYPE OF APPLICATION: Use Permit Exception to Date Published: _____
REQUEST: Con Regs Date Complete: _____

TO BE COMPLETED BY APPLICANT
(Please type or print legibly)

PROJECT NAME: Bremer Family Winery
Assessor's Parcel #: 021-400-002 Existing Parcel Size: 44.82 ACRES
Site Address/Location: 975 Deer Park Road St. Helena CA 94574
No. Street City State Zip
Property Owner's Name: John & Laura Bremer/The Bremer Family 1995 Living Trust/Bremer Group LLC
Mailing Address: 975 Deer Park Road St. Helena CA 94574
No. Street City State Zip
Telephone #: () - Fax #: () - E-Mail: _____
Applicant's Name: John Bremer/Bremer Group LLC
Mailing Address: 975 Deer Park Road St. Helena CA 94574
No. Street City State Zip
Telephone #: () - Fax #: () - E-Mail: _____
Status of Applicant's Interest in Property: Owner/Trustee
Representative Name: David B. Gilbreth, Attorney
Mailing Address: 1152 Hardman Avenue Napa CA 94558
No. Street City State Zip
Telephone # (707) 337-6412 Fax #: () E-Mail: dbgilbreth@gmail.com

I certify that all the information contained in this application, including but not limited to the information sheet, water supply/waste disposal information sheet, site plan, plot plan, floor plan, building elevations, water supply/waste disposal system plot plan and toxic materials list, is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

[Signature] 3/27/19
Signature of Applicant Date
John Bremer
Print Name
[Signature] 3/27/19
Signature of Property Owner Date
John Bremer
Print Name

TO BE COMPLETED BY PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES

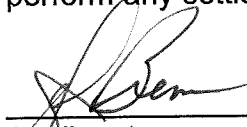
Application Fee Deposit: \$ 10,000.- Receipt No.: 134663 Received by: JA Date: 3/29/19

INDEMNIFICATION AGREEMENT

Pursuant to Chapter 1.30 of the Napa County Code, as part of the application for a discretionary land use project approval for the project identified below, Applicant agrees to defend, indemnify, release and hold harmless Napa County, its agents, officers, attorneys, employees, departments, boards and commissions (hereafter collectively "County") from any claim, action or proceeding (hereafter collectively "proceeding") brought against County, the purpose of which is to attack, set aside, void or annul the discretionary project approval of the County, or an action relating to this project required by any such proceeding to be taken to comply with the California Environmental Quality Act by County, or both. This indemnification shall include, but not be limited to damages awarded against the County, if any, and cost of suit, attorneys' fees, and other liabilities and expenses incurred in connection with such proceeding that relate to this discretionary approval or an action related to this project taken to comply with CEQA whether incurred by the Applicant, the County, and/or the parties initiating or bringing such proceeding. Applicant further agrees to indemnify the County for all of County's costs, attorneys' fees, and damages, which the County incurs in enforcing this indemnification agreement.


Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the Applicant desires to pursue securing approvals which are conditioned on the approval of such documents.

In the event any such proceeding is brought, County shall promptly notify the Applicant of the proceeding, and County shall cooperate fully in the defense. If County fails to promptly notify the Applicant of the proceeding, or if County fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County. The County shall retain the right to participate in the defense of the proceeding if it bears its own attorneys' fees and costs, and defends the action in good faith. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.



Applicant **JOHN BREMER**
3/27/19

Date



Property Owner (if other than Applicant) **JOHN BREMER**

Project Identification

SUPPLEMENTAL APPLICATION FORM
USE PERMIT EXCEPTION TO CONSERVATION REGULATION

1. Please explain the reason for the exception request.

To reasonably obtain the appropriate exceptions to the 35 foot creek set back based upon the independent professional Biological Report by First Carbon Solutions regarding existing historic structures, recent Napa County

permitted encroachments and, the owner's encroachments of improvements and walls, without reasonable

knowledge of set backs, adjacent to the creek and within the 35 foot set back but not inside the creekbed. None of the structures or improvements or walls are inside the creekbed.

First Carbon's independent professional Biological Report dated March 28, 2019, which is attached, confirms that there is no impairment of the vital ecological functions of the creek.

2. Are there any alternatives to the project which would not require an exception? Please explain.

No. However, the structures, improvements and walls do not impair the vital ecological functions of the creek.

3. Describe how the project can meet the findings described in Section 18.104.040 A (structural or road project), or Section 18.108.040B (agricultural project).

See 1. Additionally, the Site Plan clearly indicates that the improvements and wall have been made to (1) complement the land form and to avoid any grading; (2) the foundation eliminates cut and fill; (3) the improvements and walls

blend with the existing terrain rather than strike off at an angle against it.

Section 18.108.040.A. Structural/road development projects

a. Roads, driveways, buildings and other man-made structures have been designed to complement the natural landform and to avoid excessive grading: (Please describe).

See 1 and 3 above.

b. Primary and accessory structures employ architectural and design elements which in total serve to reduce the amount of grading and earthmoving activity required for the project, including the following elements:

- i. Multiple-floor levels which follow existing, natural slopes;
- ii. Foundation types such as poles, piles, or stepping level which minimize cut and fill and the need for retaining walls;
- iii. Fence lines, walls, and other features which blend with the existing terrain rather than strike off at an angle against it.

See 1 and 3 above.

- c. The development project minimizes removal of existing vegetation , incorporates existing vegetation into final design plans, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects.

See 1 and 3 above. Additionally, insignificant vegetation may have been removed. However, the owners are proposing, even though there is no impairment of the vital ecological functions of the creek, planting 100 feet of bay tree (*Laurus nobilis*) and coast live oak (*Quercus agrifolia*) on the south side of the creek starting at the western end of the improvements and walls.

- 4. Adequate fire safety measures have been incorporated into the design of the proposed development.

Not applicable.

- 5. Disturbance to streams and watercourses shall be minimized, and setbacks shall be retained as specified in Section 18.108.025.

See 1 and 3 above.

- 6. The project does not adversely impact threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the county's environmental sensitivity maps.

See 1 and 3 above.

Section 18.108.040.B. Agricultural projects, or Agricultural roads as defined by Planning, Building, and Environmental Services, Engineering Division

- 7. The erosion rate that results two years from the completion of the proposed agricultural development does not exceed the soil tolerance factor approved by the Natural Resource Conservation Service for the soil type, topography and climatic conditions in which the project is located;

The independent professional Biological Report by First Carbon Solutions confirms that the improvements and walls have no significant impact on the vital ecological functions of the creek.

- 8. Impacts on streams and watercourses are minimized, and adequate setbacks along these drainageways are or will be maintained.

The independent professional Biological Report by First Carbon Solutions confirms that the improvements and walls have no significant impact on the vital ecological functions of the creek.

- 9. The project does not adversely impact sensitive, rare, threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the county's environmental sensitivity maps.

The independent professional Biological Report by First Carbon Solutions confirms that the improvements and walls are clearly within state and federal regulations and that there is no impairment of the vital ecological functions of the creek.

Biological Report

Date: March 28, 2019

To: David Gilbreth, Bremer Winery

From: Brian Mayerle, Senior Biologist, FirstCarbon Solutions

Subject: Biological Report regarding Creek Improvements and Walls/Confirmation of Vital Ecological Functions at Bremer Family Winery, Napa County, California

On February 25, 2019, FirstCarbon Solutions (FCS) Senior Biologist, Brian Mayerle, conducted a site visit at the Bremer Family Winery located at 975 Deer Park Road in the City of St. Helena, in Napa County, California (Exhibit 1). The biological assessment and analysis was specifically focused on the placement of the improvements and walls as they relate to the unnamed creek as depicted on the attached Bremer Winery Site Plan dated February 25, 2019 which is incorporated by reference.

As set forth below, the improvements and the walls are clearly within federal and state regulations, however, they are in conflict (without any vital ecological impairment) with Napa County's Creek Setback Ordinance (18.108.025). Consequently FCS was asked to perform an independent biological assessment and analysis of the improvements and walls as they relate to the setback.

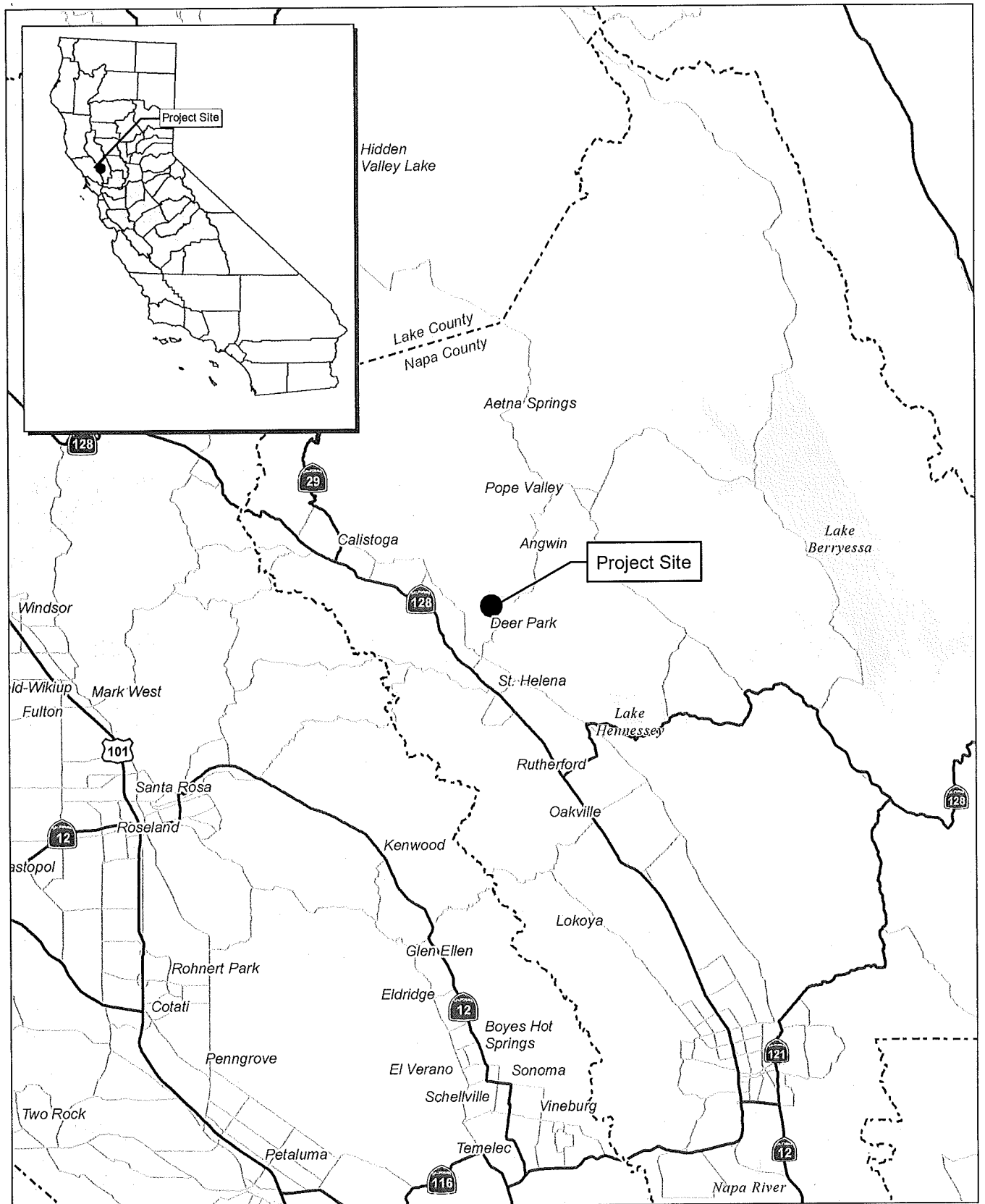
The unnamed drainage ranges from approximately 2 to 3 feet wide at the ordinary high water mark (OHWM) and supports some woody species such as California bay (*Umbellularia californica*) and coast live oak (*Quercus agrifolia*). The creek meanders through the property, uninterrupted, largely in its natural state and appears to be functioning as such. Given the higher than average precipitation in the area this year, the improvements and walls appear to have had no adverse effect on the hydrological function of the creek. Creek flows observed during the site visit were still substantially below the improvements and walls and it is highly unlikely that flows would breach the improvements and walls, even in prolonged precipitation events.

It is our biological professional opinion that the walls and improvements built within the creek corridor have not significantly changed the natural state of the ephemeral creek and there is no impairment of the vital ecological functions of the creek. Even though there is no impairment of the creek, at the suggestion of the owners for more plantings down stream, we suggest 100 feet of planting bay tree (*Laurus nobilis*) and coast live oak (*Quercus agrifolia*) on the south side of the creek starting at the western end of the walls and improvements.

Sincerely,



Brian Mayerle, Senior Biologist
FirstCarbon Solutions
2204 Plaza Drive, Suite 210
Rocklin, CA 95765



Source: Census 2000 Data, The CaSIL

FIRSTCARBON
SOLUTIONS™

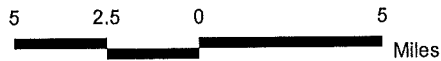
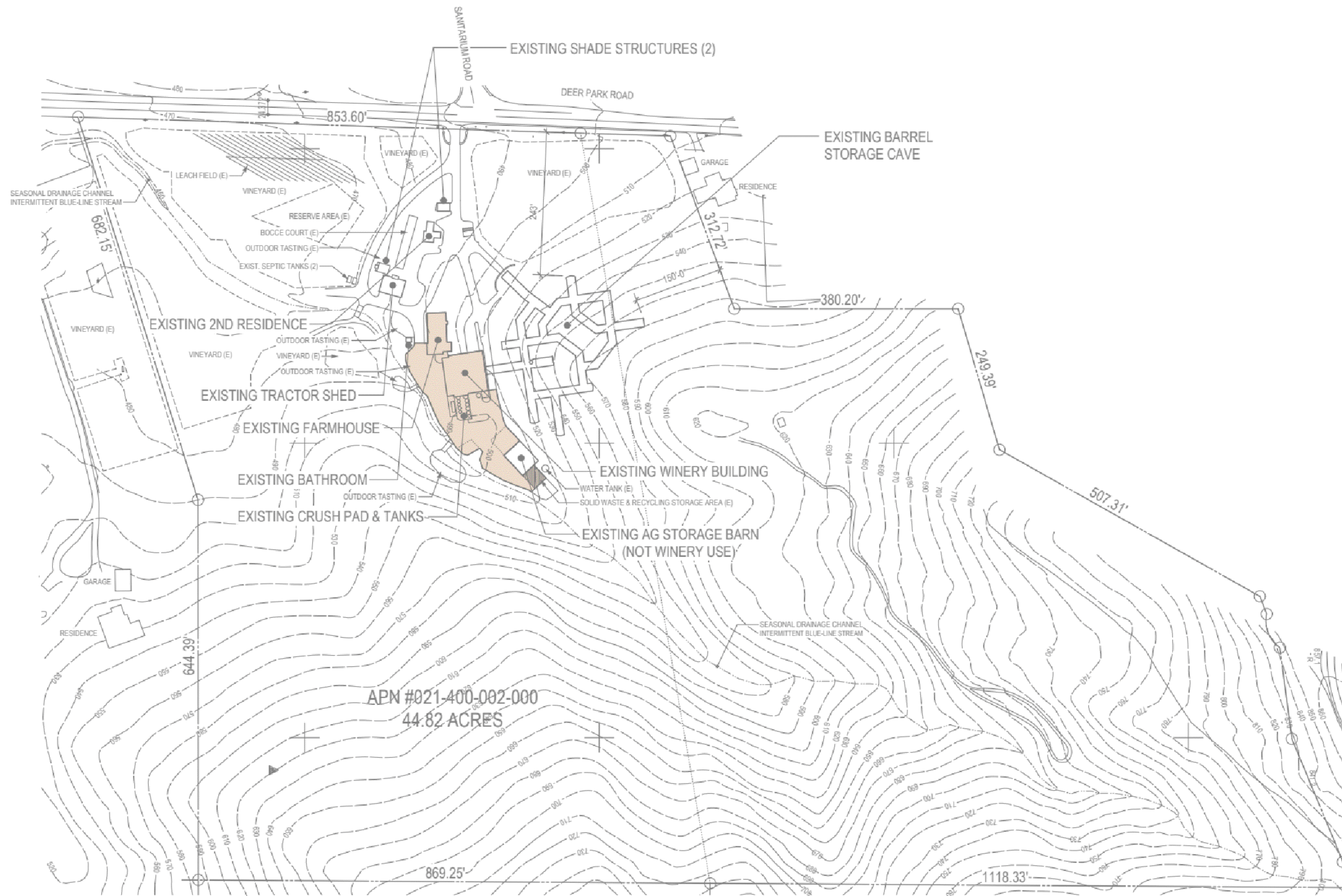
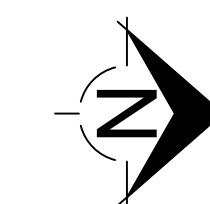


Exhibit 1
Regional Location Map



APN #021-400-002-000
44.82 ACRES



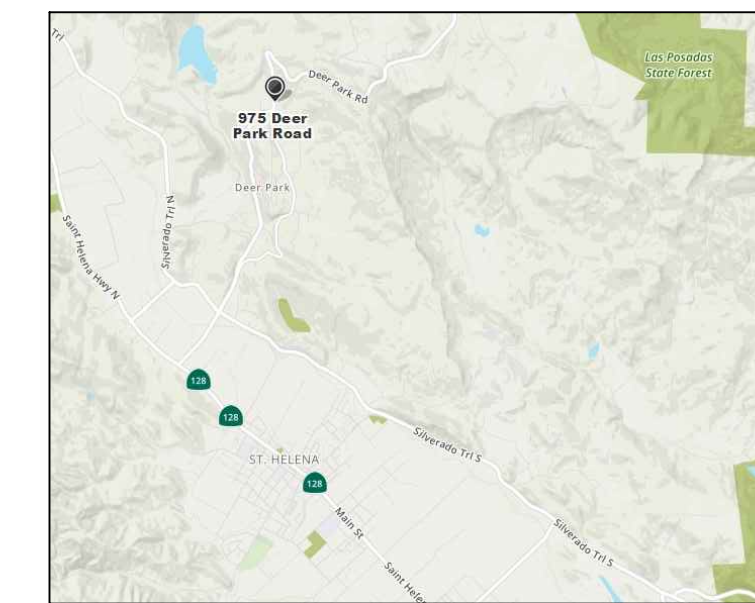
SCOPE OF WORK

APPLICATION FOR USE PERMIT EXCEPTIONS TO CONSERVATION REGULATIONS.

AERIAL VIEW



VICINITY MAP



BREMER FAMILY WINERY

APN#
021-400-002-000

BREMER FAMILY WINERY
975 DEER PARK ROAD, ST.
HELENA, CA 94574
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Revision History

NO.	DATE	DESCRIPTION

PROJECT CONTACTS:

PRIMARY CONTACT:	BUILDING INFORMATION
DESIGNER / BUILDER:	OWNER:
RON COX - LIC# 339494	John Bremer
P.O. BOX 5238	975 Deer Park Road
NAPA, CA 94581	Napa, CA 94574
Phone: 707-396-9051	** See Primary Contact
email: roncoxdesigner@aol.com	

Ron Cox Designer /Builder
PO Box 5238
Napa, CA 94581
License #: 339494

DATE: 2 - 25 - 19

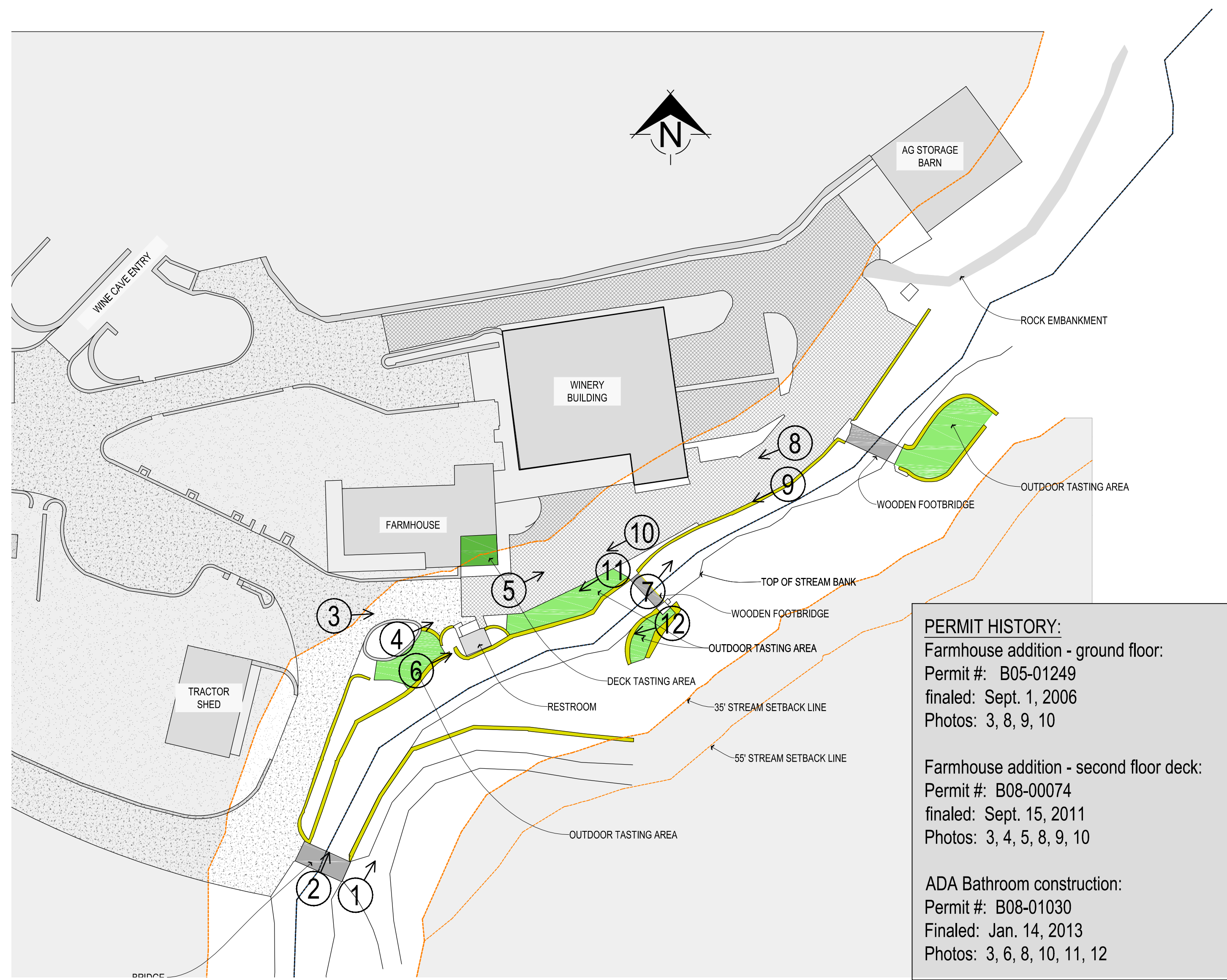
Drawn by: RM

SHEET INDEX

A-0.00 COVER SHEET and SITE PLAN
A-1.00 PHOTO DOCUMENTATION

COVER SHEET
& TITLE PAGE

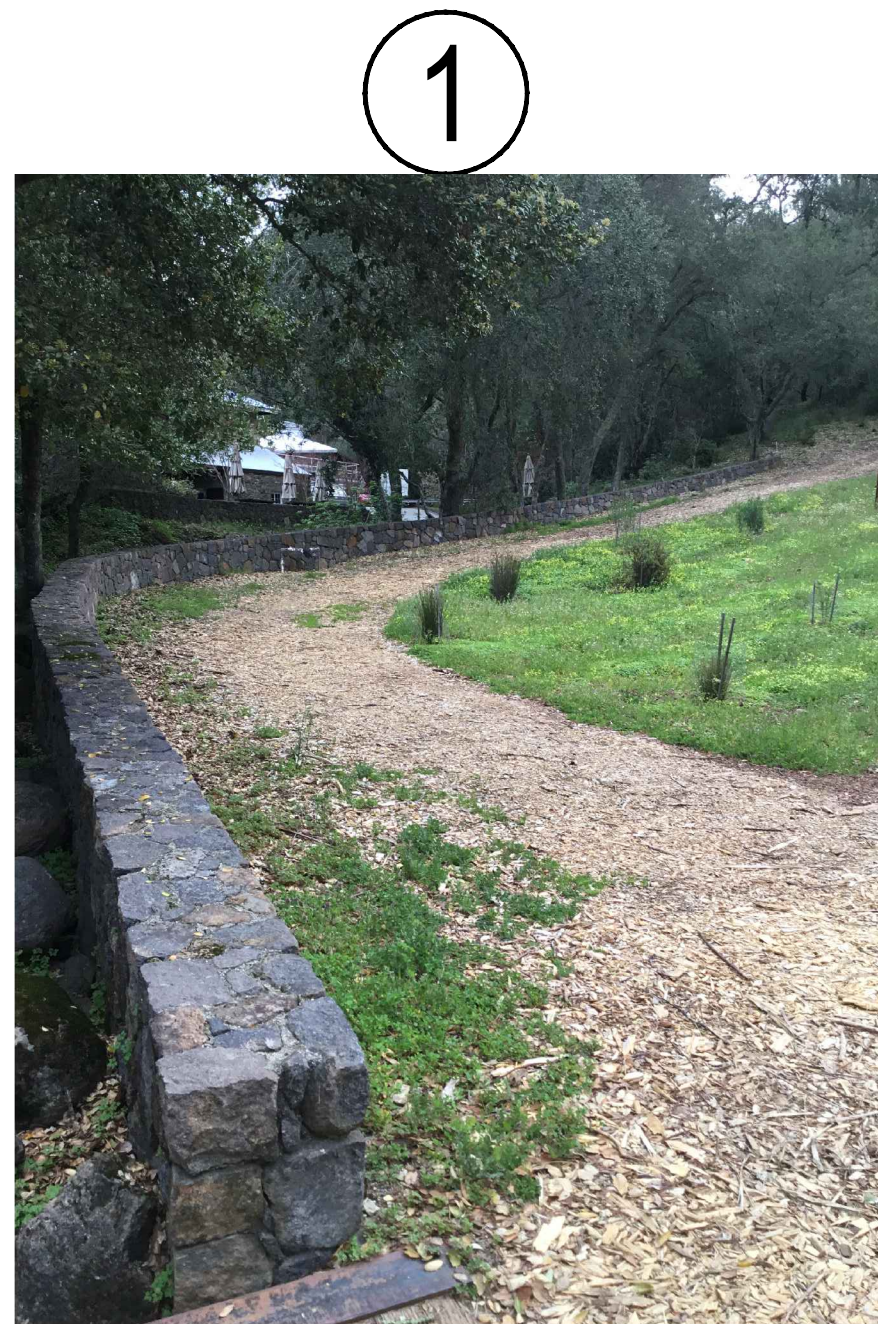
A-0.00



PERMIT HISTORY:
 Farmhouse addition - ground floor:
 Permit #: B05-01249
 finalized: Sept. 1, 2006
 Photos: 3, 8, 9, 10

Farmhouse addition - second floor deck:
 Permit #: B08-00074
 finalized: Sept. 15, 2011
 Photos: 3, 4, 5, 8, 9, 10

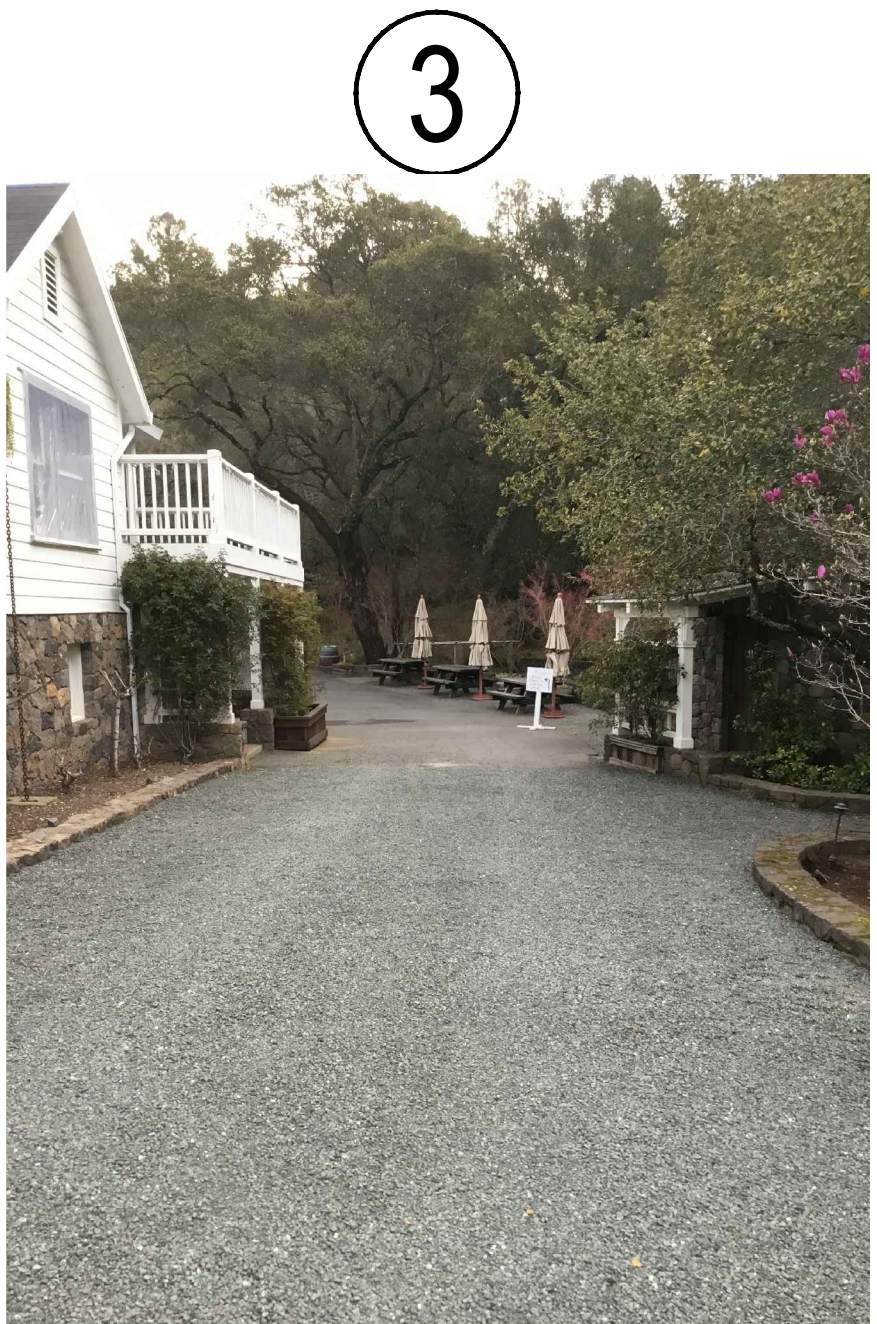
ADA Bathroom construction:
 Permit #: B08-01030
 Finalized: Jan. 14, 2013
 Photos: 3, 6, 8, 10, 11, 12



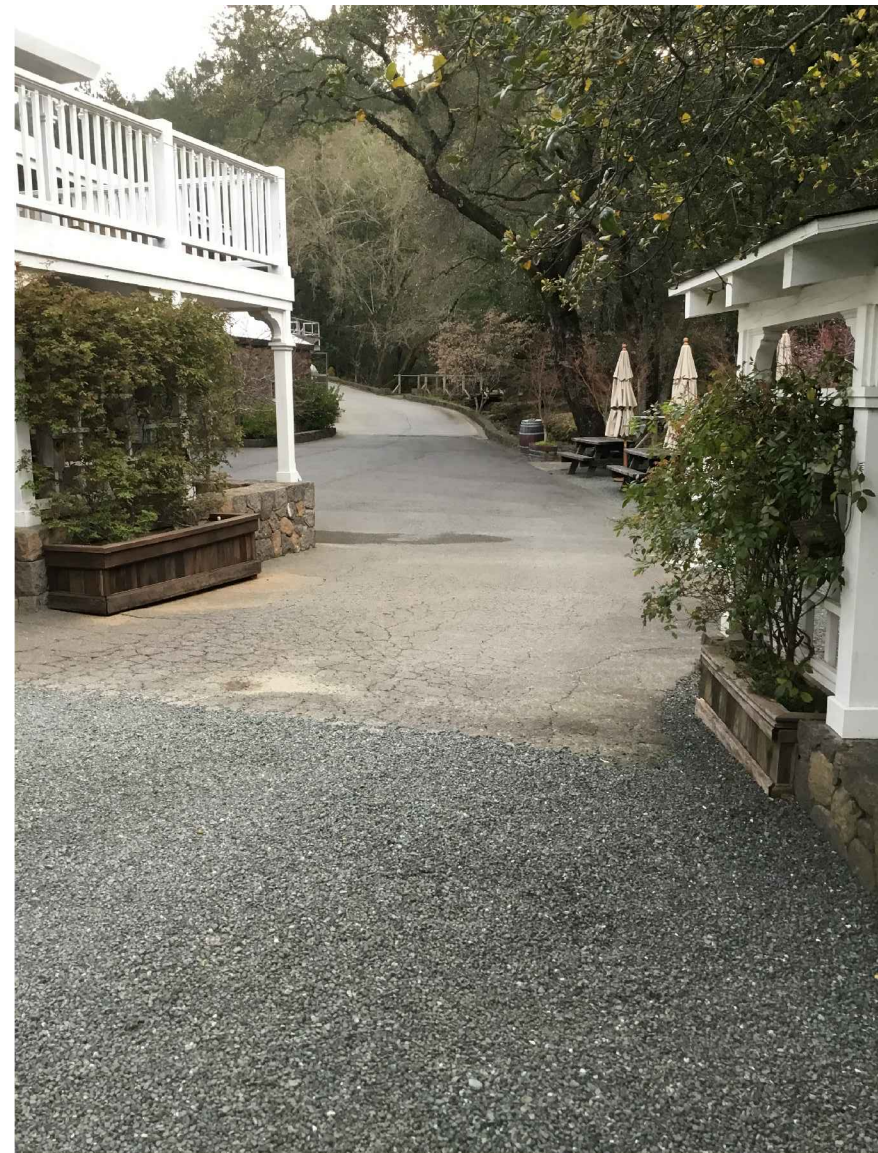
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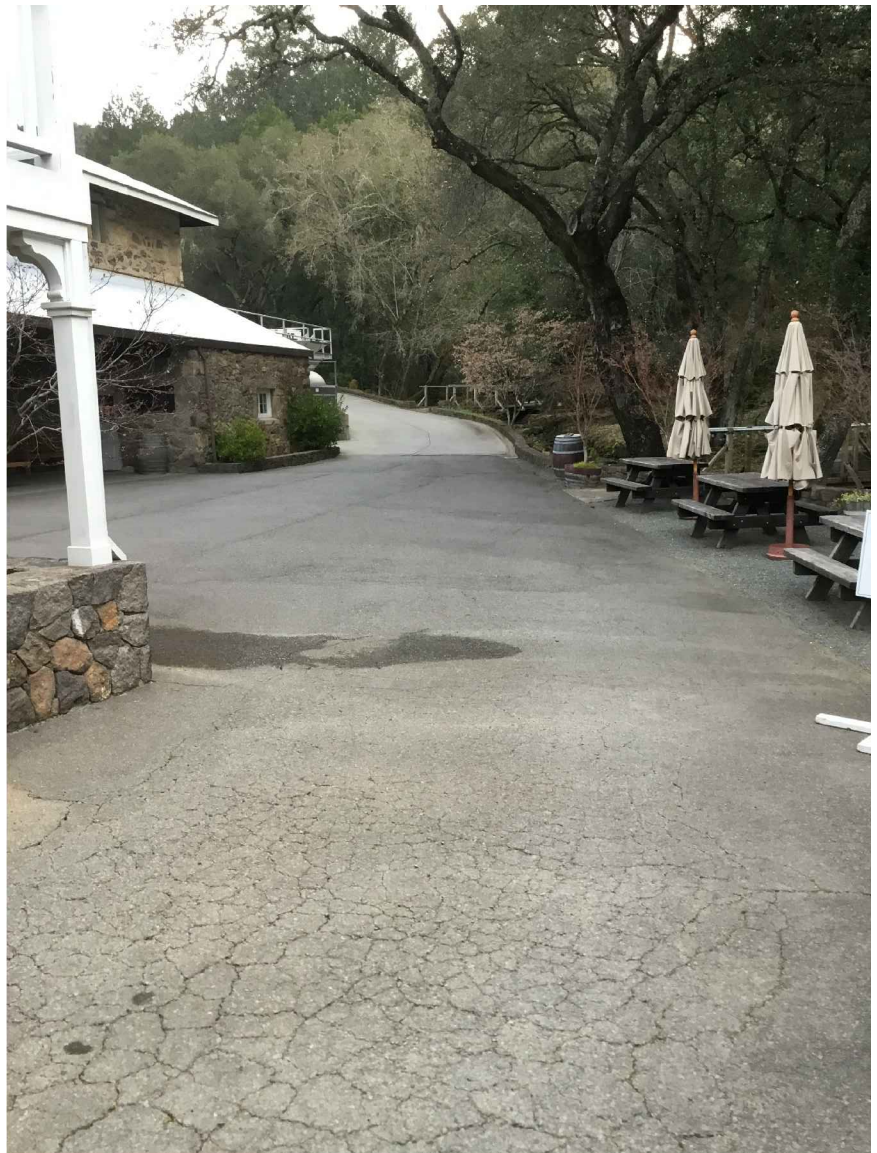
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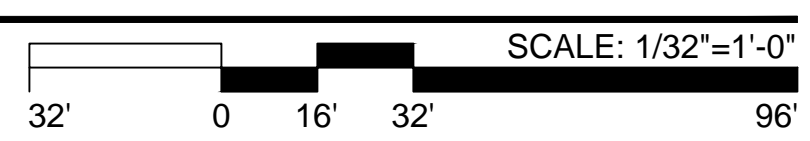


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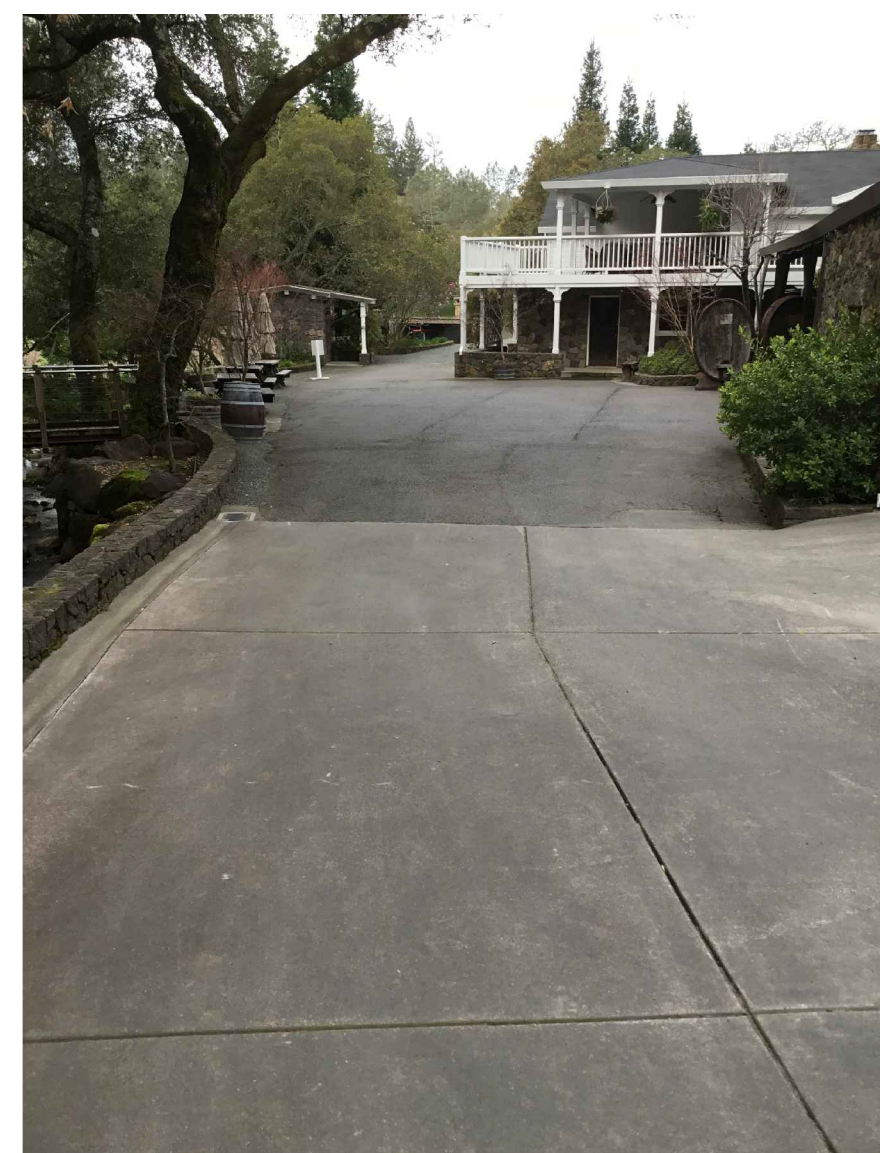


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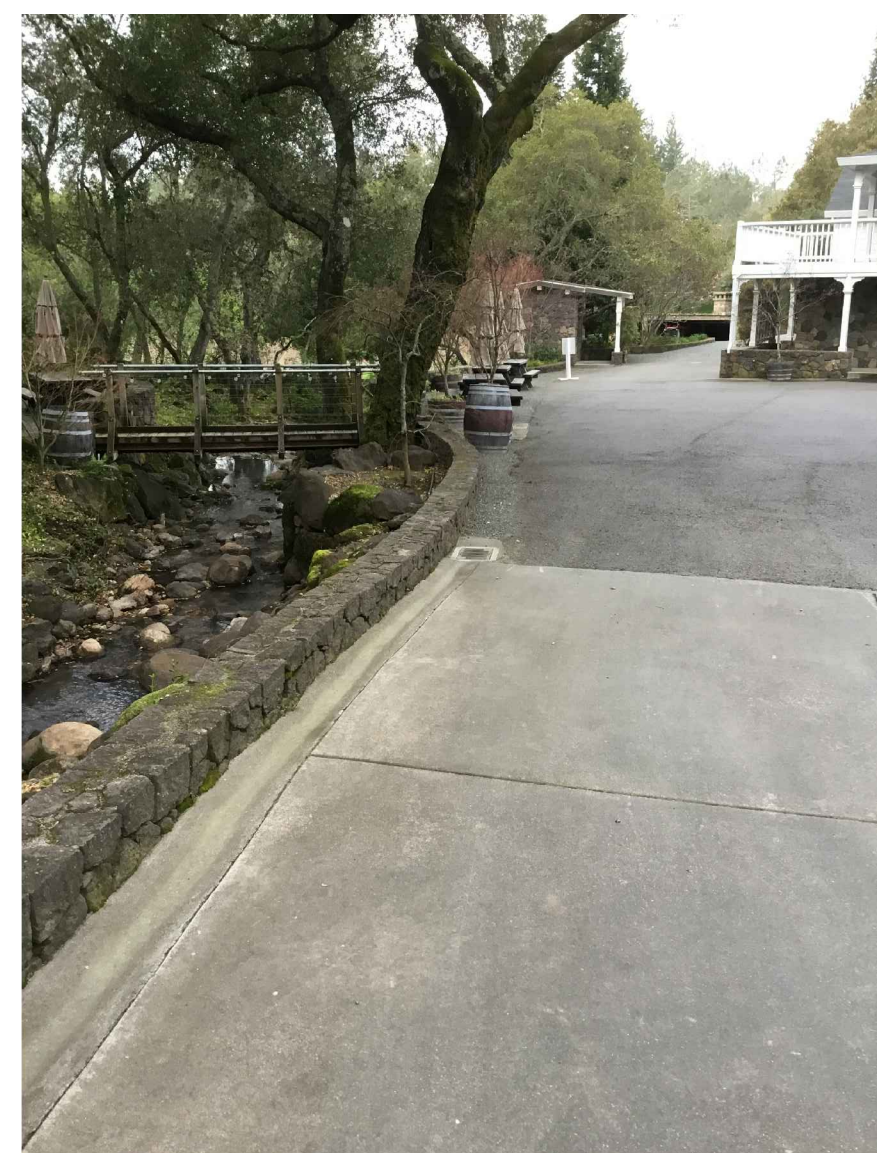
1 PHOTO DOCUMENTATION



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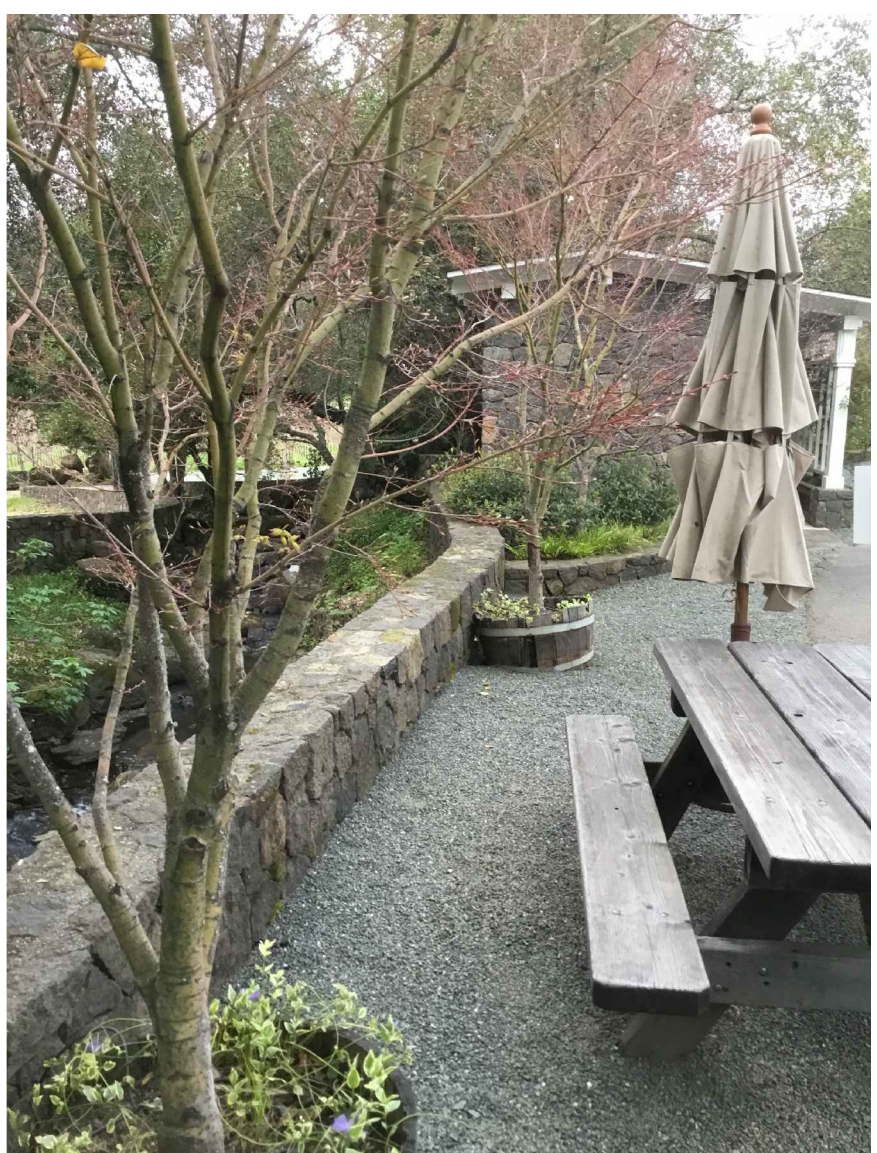
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11



12

BREMER FAMILY WINERY

APN#
021-400-002-000

BREMER FAMILY WINERY

975 DEER PARK ROAD, ST. HELENA, CA 94574

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Revision History

Ron Cox Designer /Builder
 PO Box 5238
 Napa, CA 94581
 License #: 339494

DATE: 2 - 25 - 19

Drawn by: RM

PHOTO DOCUMENTATION

A-1.00