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Subject: September 16, 2020 Agenda, Item 7B: Benjamin Ranch Winery Use Permit P13-00371-UP
Date: Monday, September 14, 2020 12:01:32 PM
Attachments: [Planning Commission Comments on Benjamin Ranch with attachment.pdf](#)

[External Email - Use Caution]

Honorable Commissioners,

Attached please find a comment letter from Amy Minter regarding the above-captioned subject.

Please feel free to contact me with any questions or concerns.

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September 14, 2020

Via Email david.morrison@countyofnapa.org, charlene.gallina@countyofnapa.org

Napa County Planning Commission
David Morrison, Director of Planning
Charlene Gallina, Supervising Planner
County Administration Building
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: September 16, 2020 Agenda, Item 7B: Benjamin Ranch Winery Use Permit
P13-00371-UP

Honorable Commissioners:

On behalf of Michael Honig, we submit these comments on the mitigated negative declaration (MND) prepared for the Benjamin Ranch Winery Project. The Project would permit production of 475,000 gallons of wine annually within a 79,623 square foot production facility. It would also include construction of 7,669 square foot visitors' center, which would include a commercial kitchen and a number of rooms for winery tours, tastings and marketing events. This Project allow for significantly larger daily events and numerous wine marketing events. The 400 onsite visitors allowed daily for wine tours and tasting is nearly **four times** the number of visitors at other area wineries. The Project would also allow 357 marketing events per year, including up to three nighttime events per week that could last until 10 p.m. in this quiet rural area.

Mr. Honig does not object to development of a new winery at this location, but instead to the massive size of the proposed facility, in terms of annual production, daily visitors and marketing events. It is the excessive size of this Project that would result in the many potential impacts discussed below. In an August 23, 2020 letter, our client requested the County continue the hearing on this Project to allow him adequate time to review the MND and other Project documentation and hire experts to review the potential noise, water use and other impacts of the Project. We renew that request and urge the Planning Commission to postpone consideration of this Project to give the community, which has had limited time to consider this Project, made even more limited by ongoing wildfires and preparations for harvest, more time to assess and provide comments on the

Project. Our client has discussed this Project with a number of neighbors and other community members and many have expressed similar concerns regarding the size and impacts associated with this Project. Additional time is required for us to form a coalition with these parties to jointly address concerns regarding the Project.

Included herein are our initial comments regarding the Benjamin Ranch Winery Project's potentially significant impacts. We intend to supplement these comments with more detailed information and expert input if the County moves forward with the Project as proposed. Attached to this comment letter is the Crane Transportation Group Peer Review of the traffic analysis for this Project, which found numerous flaws with the traffic study and concluded the Project would have significant and unmitigated adverse traffic impacts. Due to these impacts, the County is required to prepare an environmental impact report (EIR) for the Project instead of an MND. The County has failed to prepare a legally adequate initial study, improperly omitting consideration of potentially significant Project impacts and lacking evidentiary support for claims that Project impacts would be insignificant. The MND includes inadequate analysis for the Project's impacts related to greenhouse gas, noise, aesthetic, water supply and hazards. The County has also relied on an incomplete and misleading comparison of this Project to other wineries in the Napa Valley, improperly downplaying the oversized nature of the Project. An EIR is required to address the Project's many potential impacts and accurately describe the Project.

I. CEQA Requires Adequate Analysis of Potential Impacts.

CEQA serves two basic, interrelated functions: ensuring environmental protection and encouraging governmental transparency. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564.) In connection with the Project's review under CEQA, the County has prepared an initial study and mitigated negative declaration. A lead agency prepares an initial study in order to determine whether an EIR, a negative declaration, or an MND is the appropriate environmental review document. (14 CCR § 15365, herein "CEQA Guidelines".) The initial study must consider whether any aspect of a project, either individually or cumulatively, may cause a significant adverse impact. (CEQA Guidelines § 15063(b)(1).) The purpose of the initial study is to provide the lead agency with adequate information regarding a project to determine the appropriate environmental review document and "documentation of the factual basis for the finding in a negative declaration that a project will not have a significant effect on the environment." (*Ctr. for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal. App. 4th 1156, 1170, citations omitted.) There must be a basis within the record to support the conclusions reached by the initial study. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1201.) "Where an agency. . . fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate." (*El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597, citations omitted.)

Failure to adequately analyze all of a project's potentially significant impacts or provide evidence to support conclusions reached in the initial study is a failure to comply with the law.

II. An EIR is Required When a Project May Have a Unmitigated Significant Impact.

Because issuing an MND truncates the CEQA process with often minimal environmental review, CEQA's "legal standards reflect a preference for requiring an EIR to be prepared." (*Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 332.) An agency proposing to rely upon an MND must make the analysis accompanying the proposed MND as complete and comprehensive as possible. (*Long Beach Savings and Loan Assn. v. Long Beach Redevelopment Agency* (1986) 188 Cal. App. 3d 249, 263.) When considering whether to require preparation of a full EIR or allow review culminating in an MND instead, a court will examine whether there is substantial evidence in the record to support a fair argument that the stated mitigation measures may not achieve the goal of reducing impacts below a level of significance. (*Citizen's Com. To Save Our Village v. City of Claremont* (1995) 37 Cal. App. 4th 1157.) An EIR must be prepared instead of an MND when there is substantial evidence to support a fair argument that the project may have significant adverse environmental impacts. (Public Resources Code § 21151.) "The fair argument standard is a 'low threshold' test for requiring the preparation of an EIR." (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) If any substantial evidence of a potential environmental impact after the agency's proposed mitigation measures are implemented exists, then preparation of an MND is not appropriate, even if substantial evidence exists to the contrary. (Public Resources Code § 21080(d); CEQA Guidelines § 15064(f)(1); *Friends of "B" Street v. City of Hayward* (1980) 106 Cal. App. 3d 988, 1002.)

"[T]he significance of an activity may vary with the setting." (CEQA Guidelines § 15064 (b).) A development that may have minimal impacts in an urban setting could have significant impacts in a rural area. Courts show a clear preference for resolving doubts in favor of preparing an EIR. (*Architectural Heritage Association. v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1110; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 617-618; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 151; *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602-03.) Here, there is substantial evidence to support a fair argument that the Benjamin Ranch Project may have numerous significant adverse impacts.

III. The MND's Analysis is Inadequate and Inaccurate and an EIR is Required.

A. The Project's Traffic Impacts Must Be Analyzed in an EIR.

The MND admits the Project may cause significant impacts due to traffic congestion, conflicts with transportation plans and vehicle miles traveled, but fails to disclose the full extent of these impacts and provide adequate mitigation. As set forth in the attached expert review of the traffic study prepared for the Project, the Project would have significant adverse traffic impacts that have not been mitigated to a less than significant level. (**Attachment 1**: Crane Transportation Group Peer Review.) These impacts include traffic congestion, conflicts with traffic plans, traffic hazards and emergency access, and vehicle miles traveled.

The Crane Peer Review found that the traffic impact study for the Project: relies on inaccurate and conflicting factual claims regarding the Project and surrounding area; lacks information necessary for a true analysis of impacts; fails to assess a major source of traffic impacts—truck traffic from the production facility; and improperly defers mitigation of the Project's traffic impacts. The Crane Peer Review concludes that the Project would result in significant unmitigable impacts, requiring preparation of an EIR.

While the Project applicant has submitted a traffic report, the disagreement between the applicant's expert and the expert Crane Peer Review necessitates the preparation of an EIR to analyze the Project's traffic impacts. "If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR." (CEQA Guidelines § 15064, subd. (g).) Thus, even if the County disagrees with the Crane Peer Review, an EIR must be prepared to resolve the disputes. (*City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 247-249 [expert disagreement about extent of a wetlands required preparation of EIR to resolve dispute]; *Friend of Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1398-1403 [expert dispute regarding project's impacts on water supplies required further environmental review].)

The Project's traffic impacts, particularly the congestion caused by the significant increase in traffic, could also result in adverse impacts for emergency access routes. Wildfires have unfortunately become common in the Napa Valley and unmitigated traffic levels, at the Project and cumulative level, could adversely impact resident's ability to evacuate during emergencies. The MND fails to adequately analyze the Project's impact on emergency access. An EIR is required to analyze these potentially significant safety impacts on human beings. (CEQA Guidelines § 15065, subd. (a)(4).)

B. The MND's Analysis of Greenhouse Gas Impacts Is Inadequate.

CEQA requires agencies to “make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project.” (Guidelines § 15064.4, subd. (a).) The California Supreme Court recently ordered agencies to “ensure that CEQA analysis stays in step with evolving scientific knowledge and state regulatory schemes.” (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 3 Cal.5th 497, 519.)

By failing to accurately disclose and adequately mitigate traffic impacts, the MND also fails to disclose the Project's impacts on greenhouse gases. Greenhouse gases would be emitted through construction, agricultural processes, wine fermentation, electricity use, construction, and production facility, winery and visitor vehicles, among others. The MND fails to provide any data, projections, or quantification of the Project's likely greenhouse gas impacts. CEQA requires an environmental document to “find out and disclose all it reasonably can.” (CEQA Guidelines § 15144.) The MND fails to do this, stating only that the Project's emissions would be “relatively modest” and would not exceed the 1,100 metric tons carbon dioxide equivalent threshold of the Bay Area Air Quality Management District. (MND pp. 20-21.) An EIR is required that discloses the Project's greenhouse gas emission calculations.

The MND's conclusion that the Project's greenhouse gas emissions would not be significant also appears to rely on voluntary greenhouse gas-reduction methods including green roofs, water recycling, solar water heating, energy conserving lighting, and shade trees. (MND p. 21.) While these measures are to be applauded, they are not actually incorporated into the Project as mitigation measures and do not appear to be specific or enforceable. Moreover, the MND contains no detail about the measures or about their likely efficacy. Environmental document must evaluate the efficacy of mitigation measures. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645.) Without this evaluation, any reliance on these measures to mitigate the Project's greenhouse gas emissions lacks substantial evidence.

C. The MND's Analysis of Water Supply Impacts is Inadequate.

The Project would add a 475,000-gallon production facility, 400 daily visitors and a number of large market events, but the MND claims the Project only would increase water use by 2.33-acre feet per year. There is inadequate evidence to support a claim of such a small increase in water usage for such a large development. If the Project moves forward as currently proposed, Mr. Honig intends to provide the County with expert review of the water usage claims relied upon by the MND, but was unable to procure

such a report prior to the Planning Commission hearing due to the time constraints set forth in his August 23, 2020 letter to the County.

In addition to the lack of support for the Project's claimed water usage, the MND also relies on an improper hypothetical baseline for irrigation water usage. (CEQA Guidelines § 15125, subd. (a).) Instead of using the measured water usage for current irrigation at the Project site, the MND relies upon a significantly higher baseline water usage estimate. (MND p. 23.) The MND fails as an informational document by relying upon hypothetical conditions as the baseline instead of the existing conditions. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Ca1.4th 310, 322-325.) A project's impacts are determined by comparison to the baseline conditions and improperly inflating the baseline by relying on hypothetical conditions fails to allow for an accurate assessment of this Project's impacts.

Further, the MND does not include a well test to determine the impact of the Project's increased water usage on area wells. Without such information, the County lacks substantial evidence to find the Project's water supply impacts would be less than significant.

D. The Project's Noise Impacts Would Be Significant in Quiet Rural Area.

The quiet rural Project area would be adversely impacted by the numerous nighttime events held at the Project until 10 p.m. several times per week. (MND p. 2.) The area surrounding the Project site, which includes several residences, is extremely quiet after 6 p.m., when other winery operations shutdown. Due to the existing quiet and the topography of the area, sound carries great distances in the vicinity of the Project site. The MND fails to provide an adequate analysis of the noise impacts of nighttime events, the new production facility, and the 400 new daily visitors and their associated traffic noise.

E. The MND Fails to Adequately Address Aesthetic Impacts.

1. The Project Would Impact Views from a Scenic Highway.

Highway 128 was recently designated a scenic highway, and as such, CEQA requires an analysis of the Project's impacts on views from this scenic highway. The MND claims that this impact would be less than significant, but fails to provide evidence necessary to support such a determination. The MND fails to include renderings or visual simulations of the Project from Highway 128. The Project would include the removal of redwood trees that are clearly visible from Highway 128, but the MND fails to disclose this visual impact. Additionally, the lack of visual simulations from Highway 128 prevent an adequate analysis of the visual impact the new construction of the 79,623

square foot production facility and 7,669 square foot visitors' center. Because these buildings would be constructed on a floodplain, fill is required to elevate the grade height prior to construction. This adds to the visual impact of the production facility, which reaches a height of 37.5 feet.

2. The MND Fails to Adequately Evaluate Nighttime Lighting Impacts.

The MND also fails to adequately analyze the nighttime lighting impacts of allowing events extending until 10 p.m. at least every weekend. The Project site is located in a rural area that is quiet and dark after 6 p.m. The intrusion of this new nighttime lighting source must be thoroughly evaluated.

F. Potential Impacts Associated with Prior Use of Hazardous Substances Must Be Evaluated.

The history of the Project site includes is agricultural use as far back as the 1950s. At that time, many chemicals were used for pest control and other uses that have since been discovered to be hazardous to human health. The new construction included in this Project would require disturbing soils that could contain such hazardous substances. The County should require soil testing to determine whether it contains hazardous substances, and if so, mitigation must be imposed.

G. The County Staff Report Relies Upon an Improperly Skewed Comparison to Other Facilities, Failing to Acknowledge the Project Would Be One of the Largest in the County.

The County staff report for the Project includes a comparison of the proposed Project to other winery facilities, but this comparison fails to give the public a complete picture of the Project, downplaying the extent and impact of the development. (Winery Comparison Analysis and Project Summary.) This comparison analysis for the production size of nearby wineries with the Project appears to exclude several smaller wineries in the area. Moreover, even the information provided demonstrates that the Benjamin Ranch Winery would have one of the largest production levels in the area. Moreover, when the Project is compared to the 502 wineries throughout the Napa Valley for which data is available, the Project would be in the top 16 percent of all wineries for production levels.

The comparison chart also misleadingly compares the Project to wineries in the area with the largest marketing events, instead of to other wineries in the vicinity or throughout the Napa Valley. When compared to that same 502 wineries, Benjamin Ranch Winery would be in the top 3 percent for number of events annually and top 4 percent for number of guests. This comparison demonstrates the oversized nature of the

proposed Project. Without it, the MND and County staff report fail to give the public a complete picture of the Project, downplaying the extent and impact of the development. The information contained within the MND is to be used as a basis for the decision on what would be the least impactful means for the project to proceed. “An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.” (*McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) 202 Cal.App.3d 1136, 1143.) This more detailed and accurate comparison is necessary to inform the public and decision makers of the Project’s potential impacts, both direct and cumulative, and its precedent setting size for new development in the Project area.

Conclusion

Thank you for considering our comments. We look forward to the County’s preparation of an EIR for this Project that carefully considers the direct and cumulative environmental impacts of the Project and that contains a thorough analysis of alternatives and mitigation measures designed to reduce and avoid these adverse impacts on Napa County.

Sincerely,



Amy Minter

Enclosure: Crane Transportation Peer Review

cc:

Joelle Gallagher, Napa County Planning Commission (joellegPC@gmail.com)

Dave Whitmer, Napa County Planning Commission (Dave.Whitmer@countyofnapa.org)

Anne Cottrell, Napa County Planning Commission (anne.cottrell@lucene.com)

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Megan Dameron, Napa County Planning Commission (megan.dameron@countyofnapa.org)

Brian Bordona, Deputy Planning Director (Brian.Bordona@countyofnapa.org)

Planning Commission Clerk (planningcommissionclerk@countyofnapa.org)

ATTACHMENT 1

CRANE TRANSPORTATION GROUP

PEER REVIEW OF THE FRANK FAMILY BENJAMIN RANCH WINERY PROJECT TRAFFIC IMPACT STUDY – NAPA COUNTY BY W-TRANS, FEBRUARY 4, 2020

A. INTRODUCTION

The following is a peer review conducted by Crane Transportation Group (CTG) of the Frank Family Benjamin Ranch Winery Project Traffic Impact Study prepared by W-Trans, February 4, 2020. This peer review has been prepared at the request of Michael Honig, of Honig Winery.

B. OVERALL ISSUES

1. The County of Napa should have approved the scope of work for this study, however, there is no clear indication that the County was directly consulted for this purpose.
2. The Use Permit Application for the Frank Family Benjamin Ranch Winery Project contains data that are inconsistent with the traffic study prepared for the project. Specifically, the Winery Traffic Information/Trip Generation Sheet included in the Use Permit file cites 46 fulltime and 5 part time employees during a typical weekday, while page 1 of the traffic study cites a proposed “46 fulltime and 15 part time employees on a typical daily basis.” Either the Use Permit Application or the input to the Traffic Impact Study requires update to be made consistent with the current definition of the project.

C. SPECIFIC ISSUES BY TOPIC

1. Evaluation of Appropriate Roadways and Intersections, as Determined by the County of Napa

Page 5 of the traffic study lists three study intersections, but does not say if these specific intersections were required by the County of Napa for analysis, or if the County was consulted on the scope of the analysis. The study does not include analysis of arterial Level of Service as is frequently required by the County.

2. Project Trip Generation Rates

Page 14 of the traffic study states that the ITE “Winery” LU # 970 trip rate was used for

the 2,124 square foot portion of the winery building that would house the tasting room, and references Table 6. However, Table 6 uses 3,140 square feet (3.14 ksf). These statements are conflicting, and require correction.

According to ITE, for the purposes of this land use, the independent variable “1,000 sq. foot gross floor area” refers to the square footage of the building that houses the tasting room. It may be most appropriate to use the 2,124 square foot portion of the winery building, referenced in the traffic study, that is specific to tasting room use. It would also be helpful for the traffic study to include an explanation of the square footage components of the total visitor’s center building (7,669 square feet as shown on the site plan cover sheet Code Synopsis) in order to understand the use of the 3,140 square feet referenced in Table 6.

The ITE 10th Edition Trip Generation “Winery” LU # 970 trip rates applied in the traffic study are subject to question. For example, the County of Napa generally directs use of Friday and Saturday data, rather than “weekday” and “weekend.” The traffic study uses the weekday PM peak hour rate of 7.31 per thousand square feet rather than a Friday PM peak hour rate of 10.93 per thousand square feet. The traffic study applies a Saturday PM peak hour average rate of 36.5, when application of the available fitted curve equation might result in a trip generation rate more specific to the project.

The resulting analysis states that there would be 23 weekday PM peak hour trips and 115 Saturday PM peak hour trips. Why so many Saturday PM peak hour trips? Recent traffic counts (September 13 and 14, 2019) conducted at the public access to the Mondavi Winery resulted in a Friday PM peak hour total of 59 trips and a Saturday PM peak hour total of 96 trips. Why would the Frank Family Benjamin Ranch Winery, located on Conn Creek Road, have more traffic on a Saturday PM peak hour than one of the most famous wineries in the Napa Valley located on State Route 29? This should be explained in the context of proposed visitor trips, preferably by use of a table showing hourly anticipated inbound and outbound visitors throughout the business day for typical Friday and Saturday conditions.

3. Trip Distribution Patterns and Percentages

a. Trip distribution requires explanation. Why is it that the majority of inbound project traffic from Silverado Trail is from the north while 100% of outbound traffic is to the south? Why is it that at SR29 the inbound traffic is split 50%/50% northbound and southbound, while outbound traffic is 100% to the north?

b. There is no mention of truck traffic volumes in the traffic study. However, the winery will have trips related to haul of grapes during harvest. The project Use Permit application “Winery Traffic Information/Trip Generation Sheet” shows crush Saturday conditions with 33 daily truck trips. The traffic study should address these trips.

4. Signal Warrant Analysis is Missing

Signal warrant analysis should be shown to support the statement, used several times in the traffic study, that signalization of the SR 29/Rutherford Road and Silverado Trail/Conn Creek Road intersections would mitigate conditions at both intersections. The study contains no signal warrant analysis.

5. Parking Demand

Page 28 of the traffic study cites the Napa County standard per car occupancy rate at 2.8 persons, and this is correct for Saturdays, but not for weekdays. The Napa County weekday standard is 2.6 persons per car. Use of this slightly more conservative factor, applied to a weekday with a maximum of 400 visitors over the course of the day would result in a parking space demand of 61 for employees (assuming 1 parking space per employee), and 38 for guests (conservatively assuming one-quarter of the guests – 100 - parked during any one hour), for a total 99 parking spaces, or five more than included on the site plan (94 spaces), and two more than the 97 spaces recommended in the traffic study.

Use of the 2.6 persons per car rate would also change the parking calculation for the 150-attendee events and the 24-attendee events. Event parking should also take into account any needed additional parking spaces for additional staffing, caterers, musicians and entertainers.

It is recommended that the study provide a parking demand matrix, with a marketing event occurring, by hour for a harvest Friday and Saturday.

6. VMT (Vehicle Miles Traveled)

The traffic study correctly identifies the need for addressing VMT in the context of maintaining air quality by reducing vehicle emissions. However, the analysis provided on page 23 and in Table 11 pertains only to employee trips, with no mention of visitor trips. This issue should be revisited when the County's new VMT methodology is approved.

7. Need for Transportation Demand Management (TDM) Plan

The traffic study contains the beginnings of a Transportation Demand Management (TDM) Plan. Because the project would result in substantial increases in traffic at intersections currently operating unacceptably, a serious effort at peak hour trip reductions should be considered. Such a plan should include a TDM coordinator.

8. Accidents

- a. Page 6 of the traffic study states that the Silverado Trail/Conn Creek Rd (SR128) intersection has a higher number of collisions than the state average, but

there is no safety concern because these were non-injury accidents. Is this an opinion, or based on a standard Caltrans has established?

b. The study does not provide accident data in the vicinity of the project driveway.

9. Bike Routes

While future bike lane plans are detailed, existing bike route descriptions are vague (see page 7 of the traffic study).

10. Road Surface

The project will add traffic, including large trucks, to the deteriorating pavement condition of Conn Creek Road. The traffic study should describe the existing roadway condition and include mitigation consisting of a before-and-after pavement inspection that would require the project to make improvements to the roadway as needed.

11. Intersection Geometrics

The description of study intersections should include the observation that although the Conn Creek Road approach to Silverado Trail is flared to allow for right-turning vehicles to separate from through or left-turning vehicles, this is not always possible. A through or left-turning vehicle can obstruct access to the right-turn flare. The same is true for the Rutherford Road approach to State Route 29; the flare provided for right turns is not always accessible if a left-turning vehicle obstructs access to the right-turn flare.

12. Unsignalized Level of Service Criteria

The traffic study shows and discusses both overall intersection LOS and Minor Street approach LOS for unsignalized intersections. If the county only recognizes Minor Street approach LOS and delay for significant impact evaluation, then the inclusion of overall Intersection LOS is unnecessary and confusing (see page 10 of the traffic study). Similarly, does the County permit mitigation based on overall intersection delay as described in traffic study pages 19 and 20?

13. Roadway Directions

Throughout much of the study Silverado Trail is referred to as a north-south roadway, but in Table 10 on page 23 it is assumed to be an east-west roadway. This is confusing.

14. Access Intersection Level of Service - Data Missing

Page 26 – why is there a Level of Service delay given at the project driveway but no LOS worksheets or volumes provided in the study?

15. Significant Unmitigable Project Impacts

The traffic study identifies significant impacts at the Rutherford/ SR 29 and Conn Creek Road/Silverado Trail intersections. It recommends an improvement measure for the Silverado location, but it is unclear whether this mitigation has been discussed with the County. There is no mitigation for the Rutherford Road/SR 29 intersection except to develop measures to reduce trips. It is notable that none of the mitigations include reducing visitation. If investigated, it will probably be found that a significant reduction in visitation throughout the afternoon will be required to reduce significant impacts during the three to four peak traffic hours of every Friday and Saturday afternoon.

As analyzed, the traffic study concludes that the project would result in significant, unmitigable impacts. Thus, it is anticipated that an EIR will be required. This would be an opportunity to revise the traffic analysis.

This Report is intended for presentation and use in its entirety, together with all of its supporting exhibits, schedules, and appendices. Crane Transportation Group will have no liability for any use of the Report other than in its entirety, such as providing an excerpt to a third party or quoting a portion of the Report. If you provide a portion of the Report to a third party, you agree to hold CTG harmless against any liability to such third parties based upon their use of or reliance upon a less than complete version of the Report.



RUTHERFORD RIVER RANCH
DIANE B. WILSEY
999 RUTHERFORD ROAD
RUTHERFORD, CA 94558

September 12, 2020

RE: Benjamin Ranch Winery
Use Permit Application No. P13-00371-UP

Dear Mr. Bordona and Commissioners,

I am writing to express my misgivings related to the proposed Benjamin Ranch Winery project. This proposed project is out of character for Rutherford, especially given its location on Conn Creek Road. Rutherford is defined by its vineyards and limited commercial activity. A project this size is simply out of place for this location.

I have owned a home and a vineyard on Rutherford Road for well over 30 years. I can't envision how a project of this size, an 87,000 square foot building, 357 events per year, 400 people a day and a 475,000-gallon permit, would work at the proposed location. I cannot help but feel this would create a negative impact on our neighborhood and the surrounding area.

We are all in favor of projects that would fit the character of the area and help to complement Rutherford, not a project that would turn it into something it has never been. It is clear to me after 30 years of presence in Rutherford both as a resident and a vineyard owner that the size of this proposal and its impact on our limited infrastructure would negatively impact Rutherford as a whole.

Please reconsider this project as it is currently presented.

Sincerely,

Diane B. Wilsey, Proprietor
Rutherford River Ranch

From: [Bordona, Brian](#)
To: [Ayers, Dana](#); [Gallina, Charlene](#); [Anderson, Laura](#)
Subject: FW: Benjamin Ranch Winery Project IS Comment
Date: Monday, September 14, 2020 4:24:22 PM

From: Roman, Isabella@DTSC <Isabella.Roman@dtsc.ca.gov>
Sent: Monday, September 14, 2020 4:22 PM
To: Bordona, Brian <Brian.Bordona@countyofnapa.org>
Subject: Benjamin Ranch Winery Project IS Comment

[External Email - Use Caution]

Hello,

I represent the Department of Toxic Substances Control reviewing the Initial Study for the Benjamin Ranch Winery project.

The text doesn't include a discussion about past land uses. Past land uses of the project site and the off-site Money Road property, could have resulted in hazardous materials releases that should be investigated prior to the proposed project for public health protection. Past land uses could indicate the need for conducting a Phase 1 Environmental Site Assessment (ESA), Phase 2 ESA or other environmental sampling activities.

Please feel free to reach out if you have any questions or concerns.

Sincerely,

Isabella Roman
Environmental Scientist
Site Mitigation and Restoration Program
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September 14, 2020

VIA EMAIL

Brian Bordona
Deputy Planning Director, County of Napa
1195 Third Street, 2nd Floor
Napa, CA 94559
Brian.Bordona@countyofnapa.org

File No. 067815-0001

Re: Benjamin Ranch Winery, Use Permit Application No. P13-00371-UP

Dear Mr. Bordona:

We are writing on behalf of Honig Vineyard & Winery (“Honig”), a family-owned and operated vineyard since 1964, to comment on the Mitigated Negative Declaration (“MND”) for Frank Family Vineyards, LLC’s Benjamin Ranch Winery (“Project”). We appreciate the opportunity to share with you our comments regarding the Project, which is proposed to be located just to the north of Honig’s property.

We have assessed the Project’s potential impacts based on the information available to date, and we have a number of significant concerns. As the letter submitted by Chatten-Brown, Carstens & Minter describes in greater detail, the MND fails to adequately analyze the Project’s impacts. Instead, the evidence requires that Napa County (“County”) prepare an Environmental Impact Report (“EIR”) that fulfills the California Environmental Quality Act’s (“CEQA”) function “to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account.” (*Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 467.)

CEQA has a strong presumption in favor of requiring an EIR. This presumption is reflected by the “fair argument” standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. (Pub. Res. Code §§ 21100, 21151; CEQA Guidelines § 15064(a)(1), (f)(1); *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75, 82.) A reviewing court will examine the record and invalidate the agency’s action if the court finds **any** substantial evidence **of a fair argument** that a significant impact might result from the project. Even if the agency can point to substantial evidence supporting a conclusion of a less-than-significant impact, an MND will not be upheld by a court if the record contains other substantial evidence to the

contrary. (See, e.g., *Architectural Heritage Ass'n v. County of Monterey* (2004) 122 Cal. App. 4th 1095; *Ocean View Estates Homeowners Ass'n v. Montecito Water Dist.* (2004) 116 Cal. App. 4th 396, 399.)

CEQA places the burden of environmental investigation on the public agency rather than on the public. If an agency fails to evaluate a project's environmental consequences, it cannot support a decision to adopt a MND by asserting that the record contains no substantial evidence of a significant adverse environmental impact. (See *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 311.) Whether the agency's record contains substantial evidence that would support a fair argument that the project may have a significant effect on the environment is treated as a question of law. (See, e.g., *Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 289.)

For example, in a recent case in Santa Clara County, the Court of Appeal held that Santa Clara County should have prepared an EIR instead of an MND when approving a use permit allowing a 14-acre winery to host a limited number of weddings and other events on property (28 events with up to 100 people each). (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714.) There, the court found that substantial evidence in the record supported a fair argument that project-related crowd noise may have significant noise impacts on surrounding residents and, notably, that "compliance with the [County noise] ordinance does not foreclose the possibility of significant noise impacts." (*Id.*, at 733.) Similarly here, regardless of whether the Project complies with the County noise ordinance, as described more fully in the Chatten-Brown, Carstens & Minter letter, there are significant questions whether the Project, which is 85 acres and would permit 400 guests per day, will result in significant noise impacts.

The *Keep Our Mountains Quiet* court also held that there was substantial evidence to support a fair argument that the project may have a significant impact on traffic because of evidence the project would have—at times—doubled the traffic volume on a narrow, windy, substandard road with a history of accidents. Here, the County proposes only two mitigation measures to reduce the Project's traffic impacts to a purportedly less-than-significant level. If there is any substantial evidence of a fair argument that these mitigation measures may be inadequate to avoid the potentially significant effects, a court will invalidate the MND. (See *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1332.) The myriad reasons outlined in the Chatten-Brown, Carstens & Minter letter provide substantial evidence of a fair argument that the two transportation mitigation measures may not reduce the transportation impacts of the Project to a less-than-significant level.

We have a number of other questions about the MND and whether there is a fair argument that the Project may have a significant impact on the environment. For example, there is no analysis of how the 400 guests plus up to 60 employees at the Project on any single day would affect the evacuation times in the event of a wildfire, either for the customers or employees of the Project or for members of the community. If a project risks exacerbating wildfire hazards that already exist, an agency must analyze the potential impact of such hazards on future residents or users as well as existing residents or users. (See, e.g., *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 386.) Without

LATHAM & WATKINS^{LLP}

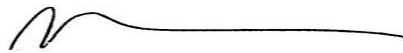
an analysis of how the Project will impact wildfire evacuation times, the County cannot credibly claim that there is no substantial evidence in the record demonstrating that an EIR should be prepared.

As another example, the MND includes no discussion of the amount of water necessary for Project construction. Without this analysis the County also cannot credibly claim that there is no substantial evidence in the record demonstrating that an EIR should not be prepared.

While Honig is not necessarily opposed to development of this type, the scale of construction and operations for this proposed Project has not been adequately reviewed and adequate mitigation has not been studied or required. Accordingly, Honig objects to the approval of this Project as currently proposed. The County must prepare an EIR for the Project. There is now clear substantial evidence in the record that supports a fair argument that the Project may have a significant effect on the environment. We believe that any reviewing court will find that the presumption is that the County should prepare an EIR and the County's MND has not rebutted that presumption. Failure to prepare an EIR now will only serve to delay the Project while the issue is litigated.

Thank you for your time and attention to our comments. Please feel free to contact me at (714) 755-8058 or nikki.buffa@lw.com if you would like to discuss these matters further.

Best regards,



Nikki Buffa
of LATHAM & WATKINS LLP

cc: Joelle Gallagher, Napa County Planning Commission
Dave Whitmer, Napa County Planning Commission
Anne Cottrell, Napa County Planning Commission
Andrew Mazotti, Napa County Planning Commission
Megan Dameron, Napa County Planning Commission
Taiga Takahashi, Latham & Watkins LLP
Michael Honig

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
OFFICE OF TRANSIT AND COMMUNITY PLANNING
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*Making Conservation
a California Way of Life.*

September 14, 2020

SCH # 2020080261
GTS # 9739
GTS ID: 04-NAP-2018-00216
Co/Rt/Pm: NAP/128/6.84

Brian Bordona, Deputy Planning Director
Napa County
1195 3rd Street, Suite 210
Napa, CA 94559

Benjamin Ranch Winery – Initial Study/Mitigated Negative Declaration (IS/MND)

Dear Brian Bordona:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Benjamin Ranch Winery project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the August 2020 IS/MND.

Project Understanding

The proposed project is to request a Use Permit to establish a winery that would produce up to 475,000 gallons of wine per year. The project would demolish an existing barn and shed and redevelop a portion of the site with new winery and hospitality buildings. The proposed winery would offer wine tours and tastings for up to 400 people per day, include a wine marketing program consisting of up to 357 events per year for up to 16 to 150 guests per event, employ up to 61 full-time and part-time staff members, and install 75 parking stalls.

This project is developed on 12.8 acres of an approximately 85.1-acre project site at 8895 Conn Creek Road (State Route SR-128) in St. Helena. A new access driveway is planned and a left-turn lane onto SR-128 would be installed at the new access driveway near the southeastern corner of the site.

Travel Demand Analysis

With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies using efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. Caltrans commends the lead agency in recommending that the winery implement a Transportation Demand Management (TDM) plan, which would help reduce the project's employee and visitor-generated VMT. Caltrans encourages the Lead Agency to provide more clarification on the project's visitor-generated VMT and to link how the TDM measures proposed the Mitigation Measure TRAN-1 or additional TDM measures may reduce the project's VMT impact to be less-than-significant. Additional strategies can be found on page 82 in the following link: <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>.

Lastly, Caltrans recommends the proposed TDM measures identified in the plan should be documented with annual monitoring reports to demonstrate effectiveness.

Proposed Left-Turn Lane

The Traffic Impact Study (TIS) recommends the construction of a left-turn lane at the project driveway from SR-128, but it did not include an intersection/driveway analysis showing the driveway traffic turning movements. The driveway and left turn lane must be designed per the latest Highway Design Manual (HDM) standards, particularly section 405.2, Figure 405.2 and Figure 405.3. Please see <https://dot.ca.gov/programs/design/manual-highway-design-manual-hdm> for detailed information.

Design exceptions would need be filed and approved in the case of substandard design features. Please coordinate with Caltrans at an early stage as it can potentially impact the traffic operations on SR-128 and may require additional Right-or-Way (ROW).

The striping plans refer to Caltrans 2010 Standard Plans, but it should be changed to the latest 2018 Standard Plans. Also, please identify the posted speed of this highway section.

Hydraulics

Please ensure that any storm runoff to State ROW must be metered to pre-construction levels.

Lead Agency

As the Lead Agency, the County of Napa is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Construction-Related Impacts

Please be advised that any permanent work or temporary traffic control that encroaches onto the ROW requires a Caltrans-issued encroachment permit. Note that potential impacts to the State ROW from project-related temporary access points should be analyzed. Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit issued by Caltrans. Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to STN. For more information, and to apply, visit: <https://dot.ca.gov/programs/traffic-operations/transportation-permits>.

Encroachment Permit

There appears to be the potential that the property will be conveyed to the State and if that is the case, Caltrans requires the property be transferred on permit projects prior to issuance of the encroachment permit.

If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating the State ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. Your application package may be emailed to D4Permits@dot.ca.gov.

To download the permit application and to obtain more information on all required documentation, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

Brian Bordona, Deputy Planning Director
September 14, 2020
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Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at Yunsheng.Luo@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please contact LDIGR-D4@dot.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Mark Leong". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

cc: State Clearinghouse



Encroachment Permit Applications
Additional Right of Way Requirements – Dedications/Conveyances

For those encroachment permit applications where the Applicant proposes to convey “property rights” from the Applicant and/or others to the State, please follow these instructions. The term "property rights" generally refers to fee simple title but it may, under special circumstances, also include all types of permanent easements (i.e. slope, drainage, sight, etc.) and for projects involving expressways/freeways, "access rights." However, in most cases, Caltrans requires that fee simple, or in other words, full ownership be conveyed to the State as new R/W.

INSTRUCTIONS FOR DISTRICT PERMIT ENGINEERS

Immediately provide the Applicant these three forms (attached below) and inform him/her that they must be completed, signed appropriately and returned to you.

- **Agreement - Right of Way Dedications/Conveyances for Encroachment Permit Applications** (1 page) (“*Agreement*”)
- **Right of Way Sufficiency for Project Encroachment Permit Applications – Dedications/ Conveyances** (1 page) (“*Sufficiency Form*”)
- **Initial Site Assessment Checklist** (2 pages) (“*ISA*”)

Indicate to the Applicant where on the forms appropriate signatures are required and by whom. The Applicant’s registered civil engineer is required to certify the applicable statements on the *Sufficiency Form*.

After the Applicant returns the signed *Agreement*, *Sufficiency Form* and *ISA* to you, do the following:

1. Have the correct Design Branch review the *Sufficiency Form* (centerline, property rights, access control, etc.) together with Applicant’s plans. Assist Design and the Applicant in resolving any problems. Once the proposed new R/W is acceptable to Design, the Branch Chief should sign the *Sufficiency Form* where indicated.
2. Next, have our Environmental Engineering Branch review the *ISA* (hazardous waste testing) documents. Environmental Engineering may decide additional testing and/or remediation actions are required before Caltrans can accept the property right(s). Environmental Engineering Branch will sign the form where indicated once they have determined that the parcel(s) meets our current hazardous waste standards and requirements.

Continually forward for review all submittals relating to the new R/W (including the completed *Agreement*, *Sufficiency Form* and *ISA* forms and any survey or right of way engineering information) you receive from the Applicant or any other Caltrans functional unit to the proper R/W Local Programs Branch Chief:

Michael O’Callaghan – ALA, MRN, NAP, SON, CC,
SCL, SM, SOL Counties

The Right of Way Division will inform you once the conveyance of all property rights has been completed. ***The encroachment permit can be issued only upon the District Permit Engineer receiving written approval from the Division of Right of Way.***

Note: Right of Way must approve any exception to these instructions. Exceptions must be signed by both the Office Chief, Local Programs and the Office Chief, Engineering, Surveys and Mapping Services.

Agreement - Right of Way Dedications/Conveyances for Encroachment Permit Applications

To: District Permit Engineer Co. _____ Rte. _____
Caltrans District 4, Office of Permits Encroachment Permit No. _____

I, _____ as Encroachment Permit applicant (“Applicant”), understand and agree to the following:

- (1.) All costs for necessary and appropriate activities in support of the Dedication/Conveyance, as determined by Caltrans in its sole discretion, including Caltrans’ review and acceptance shall be at the Encroachment Permit Applicant’s expense.
- (2.) All materials submitted to Caltrans shall become the property of Caltrans.
- (3.) To complete fully and submit to Caltrans the attached **Right of Way Sufficiency for Project Encroachment Permit Applications – Dedications/ Conveyances** and **Initial Site Assessment Checklist** forms.
- (4.) Applicant shall deliver or caused to be delivered to Caltrans all reference data and documents requested by Caltrans, including without limitation, title exception documents, vesting deeds, survey control schemes and plans, land net ties, adjoining and reference documents, recorded and unrecorded documents and maps, original field notes, adjustment and closure calculations, final results, appropriate intermediate documents, or any other documents used for or resulting from any land surveys and/or land title work performed for this Encroachment Permit.
- (5.) At no cost to Caltrans, all personnel who prepare maps, documents and related materials shall be available to Caltrans.
- (6.) Applicant shall submit to Caltrans, for review and acceptance, all of the following:
 - a. A Preliminary Report (title) for each parcel proposed for conveyance to Caltrans.
 - b. Proposed conveyance documents including legal descriptions and plat maps.
 - c. For each parcel being conveyed, a Policy of Title Insurance naming “State of California, Department of Transportation” as Insured (needed at time of conveyance).
- (5.) All legal descriptions, deeds, plats and exhibits shall be prepared by, or under the direction of, a person authorized to practice land surveying in the State of California who shall sign and seal each document in the manner prescribed by the California Business and Professions Code and the California Code of Regulations.
- (6.) Caltrans requires all dimensions be in U.S Survey feet and reference a survey datum designated by Caltrans. For datum information, contact the Branch Chief Specialist, District 4 Right of Way Engineering/Surveys Project Management at 510-286-5296.
- (7.) At a date not later than the date of acceptance by Caltrans of maintenance and operation of the project-constructed highway improvements, Applicant shall deliver to Caltrans fee title (including, as appropriate, access rights) to the required area free and clear of all encumbrances which Caltrans, in its sole discretion, determines to be detrimental to its present and future uses.
- (8.) Existing survey control and boundary-related monuments within the area of any Project construction shall be perpetuated in conformance with Calif. Bus. & Prof. Code, Section 8771.
- (9.) For expressways and freeways (access controlled facilities): all utility facilities must meet the conditions set forth in the Caltrans’ *Encroachment Permit Manual*, Section 6 Utility Permits.
- (10.) To submit a copy of any Record of Survey filed per Calif. Bus. & Prof. Code, Section 8762 by reason of land surveys conducted for this Project.

_____ (Applicant signature) _____ Date

Right of Way Sufficiency Form for Project Encroachment Permit Applications – Dedications/Conveyances

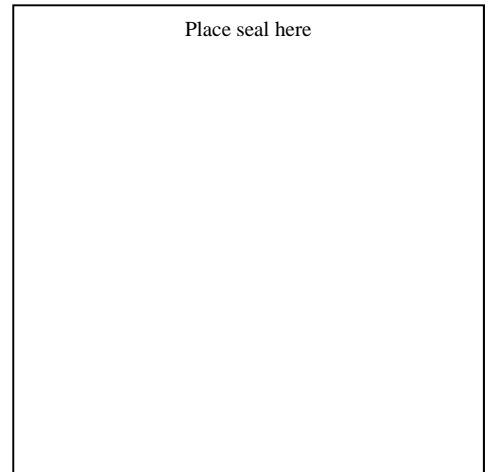
To: District Permit Engineer Co. _____ Rte. _____
Caltrans District 4, Office of Permits Encroachment Permit No. _____

List State parcel number(s) involved: _____

I hereby certify that the above parcel(s) shown on the attached plat(s) is/are correctly delineated, labeled and dimensioned, including property interest, land area and degree of access control and that said parcel(s) is/are sufficient for the construction/operation/maintenance of the Caltrans facilities to be constructed by this Project.

For expressways and freeways: I further certify that any and all existing utility facilities located within the above parcel(s) to be conveyed to the State shall conform to the requirements of the Caltrans *Encroachment Permit Manual*, Section 6, Utility Permits.

Signed: _____
Project Design Engineer



Print Name	RE No.	Date
------------	--------	------

Reviewed by: _____
Caltrans District Branch Chief Date
Design Branch _____

I, as the Encroachment Permit Applicant, attach an Initial Site Assessment (ISA) for all parcels(s) to be conveyed to Caltrans wherein: (*check applicable statement below*)

- () the ISA indicates that no suspected hazardous waste contamination exists on any of the parcels, or
- () the ISA states that hazardous waste contamination may exist on one or more parcels; however, the results of further testing indicate no hazardous waste contamination (test results attached) exists, or
- () the ISA and additional testing results are attached. The parcel(s) are remediated and the appropriate regulatory approval is attached *or* the parcel(s) will be remediated during construction and an approved remediation plan by the appropriate regulatory agency is attached.

_____ (Signature – Applicant) _____ (Date)

Reviewed by: _____
Caltrans District Branch Chief Date
Environmental Engineering Branch

Initial Site Assessment (ISA) Checklist

Project Information

District 04 County _____ Route _____ Post Mile Range _____ Permit # _____

Description _____

Encroachment Permit Applicant

Name & address _____ phone # _____

List parcel(s) Assessor Parcel Number(s) (APN). Include name and address of grantor for each. Attached exhibit if required.

Project Screening

Attach the project location map to this checklist to show location of all known and/or potential HW sites identified.

1. Project Features: New R/W? _____ Excavation? _____ Railroad Involvement? _____
Structure demolition/modification? _____ Subsurface utility relocation? _____
2. Project Setting _____
Rural or Urban _____
Current land uses _____
Previous land uses _____ Adjacent
land uses _____
(industrial, light industry, commercial, agricultural, residential, etc.)
3. Check federal, State, and local environmental and health regulatory agency records as necessary, to see if any known hazardous waste site is in or near the project area. If a known site is identified, show its location on the attached map and attach additional sheets, as needed, to provide pertinent information for the proposed project.
4. Conduct Field Inspection. Date _____ Use the attached map to locate potential or known HW sites.
Comments:

STORAGE STRUCTURES / PIPELINES: Evidence of the following

Underground tanks	_____	Surface tanks	_____	Imported Fill	_____
Sumps	_____	Ponds	_____	Wetlands	_____
Drums	_____	Basins	_____	Septic tanks	_____
Transformers	_____	Landfill	_____	Stormwater run-on	_____
Groundwater wells	_____	Cisterns	_____	Other	_____

Initial Site Assessment (ISA) Checklist

CONTAMINATION: (spills, leaks, illegal dumping, etc.)

Surface staining _____ Oil sheen _____

Odors _____ Vegetation damage _____

Other _____

HAZARDOUS MATERIALS: (asbestos, lead, etc.)

Buildings _____ Spray-on fireproofing _____

Pipe wrap _____ Friable tile _____

Acoustical plaster _____ Serpentine _____

Paint _____ Other _____

5. Additional record search, as necessary, of subsequent land uses that could have resulted in a hazardous waste Site. Use the attached map to show the location of potential hazardous waste sites.

6. Other comments and/or observations: _____

ISA Determination

Does the project have potential hazardous waste involvement? Explain in detail.

This Initial Site Assessment shall be prepared by, or under the direction of, a person qualified to conduct hazardous waste site assessment investigations in the State of California

ISA Conducted by

Date



Hermosa Beach Office

Phone: (310) 798-2400

Fax: (310) 798-2402

San Diego Office

Phone: (858) 999-0070

Phone: (619) 940-4522

Chatten-Brown, Carstens & Minter LLP

2200 Pacific Coast Highway, Suite 318

Hermosa Beach, CA 90254

www.cbcearthlaw.com

Amy Minter

Email Address:

acm@cbcearthlaw.com

Direct Dial:

310-798-2400 Ext. 3

September 14, 2020

Via Email david.morrison@countyofnapa.org, charlene.gallina@countyofnapa.org

Napa County Planning Commission
David Morrison, Director of Planning
Charlene Gallina, Supervising Planner
County Administration Building
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: September 16, 2020 Agenda, Item 7B: Benjamin Ranch Winery Use Permit
P13-00371-UP

Honorable Commissioners:

On behalf of Michael Honig, we submit these comments on the mitigated negative declaration (MND) prepared for the Benjamin Ranch Winery Project. The Project would permit production of 475,000 gallons of wine annually within a 79,623 square foot production facility. It would also include construction of 7,669 square foot visitors' center, which would include a commercial kitchen and a number of rooms for winery tours, tastings and marketing events. This Project allow for significantly larger daily events and numerous wine marketing events. The 400 onsite visitors allowed daily for wine tours and tasting is nearly **four times** the number of visitors at other area wineries. The Project would also allow 357 marketing events per year, including up to three nighttime events per week that could last until 10 p.m. in this quiet rural area.

Mr. Honig does not object to development of a new winery at this location, but instead to the massive size of the proposed facility, in terms of annual production, daily visitors and marketing events. It is the excessive size of this Project that would result in the many potential impacts discussed below. In an August 23, 2020 letter, our client requested the County continue the hearing on this Project to allow him adequate time to review the MND and other Project documentation and hire experts to review the potential noise, water use and other impacts of the Project. We renew that request and urge the Planning Commission to postpone consideration of this Project to give the community, which has had limited time to consider this Project, made even more limited by ongoing wildfires and preparations for harvest, more time to assess and provide comments on the

Project. Our client has discussed this Project with a number of neighbors and other community members and many have expressed similar concerns regarding the size and impacts associated with this Project. Additional time is required for us to form a coalition with these parties to jointly address concerns regarding the Project.

Included herein are our initial comments regarding the Benjamin Ranch Winery Project's potentially significant impacts. We intend to supplement these comments with more detailed information and expert input if the County moves forward with the Project as proposed. Attached to this comment letter is the Crane Transportation Group Peer Review of the traffic analysis for this Project, which found numerous flaws with the traffic study and concluded the Project would have significant and unmitigated adverse traffic impacts. Due to these impacts, the County is required to prepare an environmental impact report (EIR) for the Project instead of an MND. The County has failed to prepare a legally adequate initial study, improperly omitting consideration of potentially significant Project impacts and lacking evidentiary support for claims that Project impacts would be insignificant. The MND includes inadequate analysis for the Project's impacts related to greenhouse gas, noise, aesthetic, water supply and hazards. The County has also relied on an incomplete and misleading comparison of this Project to other wineries in the Napa Valley, improperly downplaying the oversized nature of the Project. An EIR is required to address the Project's many potential impacts and accurately describe the Project.

I. CEQA Requires Adequate Analysis of Potential Impacts.

CEQA serves two basic, interrelated functions: ensuring environmental protection and encouraging governmental transparency. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564.) In connection with the Project's review under CEQA, the County has prepared an initial study and mitigated negative declaration. A lead agency prepares an initial study in order to determine whether an EIR, a negative declaration, or an MND is the appropriate environmental review document. (14 CCR § 15365, herein "CEQA Guidelines".) The initial study must consider whether any aspect of a project, either individually or cumulatively, may cause a significant adverse impact. (CEQA Guidelines § 15063(b)(1).) The purpose of the initial study is to provide the lead agency with adequate information regarding a project to determine the appropriate environmental review document and "documentation of the factual basis for the finding in a negative declaration that a project will not have a significant effect on the environment." (*Ctr. for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal. App. 4th 1156, 1170, citations omitted.) There must be a basis within the record to support the conclusions reached by the initial study. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1201.) "Where an agency. . . fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate." (*El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597, citations omitted.)

Failure to adequately analyze all of a project's potentially significant impacts or provide evidence to support conclusions reached in the initial study is a failure to comply with the law.

II. An EIR is Required When a Project May Have a Unmitigated Significant Impact.

Because issuing an MND truncates the CEQA process with often minimal environmental review, CEQA's "legal standards reflect a preference for requiring an EIR to be prepared." (*Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 332.) An agency proposing to rely upon an MND must make the analysis accompanying the proposed MND as complete and comprehensive as possible. (*Long Beach Savings and Loan Assn. v. Long Beach Redevelopment Agency* (1986) 188 Cal. App. 3d 249, 263.) When considering whether to require preparation of a full EIR or allow review culminating in an MND instead, a court will examine whether there is substantial evidence in the record to support a fair argument that the stated mitigation measures may not achieve the goal of reducing impacts below a level of significance. (*Citizen's Com. To Save Our Village v. City of Claremont* (1995) 37 Cal. App. 4th 1157.) An EIR must be prepared instead of an MND when there is substantial evidence to support a fair argument that the project may have significant adverse environmental impacts. (Public Resources Code § 21151.) "The fair argument standard is a 'low threshold' test for requiring the preparation of an EIR." (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) If any substantial evidence of a potential environmental impact after the agency's proposed mitigation measures are implemented exists, then preparation of an MND is not appropriate, even if substantial evidence exists to the contrary. (Public Resources Code § 21080(d); CEQA Guidelines § 15064(f)(1); *Friends of "B" Street v. City of Hayward* (1980) 106 Cal. App. 3d 988, 1002.)

"[T]he significance of an activity may vary with the setting." (CEQA Guidelines § 15064 (b).) A development that may have minimal impacts in an urban setting could have significant impacts in a rural area. Courts show a clear preference for resolving doubts in favor of preparing an EIR. (*Architectural Heritage Association. v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1110; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 617-618; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 151; *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602-03.) Here, there is substantial evidence to support a fair argument that the Benjamin Ranch Project may have numerous significant adverse impacts.

III. The MND's Analysis is Inadequate and Inaccurate and an EIR is Required.

A. The Project's Traffic Impacts Must Be Analyzed in an EIR.

The MND admits the Project may cause significant impacts due to traffic congestion, conflicts with transportation plans and vehicle miles traveled, but fails to disclose the full extent of these impacts and provide adequate mitigation. As set forth in the attached expert review of the traffic study prepared for the Project, the Project would have significant adverse traffic impacts that have not been mitigated to a less than significant level. (**Attachment 1**: Crane Transportation Group Peer Review.) These impacts include traffic congestion, conflicts with traffic plans, traffic hazards and emergency access, and vehicle miles traveled.

The Crane Peer Review found that the traffic impact study for the Project: relies on inaccurate and conflicting factual claims regarding the Project and surrounding area; lacks information necessary for a true analysis of impacts; fails to assess a major source of traffic impacts—truck traffic from the production facility; and improperly defers mitigation of the Project's traffic impacts. The Crane Peer Review concludes that the Project would result in significant unmitigable impacts, requiring preparation of an EIR.

While the Project applicant has submitted a traffic report, the disagreement between the applicant's expert and the expert Crane Peer Review necessitates the preparation of an EIR to analyze the Project's traffic impacts. "If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR." (CEQA Guidelines § 15064, subd. (g).) Thus, even if the County disagrees with the Crane Peer Review, an EIR must be prepared to resolve the disputes. (*City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 247-249 [expert disagreement about extent of a wetlands required preparation of EIR to resolve dispute]; *Friend of Old Trees v. Department of Forestry and Fire Protection* (1997) 52 Cal.App.4th 1383, 1398-1403 [expert dispute regarding project's impacts on water supplies required further environmental review].)

The Project's traffic impacts, particularly the congestion caused by the significant increase in traffic, could also result in adverse impacts for emergency access routes. Wildfires have unfortunately become common in the Napa Valley and unmitigated traffic levels, at the Project and cumulative level, could adversely impact resident's ability to evacuate during emergencies. The MND fails to adequately analyze the Project's impact on emergency access. An EIR is required to analyze these potentially significant safety impacts on human beings. (CEQA Guidelines § 15065, subd. (a)(4).)

B. The MND's Analysis of Greenhouse Gas Impacts Is Inadequate.

CEQA requires agencies to “make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of greenhouse gas emissions resulting from a project.” (Guidelines § 15064.4, subd. (a).) The California Supreme Court recently ordered agencies to “ensure that CEQA analysis stays in step with evolving scientific knowledge and state regulatory schemes.” (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 3 Cal.5th 497, 519.)

By failing to accurately disclose and adequately mitigate traffic impacts, the MND also fails to disclose the Project's impacts on greenhouse gases. Greenhouse gases would be emitted through construction, agricultural processes, wine fermentation, electricity use, construction, and production facility, winery and visitor vehicles, among others. The MND fails to provide any data, projections, or quantification of the Project's likely greenhouse gas impacts. CEQA requires an environmental document to “find out and disclose all it reasonably can.” (CEQA Guidelines § 15144.) The MND fails to do this, stating only that the Project's emissions would be “relatively modest” and would not exceed the 1,100 metric tons carbon dioxide equivalent threshold of the Bay Area Air Quality Management District. (MND pp. 20-21.) An EIR is required that discloses the Project's greenhouse gas emission calculations.

The MND's conclusion that the Project's greenhouse gas emissions would not be significant also appears to rely on voluntary greenhouse gas-reduction methods including green roofs, water recycling, solar water heating, energy conserving lighting, and shade trees. (MND p. 21.) While these measures are to be applauded, they are not actually incorporated into the Project as mitigation measures and do not appear to be specific or enforceable. Moreover, the MND contains no detail about the measures or about their likely efficacy. Environmental document must evaluate the efficacy of mitigation measures. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645.) Without this evaluation, any reliance on these measures to mitigate the Project's greenhouse gas emissions lacks substantial evidence.

C. The MND's Analysis of Water Supply Impacts is Inadequate.

The Project would add a 475,000-gallon production facility, 400 daily visitors and a number of large market events, but the MND claims the Project only would increase water use by 2.33-acre feet per year. There is inadequate evidence to support a claim of such a small increase in water usage for such a large development. If the Project moves forward as currently proposed, Mr. Honig intends to provide the County with expert review of the water usage claims relied upon by the MND, but was unable to procure

such a report prior to the Planning Commission hearing due to the time constraints set forth in his August 23, 2020 letter to the County.

In addition to the lack of support for the Project's claimed water usage, the MND also relies on an improper hypothetical baseline for irrigation water usage. (CEQA Guidelines § 15125, subd. (a).) Instead of using the measured water usage for current irrigation at the Project site, the MND relies upon a significantly higher baseline water usage estimate. (MND p. 23.) The MND fails as an informational document by relying upon hypothetical conditions as the baseline instead of the existing conditions. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Ca1.4th 310, 322-325.) A project's impacts are determined by comparison to the baseline conditions and improperly inflating the baseline by relying on hypothetical conditions fails to allow for an accurate assessment of this Project's impacts.

Further, the MND does not include a well test to determine the impact of the Project's increased water usage on area wells. Without such information, the County lacks substantial evidence to find the Project's water supply impacts would be less than significant.

D. The Project's Noise Impacts Would Be Significant in Quiet Rural Area.

The quiet rural Project area would be adversely impacted by the numerous nighttime events held at the Project until 10 p.m. several times per week. (MND p. 2.) The area surrounding the Project site, which includes several residences, is extremely quiet after 6 p.m., when other winery operations shutdown. Due to the existing quiet and the topography of the area, sound carries great distances in the vicinity of the Project site. The MND fails to provide an adequate analysis of the noise impacts of nighttime events, the new production facility, and the 400 new daily visitors and their associated traffic noise.

E. The MND Fails to Adequately Address Aesthetic Impacts.

1. The Project Would Impact Views from a Scenic Highway.

Highway 128 was recently designated a scenic highway, and as such, CEQA requires an analysis of the Project's impacts on views from this scenic highway. The MND claims that this impact would be less than significant, but fails to provide evidence necessary to support such a determination. The MND fails to include renderings or visual simulations of the Project from Highway 128. The Project would include the removal of redwood trees that are clearly visible from Highway 128, but the MND fails to disclose this visual impact. Additionally, the lack of visual simulations from Highway 128 prevent an adequate analysis of the visual impact the new construction of the 79,623

square foot production facility and 7,669 square foot visitors' center. Because these buildings would be constructed on a floodplain, fill is required to elevate the grade height prior to construction. This adds to the visual impact of the production facility, which reaches a height of 37.5 feet.

2. The MND Fails to Adequately Evaluate Nighttime Lighting Impacts.

The MND also fails to adequately analyze the nighttime lighting impacts of allowing events extending until 10 p.m. at least every weekend. The Project site is located in a rural area that is quiet and dark after 6 p.m. The intrusion of this new nighttime lighting source must be thoroughly evaluated.

F. Potential Impacts Associated with Prior Use of Hazardous Substances Must Be Evaluated.

The history of the Project site includes is agricultural use as far back as the 1950s. At that time, many chemicals were used for pest control and other uses that have since been discovered to be hazardous to human health. The new construction included in this Project would require disturbing soils that could contain such hazardous substances. The County should require soil testing to determine whether it contains hazardous substances, and if so, mitigation must be imposed.

G. The County Staff Report Relies Upon an Improperly Skewed Comparison to Other Facilities, Failing to Acknowledge the Project Would Be One of the Largest in the County.

The County staff report for the Project includes a comparison of the proposed Project to other winery facilities, but this comparison fails to give the public a complete picture of the Project, downplaying the extent and impact of the development. (Winery Comparison Analysis and Project Summary.) This comparison analysis for the production size of nearby wineries with the Project appears to exclude several smaller wineries in the area. Moreover, even the information provided demonstrates that the Benjamin Ranch Winery would have one of the largest production levels in the area. Moreover, when the Project is compared to the 502 wineries throughout the Napa Valley for which data is available, the Project would be in the top 16 percent of all wineries for production levels.

The comparison chart also misleadingly compares the Project to wineries in the area with the largest marketing events, instead of to other wineries in the vicinity or throughout the Napa Valley. When compared to that same 502 wineries, Benjamin Ranch Winery would be in the top 3 percent for number of events annually and top 4 percent for number of guests. This comparison demonstrates the oversized nature of the

proposed Project. Without it, the MND and County staff report fail to give the public a complete picture of the Project, downplaying the extent and impact of the development. The information contained within the MND is to be used as a basis for the decision on what would be the least impactful means for the project to proceed. “An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.” (*McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) 202 Cal.App.3d 1136, 1143.) This more detailed and accurate comparison is necessary to inform the public and decision makers of the Project’s potential impacts, both direct and cumulative, and its precedent setting size for new development in the Project area.

Conclusion

Thank you for considering our comments. We look forward to the County’s preparation of an EIR for this Project that carefully considers the direct and cumulative environmental impacts of the Project and that contains a thorough analysis of alternatives and mitigation measures designed to reduce and avoid these adverse impacts on Napa County.

Sincerely,



Amy Minter

Enclosure: Crane Transportation Peer Review

cc:

Joelle Gallagher, Napa County Planning Commission (joellegPC@gmail.com)

Dave Whitmer, Napa County Planning Commission (Dave.Whitmer@countyofnapa.org)

Anne Cottrell, Napa County Planning Commission (anne.cottrell@lucene.com)

Andrew Mazotti, Napa County Planning Commission (andrewmazotti@gmail.com)

Megan Dameron, Napa County Planning Commission (megan.dameron@countyofnapa.org)

Brian Bordona, Deputy Planning Director (Brian.Bordona@countyofnapa.org)

Planning Commission Clerk (planningcommissionclerk@countyofnapa.org)

ATTACHMENT 1

CRANE TRANSPORTATION GROUP

PEER REVIEW OF THE FRANK FAMILY BENJAMIN RANCH WINERY PROJECT TRAFFIC IMPACT STUDY – NAPA COUNTY BY W-TRANS, FEBRUARY 4, 2020

A. INTRODUCTION

The following is a peer review conducted by Crane Transportation Group (CTG) of the Frank Family Benjamin Ranch Winery Project Traffic Impact Study prepared by W-Trans, February 4, 2020. This peer review has been prepared at the request of Michael Honig, of Honig Winery.

B. OVERALL ISSUES

1. The County of Napa should have approved the scope of work for this study, however, there is no clear indication that the County was directly consulted for this purpose.
2. The Use Permit Application for the Frank Family Benjamin Ranch Winery Project contains data that are inconsistent with the traffic study prepared for the project. Specifically, the Winery Traffic Information/Trip Generation Sheet included in the Use Permit file cites 46 fulltime and 5 part time employees during a typical weekday, while page 1 of the traffic study cites a proposed “46 fulltime and 15 part time employees on a typical daily basis.” Either the Use Permit Application or the input to the Traffic Impact Study requires update to be made consistent with the current definition of the project.

C. SPECIFIC ISSUES BY TOPIC

1. Evaluation of Appropriate Roadways and Intersections, as Determined by the County of Napa

Page 5 of the traffic study lists three study intersections, but does not say if these specific intersections were required by the County of Napa for analysis, or if the County was consulted on the scope of the analysis. The study does not include analysis of arterial Level of Service as is frequently required by the County.

2. Project Trip Generation Rates

Page 14 of the traffic study states that the ITE “Winery” LU # 970 trip rate was used for

the 2,124 square foot portion of the winery building that would house the tasting room, and references Table 6. However, Table 6 uses 3,140 square feet (3.14 ksf). These statements are conflicting, and require correction.

According to ITE, for the purposes of this land use, the independent variable “1,000 sq. foot gross floor area” refers to the square footage of the building that houses the tasting room. It may be most appropriate to use the 2,124 square foot portion of the winery building, referenced in the traffic study, that is specific to tasting room use. It would also be helpful for the traffic study to include an explanation of the square footage components of the total visitor’s center building (7,669 square feet as shown on the site plan cover sheet Code Synopsis) in order to understand the use of the 3,140 square feet referenced in Table 6.

The ITE 10th Edition Trip Generation “Winery” LU # 970 trip rates applied in the traffic study are subject to question. For example, the County of Napa generally directs use of Friday and Saturday data, rather than “weekday” and “weekend.” The traffic study uses the weekday PM peak hour rate of 7.31 per thousand square feet rather than a Friday PM peak hour rate of 10.93 per thousand square feet. The traffic study applies a Saturday PM peak hour average rate of 36.5, when application of the available fitted curve equation might result in a trip generation rate more specific to the project.

The resulting analysis states that there would be 23 weekday PM peak hour trips and 115 Saturday PM peak hour trips. Why so many Saturday PM peak hour trips? Recent traffic counts (September 13 and 14, 2019) conducted at the public access to the Mondavi Winery resulted in a Friday PM peak hour total of 59 trips and a Saturday PM peak hour total of 96 trips. Why would the Frank Family Benjamin Ranch Winery, located on Conn Creek Road, have more traffic on a Saturday PM peak hour than one of the most famous wineries in the Napa Valley located on State Route 29? This should be explained in the context of proposed visitor trips, preferably by use of a table showing hourly anticipated inbound and outbound visitors throughout the business day for typical Friday and Saturday conditions.

3. Trip Distribution Patterns and Percentages

a. Trip distribution requires explanation. Why is it that the majority of inbound project traffic from Silverado Trail is from the north while 100% of outbound traffic is to the south? Why is it that at SR29 the inbound traffic is split 50%/50% northbound and southbound, while outbound traffic is 100% to the north?

b. There is no mention of truck traffic volumes in the traffic study. However, the winery will have trips related to haul of grapes during harvest. The project Use Permit application “Winery Traffic Information/Trip Generation Sheet” shows crush Saturday conditions with 33 daily truck trips. The traffic study should address these trips.

4. Signal Warrant Analysis is Missing

Signal warrant analysis should be shown to support the statement, used several times in the traffic study, that signalization of the SR 29/Rutherford Road and Silverado Trail/Conn Creek Road intersections would mitigate conditions at both intersections. The study contains no signal warrant analysis.

5. Parking Demand

Page 28 of the traffic study cites the Napa County standard per car occupancy rate at 2.8 persons, and this is correct for Saturdays, but not for weekdays. The Napa County weekday standard is 2.6 persons per car. Use of this slightly more conservative factor, applied to a weekday with a maximum of 400 visitors over the course of the day would result in a parking space demand of 61 for employees (assuming 1 parking space per employee), and 38 for guests (conservatively assuming one-quarter of the guests – 100 - parked during any one hour), for a total 99 parking spaces, or five more than included on the site plan (94 spaces), and two more than the 97 spaces recommended in the traffic study.

Use of the 2.6 persons per car rate would also change the parking calculation for the 150-attendee events and the 24-attendee events. Event parking should also take into account any needed additional parking spaces for additional staffing, caterers, musicians and entertainers.

It is recommended that the study provide a parking demand matrix, with a marketing event occurring, by hour for a harvest Friday and Saturday.

6. VMT (Vehicle Miles Traveled)

The traffic study correctly identifies the need for addressing VMT in the context of maintaining air quality by reducing vehicle emissions. However, the analysis provided on page 23 and in Table 11 pertains only to employee trips, with no mention of visitor trips. This issue should be revisited when the County's new VMT methodology is approved.

7. Need for Transportation Demand Management (TDM) Plan

The traffic study contains the beginnings of a Transportation Demand Management (TDM) Plan. Because the project would result in substantial increases in traffic at intersections currently operating unacceptably, a serious effort at peak hour trip reductions should be considered. Such a plan should include a TDM coordinator.

8. Accidents

- a. Page 6 of the traffic study states that the Silverado Trail/Conn Creek Rd (SR128) intersection has a higher number of collisions than the state average, but

there is no safety concern because these were non-injury accidents. Is this an opinion, or based on a standard Caltrans has established?

b. The study does not provide accident data in the vicinity of the project driveway.

9. Bike Routes

While future bike lane plans are detailed, existing bike route descriptions are vague (see page 7 of the traffic study).

10. Road Surface

The project will add traffic, including large trucks, to the deteriorating pavement condition of Conn Creek Road. The traffic study should describe the existing roadway condition and include mitigation consisting of a before-and-after pavement inspection that would require the project to make improvements to the roadway as needed.

11. Intersection Geometrics

The description of study intersections should include the observation that although the Conn Creek Road approach to Silverado Trail is flared to allow for right-turning vehicles to separate from through or left-turning vehicles, this is not always possible. A through or left-turning vehicle can obstruct access to the right-turn flare. The same is true for the Rutherford Road approach to State Route 29; the flare provided for right turns is not always accessible if a left-turning vehicle obstructs access to the right-turn flare.

12. Unsignalized Level of Service Criteria

The traffic study shows and discusses both overall intersection LOS and Minor Street approach LOS for unsignalized intersections. If the county only recognizes Minor Street approach LOS and delay for significant impact evaluation, then the inclusion of overall Intersection LOS is unnecessary and confusing (see page 10 of the traffic study). Similarly, does the County permit mitigation based on overall intersection delay as described in traffic study pages 19 and 20?

13. Roadway Directions

Throughout much of the study Silverado Trail is referred to as a north-south roadway, but in Table 10 on page 23 it is assumed to be an east-west roadway. This is confusing.

14. Access Intersection Level of Service - Data Missing

Page 26 – why is there a Level of Service delay given at the project driveway but no LOS worksheets or volumes provided in the study?

15. Significant Unmitigable Project Impacts

The traffic study identifies significant impacts at the Rutherford/ SR 29 and Conn Creek Road/Silverado Trail intersections. It recommends an improvement measure for the Silverado location, but it is unclear whether this mitigation has been discussed with the County. There is no mitigation for the Rutherford Road/SR 29 intersection except to develop measures to reduce trips. It is notable that none of the mitigations include reducing visitation. If investigated, it will probably be found that a significant reduction in visitation throughout the afternoon will be required to reduce significant impacts during the three to four peak traffic hours of every Friday and Saturday afternoon.

As analyzed, the traffic study concludes that the project would result in significant, unmitigable impacts. Thus, it is anticipated that an EIR will be required. This would be an opportunity to revise the traffic analysis.

This Report is intended for presentation and use in its entirety, together with all of its supporting exhibits, schedules, and appendices. Crane Transportation Group will have no liability for any use of the Report other than in its entirety, such as providing an excerpt to a third party or quoting a portion of the Report. If you provide a portion of the Report to a third party, you agree to hold CTG harmless against any liability to such third parties based upon their use of or reliance upon a less than complete version of the Report.

From: [Timm Crull](#)
To: Brian.Bordona@countyofapa.org; [Gallina, Charlene](#)
Cc: Sgreenwood-meinert@coblentzlaw.com; [Sharon Crull](#)
Subject: Frank Family - Benjamin Ranch Project
Date: Monday, September 14, 2020 11:53:29 AM

[External Email - Use Caution]

We are writing to support the permit request for the Benjamin Ranch project being presented by Frank Family Vineyards.

We operate a small winery and vineyard on 110 acres in the Rutherford AVA that is very close to the proposed project (1450 - 1500 Silverado Trail South, St. Helena). We have farmed the land and made the wine for over 25 years. During that time I have seen the good, the bad, and the ugly when it comes to development projects in the Ag Preserve.

We have had the absolute pleasure of working with Frank Family and their Winemaker Todd Graff since 2010. We have had a great experience doing business with them over the years. They are a truly family run organization that cares about their growers and their people. People that generously give back to our community. I wish Napa Valley had more folks like the Franks and Todd Graff.

After careful review of their project and visitation requests, we believe that the project they are proposing is perfect for a 85 acre property. The placement of the facility in the center of their vineyards should make it hardly visible from the road. And from what I know they will not have to remove many vines.

This is exactly the type of project that the Napa County Supervisors have been suggesting for the Agriculture Preserve. We strongly support the Frank Family permit requesting to build a winery and Tasting Room on the Benjamin Ranch in Rutherford.

Thanks for your consideration. Please contact me with any questions or comments.

Sincerely,

Timm and Sharon Crull

--



Timm Crull

The Terraces Winery

phone: (707) 963-1707

mobile: (707) 287-5083

site: terraceswine.com

email: timm@terraceswine.com



From: [Bordona, Brian](#)
To: [Ayers, Dana](#)
Subject: [EXTERNAL] FW: Frank Family Vineyards
Date: Monday, September 14, 2020 9:52:04 AM
Attachments: [Ellman-Email-Signatures_Neil.png](#)

This is an **EXTERNAL** email. Do not click links or open attachments unless you validate the sender and know the content is safe.

From: Neil Ellman <neil@ellmanwine.com>
Sent: Monday, September 14, 2020 7:50 AM
To: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Bordona, Brian <Brian.Bordona@countyofnapa.org>
Cc: sgreenwood-meinert@coblentzlaw.com
Subject: Frank Family Vineyards

[External Email - Use Caution]

As a new and small family vineyard and winery owner in Napa Valley, I am writing to support the permit request of Frank Family Vineyards for the development of a winery and tasting room on their Benjamin Ranch Vineyard in Rutherford.

When we were first considering purchasing land for a house and vineyard in Napa, the Frank's were extremely helpful in working with us to find the experts we needed to do the analysis of the land and as well as the location for the vineyard and the potential winery. This was extremely important to us because it was a new endeavor for us and we wanted to build a business in Napa, an area we had often visited and loved.

The the fact the Franks have developed a strong national as well as local following and business was inspirational for us. The amount of time and effort that they put into helping us allowed us to find the right property and to start our new business. The Valley needs to have mix of different size wineries, but it is hard to start a Family Winery and we need more of these as opposed to large corporate entities.

The project proposed by Rich and Leslie Frank falls into the category of development that should be perfect for the Agricultural Preserve. It is on 85 plus acres, on flat land, has more than enough water, has very few homes within hundreds of feet of the buildings that are not associated with other wineries and does not require any appreciable elimination of vines. It checks all the boxes.

The Franks's have been long time supporters of many of the charitable organizations in the Valley which has supported so many people in need. They are great ambassadors of the Napa Valley and this project will allow them to do even more.

Regards,



NEIL ELLMAN | PROPRIETOR | 954.646.6144
ELLMANFAMILYVINEYARDS.COM



9/13/20

We are writing in support of the Frank Family Vineyard's submission for a winery use permit for their Benjamin Ranch Winery project on their 85-acre property at 8895 Conn Creek Road.

This would be a large new project, however it is similar in scale to existing wineries on the valley floor in Rutherford and throughout Napa Valley. The project benefits from being on a large flat parcel of land which is primarily surrounded by vineyards and other wineries. There could be some impact to a small number of homes in the area.

The scale of visitation as originally proposed is large – however it is our understanding that Frank Family Vineyard is reducing the proposed scale to mitigate local concerns for traffic, noise, etc.

Since 2014, when we became neighbors with Leslie and Rich Frank at our Rutherford property, they have been excellent neighbors willing to work together and come to agreement and compromise on property items that have ultimately benefited both of us as neighbors. They have demonstrated their support for the greater Napa Valley community through their many years as proprietors of Frank Family Vineyards and Winery in Calistoga as well. We believe that they will be thoughtful in their approach to the Benjamin Ranch project and will continue to work with the local community to ensure that the Benjamin Ranch Winery will be as minimally impactful as possible to the community and the environment.

Sincerely,

Tom Garrett and Todd Newman

Dakota Shy Winery

From: [Bordona, Brian](#)
To: [Ayers, Dana](#)
Subject: [EXTERNAL] FW: Frank Family Vineyard Winery Project Rutherford
Date: Monday, September 14, 2020 9:03:31 AM

This is an **EXTERNAL** email. Do not click links or open attachments unless you validate the sender and know the content is safe.

From: Tom Gamble <Tom@GambleFamilyVineyards.com>
Sent: Sunday, September 13, 2020 6:28 PM
To: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Bordona, Brian <Brian.Bordona@countyofnapa.org>
Cc: sgreenwood-meinert@coblentzlaw.com
Subject: Frank Family Vineyard Winery Project Rutherford

[External Email - Use Caution]

Napa County Planning Commission
Dana Ayers, Consulting Planner
Napa County PBES

RE: Frank Family Vineyards Benjamin Ranch Winery Application Permit P13-00371-UP

Dear Commissioners and Staff,

As one of the immediate farming neighbors (8891 Conn Creek Road) I have no objection to the Frank Family project. I appreciate the direct conversations had with applicant discussing the issues and potential impacts.

Thank you,

Tom Gamble

STAR VINEYARD

1107 Rutherford Road
Rutherford, CA 94575

September 9, 2020

Dear Mr. Bordona and Commissioners,

I am writing to express concern for the Benjamin Ranch Winery project. Rutherford is an iconic appellation of the Napa Valley, defined by its vineyards, rural views, and limited commercial activity. It has just one two lane road running through it, one stop sign (other than intersections with 29/Silverado Trail) and is geographically remote from most county resources. Its commercial district is at the corner of Highway 29 and Rutherford Road, home to BV Winery, Rutherford Grill, and other high traffic businesses. A project of this scale is out of place for its location.

I do appreciate the Benjamin Ranch Group's willingness to invest in Rutherford and share the Rutherford story and their wines with a broader audience. However, is an 87,000 square ft building, 357 events per year, 400 people a day and a 475,000-gallon permit really to scale with the area? My family has been growing grapes in Rutherford for 30 years and welcomes new wineries, but we have concerns with the size of this proposal and the daily loads on limited infrastructure this operation would create. Please reconsider this project as it is currently presented.

Sincerely,



John M. Oliver
General Manager

FRANK FAMILY VINEYARDS

The Napa County Planning Commission

Dana Ayers, Consulting Planner
Napa County PBES

Re: Frank Family Vineyards Benjamin Ranch Winery Application
P13-00371-UP

Dear Commissioners and Staff,

Since the public notice about our winery project went out almost a month ago, we have met with most of our neighbors and others in the Rutherford AVA. These meetings have led to our further evaluating our winery project. We want to continue to be good neighbors with our vineyard, residential and iconic winery neighbors. And we appreciate the candor of all those willing to take their valuable time to talk with us.

The offshoot of those conversation is that we have re-thought our visitation and marketing plan proposals and propose to reduce our visitation and marketing program to the following:

- 150 visitors a day Monday through Wednesday
- 300 visitors a day Thursday through Sunday
- 8 large marketing events of up to 150 people, as presently stated in our application, along with participation in Auction Napa Valley.
- NO other marketing event.

These changes to our marketing and visitation plan eliminates all lunch and dinner time marketing events and the food preparation that goes with them. The changes also reduce overall visitation to the winery by 40%.

We believe these changes do not require any further CEQA or other analytic requirements as we are reducing our impacts and effects significantly.

We look forward to visiting with each of you in the next few days. Please contact our counsel Scott Greenwood-Meinert at sgreenwood-meinert@coblentzlaw.com if you have any questions, comments or concerns about these changes. Thank you.

Leslie and Rich Frank.



1091 Larkmead Lane – Calistoga, CA 94515

T: 707.942.0859

FrankFamilyVineyards.com