

From: [Eugene Kirkham](#)
To: [PC](#)
Cc: wyntress.balcher@countofnapa.org
Subject: Planning Commission Hearing Date Sept. 16, 2020 Rombauer Vineyards #P19-00130-MODagenda; Agenda item 7A
Date: Tuesday, September 15, 2020 1:38:45 PM
Attachments: [It PC Rombauer final PDF.pdf](#)

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Dear Sir or Madame,

Attached as a pdf is my letter of comment to the Planning Commission regarding the agenda item identified above: Re: Planning Commission Hearing Date Sept. 16, 2020 ^[1]_[SEP] Rombauer Vineyards #P19-00130-MOD.

Please circulate my letter to the commissioners.

Thank you, Eugene R. Kirkham

Eugene R. Kirkham
Attorney At Law
3473 Silverado Tr., St. Helena, Ca, 94574
gene@calicom.net, 707-227-4604

Sept. 15, 2020

Re: Planning Commission Hearing Date Sept. 16, 2020
Rombauer Vineyards #P19-00130-MOD

To the Commission:

My name is Gene Kirkham. I live at 3473 Silverado Trail, St. Helena. I have lived here continuously since the winter of 1975, over forty-five years. Before that time, I spent my childhood years at my parents' farm in Oakville. I am the nearest neighbor to Rombauer Winery, and my home shares a boundary with it.

At the outset I want to emphasize that I take no pleasure in finding myself, once again, in an adversarial and contentious posture with my neighbor. I am very sorry to report that this is not the first time that the applicant has unlawfully exceeded its permitted operations. I do not know how many times this has happened in the past; but I believe that a history of non-compliance is relevant to the Commission's decision in this case and should appear in the staff report.

I have personal knowledge of one former occasion when Rombauer was operating so far beyond its permitted production that raw sewage was flowing over our driveway. Remediation proposed by Rombauer was a series of open cess-pool lagoons, located within fifteen feet of our property line, with provisions for "flaming off" the sewer gases. Litigation with the county over its approval of this

scheme was narrowly averted when Rombauer withdrew its novel proposal.

As one who has borne the brunt of Rombauer expansion in the past (from 50,000 gallons with two employees and no visitors, to 450,000 gallons with 81 employees and annual tourist visitors beyond counting, and several quasi public “events” attended by many hundreds of people), it is bizarre to me to hear warm praise showered on a business which has repeatedly ignored county regulations and state laws when those inconveniences have impeded its commercial ambitions. I am tempted to believe, as many already do, that preservation of the valley for the peaceful benefit of its residents is an idea irrevocably subordinated to the commercial expansion of the wine business. It is not true that what is good for the wine business is good for the Napa Valley, as anyone living near a winery well knows.

It is in this unhappy context that I read the present application with alarm. There are a number of issues which arouse my deep concern: 1) increase in the number of employees as that increase relates to the expansion of the black water disposal system; 2) storm water run off; 3) development of picnic areas; 4) live music with outdoor loud-speaker systems; 5) elimination of wildlife habitat in the Napa River riparian corridor; 6) further exceptions to rules requiring 75% of winery production to be from Napa Valley fruit; 7) the elimination of zoning protection of natural wooded hillside areas in favor of commercial use by means of lot line adjustment thus avoiding public comment and environmental assessment.

Of overall concern, touching upon all of these issues, is the absence of an EIR, and the general prioritizing of commercial TOURISM over wine making and agricultural preservation in violation of the intent and spirit of the Ag Preserve. In particular the public has a right to know by EIR what the cumulative effect of these exceptions may be. What will our valley look like if every

winery (and future wineries) are permitted to do what this applicant proposes. Is it already happening? What kind of oversight is possible when the Commission is asked to approve retroactively a fait accompli? What compliance should we expect when non compliance is rewarded with retroactive approval and further expansion “while we're at it.”

Regarding Rombauer's black water disposal system, the system which was approved and installed to correct the violations described in paragraph three above has again become inadequate because of unauthorized winery expansion. The expansion of the septic system which is now proposed will presumably be adequate to accommodate 81 employees. Rombauer is presently operating with 70 employees though its septic system was designed to accommodate only 34 employees. This is not a minor discrepancy. How did management permit this to happen? As the owner of property just downstream, I am wondering where all the effluent beyond existing capacity is going? How long has this been going on? What long term and short term consequences have resulted? As to these important questions, the staff report is silent; indeed, it does not appear that any inquiry has been undertaken. And what wastewater provisions have been made for the visitors? As to the additional employees, how many of them will be paid a wage which will enable them to live in the community in which they work? What is the cumulative effect of this practice?

Also not addressed in the staff report is the that fact storm water run off from the winery, which is carried off premises by a 24” culvert, crosses three non Rombauer parcels before it finds its way to the Napa River through a 6” pipe. This drainage has not been improved or upgraded since Rombauer's original permit was granted, even though its production has grown exponentially. I doubt, but I do not know, that this issue was investigated by the county at the time of the original permitting of the winery.

Experience of flooding - let alone elementary arithmetic - demonstrates that this drainage to the river, hugely increased by expanded and expanding production of Rombauer winery, is inadequate. No environmental assessment of these conditions has been undertaken.

Of greatest concern to me personally is the proposed picnic area, which will seriously and irrevocably degrade my quality of life at my home. Part of the picnic area, already fully developed though not authorized (and as to which a retroactive authorization is sought), directly overlooks our patio and swimming pool. The applicant's representation that it has not, to date, held any commercial events at this site I know to be untrue. Of importance is the site is carved out of a very steep forested slope. If a permit were sought for vineyard development on the site rather than picnicking, the application would certainly be denied. Given my knowledge of the history of this applicant, I strongly suspect a hidden agenda: that once permission is obtained for one picnic table, the usage will quickly expand.

The Commission should take note that the "picnic area" applied for today is enabled by a lot line adjustment as to which no public comment was allowed and no environmental assessment was undertaken. Essentially, the applicant has rezoned the property, formerly protected as agricultural watershed, into a commercial property. This extraordinary sleight of hand has been accomplished without any of the public and environmental protections which this Commission is charged with enforcing.

In considering the relationship of picnicking to wine making, I ask the commissioners to reflect upon the ever-expanding menu of commercial, recreational, tourist, attractions which have become subsumed under the rubric of "winery." It is helpful in this context to remember that the Ag Preserve exists in recognition of the fact that our Napa Valley is a world heritage treasure, not to be squandered,

to be preserved for future generations. The Ag Preserve was and is intended to protect prime agricultural land *of the Napa Valley* from exploitation for commercial, non agricultural usage.

Wineries are fundamentally manufacturing businesses which would ordinarily be allowed only in industrial/commercial zones. They are only permitted in the Ag Preserve because of an exception which was created for their benefit. The winery exception was deemed appropriate because wineries were understood at that time to be grape processing facilities, the means for farmers to preserve their perishable agricultural grape crop. Tasting Rooms - another commercial use - were permitted as an exception to the Ag Preserve when it became conventional for customers to be permitted to taste a wine before committing to a purchase - like trying on a shoe before buying it.

It was NEVER imagined, let alone intended, that wineries with the privilege of locating in the Ag Preserve would become commercial entertainment palaces, competing for tourist dollars with live music, wine-by-the-glass, table service, tchotchkes, and, yes, even phony castles! Welcome to Napaland©. How have we let this happen? Tasting rooms have become swanky indoor-outdoor wine bars, a place for tourists to hang out drinking, in surroundings ranging from sumptuous to glitzy, which effectively monetize the Napa Valley. This highly regrettable state of affairs has surely served the commercial interest of a very few; but those profits increasingly threaten a national treasure which belongs to the public and future generations.

The winery exception in the Ag Preserve was intended to preserve the agricultural and rural character of the *Napa Valley*; and toward that purpose, it became necessary to require of wineries in the Ag Preserve that not less than 75% of it production come from Napa Valley fruit. Rombauer seeks to substitute a lesser percentage under a theory and formula which, frankly, I cannot decipher. In my

view, the 75% rule should be strictly enforced - no exceptions. If an exception is to be made, that decision would clearly require an EIR to analyze the cumulative effect: what will be the effect if every such winery in the valley were to do the same thing?

I believe that my other concerns - habitat degradation and noise pollution - will be thoroughly addressed in the submissions by others, so I will not repeat those concerns here, beyond adding that I believe the riparian corridor of the Napa River which is one percent of the Napa Valley real estate supports ninety-nine percent of the Napa Valley wildlife. I do not believe the issues of noise and habitat have been adequately mitigated or assessed, particularly from the perspective of cumulative effect.

In closing, I believe that this application - with its valley-wide implications - would draw far more public interest and comment were we not collectively in the midst of three-fold emergency: smoke harvest, wildfire, and Covid-19. Under these circumstances can it be said that the public has had a reasonable opportunity to weigh in on the issues presented by this application? Would it not be better for the Commission to postpone consideration of all non emergency planning decisions until a time when the moment-to-moment crisis has abated?

I regret that medical reasons prevent me from attending your deliberations in person or tele-conference. I hope that my concerns and observations, set down here, will assist the Commission in finding the right decision.

Respectfully submitted,

Eugene R. Kirkham

From: [Michele & Adam](#)
To: [PC; Balcher, Wyntress](#)
Subject: Sept 16, 2020 Hearing - Item 1 (Rombauer) Public Comments
Date: Tuesday, September 15, 2020 1:17:11 PM
Attachments: [Rombauer P19-00130-MOD Public Comments Nordin 9-15-20.pdf](#)
[Rombauer P19-00130-MOD Public Comments Nordin 9-15-20.docx](#)

[External Email - Use Caution]

Please see the attached document for public comments regarding agenda item #1, Rombauer P19-00130-MOD (Sept 16, 2020 Hearing).

My name is Adam Nordin and I reside at 3456 Silverado Trail N, within 1000 ft of the Rombauer Winery. I have attached the document in pdf and Word, in the event there is difficulty in accessing a particular format. Please call me if there are any questions or technical difficulties.

Could you please confirm timely receipt via email response? Thank you in advance.

Best regards,

Adam Nordin
773 230 1309

Planning Commission Hearing
September 16, 2020
Public Comments: Rombauer Vineyards #P19-00130-MOD

September 14, 2020 (via email)
Attention: Wyntress Balcher, Planner II

In follow up to the Commission Hearing on August 5, 2020, we are writing to submit further comments to the proposed Use Permit Major Modification application from Rombauer Vineyards. Per a letter from Bob Knebel, CEO, dated August 10, 2020, as well a conversations visiting Mr. Knebel and Lynn Sletto, GC, at the winery, we understand that that the proposal is being amended in the following manner:

- The request regarding amplified outdoor music at the winery's five Marketing events is being revised to request amplified music at just one event, and for all music to conclude by 7pm.
- The request for amplified music relating to the tasting room patio is limited to 2 (two) small existing speakers, during normal tasting room hours as low volume background music. No amplified speakers will be used at any marketing events, including 4x monthly trade lunches and dinners, or other marketing events, and no addition of or expansion of the existing speakers is planned or intended.
- Removal of the request (Item 3) for a Mobile Bar and Seasonal Tastings outside of the cave entrance.

Other items in the original application remain as requested.

First, we would note that we appreciate the outreach from Rombauer by Mr. Knebel and Ms. Sletto, and the offer to visit the winery and review the requested changes, which we accepted. Both were courteous, accommodating and generous with their time in reviewing the specifics of their proposal and the context of winery operation.

Requested Clarifications in Relation to Approvals

In certain areas, after having participated in discussion with the Winery representatives regarding intended use (and considered feedback from various Commissioners in the Aug 5 hearing), we are not necessarily opposed to a specific requested change, but do have more targeted concerns where we believe the blanket approval of permitted use or removal of customary prohibitions (e.g., amplified music) is overly-broad. Should the Commission be inclined to approve the requested modifications we would be conditionally supportive, provided that appropriate clarifications and/or restrictions were added to ensure actions consistent with stated intent and general reasonable and balanced use for the community.

It is worth emphasizing that these clarifications are not in any way structured to limit Winery's intended use as articulated to us and the Commission, but rather to prevent subsequent scope-creep or expansion of practices not envisioned at the

time of approval; for example, as could occur in the instance of future ownership or management changes.

- Item 4 - Revised Marketing Plan (Marketing Events): Winery has requested to consolidate its Wine Club Release Event and 4 Wine Club Events into 5 broader marketing events, and to increase attendance from 250 to 350 people per event. These events are now proposed to occur throughout the day from 11am to 10pm, rather than as currently authorized between 4 and 7pm. Winery requests clean up efforts to then be allowed to begin at 10pm and continue until complete.
 - We do not object to Winery's request for amplified music (via a band at designated areas) at 1 event per year; provided, this limitation in frequency and location is clearly specified in the permit.
 - We would request clarifying restrictions that Winery is permitted 1 large-scale event that concludes at 10pm (inclusive of cleanup, and with any music to conclude at 7pm), and that all other events conclude at 7pm, consistent with historical restrictions. Intensive operation of valet services, buses and catering trucks after 10pm for 350 people on an elevated valley floor knoll is not consistent with the neighboring residential surroundings.
 - We would request clarifying reinforcement of scope that such events are for the primary purpose of wine education, incidental to the operation of the winery, and limited to members of the wine trade or others with pre-established business relationships with the winery – not for general social, cultural or public entertainment purposes.
 - As requested by the Commission on Aug 5, we support the clarifying restriction that such events incorporate parking management such as shuttles and /or valet parking to avoid congestion on Silverado Trail and late night traffic jams exiting.

- Item 4 - Revised Marketing Plan (Lunch and Dinner Events): We generally support Winery's use of trade-oriented lunches and dinners to promote wine education for trade Distributor and Account groups (as expressed by Winery). We note that Winery is requesting approval for 48 events per year of 60 people each.
 - Given this is a quiet residential area and the events are professionally oriented educational events, we would request appropriate clarifying restrictions limiting the number of dinners to be held outdoors and that dinners conclude by a reasonable hour.
 - We do not feel that dinners once a week lasting until 10pm and then having ensuing traffic, cleanup, catering trucks, etc. is appropriate for the neighboring residential surroundings. We would request outdoor business trade dinners to conclude by 830pm, and indoor dinners by 9pm.
 - Though Winery has noted in our conversations that there is no intent to use amplified speaker music at any marketing event other 1 time

- per year with the band, we would request clarifying restrictions that there is no amplified speaker music at general marketing events.
 - We would support a plan that authorizes 2 lunches and 2 dinners per month, with no more than 50% to occur outdoors (per month) to provide balance of local community impact (with 100% outdoor permitted until COVID restrictions subside).
- Item 10 – Removal of Standard Prohibition on Amplified Music: As clearly heard in the Aug 5 hearing, amplified outdoor music through speakers is a highly sensitive subject. With discretion, appropriate low volume music can enhance the tasting experience for customers with no negative impact to neighbors. When taken beyond reasonable limits, however, amplified music can be extremely divisive and result in severe community impact and acrimony.
 - Winery has stated its intention is to provide low volume, background music on the tasting terrace just off the tasting room through the 2 small, existing speakers, during tasting room hours only.
 - We would support the permission of such amplified music, but request clarifying restrictions limiting the sound to existing speaker locations and without expansion of size or number of speakers. Consistent with Winery’s stated intent, additional speakers should not be added or expanded to the picnic areas, and music should be limited to normal tasting room hours.
 - During our tour with the CEO and GC, the low volume music was pleasant and the patrons were enjoying the ambience unaffected. Limiting amplified music to the current equipment and manner of operation is reasonable and prevents future over-reaching.
- Water treatment leach field – Winery represents that all equipment for the new treatment area is subterranean. We would request clarification that equipment shall not be above ground.
- General Context of Requested Use Permit Modifications: Winery has noted in its written communication and its statements at the August 5th hearing that its requested modifications are limited in scope and specifically that it is not requesting any changes to (i) increase production, (ii) increase the number of visitors per day, (iii) increase hours of tasting room operations, or (iv) increase the total number of large marketing events to greater than 5.
 - In considering Winery’s requests in its Application, the explicit absence of proposed changes in these areas is critical to our view on the aggregate impact to the community and surroundings. If changes in any of these areas were also proposed, our views would be materially different.
 - We would request that the record of approval note the 2020 Use Permit modifications are predicated on no changes in production, daily visitors, hours of operation or total events since they are

voluntarily offered by Winery as mitigating facts, and acknowledged as integral to the balance of requested major modifications of permitted use.

- Subsequent request for expansion of any of these elements of permitted use should be considered retrospectively in the holistic context of the approvals granted as part of the Sept 16, 2020 hearing. Otherwise, tactical sequencing and opportunistic narratives are left open to exploit in conjunction with any and all major modifications requests before the Commission.

Objections to Current Proposal

We object to only one proposed modification in its entirety, which is the reclassification of the prior residential picnic area (from the founders' family home) to a Commercial AB2004 picnic area.

- This area was a portion of residential property owned by the founders; as such, it would be a reasonable expectation that the area would be used on limited occasions by the family residents – certainly not to host tastings of 8-10 people, 7 days per week, for 7-8 hours per day.
- The area is not within the existing perimeter of picnic / tasting areas by any means. Since it was part of the founders' personal residence (and presumably designed to have privacy from the commercial operations and tasting room), it is located a long distance, down the hillside and around the knoll– outside of sight, sound and supervision from the tasting room and winery employees.
- This area, as part of the Rombauer residential parcel, is very close to other adjacent residential parcels and sits above them, projecting voices, laughter and other crowd dynamics over the valley floor south and west. Changing the designated zoning and licensed usage from residential to commercial, and then further for AB2004 wine consumption, is inconsistent with the expected usage and original authorizations granted by the County. The location of this unique area was not considered during the Commissions 2012 hearing granting various AB2004 picnic areas immediately adjacent to the tasting room, which also came with significant restrictions on usage, noise, music, etc., and was not raised during the proceedings requesting the property line relocation.
- Winery submitted a request to modify and shift lot lines over a year ago and provided no notice of its intention to convert the residential picnic area to commercial AB2004 picnic areas. In its current application, Winery indicates a primary purpose of the lot line change was to secure the pre-existing residential picnic area for AB2004 use. The intended change of zoning and use should have been disclosed to neighbors when the request was made with the lot line relocation. The sequencing is contrary to the purpose of public notice, disclosure of intent and open hearing.

In the Aug 5th hearing, Winery suggested that the area would only be used in very limited hours and for bespoke, hosted tastings only. Any consideration by the

Commission to allow recognition of this area as part of the commercial operations (which we oppose in its entirety) should, at a minimum, include clarifying restrictions on use in hours (e.g., 10am-1pm), days per week (e.g., 2x per week, no weekends), number of hosted tasting participants (e.g. maximum of 4-6 guests) and require full-time supervision of guests by winery educational staff. We do not feel blanket authorization of the area as an AB2004 picnic area is necessary or appropriate, given its location and former use. It would also not be appropriate to use the area for lengthy, catered events such as lunches or dinners, since duration, intensity of interaction and overall noise levels are naturally higher at such events. We would also request clarification that nearby trees and foliage be maintained and preserved to shield neighboring properties from views and sound.

We would note that we are not neighbors adjacent to the affected land, as we reside across Silverado Trail from the winery. However, the notion of property rights, reasonable expectations of use, and historical purpose are very important to us, and presumably every resident in the valley. Economic benefits from the expanding scale of the commercial wine business are attractive, but should be cautiously reviewed against the local community impact, as the consequences are irreversible. Adding a pre-existing picnic area to the numerous others already present at the winery sounds benign. However, experiencing frequent groups enjoying wine and picnic meals immediately adjacent and uphill to your property 7 days a week year round is anything but benign. There is a delicate balance to be maintained to avoid commercial denigration of this quiet and bucolic area of the north valley.

Conclusion

Rombauer is a family winery with a long-standing presence in the local community. We certainly wish for them to succeed and to provide a memorable experience for their customers and trade partners. Looking at the winery's expansion over the years, it is apparent that the family's commitment to quality production is being rewarded with increasing demand. While the St Helena winery is not seeking an expansion beyond the 450,000 gallons authorized at this estate, the winery's production has grown considerably off-site, with total capacity nearly doubling by 2018. In 2019, the aggregate production was further increased nearly another 40%, from 880,000 gallons to 1.2 million gallons. With significant production expansion comes significant increases in trade relationships, which in turn requires significant increases in marketing events.

The St Helena estate has not tripled in size, and is not of the scale to attempt to channel all marketing activities and consumer experiences for a production business that is tripling in size, particularly given its residential setting. The progressive motion of historical and requested modifications to the Use Permit over several years – including converting parts of the founders' residence to entertainment areas for the winery -- reflects a pattern of continuous expansion that the location of the St Helena estate is not well suited to accommodate. Increased production at the airport and other commercial facilities cannot translate to proportional expansion of the St Helena facility, whether for employees, marketing,

consumer tastings, education, entertainment or otherwise. There should be a high bar for change to ensure that the local community is not compromised over time due to the winery's success.

Finally, as capital intensity and benefits of scale continue to drive greater corporate consolidation in the industry, we are cautious in considering all major modifications to Use Permits. Changes in ownership or management can naturally result in changes in behavior – Use Permits are the primary mechanism to maintain consistency and avoid unintended consequences. We believe it is our collective responsibility to provide precise delineation of permitted and non-permitted practices – and to clearly document those in detail within the Use Permit -- in order to establish guardrails that preserve all that is special and cherished within the Napa Valley – for growers and local residents alike.

Respectfully submitted,

Adam Nordin

Appendix A

Summary of Requested Clarifying Restrictions

For simplicity, we have summarized the requested clarifications below:

1. Amplified Music

- Standard prohibition of amplified music should not be removed – instead, the below items should be listed as specific, permitted exceptions
- Live amplified music allowed at 1 marketing event per year with music to conclude at 7pm
- Amplified speaker music at the tasting room patio limited to two existing speakers; no expansion of speakers or addition of speakers to other property areas, including the picnic areas
- Amplified speaker music during currently-approved tasting hours only
- No amplified speaker music at marketing events (5 large or 4x monthly)

2. Marketing Events

- Marketing events to be expanded from 4-7pm to 11am-7pm
- One event to be allowed until 10pm, inclusive of cleanup
- One event with live, amplified music, to conclude at 7pm
- Primary purpose of marketing events focused on wine education and limited to wine trade and others with pre-existing business relationships with the winery – not general social, cultural or entertainment (no “event space”)
- Large events should include parking management (valet, buses)
- Monthly events limited to 60 people, 2 lunches and 2 dinners per month, no more than 50% outdoor, and to conclude at 830pm (outside) or 9pm (inside), if allowed after 7pm.

3. Water Treatment Equipment

- All water treatment systems (tanks, etc.) to be below ground

4. Addition of AB2004 Picnic Area

In general, we oppose the addition of the residential picnic area as an AB2004 consumption area. If the Commission were inclined to approve, then we would request common sense limitations:

- Restriction to limited hours (e.g., 10am-1pm) & guests (e.g., 4-6 guests)
- Limited days (e.g., 2x weekly, no weekends)
- Full time supervision / hosting; no unattended picnicking and consumption
- Maintenance of trees and foliage to shield neighboring residences from views and sound

5. General Context

- Approvals predicated on the winery’s offer that they are requested in the context of no increases to (i) production, (ii) daily visitors, (iii) tasting room hours, or (iv) total marketing events.
- Caution on record noted that ever-increasing production across facilities should not result in ever-increasing requests for marketing events, trade activity, parking, employees, etc. at the St Helena estate. Other properties to accommodate surplus marketing needs.

Liam Roche

3473 Silverado Trail North
St. Helena, California 94574
+1 (707)-501-8794

Tuesday, September 15, 2020

Hello,

My name is Liam Roche. I am a 19-year-old university student, studying law and Social Science, at Durham University, in the United Kingdom. When I am not at university, I reside at 3473 Silverado Trail North in a small cottage behind the Kirkham winery, approximately 400 feet south of the Kirkham family residence. I have lived here since I was six years old, and I am intimately familiar with the area. I have lived in St Helena since I was three years of age, and I have attended local schools in St Helena from preschool through elementary school. I care very deeply about my community.

I respectfully request that the Commissioners deny most aspects of the permit application of Rombauer Vineyards, for reasons which I will outline below and which include; noise issues concerning neighbors (video link attached), impact on wildlife/watershed, lack of EIR, and that there is a better solution at Rombauer's permitted industrial facility near the airport.

NOISE

My concerns about noise arise out of my respect for the rural environment here, respect for my neighbors, and my worries about the detrimental impact of noise on sensitive wildlife habitat.

Recently I conducted a sound test where I duplicated the conditions of Rombauer's Noise Study, to the extent possible.

I played amplified music over a loudspeaker, which was pointed through a wooded area towards the Silverado Trail. I positioned a decibel meter 25 feet away, as Rombauer did in their noise study. While Rombauer played music at varying sound levels, the lowest level of which was 83 decibels (dB) and the highest exceeded 100 dB, I only played music which hit a peak sound level of 81 decibels.

Unlike Rombauer, I notified my neighbors so that they would know why the music was playing, and at what levels, so that they could assess the impact of the Sound for themselves. I do not see how it to be constructive to develop a conclusion about sound levels at a neighboring property if you don't ask the neighbors and you don't measure the Sound at their properties.

I made sure to conduct my test during a period of high road traffic, as I noted the Rombauer study discussed traffic as remediation for noise levels from amplified music. The traffic part led me to conduct my test twice because the first test didn't have enough

traffic noise and I wanted to make sure the commissioners could hear the amplified Sound while there was significant road noise.

I drove to as many nearby addresses as possible to assess the impact of my test, and I had someone record me, speaking at a normal volume so that the impact and contrast of the amplified music to my normal speaking voice could be observed by anyone watching the video. At no time did the music at the source exceed 81 decibels, with my dB meter placed 25 feet in front of the speaker.

The videos themselves are unedited with the exception of being edited together into a single stream.

You may view the video by clicking [here](#) or search on YouTube for “St Helena sound test” or using this link (<https://youtu.be/I8iUc9njfvM>) should the above not work.

Noise isn't only from amplified music. The noise of wine tasters at the new picnic area is also a concern. For many years, the piece of land where this picnic area has been built was oak woodland. With the exception of the oak trees that have been cleared for the picnic area, most of the site remains oak woodland. I should note that the picnic area is in place and is already being used for commercial purposes in advance of this permit. I have personally seen and heard people using it when I walk in the woods.

There is a massive wildlife population in this area, which I will address below, notably numerous Bobcat dens. Also Pileated woodpeckers, a threatened species and one of the largest forest birds in North America. Pileated woodpeckers require old forests, not newly planted ones. Once this habitat is lost, it will be another 100 years before the woodpeckers can be re-established in a new location.

The noise of humans is of great danger to wildlife. The Nature Conservancy points out that human noises “interfere with animal communication, hinder their foraging abilities and impact where they live.”

The National Park Service reports that “Sound, just like the availability of nesting materials or food sources, plays an important role in the ecosystem. Activities such as finding desirable habitat and mates, avoiding predators, protecting young, and establishing territories are all dependent on the acoustical environment.”

A study by Burger and Gochfeld published in Cambridge University Press reported significant stress on birds especially. “These birds were observed before people were near, while people were present, and following the departure of people. Variation in feeding behaviour was largely explained by whether people were present, the number of people present, and the amount of noise made by the people. For all species, time devoted to feeding and number of strikes or pecks decreased while people were present. The percentage of time spent foraging, and the number of strikes decreased as the noise made by people increased. Birds that were closer to the path flew away from people more often than birds that were further away. Birds usually swam or flew away from the path while people were present.”

I have personal experience with pollinating insects, as I did a months-long study on native pollinators with help from professors at SFSU and UC Berkeley. From this, I know that ALL pollinating bees move away from human noise. And that plants adjust the output of nectar when they “hear” a pollinating insect nearby, secreting more nectar. Human voice sounds create “masking” which reduces the plant’s ability to sense the insect and reduces their ability to secrete nectar, which makes the flower less attractive to the pollinator. This also encourages pollinators to move away from human speech noise.

While there have been many studies on birds and insects, there are not as many studies on bobcats, coyotes, foxes, deer, and the ground squirrels who make their home here. It seems common sense that ALL animals would be impacted by consistent human speech noise near their homes and that they will probably move away. There is significantly little habitat in Napa Valley, and I ask that you balance whether a single picnic table is worth the loss of this habitat. The amount of land being converted to commercial use is far more than will fit a picnic table, and I think Rombauer will be asking for a lot more picnic tables in the future to make use of this land.

Noise is one of the biggest bulldozers we have in destroying environments. Put an airport flight path to a runway over a subdivision, and all but the most desperate will flee, even though not a single blade of grass has been touched. Locate a “bachelorette party of 12” (a winery demographic) in a restaurant, and most humans will find it intolerable, even though the restaurant hasn’t changed a bit, only the humans have. Insert a picnic table of people consuming alcohol in pristine and sensitive oak woodland and expect that most species will move away, in search of ever-dwindling habitat.

I ask that you deny both the amplified music and the picnic area due to the noise impact on the environment.

IMPACT ON WILDLIFE/WATERSHED

Until recently, it never occurred to me that I have been trespassing on my neighbors’ property. For many years I have walked into the woods near my home. From there, I’ve walked over fences that have been down for years and are only a few inches from the ground. I’ve enjoyed the Cairns Meadow and the hill, which I assume belongs to the Cairns’ family, which is just on the other side of the Rombauer fence. I’ve skipped across the Napa River, both when the bed was dry and when it had way too much water for me to ford it (but I did) safely and walked along the Battuello property and on to the Turley’s. I’ve been south, along the river, through the Cross, Cotter-Kissane, Covey, Laurent, and Duckhorn properties. I know this small corner of the Napa Valley.

My wanderings have brought me into contact with the wildlife here. And I am very worried about the impact of further development on wildlife. The remaining wildlife habitats are all on the east side of the river. There are broad swaths on the Cairns property (which is for sale as home sites) and on the Kirkham parcels (which they are voluntarily managing as conservations lands) and some 10-20 foot strips behind the Covey, Laurent, and Duckhorn properties. Most of the land along the Napa River has been converted to vineyard right up to the banks of the river. We have an emergency situation concerning wildlife, and I encourage you to come and visit and walk these areas with me.

About wildlife, in the first category are those animals who live here full time. Numerous fox families are living on the hillside on and between the Rombauer property and mine. Many bobcats are residing on the Rombauer hill; their den is very near the proposed tasting area. We also have coyotes who seem to make their home on the downslope of the Rombauer property and on the Cairns property just the west. The wooded hillside is filled with trails made by deer, so they are indeed here as well.

We have numerous Pileated Woodpeckers who make their home here, along with many other species of woodpeckers. All woodpeckers are protected species under the federal Migratory Bird Treaty, and there are many state laws which also provide protection to these birds. There are more than a few nests on the hill near the proposed new picnic area. As to birds, in addition to woodpeckers, there are numerous owls, hawks, and ravens. All of these birds and animals are particular as to their range and habitat. The intrusion of human Sound and regular human activity will surely change their view of what is safe, and will likely cause the loss of their habitat.

Also important is the use of this strip of land as a wildlife corridor for animals to move between the mountains to the east, onwards to Spring Mountain. Through the window of my own home, I have observed mountain lions and a bear. Every year at least one mountain lion passes through the area on his/her way, I presume, to Spring Mountain. A few years ago, we observed a young bear in a tree, which surely means there was a mother nearby. Likely they were taking advantage of this tiny corridor.

It is imperative to preserve these corridors, no matter how small they may seem, to protect the passage of animals from one wilderness area through to another.

I encourage you to reject this application on the basis of harm to wildlife and to harm to sensitive oak woodlands.

LACK OF ENVIRONMENTAL IMPACT REPORT WITH REGARD TO WILDLIFE

It is troubling to me that there is no request for an EIR on this project and I believe there has NEVER been an EIR on this site. How is it possible for an applicant with fewer than five acres of vineyard to make so much wine in the Agricultural Preserve? And to have hospitality provisions that significantly impact the environment without ever being asked to do an EIR?

I understand that the Agricultural Preserve exemption for wineries was so that they could produce wine from their crops which might not make it to a far-away processing site/winery. However, in this case, the winery is trucking grapes in from Lodi and other far-flung places in order to make wine. And their application wants you to reduce further restrictions as to wine made from fruit that comes from Napa Valley. This is not a local winery. I think it is clear that this is an industrial site and not an agricultural site. If this were a new application for today's volume, would you approve it without an EIR?

I have read in the planner's report that there is no environmental impact. But I believe the planning department is only considering impacts to humans not to the environment, and the only thing considered in that report is noise. There is zero mention of any environmental consequences as to the natural habitat of the animals which live here and to the sensitive nature of oak woodlands. Those items seem to be irrelevant.

Please read the conclusions about why there is a Mitigated Negative Declaration. You will find no mention of the wildlife, no mention of what steps were taken to survey the environment, no mention of anything other than a blanket finding that there is no impact other than noise. To be trustworthy, I think the process should be more transparent. How did the Commission arrive at this conclusion? What steps were taken? What was looked at? I wrote to the California Department of Fish and Game, who are all working at home, and they are convinced that there will be a loss of habitat. Did the planning department contact Fish and Game? What was their answer concerning this application?

I encourage you to reject this application based on the negative impact on wildlife or to request an EIR so that the impact on wildlife may be assessed.

IT IS TIME FOR AN ENVIRONMENTAL IMPACT REPORT/EIR ON THIS SITE

This is not a subdivision located close to an urban area. This application wants you to transform even more oak woodland into commercial space, well outside of the amount of agricultural land Rombauer owns. If Rombauer were seeking to establish a new vineyard, there would need to be a biological survey. Why is human activity deemed to be a lesser impact even though, in this wine tasting situation, the humans will be present every day, while in a vineyard the humans would be present 15-20 days per year?

I formally request that an EIR be completed, considering the profound change from the original Rombauer application (2 employees), 48,000 gallons, to today's 81 employees, 450,000 gallons. In addition the original permit did not allow for commercial tastings whilst the current permit allows 146,000 visitors per year on a parcel that has fewer than five acres of agricultural crops and now there is an attempt to move many of these visitors outside and into the woods. This is a large and significant impact on the environment, and you are ignoring this if you only look back to the last approval.

I know of a nonfiction book, *The Far Side of Eden*, which describes how certain individuals in Napa Valley circumvented the law by doing very legal, very small things. Like paying a minimal fine, or developing one acre at a time, or adding a few people at a time, or adding one picnic table at a time. I know you will not have time to read this book before the meeting on Wednesday, but I encourage you to read it eventually. The history of the Rombauer applications fall into this similar pattern of asking for one thing then coming back later to amend that "one thing" to make it bigger, then asking again, with another application to make it slightly bigger and then asking again. Before you know it, the application for a small winery with two people (the original Rombauer application) turns into what you have before you. The land size is unchanged. The vineyards are unchanged. You should hold this project to the same standard you would a new one.

I encourage the planners to request an EIR before approving any changes to this permit, especially considering that this application will likely lead to a second application, within a few years, seeking an even greater footprint.

THERE IS A BETTER OPTION

I think that Rombauer has an excellent option for increasing their capacity. When I was trying to find the agenda for this meeting, I noticed that Rombauer also has a very large facility near Napa Airport, where they are also increasing capacity. It seems logical to me that the planning commissioners should approve that industrial use, in an industrial zone and that the extra Rombauer employees, who are industrial, not agricultural, given the small amount of vineyards in St Helena, should be located there. I don't see any logical reason why the Planning Commissioners should approve any increase in employees, production, or tastings in such a sensitive area when there is so clearly an alternative in a commercial zone.

I encourage you to approve additional commercial and marketing activity to the application in the industrial park, where it is most suited.

The allure of wine should be examined. Would you/we allow Smuckers to build and to continually expand a manufacturing plant for grape jelly on this same site? Where most of the grapes are not grown on-site? Probably not. You would insist that it be located in a manufacturing area.

Would we allow Smuckers to have amplified music, which impacted their neighbours?
Likely not.

While you may enjoy wine, it is most definitely not "magic." Like most businesses, in the case of Rombauer, wine is the means to an end, profit. Just as grape jelly is the way towards profit for Smuckers.

But the profit Rombauer seeks can not possibly be realized with the grapes grown at 3522 Silverado Trail North. The vineyard is not large enough. The profit requires 1000s of tons of purchased grapes, a commercial facility, along with a commercial sales arm. In this case, it seems a commercial sales channel which pretends to be a family farm in the woods is what is required for marketing.

The Agricultural Preserve, as I understand it, was designed to protect the heritage of agriculture in Napa Valley. It has been reasonably effective. It has given me a childhood and young adulthood filled with memories of nature. But none of my friends here have the same experience, even though they are the same age. The land around them is filled with commercial winery activity. There are no trees, even though there are vines. I think the Kirkhams and the Cairns have given me a great gift by protecting big swathes of their property. Notably, as well Koerner Rombauer always kept his residential property wooded and wild.

I encourage you to look for other options on this application so that your children and grandchildren might have a place to enjoy the same experience in the out of doors as I have. Once you remove woodlands, you do so forever.

Please consider other options to protect these trees and the animals who depend on them, and also the humans who tread lightly, speak softly, and depend on the forests for their well-being.

I'm available by telephone or email if you have any questions or concerns,

Sincerely

A handwritten signature in black ink, consisting of the letters 'L' and 'R' in a stylized, cursive font.

Liam Roche

From: [Balcher, Wyntress](#)
To: [Fuller, Lashun](#); [Quackenbush, Alexandria](#); [Gallina, Charlene](#)
Subject: FW: Rombauer Vineyards Modified Use Permit P19-00103-MOD
Date: Tuesday, September 15, 2020 2:20:09 PM

Hello,
Just received this letter for Rombauer
-Wyntress

Wyntress Balcher, Planner
Napa County Planning, Building & Environmental Services
1195 Third Street, Suite 210
Napa, CA 94559
707. 299.1351

From: Cherry Cotter <ccotter@mcguire.com>
Sent: Tuesday, September 15, 2020 1:52 PM
To: Balcher, Wyntress <Wyntress.Balcher@countyofnapa.org>
Subject: Rombauer Vineyards Modified Use Permit P19-00103-MOD

[External Email - Use Caution]

Dear Ms. Balcher:

This is in response to the Rombauer Vineyards Modified Use Permit P19-00103-MOD, which will be the subject of the Public Hearing on September 16, 2020. First, I would like to acknowledge that Rombauer did contact me and the other neighbors present at the Hearing on August 5, 2020, and addressed several of our concerns. I appreciate their efforts in mediating some of the major issues of the permit application. However, I continue to be very concerned that these efforts do not reach the level of acceptability to the those affected by this permit application.

Noise and amplified music continue to be my major objection. The noise test conducted by Rombauer many months ago was either inadequate or at a minimum not transparent to us. As such, a noise test was recently conducted by a neighbor to reproduce the same conditions and the results are posted on youtube.com. Here is the link for your information: <https://www.youtube.com/watch?v=l8iUc9njfvM>. Nothing can really be said to contradict the negative effects of amplified music to the larger neighborhood after viewing this video. Even one event a year under these conditions would be troublesome.

Further, the Modified Use Permit has been altered under Project Scope, Item 1.2(i) which adds the language, "use of existing or equivalent outdoor patio speakers located at existing patio or the tasting room for background music, only, and only during tasting room's hours of operation." As I understand from the August 5th hearing, no other winery has been granted permanent outdoor speakers. I do not think it is reasonable to be the exception and it may also be used as a precedent for other wineries to follow suit. Also, the Tasting Room Hours are 7 days a week from 10:00 AM to

5:00 PM, which is essentially all day every day. Use of outdoor speaker volume would be at the discretion of the winery with no oversight. This is just not acceptable.

As I indicated to Rombauer and will reiterate to you, it seems very difficult to process this Use Permit and its ramifications during the many challenges we all currently face. Now in addition to the pandemic, we are dealing the worse fire season in modern history, ongoing threats of scheduled black-outs, and the worst air quality in the world. I know we are united in hoping these multiple threats be managed and contained, and our collective conscience is clearly occupied by these thoughts. I would like to see this Use Permit delayed until there is adequate time to evaluate the true effects of its passage when we are not fraught with concerns of a greater nature.

Thank you,

Cherry Cotter
3443 Silverado Trail
St. Helena, CA 954574

415-271-3702
cherrycotter@yahoo.com