

“K”

## Public Comments



A Tradition of Stewardship  
A Commitment to Service

FILE #: P17-00428 UP  
Planning, Building, & Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559  
www.countyofnapa.org

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

David Morrison  
Director

**PERMIT APPLICATION AND INITIAL STUDY**  
**REQUEST FOR COMMENTS**

TO: CA State Parks

APPLICATION TITLE: Bergman Family Winery Use Permit

APN: 022-080-010

DESCRIPTION OF PROJECT: Use Permit application to permit the following: 1) 8,000 gallon per year maximum production winery; 2) 5,174 square foot winery building and 485 square foot uncovered porch area; and 3) Two full-time & two part-time employees. No tours, tastings, marketing plan, or food service is proposed. Please refer to attached project statement, Road Exception Request and plans for project details.

RESPONSE REQUEST DATE: 12/19/17

RESPONSE RETURN DATE: **1/8/18**

PLEASE RESPOND VIA E-MAIL TO: [jason.hade@countyofnapa.org](mailto:jason.hade@countyofnapa.org)  
OR FAX TO (707) 299-4298; TELEPHONE #: (707) 259-8757

This application (see enclosed project statement and plans) is being sent to you for your review and comment.

With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

- 1. Do you have any comments on this project?  Yes  No
- 2. Do you have jurisdiction by law over this project?  Yes  No
- 3. Attach your agencies comments, or list below:  Comments attached  Comments below

*portions that are on park property*  
*3 pages*

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Name of contact person: LAURA WILSON

Telephone #: 707 769 5652 ext 218

Email: Laura.Wilson@parks.ca.gov

Title: Sr. Park and Recreation Specialist

Date: January 9, 2018



DEPARTMENT OF PARKS AND RECREATION  
Bay Area District  
845 Casa Grande Road  
Petaluma, California 94954

Lisa Ann L. Mangat, Director

January 9, 2018

Mr. Jason Hade  
Senior Planner  
Napa County Planning, Building, and Environmental Services  
1195 Third Street, Suite 210  
Napa, California 94559

Project: Bergman Family Winery Use Permit, APN # 022-080-010

Subject: Response to Request for Comments for Permit Application and Initial Study

Dear Mr. Hade,

California State Parks, Bay Area District appreciates the opportunity to provide preliminary comments for Napa County's Request for Comments for Winery Use Permit Application and Initial Study for Bergman Family Winery Use Permit Application.

California State Parks is a Trustee Agency as defined by Title 14 CCR 15386 for the resources within the state park potentially affected by this project. Bothe-Napa Valley State Park shares a common boundary line with the subject parcel where this new Use Permit for commercial development/expansion proposal is located and is the subject of this comment letter. Further, Bothe-Napa Valley State Park has federal park protections in place via a Land and Water Conservation Fund Agreement with National Park Service (NPS), and any uses other than for park purposes could be considered a violation and cannot be allowed.

As an observation, it appears the Permittee's application may not be complete as there were documents that are referenced in the application but were not included with our informational materials for review and some of the application materials have errors that may need correcting before we can adequately review the application. Therefore, we are submitting these preliminary written comments and requests for information in response to Napa County's Request for Comments for your consideration as follows:

- Provide a copy of the spotted owl survey conducted by Scott Butler that was referenced in the Permittee's application but was not included with the materials that we were provided for review.
- Provide a copy of the archaeological/cultural resource report documents produced for the Permittee's application that were used to make the determination of no

archaeological sites evidenced. There are known cultural resources located adjacent to the private access road and the general area is sensitive for archaeology.

- Project drawings incorrectly show a 20' driveway or turnouts in some instances along the Permittee's private road access, however this seems to be in error as the private road is a maximum uniform width of 16' along that route and there is no provision or allowance to exceed the width through the state park.
- Project description states the Permittee's private access road is a shared driveway that serves as an entrance to Bale Grist Mill State Historic Park which is in error, instead the Permittee's private access road goes through Bothe-Napa Valley State Park therefore we suggest the application should reflect this correction.
- Project description states the Permittee's closest neighbor is Bale Grist Mill State Historic Park which is partially in error, instead the Permittee's parcel shares a boundary line with Bothe-Napa Valley State Park, with the adjacent Bale Grist Mill State Historic Park in close proximity, and therefore we suggest the application should reflect this correction.
- Project drawings show project related signage on state park property which will not be allowed therefore the signage should be removed from drawings and application.
- Project drawings show removal of trees in close proximity to or possibly over the shared boundary line with the state park thus a site discussion with the State Parks Environmental Scientist will be required prior to tree removal being shown on plans so that we may determine if any trees are on state park property or may be potentially impacted by this project. Further, Permittee will need to have their property boundary surveyed in this area so we may determine the trees location in proximity to the boundary and to ensure any and all project improvements are fully contained with Permittee's land.
- Project drawing appears to show water sheet flow drainage off of its parcel's hardened new surfaces onto and using state park property which will not be allowed. Therefore, the drawings should be re-designed so that the proposed new development/facilities are fully accommodated within its parcel and will not directly or indirectly impact or reference unauthorized private use of state park property.
- Project drawing has a note that states the private use of state park property via a construction easement, however, we have not been consulted and this access will not be allowed so Permittee shall re-design improvements with associated construction work to be fully contained with their parcel and remove this note from the drawing and application.
- In general, the project should be properly designed so that the parcel's proposed new Use Permit for commercial development (added to its current facilities) is fully contained within its property boundaries so as not to cause potential off-site impacts to the neighboring state park. This may include appropriate setbacks from the boundary for where there may be new facilities and/or hardened surfaces to ensure

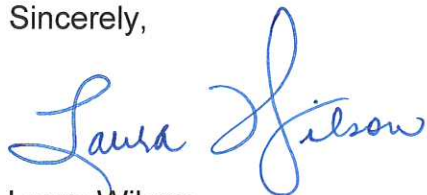
that these facilities are designed properly with adequate drainage facilities which are fully contained within their parcel to accommodate these proposed new built facilities. The project should not potentially cause direct or indirect sheet flow/water runoff or erosion or other off-site impacts to the state park which will not be allowed.

- Project did not adequately describe construction related work that may involve the use of large vehicle/trucks or equipment use and access, transporting materials, added noises, and other related project construction elements that may contribute to potential impacts which should be addressed and evaluated for impacts to the state park.
- While the Permittee is requesting an exception for its private road for this new commercial development and Use Permit, has the Permittee explored other road access alternatives not going through park property? For example Bea Lane is in close proximity to the subject parcel and is shown on the Permittee's Cover Sheet drawing, therefore, perhaps there exists a secondary access right that may provide the parcel with suitable access for a commercial winery to Highway 29. For this Use Permit, we encourage the County to request and explore an alternative access outside of the state park.

In summary, with this letter we hope our comments are helpful to the County in its preliminary review of the Bergman Family Winery Use Permit Application. We look forward to receiving the requested materials and information and welcome the opportunity to engage with Napa County throughout the environmental review process for Permittee's project site development and use to ensure there are no project related impacts to Bothe-Napa Valley State Park.

If any of these comments need clarification or further explanation please do not hesitate to contact me at (707) 769-5652, extension 218.

Sincerely,



Laura Wilson  
Senior Park and Recreation Specialist  
Bay Area District

cc: Vince Anibale, Bay Area District Superintendent



A Tradition of Stewardship  
A Commitment to Service

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David Morrison  
Director

**PERMIT APPLICATION AND INITIAL STUDY**  
**REQUEST FOR COMMENTS**

TO: CA State Parks Bay Area District - Attn: Laura Wilson

APPLICATION TITLE: Bergman Family Winery Use Permit

APN: 022-080-010

DESCRIPTION OF PROJECT: Use Permit application to permit the following: 1) 8,000 gallon per year maximum production winery; 2) 5,174 square foot winery building and 485 square foot uncovered porch area; and 3) Two full-time & two part-time employees. No tours, tastings, marketing plan, or food service is proposed. Please refer to the attached resubmittal response letter, revised Road Exception Request and plans for project details.

RESPONSE REQUEST DATE: 3/22/18

RESPONSE RETURN DATE: **4/9/18**

PLEASE RESPOND VIA E-MAIL TO: [jason.hade@countyofnapa.org](mailto:jason.hade@countyofnapa.org)  
OR FAX TO (707) 299-4298; TELEPHONE #: (707) 259-8757

This application (see enclosed project statement and plans) is being sent to you for your review and comment.

With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

- 1. Do you have any comments on this project?  Yes  No
- 2. Do you have jurisdiction by law over this project?  Yes  No *partially on park property*
- 3. Attach your agencies comments, or list below:  Comments attached *3 pages*  Comments below

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Name of contact person: Laura Wilson

Telephone #: 707 769 5652 ext 218

Email: Laura.Wilson@parks.ca.gov

Title: Sr. Park and Recreation Specialist

Date: April 18, 2018



DEPARTMENT OF PARKS AND RECREATION

Bay Area District  
845 Casa Grande Road  
Petaluma, California 94954

Lisa Ann L. Mangat, *Director*

April 18, 2018

Mr. Jason Hade  
Senior Planner  
Napa County Planning, Building, and Environmental Services  
1195 Third Street, Suite 210  
Napa, California 94559

Project: Bergman Family Winery Use Permit, APN # 022-080-010

Subject: 2<sup>nd</sup> Round Response to Request for Comments for Permit Application and Initial Study

Dear Mr. Hade,

California State Parks, Bay Area District appreciates the additional information and an opportunity to provide comments for Napa County's Request for Comments for Winery Use Permit Application and Initial Study for Bergman Family Winery Use Permit Application.

California State Parks is a Trustee Agency as defined by Title 14 CCR 15386 for the resources within the state park potentially affected by this project. Bothe-Napa Valley State Park shares a common boundary line with the subject parcel where this new Use Permit for commercial development/expansion proposal is located and is the subject of this comment letter. Further, Bothe-Napa Valley State Park has federal park protections in place via a Land and Water Conservation Fund Agreement with National Park Service (NPS), and any uses other than for park purposes could be considered a violation and cannot be allowed.

We are submitting these comments and requests for information in response to Napa County's Request for Comments, dated March 22, 2018 for your consideration as follows:

- The copy of the draft northern spotted owl (NSO) survey conducted by Scott Butler, dated April 10, 2015 that was referenced in the project application and was included with the recent materials provided for review does not appear to be relevant to the current project application as it does not have the current project's scope, nor appropriate studies and analysis for project related new-commercial use, winery building or construction activities, nor discussion of added noise or visual disturbances as noted in the guidance by USFWS for NSO. Further, the County may want to review historical information produced by the applicant for its series of

projects on the parcel. For example, the applicant had submitted a different northern spotted owl survey conducted by Scott Butler, dated September 4, 2014 for their previous project description which included removal of one dead tree during the Fall 2014 (within potential NSO habitat but outside of breeding season), but then proceeded with a different scope of work for multiple tree removal during April 2015 (during NSO breeding season). Therefore, we request a current northern spotted owl survey conducted for this project's new commercial use and construction, and if appropriate, suggest avoidance measures for the project and methods/oversight for ensuring compliance.

- Provide an archaeological/cultural resource report for the project's application. There are known cultural resources documented in the regional database (perhaps outside the County's GIS database but in the industry profession's regional database) that are located adjacent to the private access road and the general area is sensitive for archaeology.
- Project overall site (aerial) drawing, C1 shows the shadow or outline of tree foliage along the north westerly area of the project's 20' driveway which is in close proximity to or possibly over the shared boundary line with the state park, thus we request further details/discussion of the plants (and their potential requested removal) associated with the driveway installation. If necessary, a site discussion with the State Parks Environmental Scientist will be required prior to tree removal so that we may determine if any trees are on state park property or that may be potentially impacted by this project. Further, project applicant should have their property boundary surveyed in this area so we may determine the trees location in proximity to the boundary and to ensure any and all project improvements are fully contained within Permittee's land.
- Project storm water drawing, C10 shows water sheet flow drainage off of the parcel's proposed new impervious surfaces onto and using state park property which will not be allowed. The applicant is suggesting the existing drainage as a baseline condition, but this would only apply to the existing natural undeveloped condition, conversely the applicant is proposing constructing a new hardened impervious driveway surface that will collect and channel water which will need to be accommodated within their parcel so as not to cause potential erosion, dispersal of paved driveway toxins, or other project related off-site impacts to the state park. Therefore, the project drawings should be re-designed so that the proposed new driveway/drainage facilities are fully contained within its parcel and will not directly or indirectly impact or reference unauthorized private use of state park property.
- In general, the project should be properly designed so that the parcel's proposed new Use Permit for commercial development (added to its current facilities) is fully contained within its property boundaries so as not to cause potential off-site impacts to the neighboring state park. This may include appropriate setbacks from the boundary for where there may be new facilities and/or hardened surfaces to ensure that these facilities are designed properly with adequate drainage facilities which are fully contained within their parcel to accommodate these proposed new built facilities. The project should not potentially cause direct or indirect sheet flow/water runoff or erosion or other off-site impacts to the state park which will not be allowed.



- Project did not adequately describe construction related work that may involve the use of large vehicles/trucks or equipment use and access, transporting materials to the site and off-site hauling, added noises, and other related project construction elements that may contribute to potential impacts which should be described, addressed and evaluated for potential impacts to the state park and its inhabitants. Lastly, for the County's consideration, while it is usually common for a project applicant to provide a detailed project description, plans and related project information and studies, however it does not seem appropriate for the project applicant to make a CEQA determination for the County.
- The project application is requesting an exception to County road standards for its private road easement for their proposed new commercial development and Use Permit, and has expressed no interest in a possible solution for the applicant to explore other road access alternatives like use of Bea Lane, which does not go through park property. For this new commercial Use Permit application, we encourage the County to review the application for this request for new commercial use, vs the historical residential use, thus closely reviewing and evaluating for what type of vehicle limitations may be relevant and appropriate for the proposed new commercial use/frequency of trucks (not only for construction estimated for 6 – 8 months and 200 truck trips for hauling soil off-site, although there was not mention of trucks bringing in construction materials and winery equipment, etc) to ensure that all easement users or park property are not affected by a County exception. Currently, the plans show that the private road in many areas is paved less than 16' wide and has sharp turns. Further, there is evidence of vehicles leaving the paved private driveway and going off into the adjacent dirt area which the use by commercial venue may exacerbate this existing situation.

In summary, with this letter we hope our comments are helpful to the County in its review of the Bergman Family Winery Use Permit Application. We look forward to receiving the requested materials and information and welcome the opportunity to engage with Napa County throughout the environmental review process for Permittee's project site development and use to ensure there are no project related impacts to Bothe-Napa Valley State Park.

If any of these comments need clarification or further explanation please do not hesitate to contact me at (707) 769-5652, extension 218.

Sincerely,



Laura Wilson  
Senior Park and Recreation Specialist  
Bay Area District

cc: Vince Anibale, Bay Area District Superintendent

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

P.O. BOX 23660, MS-10D

OAKLAND, CA 94623-0660

PHONE (510) 286-5528

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www.dot.ca.gov

*Making Conservation  
a California Way of Life.*

December 7, 2018

SCH # 2018112043

GTS # 04-NAP-2018-00148

GTS ID: 13419

PM: NAP – 29 – 31.84

Jason Hade, Planner III  
Napa County Planning Division  
1195 Third Street, Suite 210  
Napa, CA 94559

**Bergman Family Winery, Use Permit #P17-00428-UP - Mitigated Negative Declaration (MND)**

Dear Jason Hade:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans' mission signals a modernization of our approach to evaluate and mitigate impacts to the State Transportation Network (STN). Caltrans' *Strategic Management Plan 2015-2020* aims to reduce Vehicle Miles Traveled (VMT) in part, by tripling bicycle and doubling both pedestrian and transit travel by 2020. Our comments are based on the November 15, 2018 MND.

***Project Understanding***

Approval of a Use Permit for a new 8,000-gallon winery with a 5,113-square foot (sf) winery building and 385-sf uncovered porch area and improvement of the existing access road. An exception to the Napa County Road and Street Standards is requested to allow a reduced road width in several road segments. No visitation or marketing program is proposed. The project is located on an approximately 16.3-acre site and is accessed via a private driveway on State Route (SR) 29 which also provides access to Bale Grist Mill State Park.

***Access to State Route 29***

The road connection to SR 29 must be brought up to current Caltrans standards. Please provide evaluation of and mitigation for any impacts to the State right-of-way (ROW) resulting from that work.

***Biological Impacts***

We strongly encourage the applicant to conduct further analysis and pre-construction surveys for all sensitive plant and animal species in addition to owls that be may affected by this project. We are concerned the MND did not adequately evaluate or discuss impacts other species. Based on a

California Natural Diversity Database (CNDDDB) search, species with high potential to be impacted include:

- Bats, such as Townsend's big-eared bat
- Birds and raptors, such as Peregrine falcon
- Numerous special status plants, including Calistoga popcornflower, Sebastopol meadowfoam, and Clara Hunt's milk-vetch, which are all federally endangered
- Foothill yellow-legged frog, which is a CDFW Species of Special Concern and was recently proposed for the State Threatened list (currently a candidate, meaning it receives all protections while under review)

We encourage the Lead Agency to condition the project to develop construction work windows to avoid impacts to nesting birds during the breeding season, and to conduct pre-construction surveys for nesting birds and bats, as noise and light pollution (from potential night work) could spill over onto Caltrans ROW. Potential species impacts within Caltrans ROW must be evaluated and mitigated. We also encourage the use of mitigation measures such as off-site replanting of trees, in addition to avoidance measures such as avoiding nests.

### ***Lead Agency***

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

### ***Encroachment Permit***

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. To obtain an encroachment permit, a completed encroachment permit application, environmental documentation, and six (6) sets of plans clearly indicating the State ROW, and six (6) copies of signed and stamped traffic control plans must be submitted to: Office of Encroachment Permits, California DOT, District 4, P.O. Box 23660, Oakland, CA 94623-0660. To download the permit application and obtain more information, visit <http://www.dot.ca.gov/hq/traffops/developserv/permits/>.

Jason Hade, Napa County Planning Division

December 7, 2018

Page 3

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Jake Freedman at 510-286-5518 or [jake.freedman@dot.ca.gov](mailto:jake.freedman@dot.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Pat C".

PATRICIA MAURICE

District Branch Chief

Local Development - Intergovernmental Review

c: State Clearinghouse  
Laura Wilson, California Department of Parks and Recreation