

**Planning Commission Hearing Date August 5, 2020**  
**Public Comments: Agenda Item 7A 9:00am**  
**Rombauer Vineyards #P19-00130-MOD**

August 4, 2020

Submitted via email: 4pm PT

Attention: Wyntress Balcher, Planner II

As a neighbor to the Rombauer Winery (“Winery”) and member of the St. Helena community, we are writing to express concerns to the Planning Commission regarding the proposed Mitigated Negative Declaration set forth in the Request for Major Modification referenced above.

Comments are directed at Public Notice items 2 (“Revise the location of permitted wine consumption to include an existing picnic area from an adjacent parcel”), item 4 (“Amend the existing Marketing Plan”) and item 7 (“Allow outdoor amplified music on the crush pad, tasting room parking area, and the parking area near a cave entrance”). Since these provisions, as described in the Public Notice, do not accurately reflect the broader requests in Winery’s actual Application, we also reference item 3 (Mobile Bar and Seasonal Tastings), item 4 (Marketing Plan) and item 10 (Amplified Music) of the Application directly.

**Item 2 - Revise the Location of Permitted Outdoor Consumption to Add a Picnic Area from an Adjacent Parcel**

Winery currently has 6 separate picnic areas authorized for AB 2004 on site consumption and requests a 7<sup>th</sup>. The 7<sup>th</sup> location, from an adjacent property, is considerably farther from the location of the other picnic areas, and much further down the mountainside. As a result, it is much closer to adjacent property lines, including properties to the West and South of the winery, as well as the separately deeded residential property to which it is currently a part. As a distant picnic area, it would be out of sight of from all winery facilities (with no employee oversight) and the place most likely to invite misbehavior by guests. This location is also closest to neighboring properties, who have a pre-existing and legitimate expectation of unaffected privacy rights and lack of daily disruption.

We would also note that the application to move the property line (which would capture this picnic area) was filed approximately a year ago, with Public Notice provided. Nowhere in that application did Winery (which also owns the adjacent property) indicate the purpose was to enable a desire to expand its picnic facilities down the mountainside and closer to neighbors. Yet in its own application, Item 2, Winery states “One of the purposes of this lot line change is to include an existing picnic area [from the residential house], accessible through garden paths from the Winery parcel, as an AB 2004 picnic area.” The lack of disclosure in connection with the request to move a lot line suggests a tactical separation of applications, a deliberate omission of intent, and likely a general intent avoiding resistance to a

controversial picnic area through sequencing of applications and selective disclosure. Holistically, this appears fundamentally opposed to the Commission's mission and principles, as well as the purpose of Public Notice. We oppose the expanded licensure of the 7<sup>th</sup> picnic area, given ample facilities on site and outsized risk to neighboring properties. We would urge also caution among the Committee relating to future requests focused on this parcel.

### **Item 3 - Mobile Bar and Seasonal Tastings**

Winery currently is permitted to have up to 400 visitors per day, and is permitted to conduct seasonal tastings on its 700 sq ft patio adjacent to its 2500 sq ft tasting room. Winery seeks approval to designate another 567 sq ft of outdoor space for additional seasonal tastings, with service provided by a mobile bar unit placed in that area outside the cave entrance. In essence, when combined with expanded picnic areas, the request actually promotes getting as many of the 400 daily visitors as possible outside, where noise levels increase and carry through to neighboring properties. While we recognize the pleasure in an outdoor tasting experience, permission for mass outdoor tastings must be considered with balance. Expanded outdoor tasting area capacity will likely lead to future requests to increase the number of daily visitors. Given Winery's location nestled among neighboring residential properties, we oppose the request. The existing outdoor patio would seem sufficient, particularly since no increase in daily capacity is being requested. Any consideration of expanded seasonal tasting should be accompanied by thoughtful restrictions on time, capacity, and anticipate future requests for daily capacity increases.

### **Item 4 - Amend the Existing Marketing Plan**

The existing permit allows for 1 Release Party (max 300 people) and 4 Wine Club Events (max 250 people; to occur between 4 and 7 pm). Winery is requesting to combine and re-characterize these events as Marketing Events, increase maximum attendance to 350 people, and to eliminate any restrictions on the hours for such events.

- This proposed "re-characterization" essentially eliminates restrictions and broadens the scope of events from those specifically approved by the Commission in its 2012 Request for Major Modification – a Wine Release Day and Wine Club Events. The proposed changes raise potential red flags because they widen the scope while reducing specificity of permitted events. This increases the risk that such events have less to do with wine education and customer cultivation, and evolve more toward commercial "event centers" undertaken for business activity. As the Planning Commission knows, this is a risk pervasive across the Napa Valley. And in that context, larger group sizes and outdoor music exacerbate this risk. We request that any expanded events under the Winery's "re-characterization" and

combination plan be considered only with appropriate restrictions and guidance to ensure events are within the spirit of wine education and merely incidental to the operation of the winery. Such guidance was detailed in 2012 and should be consistent and included with similar specificity and expanded scope. For example, we would not consider it desirable for the community for Winery to “layer on” its own “marketing events” over the Bottle Rock week, transplanting party-goers from the controlled environment of the Napa fairgrounds to its estate in north St Helena. This would not be consistent with the promotion of wine education as the primary intention of such events, and would certainly result in a denigration of safety, given the nature of such crowds.

- Winery’s application proposes to delete and restate the Marketing Plan in its entirety, intentionally deleting the restriction on hours of events without calling attention to that deletion or identifying that change in its Statement of Request. Intentional omissions of this nature do not engender trust in the application process or reflect the degree of transparency necessary for community input and decision-making. The Commission recently provided thoughtful reflection and strict guidance in the 2012 application, providing that larger events occurring multiple times per year should be limited to the hours of 4pm to 7pm to mitigate traffic, noise, and other community impact. *(These provisions also included strict limitations on lighting and a prohibition of amplified sound of any kind.)* A single Auction event was permitted to run until 10pm (with 10pm inclusive of all necessary clean up). None of the concerns appropriately addressed by the Commission have disappeared, and therefore similar restrictions should remain in connection with the current request. To the contrary, concerns regarding traffic, noise, and other community impact issues have only intensified since that time. We request that the consolidated Marketing Events be limited to the hours of 4-7pm, consistent with the Commissions prior decision and current Recommended Findings. We would also request that the Commission provide prescriptive language to eliminate any ambiguities, clarifying: (i) what activities constitute “Marketing” activities, as opposed to business or entertainment activities; and (ii) that that any other approved events, such as the Barrel Tasting day or 4x monthly dinners, do not extend beyond ordinary hours (6pm or 7pm) if conducted outside and do not constitute other marketing activities that permit outdoor amplified music. Dinners conducted inside enclosed buildings are presumably subject to the 10pm completion rule (inclusive of cleanup).
- Winery has requested to increase the size of events from 250 maximum (the prior 4 Wine Club events) and from 300 maximum (for the single Release Day event) to 350 people maximum each of 5 events. Realistically, 350 people cannot fit in 79 (or 84) parking spots, substantially increasing the risk that people will park along the shoulder of Silverado Trail (as they do at many other wineries when lots fill on Release days), creating an unsafe

environment on a narrow and curved 2-lane section of the road where traffic travels at 55 mph. We request that the increase in limits, if granted, require a specific parking plan for each event, including either valet or shuttles to ensure safety along the roadside north and south of Winery.

- We are also concerned by the underlying intent of the road expansion. While Winery generously notes in its Application for expanded entitlements it is not seeking to increase the aggregate size of daily visitors, its requests in the aggregate potentially reflect an intention and path of increasing visitors over time. If there is no requested or expected increase in daily visitors, then a road expansion is a considerable expense to undertake relative to a system that currently operates well. We would also note that ingress and egress from the winery serves a valuable purpose of moderating traffic velocity along this stretch of Silverado Trail, where speeding can be frequent and accidents common.

### **Item 7 – Requests to Allow Outdoor Amplified Music**

Winery's Application requests the blanket removal of any prohibition on amplified music, noting with surprise that "Winery did not previously have this condition placed on any use permit or modification." Suggesting that this restriction was akin to an administrative oversight is hardly plausible. The restriction was specifically added when Winery requested and was granted broad expansions of its use permit through its 2012 Request for Major Modification, including:

- doubling of parking areas and tripling of parking spaces
- expanding its tasting room (2500 sq ft) and adding seasonal outdoor tastings to a 700 sq ft unenclosed patio
- extending winery hours and expanding tasting operations to 7 days per week
- allowing outdoor wine consumption in various AB2004 picnic areas
- adding 10 8-person food and wine pairings daily
- adding 4 Wine Club events per year (250 person max)

The Commission was clear in exercising discipline that such entitlements could be expanded for commercial opportunity, but controls needed to be in place to ensure that balance is maintained with the rural surroundings and local community. As such, the request for blanket removal of the standard prohibition on amplified sound solely on the basis that the Winery was not subject to such express restrictions prior to its 2012 modification is wholly inconsistent with the Commission's previously expressed intent and related instructions in striking this balance.

**7.A. Amplified Music through Speakers on Patio:** We are concerned that very little attention is given to the broad request for amplified music on the tasting patio, either in the submitted Sound Study or in the Recommended Conditions of Approval. If approved, such music could be played at any sound level, through any

size amplified speakers (or their replacements), and would surely be played 7 days a week for 8 hours per day. Presumably if the Commission grants permission for a second patio, the number of speakers will multiply as well. With 400 people per day visiting the winery and enjoying an outside tasting, crowd noise will build, and music volumes will be adjusted up accordingly.

The northern valley location of this winery and its surrounding neighbors is profoundly rural and very quiet. Traffic is not at a steady hum throughout the day, as incorrectly implied in the Noise Study. Vehicle activity is intermittent and limited. Outside of crush and rush hour, many parts of the day are preciously silent, and small sounds can be heard fully across the valley floor, emanating from properties on the Highway 29 side 2+ miles away. Winery and its tasting patio are located on the top of a large knoll several hundred feet above the valley floor, providing ideal conditions and opportunity for sound to carry further.

We strongly oppose the addition of continuous, outdoor amplified music on the patio, crush pad, parking lot, or any other area. Silence, birds and other natural sounds are as good a complement to a wine education experience as manufactured harmonics. No member of the community (whether permanent or visiting) seeking to capture the tranquility inherent to the area should be subject to the possibility of hearing music broadcast continuously 8 hours a day, 7 days a week, or any subset thereof. The fact that traffic periodically exists is not a reason to suggest that additional noise is not harmful – with this logic, noise pollution only accumulates and the area permanently reflects the air of disregard periodically and increasingly demonstrated by its least-respectful visitors. If any limited use of amplified speakers is considered by the Commission, we request that strict limitations on time and sound levels be imposed, such as the 45 dB limit for rural residential, adjusted for music (-5) for 40 dB, with meter monitoring.

Importantly, we also request the Commission to add additional language instructing Winery to prohibit use of personal portable amplified devices (i.e. Bluetooth speakers) by its visitors in outdoor picnic areas. These speakers have become increasingly common (and almost universal among younger visitors to the valley), and technology is unfortunately exceptional in these small devices, allowing powerful amplification. This specific limitation would be consistent with the Commission's broader limits against amplified sound when paired with outdoor sale and consumption.

**7.B. Amplified Music via Band:** While Winery has requested blanket removal of the restriction on amplified sound, we note that the Staff recommendation limits amplified band music to 5 events per year and limited to the hours of 4-7pm (as previous Wine Club Events were limited). We strongly support these restrictions, if amplified band music is allowed at all. As already noted, Winery's application itself requests the ability to have amplified music from bands or any other source on any day at any hour, without limitation. We again strongly oppose such a request – no winery should not be seeking broad permission that would allow it to emulate a

Bottle Rock-like experience on a daily basis. We also would request clarification that amplified music, whether from a band or from on site speakers, be prohibited for the 4x monthly (48 times per year) gatherings for lunch and dinners for up to 60 people.

Band Site S-3: In reviewing the Outdoor Music Sound Study submitted with the Application, we note that band location S-3 was located on the east side of the property, and was shielded on the west side and north side by the immediately adjacent wine production facility. Yet all sound receivers (R-1, R-2, and R-3) were to the West, North and Southwest. According to the Study, Band's music was amplified directionally East (towards Silverado Trail), yet there were no receivers placed in the actual direction of the music. Instead, all receivers reflected in the study were behind the direction of music and shielded by the large winery building in between. With such apparent deficiencies on its face, the Study provides no evidence that neighbors to the East of the property -- just across Silverado Trail -- will not be exposed to music in excess of applicable limits. As such, we request that any permitted amplified band performance be restricted to areas S-1 and S-2, where specific dB limitations are noted in the staff recommendation. If area S-3 is permitted, it should also have a conservative restriction as well.

### **General Observations**

Finally, with respect to the Application, Public Notice process, and solicitation of input by potentially affected members of the community:

The Public Notice sent directly to neighbors and posted online contains several material inaccuracies and omissions:

- The notice describes the requested modification to amplified sound as limited only to 5 events and live music. That is simply incorrect. The Application asks for the removal of the restriction altogether and to allow amplified speaker sound outside on any day without limits.
- The notice fails to describe the request to designate a new outdoor patio area near the cave and add a mobile bar.
- The notice does not address Applicant's request to remove restrictions on event hours in its restatement of its Marketing Plan.
- The notice expressly states that there is no proposed changes in hours of operation, yet proposes to expand the hours of events from 10am to 10pm from 4-7pm.

Gaining access to all of the underlying documents, including Staff Reports and Recommended Findings is not an easy task. The purpose of the Public Notice process is full and fair disclosure and an opportunity to be heard so that the Commission and neighbors are all equally informed; it should not be so challenging for the average resident without legal experience to navigate the process of

gathering facts, or to understand the potential consequences of a request for major modifications not fully apparent on the face of the Public Notice.

In this context, we respectfully request that the Commission give due considerations to all comments and concerns stated, whether formally or during the Aug 5 hearing.

Sincerely,  
Adam Nordin

**KATRINA KIRKHAM**  
**3473 SILVERADO TRAIL NORTH, ST HELENA CALIFORNIA 94574**

4 August 2020

Napa County Planning Commission  
Board of Supervisors Chambers  
1195 Third Street, Suite 305  
Napa California

Regarding: Planning Commission Meeting August 5, 2020 Agenda Item 7A  
Rombauer Vineyards Major Modification #P19-00103-MOD

Dear Commissioners:

As members of the St Helena and Napa Valley Communities and as neighbors to the proposed project, we are submitting these public comments in response to Agenda Item 7A.

We begin by informing you that we feel we have had insufficient time and access to inspect the records pertaining to this project. We have been unable to obtain an appointment to inspect the records in person, as appointments are a requirement during the Covid-19 pandemic. While the Planning Department as a whole, Planner Balcher specifically, and other County offices have been very helpful in emailing documents, the system presupposes that the public has prior knowledge that documents exist in order to ask for them.

In addition, the Pandemic has resulted in problems in many public agencies where we have sought guidance and clarification. As examples, the California Department of Alcoholic Beverage Control has had sustained issues with their computers and has been unable to provide assistance to us. The California Department of Fish and Game has been working at home and has been unable to answer questions.

Our first knowledge of the project was obtained through the County's mailing to adjacent property owners, which was postmarked July 15 but received by us on July 21, 2020. The bulk of the documents pertaining to this application were made available to the public on July 30, 2020 and the 7A Memo was added at some point after the initial agenda posting.

As we have made our way through the materials available to us, we have discovered that references to earlier projects make it necessary to inspect additional records (an example being the underlying documents for the 2012 use permit modification P10-00039-MOD). In some cases, we have been able to find those documents online, but in many cases, we have had to make many assumptions. Without an opportunity to inspect public records either remotely or



in person, it is impossible for us to feel confident that we fully understand the scope and impact of this project.

In addition, we feel the public notice does not accurately describe the proposed project. Specifically, the public notice states that there is no change to hours of operation. The current approvals are for retail sales and public tours/tastings to be conducted between 10:00 am and 6:00 pm (*7A Memo, page 5, Days and Hours of Operation (Approved/Existing)*) and for a Marketing Plan, which specifies different hours for 4 events per year, to occur between 4:00 pm and 7:00 pm (*7A Memo, page 2, Marketing Program (Existing)*).

The proposed new hours are most clearly spelled out in the portion of the Marketing Plan (Proposed) which addresses wastewater related to the Marketing Plan. The Marketing Program (Proposed) slightly changes hours for Retail Sales, Tours and Tastings to be between 10:00 – 5:00 pm and indicates that “other marketing events occur between 10:00 am and 10:00 pm.” (*7A Memo, page 3 Marketing Program (Proposed, item e)*). The effect is that the Winery would now be entitled to be open 55 days per year until 10:00 pm (15% of the year). We believe the public notice should accurately reflect the new hours that are proposed.

Additionally, the public notice does not accurately address the noise changes. The notice initially sent to property owners states that music is proposed for five events, as does the public notice for the August 5, 2020 meeting. However, the Winery seeks to remove as a blanket the restriction imposed by the Commission when expanded activities were approved with Use Permit P10-00039 in 2012. (*7A Memo, page 8, Noise*).

For these reasons, we request that the Commission delay a decision on this item in order to provide the public sufficient time to inspect the project and to access services from agencies both within the County and the State.

If the Commission is unwilling to delay a decision, we offer the following comments:

#### Proposed New Picnic Area

The Winery seeks to add a new picnic area, utilizing property that was acquired by a lot line adjustment of an adjacent parcel. When we inquired about this with Planner Balcher last week we received an immediate phone call from Rombauer executives who offered to meet us at the property on Saturday and to show us the proposed area. We were told the 2019 lot line adjustment was completed with the sole purpose of converting the private picnic area into commercial tasting space.

We wish that the applicant had been up front about the purpose of the lot line adjustment when we received the public notice last year. We would have had an objection at that time.

The proposed picnic area directly overlooks our home and our swimming pool. Having wine tasters hanging off of the hill tasting wine seven days a week will change completely the nature

of our rural property. While there is currently some scrub under the trees, the balance of the Winery property has been completely cleared of undergrowth and we were proudly shown the work that had been done to prepare for fire season. I suspect that the reason the space between the picnic area and our home is the sole hillside that has not been cleared of brush is to preserve to optics of this project. Once the scrub is cleared there is no way to screen our home from the new picnic area.

Additionally, a lot line adjustment is an expensive proposition, especially where the property values are as high as the properties involved. I don't see the "payback" to an operation as large as the Winery in adding two picnic tables. I suspect, like the initial lot line adjustment, that this is an example of scope creep and that in the future we will see an application to convert the picnic area to a different use, which is likely the "real" reason behind the request.

We object to the conversion of what was formerly a residential parcel to use as a commercial wine tasting area.

#### Wastewater Management

The Winery seeks to install a new leach field along our driveway and some tanks for wastewater storage. It is unclear to us how this system will work and how it will look. We would like to understand the nature of the storage tanks and the leach field. Given the time allowed to us, we have been unable to do so.

#### Amplified Music

The applicant posits that the limitations on noise, which were put in place as part of a 2012 Major Modification was put in place in error as the winery is pre-WDO and that the noise restrictions should be removed.

The 2012 application represented a significant increase in the winery's production capacity, employees, visitors, and events. Among these changes were:

- Extending days per week from M-F to seven days per week
- Adding food and wine pairings
- Adding four additional large 250 person events per year

We believe that the 2012 restrictions with regard to noise were a condition of approval for a hugely expanded "footprint." If the Winery would like now to remove one of the conditions, we believe the 2012 entitlements should be on the table as well.

With regard to amplified music, the Winery seeks to not just have music at five marketing events. The winery also seeks to have amplified music in their tasting areas outside.

The peaceful enjoyment of rural Napa Valley will be seriously harmed by amplified music eight hours a day (or more), seven days a week.

We object to an increase in noise levels as they are outlined in the application and in the recommendations.

#### Hours of Operation

Concerns with hours of operation were addressed in the notice section above. The application and staff recommendations would increase the hours of operation to 10:00 pm on days when there are events (*7A Memo, page 5*). Given that there are 55 events per year, the winery would operate with extended hours on a significant number of days.

We object to an increase in the hours and we feel that the restrictions imposed on the additional events, when they were approved in 2012, was appropriate.

We have learned from the Winery that the hospitality improvements approved in 2012 have not yet been undertaken/constructed. As the impact of those changes have not yet been felt in the community, we feel a “rush to approval” for this application is unwarranted.

Sincerely,

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Aug. 4, 2020

Re: Planning Commission Hearing Date August 5, 2020  
Public Comments: Agenda Item 7A  
Rombauer Vineyards #P19-00130-MOD

To the Commission:

My name is Eugene R. Kirkham. I reside at 3473 Silverado. I have lived there since 1975. I am also one of the owners of Casa Nuestra Winery. These properties are directly adjacent to the south of the application property. My residence shares a property line with the application property. The permissions which the applicant seeks in this proceeding will substantially and irrevocably compromise the quiet enjoyment of my property and will substantial diminish its value.

The application is lengthy and complex, encompassing a broad range of issues including but not limited to, expansion of the number of employees, adequacy of black water disposal, expansion of further visitorship, adequacy of parking, further traffic congestion, wildlife preservation, and expansion of "events" including live music. In each of these categories, the application seeks MAJOR expansion. Some of these concerns are more particularly addressed in the letter submitted by Katrina Roche Kirkham.

It has not been possible for me to analyze and evaluate these issues adequately in the time since notice was given. Particularly regarding the major expansion of the sanitation system - which will be sited according to the application within a short distance from my residence - I would like to consult with a private engineering firm regarding the adequacy of the plan. Furthermore, I believe that the notice given does not meet statutory requirements for a number of reasons including the fact that essential documents were not available until after the notice deadline. As to this issue, I will seek independent legal advice if necessary. Aside from the legal sufficiency of the notice, the time for comment has been too short to embrace the important civic goal of transparency and full opportunity to investigate and comment. For these reasons, I respectfully request that the application be denied or that the consideration of this application by the Commission be postponed for at least thirty days.

Respectfully submitted,

Eugene R. Kirkham