NAPA COUNTY PLANNING COMMISSION

IN RE: ITEM 7B
WAYNE AND KARA FINGERMAN/HARD SIX CELLARS WINERY/USE PERMIT #P16-00333 AND USE PERMIT EXCEPTION TO CONSERVATION REGULATIONS #19-00315 AND EXCEPTION TO THE NAPA COUNTY ROAD AND STREET STANDARDS

TRANSSCRIPT OF VIDEORECORDED PROCEEDINGS
MEETING OF OCTOBER 16, 2019

PRESENT:

JOELLE GALLAGHER, Chair, District 1
DAVE WHITMER, District 2
ANNE COTTRELL, District 3
ANDREW MAZOTTI, District 4
JERI HANSEN, District 5

Transcribed by: Kathryn Johnson

OCTOBER 16, 2019
CHAIR GALLAGHER: All right we’re going to move to Item 7B, Wayne and Kara Fingerman/Hard Six Cellars Winery/Use Permit P16-00333 and Use Permit Exception to Conservation Regulations 19-00315 and Exception to the Napa County Road and Street Standards. Mr. Hade. Welcome.

JASON HADE: Thank you, Chair Gallagher, and members of the Planning Commission. Jason Hade with the Planning Division. So hopefully I can get through a hundred slides before lunchtime, but I’ll do my best. No, actually, I have only about 20 here for you this morning.

So this project, as you can see here, is located on a 53-acre site within the Agriculture Watershed Zoning District. The address is 1755 South Fork Diamond Mountain Road and it’s just about three quarters of a mile south of the city of Calistoga.

As far as the General Plan Land Use designation, it is Agriculture, Watershed & Open Space. This just gives you a better idea of where it’s located in terms of you can see the highway here to the east, and of course the project parcel is here.

I believe most of you have had the chance to visit the site, but I’ll just walk through. These are some of the existing site photographs that I think are helpful to kind of orient ourselves and give us a better idea of what’s been developed at the site so far. That includes an existing home, about four acres of vineyards, landscaping, a pool, two 10,000-gallon water storage tanks. Another feature which we’ll discuss a little bit more in detail, there is a pond on site. Right here, as you can see, that’s actually to be restored as part of this proposal. So
site access is provided off of the south fork of Diamond Mountain Road. That would continue as part of this request.

So the request before you this morning is a use permit for a new winery with a 20,000-gallon-per-year maximum production capacity. The key features of the winery as you can see here would include a building, which is just under 4,000 square feet in size, two stories. There will also be a 7,000-square-foot cave, uncovered work area, and an outdoor hospitality area.

This gives you a better idea of the pond area. You can see here the building, as well as the proposed caves with the outdoor work area. There is a visitation and marketing program requested as part of the proposal as well. And then the other two key components we’ll be diving kind of more into detail this morning are a Road & Street Standards Exception to allow a few exceptions for the road standards on a couple of parts of the driveway, and then also a Use Permit Exception to the Conservation Regulations to permit some regrading within the existing creek setback for the driveway improvements.

This slide just gives you a better idea here of, again, the building to be constructed as part of the proposal, and also the cave.

These are the floorplans shown here. This is just a--I don’t think I mentioned this, but this is an accessory, just a pumphouse structure also to be part of the proposal.

So moving on to the exterior elevations. You can see here that the design would be in keeping with the agriculture theme of the community. It’s fairly subdued in terms of the colors proposed, as well as the material. The max height would be about
23 feet measured from grade.

I should also mention that these buildings and cave would not be visible from any public roadways, so there would be no viewshed issues, and that’s based on the, as you probably saw when you were at the site, just the site topography.

These next couple slides just give you an idea of the cave details, and includes the floorplan, as well as the two, or three, excuse me, portals there.

And then I’d like to briefly just touch on the landscaping proposed. As you can see here, and then lastly this gives you a more detailed view of the existing pond and the plan to restore it as part of the project.

So moving on to just some of the key issues that Staff looked at as we reviewed the request, that would include, first off, with the visitation and marketing program. We found that the numbers are slightly on the higher end of things when you look at similar size production facilities and we’re to address part of that, you’ll see that within the Conditions of Approval there is a transportation demand management plan program that would be required. And that would essentially have shuttles utilized for the larger events. We would also recommend that the tasting room would be closed during those larger marketing events.

So, you’ll see in our recommendation that while Staff was comfortable with the marketing/visitation program request in terms of numbers, if you do have concerns about that or are uncomfortable with those numbers based on all the analysis, we do have one of our options and the decision-making chart there

OCTOBER 16, 2019

--4--
would be for you to, in fact, reduce those numbers and there’s a path laid out for you to do that if you would like.

So the other thing I’d like to just touch on this morning is the Road & Street Standards Exception. There’s a few different components of that having to do with slope without transition zones, also with the re-grading here as you can see in this slide. This is important because this shows the fire truck apparatus that would be required to be able to make that turn, so that’s the re-grading that would be required within the stream setback.

So as part of the evaluation that we had, our team of experts, which is our fire department, our engineering staff, they visited the site several times, met with the applicant, they’ve reviewed all the different information. There’s a pretty stringent set of findings to be made to recommend approval of road exceptions and throughout their process and review they found that they recommend those findings and can in fact be made. You’ll see there’s memos to that effect in July of 2019 as well as the September 4th, 2017, that get into the details about the road exception request.

Just moving on to Conservation Regulation Exception, again, that’s required to allow there to be appropriate fire truck clearance there, so you’ve kind of got competing objectives with both the Conservation Regulations, as well as the Street Standards. In this case, in our biology reports, analysis bears this out, but it would be a pretty limited incursion into the stream setback, so we found that there wouldn’t be significant impacts with that by granting the exception, and it would also
still allow the fire truck there to make the needed turn.

Again, as with the Road & Street Standards Exception, there’s a set of criteria findings that have to be made before Staff is comfortable recommending approval. We’ve looked at that carefully and do believe in this case because of the limited incursions to the stream setback, as well as the limited impacts, that those findings can be made.

So that brings us to Environmental Review of the project. We’re recommending the adoption of a Mitigated Negative Declaration. We found that all the impacts could be mitigated to a level of less than significant with mitigation measures specifically for biological resources and transportation.

So, as Ms. Gallina mentioned this morning, we did receive quite a few public comment letters about this project. I’ll just briefly mention what’s in your packet. So there were about, I believe, ten public letters that were in support of the project. Some of those were from neighbors, other ones with folks within the region.

One letter I did want to just briefly mention is the Middletown Rancheria Tribal Comment letter. This was requesting a number of mitigation measures. Unfortunately, it was requested well outside our 30-day deadline for those types of requests, but Staff reached out to the tribe and coordinated with them, and as a result of that effort and consultation, we have a Condition of Approval that would require an onsite meeting with the tribe and the applicant to take place before project construction begins.

So even though it’s not technically required because their
request was months beyond that 30-day deadline, we have made an
effort to contact them and work with them, and I think we’ve
come up with a Condition that would meet their needs as well as
the applicant to take care of that part of the project.

So moving on to correspondence that you received after the
Staff Report was published, you’ll notice there’s a PC memo.
Within that there is a--that’s from Staff, and within that
there’s a letter from the California Department of Fish and
Wildlife. They outline some concerns with our biological
resources analysis. As a result of that we prepared a Staff memo
with some recommended changes or additions to, I think, about
three mitigation measures.

We also received, I think, three or four letters expressing
opposition or concerns to the project, as well as independent
biological report or assessment conducted for a neighboring
property owner.

So the gist of the theme throughout the letters with
concern is just issues with traffic, with water, with the scope
and intensity of the project and also with the biological
resources assessment.

One thing I did want to point out is in looking at the
independent biological assessment, throughout the letter it
alludes to the State may or may not permit this, concerns of
what the State may say. In this case, though, we’re lucky, we
don’t have to guess because we have a letter from the State,
which outlines their concerns, and that’s actually what our memo
seeks to address with the Revised Conditions. So we feel like
the State concerns have been addressed as part of that memo you
have before you.

I did want to touch on one other, or it’s actually two other letters. One, I think, was the latest edition. It’s an applicant letter from their water consultant that just speaks to a response to some of the water concerns you have. I think from another couple public comment letters. And I should also point out there, within the Attachment M, there is an applicant outreach letter that they conducted a pretty extensive amount of outreach, and you’ll find that in your packet as well.

So that brings me to our Staff Recommendation just to wrap up here. We do recommend approval of the applicant’s proposal based on all our analysis with all the different sets of findings I have talked about this morning, as well as consistency with the zoning ordinance and the various applicable General Plan policies.

We found that there is sufficient water to serve the project. The grapes supply is in keeping with the production request initially, and also they’re incorporating several greenhouse gas reduction emission strategies throughout. And lastly, there would be no civic and environmental impacts based on the mitigation measures we discussed.

So at this point I’d be happy to answer any questions you may have for Staff. I’d also like to note that we have [Asan Cosme] with our Public Works Department as a traffic engineer. He’ll be available to answer any traffic questions or questions about, perhaps, the condition of Diamond Mountain Road, and we also have Patrick Ryan available from engineering to address any specifics on the Road Exception Request. So. Thank you.
CHAIR GALLAGHER: Thank you, Mr. Hade. Does anyone have any questions for Mr. Hade? Can I ask a question about, and maybe this is more for the applicant about the cave spoils? There was some discussion around percent of cave spoils that would be kept onsite for the pond restoration versus those that were going to be trucked off. I was just wondering, I didn’t read that, it looks like Ms. Oldford might have an answer for that. So maybe we can just move on, if that feels better. Okay. All right. Great. we’ll go ahead and open the Public Hearing and hear from the applicant.

DONNA OLDFORD: Good morning, still, Commissioners. My name is Donna Oldford. I’m the planning consultant for Hard Six Cellars and for the Fingermans, who you’ll meet a little later. We have a number people here today. Our design team, Peter Collins, the architect. We have Dane Hoime and Lusvin Araujo from Delta Engineering. We have Tony Hicke from Richard Slade & Associates to talk about water, and you have his letter. Mark Crane from Crane Transportation Group will speak briefly to traffic as well.

In addition to our team, we have--at last count we had 15 supporters in the group, one had to leave, and you have, I think, 10 to 12 letters of support in the package.

Some people may have to leave, because, as you know, we’re picking grapes now. One of the neighbors that did have to leave had to go to San Francisco for a meeting, and he lives at the base of Diamond Mountain Road and had planned to tell you about the, what he perceives as very low level of traffic overall, but we’re going to let the traffic engineer speak to that
I want to commend Mr. Hade for doing an excellent Staff Report and very thorough. This has been going on for, we’re over four years now since this project was first filed with the County. And here we are.

I also want to point out that thank you for coming to the site to see it and we heard questions about the level of activity with the visitation. We heard you and we’ve come here today instead of to belabor the point. We’re prepared, my client is prepared to offer a compromise on the numbers that would hopefully make this a little more palatable to you and still keep him in business. His emphasis is on the tours and tastings rather than marketing events. So I’ll get into that a bit later.

Our issues here are the road exception. As you know, you don’t grant all road exceptions, and sometimes we don’t even propose them. I had a project here not too long ago where we didn’t even propose a road exception, we just told them right up front, this is not going to make it, and your wineries won’t have visitation, and they didn’t. But this is not the case with this project. There are actually quite a few turnouts already along Diamond Mountain Road.

So, the biology on the pond, as Mr. Hade said, we feel like we have that pretty effectively resolved through the letter with Fish and Game. We weren’t too happy that it came in at the eleventh hour, but it really is, sort of, a critical map outline for exactly what needs to happen and what permits are needed in order to do that.

This is a pond that’s a manmade feature. As you could see,
it’s a dust bowl, and it is much of the year. But my client isn’t trying to restore the dust bowl, he’s trying to do something there that would be aesthetically pleasing and could offer a watering place for wildlife and waterfowl, and he’s trying to do something nice there. He would use the cave spoils to do that. If he doesn’t, I mean, he doesn’t have to put the cave spoils there. This is over a 50-acre site, 53-acre site, so there’s plenty of room on that site where he could use the spoils.

The objective would be to keep as much, if not all of that onsite, if possible, whether he uses it to redo the pond or not. And I won’t say restore, because there was nothing there to restore. This is manmade. There’s no infill, there’s no outfall from it. It’s just--it is what you saw it to be the other day.

I want to say that just clarifying AB 2004 does not mean that you’re a restaurant or you’re a commercial kitchen. We are not proposing a commercial kitchen. They intend to use caterers when they serve food with wine.

On the water, I’m going to ask Tony Hicke to summarize on that. It is a science. We pay dearly for it and you rely on it, and we have a report, and Tony will summarize that.

Also, there’s a misunderstanding that a winery is an intensive water user. Actually, a winery uses about the same amount of water as a single-family rural residential unit. That’s because they treat and reuse much of the water they use for process. Our wastewater feasibility report is positive.

We have the ability to treat wastewater on the site. One letter mentioned a hold and haul system. It’s never been part of...
what we anticipated or even considered. So there will be no hold and haul.

Construction impacts were addressed, and these are worth noting and worth finding a way to try to minimize those, of course, but in terms of CEQA, CEQA considers construction impacts temporary and therefore they do not rise to the level of significant impacts for purposes of their evaluation.

Just a quick correction on the Staff Report, page 3, paragraph 1, it mentions 35 square feet into the setback. It’s actually 35 feet into the 55-foot setback. Page 8, paragraph 2, there is a left turn lane at Highway 29. We weren’t required to put one in because there already is one.

And then one statement that a hundred percent of their wine production will be Napa Valley fruit. They, of course, are obligated to abide by the 75-percent-grape rule and they’ve signed that. They do have some grapes that might come from a vineyard they own in Sonoma County. It would be far below the 25 percent, but that is a little misleading. They might have blend and that sort of thing. They do own four acres of vineyards on the site, two acres of vineyards up on Hennessey Ridge. They are not visible from Diamond Mountain Road and there should be no discernible noise.

The production is going to occur to the rear or in the cave of the winery or in the cave, and their visitation is such that, you know, you’re not going to have a lot of noise up there. The Fingermans live in their home onsite. They do live there full time, so they’re not interested in creating nuisance factors.

On the visitation and marketing, currently they have asked
for 16 visitors per day on their busiest day and a maximum of
112 per week. We went back and forth about the maximum weekly
number and they want to be able to see 16 on their busiest day
just so they’re not out of compliance on a really busy day.
Obviously they’re not going to do 16 people every day. So we’ve
lowered that 112 number to 80. So you’re looking at on average
ten per day, some days you might not have any, but we want them
to be able to cover when they have 16 people at the winery,
which would translate into five cars per day, less than one car
per hour on weekdays, busiest day, six cars per day, still less
than a car an hour, on the weekends. They have offered the use
of shuttle service for their marketing events and many of their
visitors they expect will come in higher occupancy vehicles like
an SUV, or even some of the wine services that would carry a
number of people in one vehicle.

So we heard you, we don’t need to, you know, we don’t--on
the marketing events, we are proposing to reduce those from four
larger events per year to only two. So we’d be giving up two of
the larger events per year and placing the emphasis, as many
people do, on the tours and tastings. That’s really their
lifeblood. And the two events per year plus one auction event
would all have the ability of shuttle service to assist.

I think the important thing here is that this is an area
where you’ve got a lot of grapes. I guess the comment was made,
well, this is a residential community. No it’s a hill of grapes.
There are many people up there that have grapes who need a place
to crush, would love to have a place to crush, you’re going to
hear from one of them at least today who would love to have the
ability to process their fruit on Diamond Mountain instead of having to take it down Highway 29 to Benessere, which is where my client crushes now, or even to Laird.

So, we think this is—obviously this is a small-scale project, 20,000 gallons per year. It’s low profile in virtually all respects. We believe all the issues have been addressed definitively. We have two biology reports, we have the letter from Fish and Game, the Big Kahuna, and the mitigation measures that were proposed as a result of that report.

The Road Exception has been approved by your Public Works, County Engineering Staff, and CDF, and we think that this actually improves safety on the road.

And then I want to speak just to the issue of estate-grown wineries. We have this trend where projects are seen as really superior and just great if everybody grows all their own grapes onsite. Well, some people want to do that. Some people do that. But not many wineries do that. Certainly not a lot of big ones, and the small ones grow, obviously, as many grapes as they can, but they depend on our independent growers here. And if every winery becomes an estate-grown winery, then we’re not doing much other than putting our farmers out of business. Because 66 percent of all the wine that comes out of the Napa Valley is grown by independent growers. There is a symbiotic relationship there and sometimes I think we are, as Ned Beatty said, toying with the fundamental rules of nature. This is an important balance. And what better situation than to have a winery that’s of a small scale that has the ability to crush grapes that otherwise have to be trucked up and down the Valley.
Public outreach, you know, obviously there’s been a lot of that, and you have a number of supporters and some who do not agree. They reached out to everybody. We got three emails from people who live much further up the road that were not on the mailing list. They reached out to those people after they received the email and there was not a response.

We want to reserve the right for rebuttal at the end of testimony, but I would just offer that we feel all of the areas of importance that have been noted by either side have been definitively addressed, the Road Exception with a recommendation from your own Staff, the biology from two reports, Fish and Game and follow-up mitigation measures, and the water by--the letter from Tony Hicke of Richard Slade.

There is one really odd thing in one of the letters that I just wanted to rectify. There’s a comment about an indemnification form and I thought--when I read it I thought, what? This--it didn’t make any sense to me, and I went back into my files and I realized what it was. At one time before we filed--before we moved the access road back completely within the easement, there was the option of having the access road go on a portion of property that was not within the easement, but did belong to another party. So the indemnification form was not intended, and would never have been intended for the other property owner to sign off indemnification to my client. In fact, it would have been the reverse.

What this was, was in order to put any portion of the winery access road that was not within the easement, any portion of that road on a neighboring property, a property that was not
a party to the winery application, that party would have had to sign your County indemnification form. And so that was the indemnification form that was forwarded.

So the upshot of that was that the property owner respectively said no, we’re not interested, and we went back and redesigned and found a way to keep all of the winery facilities on the applicant’s parcel.

Finally, I hope—I know I’ve worn your hat in the past and it’s really difficult when you get people who disagree. It’s difficult for everybody. I think it’s especially hard on the neighbors and I think we just have to find—we’ve always looked for a happy balance between agriculture and residential uses and tourism. It’s always been a delicate balance and I see us tipping more and more into lifestyle instead of livelihood, and you don’t have—the two are not mutually exclusive.

But we also have a lot of people who are not engaged in agriculture who just want lifestyle to be the difference. And you know, it’s kind of—once you go down that road, you don’t come back again. Ask anyone who’s been there.

So hopefully we can find that balance, but remember the highest and best use for these lands is still agriculture and the business of agriculture, and at the end of the day I think people find a way to work it out.

If there are any questions for me I’m happy to answer. We have our team here to answer questions and—okay. I’d like to have the applicant introduce themselves, Kara and Wayne Fingerman.

CHAIR GALLAGHER: Okay. Did you have a question for Ms.
Oldford?

COMMISSIONER WHITMER: I do.

CHAIR GALLAGHER: Okay can we just do that first?

Commissioner Whitmer.

COMMISSIONER WHITMER: Thank you, Chair Gallagher. Donna, I thought I heard you say, or someone said that the Road & Street Standard Exception was going to have a--be encroaching into the 55-foot setback by 35 feet, and it made it sound to me as if that was a linear distance, but what I read in the Staff Report was that that encroachment was approximately 35 square feet, which is, that’s a five-by-seven-foot area. So...

MS. OLDFORD: Yeah. I think that was a typo.

COMMISSIONER WHITMER: So what I’m trying to get to is what are we talking about in terms of the encroachment? Is it 35 linear feet, is it 35 square feet?

MS. OLDFORD: This is our civil engineer.

MR. HADE: Yeah. I can speak to what’s in the Staff Report, too. That’s actually, it’s not the distance, that’s the area that would be disturbed or within that setback and that is, according to the application, that’s 30 to 35 square feet is the area to be disturbed. The creek setback.

COMMISSIONER WHITMER: Okay.

MS. OLDFORD: Would you say something? You have to introduce yourself.

DAINE HOIME: Dane Hoime, Delta Consulting Engineering address 1104 Adams Street in St. Helena. The encroachment occurs at the driveway’s intersection with the south fork of Diamond Mountain. I think the 35 square feet might have been a typo. I
can’t recall if we’re 35 feet in to the 55, or 35 feet outside of the top-of-bank. Either way, this intersection improvement would be occurring on the opposite side of the south fork. There’s already been improvements made adjacent to that creek top-of-bank. That is the publicly maintained road.

So we’re staying on the opposite side of that. We’re not doing anything, any development close to the creek that hasn’t already been done. So there’s already a road there. We’re just improving the opposite side of the road on the project side of the road.

COMMISSIONER WHITMER: Jason, can you bring up the graphic there for me?

[UNKNOWN:] It’d be UP 2.7 [inaudible].

MR. HADE: Yeah, let me find the best one here for you.
COMMISSIONER WHITMER: Yeah. Thank you.
MR HADE: Is that helpful or is it...
COMMISSIONER WHITMER: If you go to the next one, Jason.
MR. HADE: The next one? Okay. That’s the [access point]. That’s what I was looking for.
COMMISSIONER WHITMER: So maybe with the cursor you could show the area that you’re talking about in terms of the encroachment please.

[MR. HADE:] It might even be--is this 2.7?
MS. OLDFORD: Point six.
MR. HADE: Sorry. I’ll find the best one for you here.
COMMISSIONER WHITMER: Yeah. Thank you. [Inaudible conversation.] Sorry. I didn’t mean to put you on the spot.
MR. HADE: So that one, I think, is in the [packet].
[Inaudible conversation].

[UNKNOWN:] I don’t think they downloaded the complete set of plans. Or he didn’t put that in for some reason. I don’t understand that, but. Patrick knows what’s going on. Yeah. He’s getting Jason straight, so [inaudible].

[Inaudible conversation.]

COMMISSIONER WHITMER: Sorry.

CHAIR GALLAGHER: No, it’s a...

MR. HADE: Got it. Thank you for your patience.


[Inaudible conversation.]

MS. GALLINA: If you wanted to zoom in. It’s kind of hard to see.

CHAIR GALLAGHER: Is that the right one?

[UNKNOWN:] Yeah.

MR. HADE: All right. So I think we’ve finally found it here. A little hard to read here, but this is--do you have--oops--you can see, there’s the creek setback line there, and this area--yeah, and then the disturbance would be, let’s see, that would be--so 30...

MR. HOIME: So your cursor is hovering over an improvement...

MR. HADE: Yeah, it’s really...

MR. HOIME: That would happen within the Setback. But still on the opposite side of the south fork from the creekbank.

[Inaudible comment.]

MR. HOIME: Yeah.

MS. OLDFORD: Does that answer your question?
MR. HADE: Does that help you out, or is that...

COMMISSIONER WHITMER: It does. Thank you very much.

MS. OLDFORD: I would like for you to--the Fingermans to introduce themselves. I also want to say there are no compliance issues on this property. So we’ll move ahead. The Fingermans would like to introduce, and then I’d like for Richard Slade, Tony Hicke to make a brief statement about water and Mark Crane to make one about traffic. Thank you.

CHAIR GALLAGHER: Thank you.

WAYNE FINGERMAN: Good morning. I hope it’s okay if I read my introduction, or at least a portion of it. We’re Wayne and Kara Fingerman, 1755 Diamond Mountain Road South in Calistoga. First, Kara and I would like to thank you, the Planning Commission, for considering our project. As you know, we’ve been working towards this goal for many, many years now. We’d also like to thank the County Staff, and in particular, Jason, for their efforts in managing the process to date, and lastly, we have had a really nice turning out here of support, so we’d like to thank those of you who showed up. We know you’re very busy people.

So Kara and I have made the Napa Valley our permanent residence now since 2012. In 2011 we purchased a vineyard property up on Hennessey Ridge with the intent of making some nice wines from that location. We decided to move out a little bit sooner than expected, and came out in 2012 and produced our first vintage of 2012 Hennessey Ridge Cabernet and a sauvignon blanc that we sourced.

As luck would have it, Kara was rifling through some
listings and saw an exceptional piece of property on Diamond Mountain, one of our two favorite appellations. In particular, what we really like about it are the volcanic ash soils, obviously the beauty of the site, but the rustic nature and the ability in a bit of a cooler climate to produce the kind of wines we were hoping to make. So we jumped on that opportunity in 2014 and moved up there full time in 2015.

We’re very lucky to have found that vineyard because it really is aligned with the kinds of wines, the restrained style that we’re looking to make. We participate in almost all facets of the farming and winemaking processes from weeding to hauling fruit, and we’re in constant and close consultation with our winemaker.

Our efforts can best be described as minimal intervention with labor intensive farming techniques and little to no chemical inputs. We’re very respectful of the ecosystem in which we live and again hope our wine showcases sites where our grapes are grown.

In what seems a natural progression of our past efforts, our own facility would allow us to have more control over the winemaking process as we do in the farming process. We believe we can make a better product at our own facility with that oversight.

The other obvious benefit would be the ability to entertain potential clients, which we cannot currently do at our crush facility and thereby grow the business and of this endeavor.

We’ve spent a tremendous amount of time and resources towards achieving this goal in the hopes of furthering our brand
and sharing our wines with more and more people over time. We’re very passionate about what we do, and we think it shows in our wines. As such we hope you will help us move to the next step in our evolution and grant us a permit for our own facility. Thank you.

CHAIR GALLAGHER: Thank you. Thank you both.

ANTHONY HICKE: Good morning, Chair and Commissioners. My name is Anthony Hicke, or Tony Hicke, with Richard Slade & Associates. I’m a hydrogeologist that prepared the Water Availability Analysis for this project. You have the Water Availability Analysis, I’m not going to go through the entire thing, I just wanted to touch on a few of the comments that were received and kind of a summary of the letter that you received very recently.

I’m a certified hydrogeologist in California. I’ve been with Richard Slade & Associates for 19 years and I’ve been working up here in Napa County that entire time.

One of the comments in the letters talked about geology or hydrogeology or groundwater not being quantifiable, and my entire career has been spent quantifying groundwater. The purpose of the County’s WAA guidelines is to require projects to quantify groundwater volume and rate and to make sure that the water there at the property is sufficient for the project.

I also understand, in doing this for a long time, that the nature of the geological sciences creates discomfort with a lot of people. Nobody here has x-ray vision, I can’t see underground, neither can you, and so we have to rely on a lot of references and other methods and methodologies to do these
calculations.

So the important part is, for this project, number one, we used County references, the updated Hydrogeologic Conceptual Model of the Napa Valley that was prepared for the County, published in 2013. That was an important reference. We looked at multiple sources of rainfall, not just one. There’s a discussion of many different sources of rainfall we look for in the original WAA. And we look for long-term trends, we look for local sources and we compare all of those in our Water Availability Analysis.

And thirdly, we considered a very conservative drought in our document. We talk about what the most recent drought was and what historic droughts have been, and we actually estimated an even more severe drought, and that’s outlined in the Water Availability Analysis. So we think we did quantify those parameters.

And just a few comments on the project water use. There was some question about how much water was considered, etcetera. There’s a detailed list of the estimates that were made for this project on how much water it’s going to use. They are estimates, of course. Especially the projected future estimates, but, importantly, we made the assumption that 7.5 gallons per minute is what was required for this project. And that was a conservative estimate because we said there’s a lot of factors.

The residence uses water over the course of the year, irrigation occurs at a certain time, and crushing appears at a certain time. Let’s assume they all occur at the same time of year during the same 16 weeks that you’re irrigating the
vineyards. So that’s how we come up with that 7.5 gallons per minute. It doesn’t mean that the entire year that well has to pump at that rate for the entire time.

That was a conservative estimate so we could compare what we think this well is going to have to do to provide water for the project and how much this project actually needs. So that number is high and that number is double what—the pump test was performed by a reputable drilling company. They pumped that well at 15 gallons per minute and that’s also detailed in the Water Availability Analysis.

It’s also important to note that this well isn’t a new well, it is currently being used at the property for the existing site uses. And the existing site uses are higher than the proposed site uses with the winery.

As Donna Oldford mentioned just a moment ago, just to put things in perspective, we often talk about winery and water use and how much they use, and so as a hydrogeologist working in the county, if you come to me and say I want to build one residence on a property, how much water am I going to need. And the back-of-the-envelope standard estimate is you need one acre-foot of water per year and that’s an estate-style home, you’d probably have some pretty nice landscaping, etcetera. So we say one acre-foot per year. This winery project is less than that, and I think Donna also made that point. So not to belabor it too much, but, you know, relative terms are concerning to scientists.

Finally, when we talk about a lot of the comments that we received talk about anecdotal evidence of low flow in a neighbor’s well. And I’m not trying to belittle those comments.
or say I don’t understand them, I mean there are absolutely problems with water wells and people run into them and there can be low flows, and I don’t doubt that people have problems with water wells in the area.

What is important that is not provided in some of those comment letters and it doesn’t allow someone like me to express a strong opinion on them is, what is the well being used for. How much is it trying to water. You know, we say low flow. Is that two, five, ten, twenty. It’s all relative terms.

And so when we talk about a low-flow well, we also like to talk about are we trying to irrigate ten acres of vines with that or are we just trying to provide a two-bedroom house with water. So, it’s tough to evaluate those things when we talk about low flows.

But what we do know is what we know about the onsite well. The well currently meets the onsite demands, the analysis and calculation shows that the volume of groundwater that we estimate to recharge on the property is sufficient for the project and the data we have for the rate at which the well pumps and the rates at which the project will require groundwater, this well is sufficient.

So, as I said, short summary. I thank you again for your time and if you have any questions I’d be happy to answer them.

CHAIR GALLAGHER: Thank you, Mr. Hicke.

MR. HICKE: Thank you.

MARK CRANE: Mark Crane, Crane Transportation Group. I’ll be even more brief than that because I received no comments on the traffic, so usually traffic people are punching bags, and
this project, no.

Just a quick background of the traffic conditions up in this area. Traffic counts were taken at the project entrance, as well as down at 29 and Diamond Mountain Road for the peak traffic hour on a Friday afternoon. There were roughly about 60 vehicles on Diamond Mountain Road at 29. Peak hour on a Saturday afternoon there were roughly 40 vehicles on Diamond Mountain Road. Up at the project site itself, about five vehicles per hour on both the Friday and Saturday afternoon peak hours. That was one of the few locations where you could actually almost go to sleep waiting for the next car to come. Not much activity up there.

There is already a left turn lane on Highway 29 at Diamond Mountain Road. The delay for vehicles turning off of Diamond Mountain Road to Highway 29 are well within acceptable limits set by the County.

In regards to project traffic during the peak hours it would be surely visitation traffic for those time periods, maybe one car an hour at most two cars an hour as, you know, people are set up for appointments to come in for their tasting. So those one or two vehicles would produce no significant impacts.

CHAIR GALLAGHER: Thank you, Mr. Crane.

MR. CRANE: Thank you.

CHAIR GALLAGHER: Ms. Oldford, did you have anyone else from the team that wanted to speak before we hear from anyone else?

MS. OLDFORD: Donna Oldford. No, we don’t.

CHAIR GALLAGHER: Okay.
MS. OLDFORD: We’re happy to answer questions and we’d like a chance for rebuttal at the conclusion of testimony.

CHAIR GALLAGHER: Okay. Thank you.

MS. OLDFORD: Thank you. Madam Chair, I know there are people here to speak for and in opposition to the project, some of whom on either side might not be able to return after the lunch hour, so I wonder if I could request that the lunch hour be delayed long enough to let people speak.

CHAIR GALLAGHER: I think that we’ll probably be able to get through the Public Comments.

MS. OLDFORD: Thank you.

CHAIR GALLAGHER: Okay. Thank you. So please, if you’d like to speak on this item, please come forward.

MARTIN CHECOV: Good morning, Chair Gallagher, Commissioners. Thank you for this opportunity. My name is Martin Checov. My husband and I, Tim Bause, live at 2031 Diamond Mountain Road. It is one of the immediately adjacent properties to the subject property. The south fork of Diamond Mountain Road bisects our property and ends in our front door right in our eyes, and we have a line of sight to some of the buildings currently on the subject property and also activities there are audible.

As such, we are members of the Diamond Mountain community for more than 20 years. We are owners of the driveway easement that was the subject of discussion earlier. We are as a result directly impacted by the proposed project on environmental, bioresource, vehicular traffic, noise, water availability, and wildfire protection issues, some of which, but not all of which,
were addressed in the materials put before the Commission.

I want to commend Mr. Hade, who has been respectful and receptive to me at all times, for the extremely hard work that he and his staff had to do to, permit the metaphor, squeeze a very large and ill-fitting foot into a very small and delicate shoe.

We don’t take the view that all agricultural activity is a bad idea, although reasonable minds could differ with Ms. Oldford’s statement that agricultural activity is the highest and best use for even the highest peaks and most remote, and as Mr. Fingerman has said, beautiful and special and rustic properties everywhere in the Napa Valley. There has to be a balance, and that’s what I’m here to talk about.

We submitted a detailed report accompanying our letter. I commend it to the Commissioners’ review, from Huffman-Broadway dealing with some of the important CEQA issues. I won’t go into the details of those there, but he points out deficiencies in the proposed declaration of no environmental impact, no significant environmental impact. The negative declaration would be a problem.

But let me point out that I come at this from--and Tim and I come at this from perhaps an unusual, and maybe on the mountain, unpopular view, which is that we recognize and endorse the dream of people to build a winery, to make their own wine, and we have always been sympathetic to the Fingermans in this regard. We don’t oppose the building of all facilities. We didn’t oppose even the--if I may continue.

CHAIR GALLAGHER: Just go ahead, and if you can wrap up.

OCTOBER 16, 2019

--28--
MR. CHECOV: I can wrap it up very quickly. We did not oppose other developments on the properties adjacent to this, including two vineyards. We did not oppose the Rosewood resort that Calistoga approved at the bottom of the hill, and we don’t oppose the building of an estate winery that would service Mr. Fingerman and Mrs. Fingerman’s personal production of grapes, and would be appropriate in scale with this delicate ecosystem that would be severely impacted by the building of what I consider to be an industrial facility, completely out of relation to anything else in the region that high up the mountain.

We are three miles up Diamond Mountain. To import grapes from up and down the Napa Valley would involve not just heavy traffic on a one-lane road, most of it, it is not a two-lane road, it has turnouts, but it is a very impaired artery, and the size would be disproportionate to virtually everything on the mountain and certainly everything that high up the mountain.

I believe Mr. Fingerman and Mrs. Fingerman report on their website a production of something like 2,500 gallons of grapes. This is, as Mr. Hade put it, something on the high side for an approval of this nature. A multiple of eight, which by the way, I’m told by people who play craps is the odds of a hard six. Eight to one. Multiple of eight of what they need to handle their own production and is probably in excess by a multiple of any reasonable number of what should go that high up on the mountain.

We would be happy to discuss with them the various issues that we’ve raised in our letter and perhaps come to some
accommodation. It’s nice that they have reduced the proposed number of visitors to what would still be the largest number of visitors for any winery facility on that portion of the mountain by a factor of four or three or four, and needs to be customized and tailored to the delicacy and extreme rustic nature of the site. If there are any questions, I’ll be happy to handle them, but I commend to the Commission the reading of the letter we have submitted. It provides in some detail an analysis of these questions. Thank you.

CHAIR GALLAGHER: Thank you, Mr. Checov.

DAVID HEITZMAN: Hello again. David Heitzman, 23 Rockrose Court. Boy. Pretty interesting. First thing is AB 52. It involves CEQA. Please look it up. You’ll find, I have a copy of it right here, second sentence is—the word is requires, not reach out to the tribe. It is required. Read the law. That was one of the big—when it was first passed, that was the one big thing that no one knew how that was going to play out and we still don’t. So that was required.

And the second thing was that mitigations like meeting with the tribe is not a mitigation. A mitigation, and this has been—look up Susan Brandt-Hawley, she’s actually a—has a winery, she’s a lawyer. Her court decisions on CEQA and she championed the fair argument. The fair argument is, well excuse me. The fair argument is if anyone makes a reasonable argument, no matter how many other arguments are presented, you could have 50 experts supporting one issue, and if someone comes up with a good argument against them, one expert, or a good argument against them, you have to proceed with the EIR. Okay. Susan

OCTOBER 16, 2019

--30--
Brandt-Hawley, you can research her that way, I’m sure.

So it gets back—getting back to the mitigations. Meeting with the tribal leaders is not mitigation. Again, there’s plenty of court decisions on that. A mitigation is a defined action. You say actions to be followed, something in the future. Sorry. There’s plenty of court decisions against that. You can do what you want, but that’s how it’s been played out.

Next thing. Unstable soil. On the soil cuts. I was looking up at the plans up there on the roads going in. It appears that they’re greater than one to one. Two to one is generally accepted as a standard road, beyond that needs engineering. You have engineers here. Okay. Case covered except that the soil types up there. You’ve got volcanics and you’ve got cretaceous soil. The cretaceous soil is the same thing we have up in Circle Oaks. We have volcanics and cretaceous soil. You cut into a bank like that, you should have a soil support. Right? We’re required to have it. It’s known problems of soil movement up there too. Okay. That should be done.

I have sat through many hearings here in the county and I thought we were going—we’re not going to have wineries at the end of single-access roads. Isn’t that where we’re supposed to be going. I thought so. Everyone’s talking that way.

Very quickly, part of my career I spent as fighting wildland fires. Okay, I was a professional firefighter. We’ve seen what happens up there with the winds. Again. Single access. We know better.

End of conversation. Anyway, thank you for your time and your attentiveness.

OCTOBER 16, 2019

--31--
CHAIR GALLAGHER: Thank you, Mr. Heitzman.

KETAN MODY: Hi. My name is Ketan Mody, I'm the neighbor that lives at 2087 Diamond Mountain Road. I’m in favor of this project for a number of reasons, but mostly because we need to champion small grower-owned wineries in this Valley.

This Valley’s reputation was built on small detail-oriented wines and showed a sense of sight on a world-class level. The unintended consequences of this has been a flood to the Valley to chase that dream and many laws that have tried to protect how special a place this is to grow grapes. But those laws have played to the lowest common denominator and have pushed wine quality to be more homogenous due to larger custom crush facilities being the only choices small winemakers have.

If you grow grapes and make wine, which is what this Valley does, then it should be reasonable to make those wines on your property and close the loop. Just as the founders of this Valley would have wanted as well. I grow grapes on Diamond Mountain and currently make my wines in Sonoma County and would love to have the opportunity to bring all this closer to home by possibly crushing at their facility.

A project such as the Fingermans is more what this Valley needs, and I hope you choose this Valley’s best interest instead of those neighbors who love to live in Napa Valley and use all of its resources but not participate in the lifeblood of this Valley, which is grapes and wine. Thank you.

CHAIR GALLAGHER: Thank you, Mr. Mody.

CHARLES DE LIMUR: My name is Charles De Limur. I live adjacent to the property. I want to thank you for hearing what I
have to say, which is, essentially, the project is too big. We know that you, or the report says that the turnout is permissible or mitigatable, or whatever it is, but it’s not really that that makes the difference here.

What makes the difference is the fact that it is a mostly three-mile, single-lane road with some turnouts and many blind curves. Anybody that comes up that road that doesn’t have either their wits about them, or the knowledge of where they’re going, creates a major hazard. We have no fire access besides going down, that’s reasonable. We have a dirt road that comes off the top, but that’s not actually accessible in most cases because of a variety of reasons.

So one thing that was really interesting—what I found interesting about this report is that 12 people or 18 people a day coming up in single cars and all the rest of it doesn’t actually discuss what it takes to actually produce wine at a location. It’s just not the visitors that we’re concerned about, it’s the truck traffic, it’s the supply chain, it’s the delivery, it’s all the things that actually create this endeavor. And we’re not against the endeavor. We’re mainly against the size.

So I would like you to consider that when you deliberate that this is actually too big for the site and it has problems that are really systemic to life, safety and the enjoyment of everybody on the hill. Thank you.

CHAIR GALLAGHER: Thank you, Mr. De Limur.

GEORGE CALOYANNIDIS: George Caloyannidis, Calistoga. There is not much that I can say that points out that I have an
objection to people making wine, making their own wine, and the
Fingermans are making their own wine. Also I have nothing
against the Fingermans. The Fingermans come and go. Wineries
change hands, but the question for this particular application
is what does it take for a winery to be denied.

If this winery is approved, that is accessed by a single-
lane road, that is on a road that has no secondary access, that
requires a stream setback variance, three more variances on road
standards, that produces 20,000 gallons of wine, of which 19,000
are imported, creating the traffic that the previous speakers
were talking about. What does it take to deny a winery at a
certain location.

The County has been working, and I don’t know if they still
do, but I haven’t heard that they reached a conclusion about
rules for remote wineries. Well this is a remote winery. And the
traffic study, when they’re talking about well, there are only
four or five more cars, yeah, that’s no problem. The problem is
what type of cars. I sent to all of you two pictures that show a
catering truck and another big truck that comes up to this
access road and trucks of this size prevent other trucks and
other cars to navigate this road. And the more people you bring
up there, with no secondary access, the more fire danger
incidents you invite.

So the question is what does it take to deny a winery up in
the hills? I think this particular application, and I wish the
Fingermans every possible luck to make the best wine they can,
but this is not the right location. Thank you.

CHAIR GALLAGHER: Thank you, Mr. Caloyannidis.
KELLIE ANDERSON: Good afternoon. Kellie Anderson, Angwin. I had a couple of questions that maybe the applicant or Staff could ask. At some point a timber harvest conversion plan was issued by the State of California, CAL FIRE, to develop the vineyard that is on that property. So I’m curious if the applicant plans any additional acreage.

There are notes in there about the Western Pond Turtle occupying, potentially, the site, it’s always potential, it couldn’t be identified. But the mitigation measures that were offered were that a biologist would come and pick up the turtle should he be found during construction and be relocated is simply not a feasible mitigation measure.

One of the topics that needs to really be delved into with these projects is the fencing. Where is the extent of the fencing now on the property and will new fencing be installed and how will that impact wildlife movement.

I have stories about Diamond Mountain Road. The vineyard management company I work for put in the Seaver vineyard next door. And I was basically acting as the pilot car for all the traffic that our company would generate. That was in the day of Nextels. And I would go first and report to the guys behind me with trucks and trailers and equipment what the road was and we would have a phalanx of vehicles. We would occupy the space and force everybody to get out of the way because there’s not enough room for agriculture traffic and visitors and residents there. It was a very important job that somebody had to be the pilot car for us to safely get up and down that road. I will never forget that.
Another important and often overlooked thing are the cave spoils. If there’s someone in this room today who is going to be building the cave, they should know the amount of cave spoils, cubic yards, cubic feet, that is going to be extracted. There’s probably an estimate of how much cave spoils will be used for construction of the pond or other onsite development, but it seems to me in my experience that a lot of cave spoils are just simply pushed off into the forest edge and that is an impact that is never analyzed. So it’s not just taking it off, but it’s what if we don’t take it off. How does that get deposited on the property and how does it impact the wildlife habitat.

Rural remote winery ordinance was something that the Board of Supervisors was definitely taking up and discussing. It had to do with Howell Mountain, it has to do with Mt. Veeder, it has to do with Atlas Peak, it has to do with Diamond Mountain. How many people are we willing to put up there so somebody else can have their dream. At this point, I don’t think it’s a difficult decision anymore, I think it’s simply the decision you have to make. We can’t continue to put people up in these canyons with only one way out.

And lastly, and I don’t know if the applicant or Staff can address this, but what number, exactly—what number exactly would this be in Napa County if it was approved. Thank you.

CHAIR GALLAGHER: Thank you, Ms. Anderson. Is there anyone else from the public who would like to speak?

LAURIE POUSMAN: I really don’t like public speaking. So it just shows how much I care about these guys that I’m up here. My husband and I have known Wayne and Kara for six years.
CHAIR GALLAGHER: I’m sorry. Could you just let us know your name and address please?

MS. POUSMAN: Oh. I’m sorry. I’m Laurie Pousman and my address is 1740 Lytton Springs in Healdsburg. My husband and I have known Wayne and Kara for six years. I honestly don’t know any more kind, compassionate and generous people as these guys are. They’ve approached every step of this journey with integrity, commitment to preserving the community, and minimizing environmental impacts. Their motivation in establishing this winery is their passion for wine, not to make any big profits or anything.

Lastly, we drive up to visit them at least once a month for the last five or six years, and I think we’ve had a car coming the other direction maybe three times. So. Thank you.

CHAIR GALLAGHER: Thank you, Ms. Pousman.

STEVE KLEIN: Good afternoon. Steve Klein. I live in Napa. I also have a farm management concern here locally. I’m in the middle of my 30th harvest. I actually farm for the Fingermans for the past few years, and I resonate much with what the last gal was saying. They are very conscientious in everything they do.

Fun story. When I heard the question on the turtle, the Fingermans actually hand sort all their fruit to get rid of [mog,] and by that I mean they save every single bug that goes in the bins. They’re very conscientious of everything that goes on around them. They take great pride in how the work is done in their vineyard, and to what Wayne said earlier, they are very hands on in everything that goes on. I can tell you that firsthand from my experience with them.

OCTOBER 16, 2019

--37--
From my personal perspective, I, too, deal a lot with farm equipment and going up and down that road. I would have a consideration that there might be less traffic regarding farming going on if the fruit was to stay on site versus having to be trucked down the mountain sometimes in two and three picks.

And then regarding the size, in my opinion, I would just offer the fact that typically it doesn’t really matter the size, it’s still the same amount of planning and trips involved to get set up for whatever is going on. And that’s really all I have to say. Thank you.

CHAIR GALLAGHER: Thank you, Mr. Klein.

MS. OLDFORD: Donna Oldford. Oh. I was hoping Mr. Klein would tell the story about activities ceasing while a mouse gave birth to little mice. I want to say the scope of this winery is not unreasonable. This is a 53-acre parcel. A 20,000-gallon-per-year winery is less than small, in fact, I wonder sometimes why anybody bothers to go through this process for anything less than that. So the scope of the winery is not large.

The estate-grown winery, I think you’ve heard today, there’s been a demonstrated need for fruit on Diamond Mountain Road that could stay on the mountain rather than being trucked all the way down Highway 29. So the Fingermans certainly intend to engage in that and are engaged with people now for discussion of that.

The numbers which were mentioned, someone mentioned that this would be the highest number of visitors. Actually, that’s not correct. Joseph Cellars has a—and these are all on Diamond Mountain Road. Joseph Cellars has a total of 525 a week, which
would be 75 a day. The 1520 Acquisition has 100 a week or 15, and Checkerboard has 75 per week, or 10. And I would point out that the Fingermans are offering to give up two of their larger events to maintain their ability to accommodate 16 people on their busiest day, which would be primarily on a weekend.

We do not have four exceptions. We have no variances. And we have a Road Exception, of course, and we have the Conservation Regulations Exception for the encroachment that was described earlier.

There was a question posed about how many more vineyards. The Fingermans have two more acres up on top of the ridge above the winery that could be planted, and they’ve actually been told they have as many as ten by one of the viticulturists or civil engineers. Ten’s probably pushing the margin, but there is reason to think that they could have more if they wanted them.

The spoils are in your Staff Report and in your environmental document as to how much area that is. You can’t just push them down the hill or along the road. You have to keep them in your temporary spoils area and as I said, they intend to keep these spoils on site, but anytime someone removes any spoils at all, they have to take them from approved areas and notify the County when they’re leaving and were they’re being taken.

I want to say on the question of the tribal, the AB 52, it is a requirement. The legislature adopted AB 52 for this to be required. They require you to reach out. We did reach out, Staff reached out, and months went by and we didn’t hear anything from the tribal groups, which is not unusual.
But when Mr. Hade told me that they had weighed in very late in the game, I checked with my client and we said yes, we’re happy to have this conference with them on site, and we can make sure that occurs prior to the issuance of any building permit. So, it is law, but they have an obligation too, to respond and let us know. So that’s being accommodated. Even so.

On an EIR, someone earlier said you’re required to have an EIR done. This is actually not correct. There’s something called dueling experts that says if you can’t reach agreement that, you know, you could choose to do a focused EIR, however, there is a part 2 to that that’s very important. It isn’t just come up with a study and we’ll throw you into an EIR. The burden of proof is on the challenge, which also has to show you that there is reason to expect that there would be a significant impact incurred. And if you don’t have that, then all bets are off. So we have not seen that.

We have an opinion letter. We have two qualified biologists, we have the agency in charge saying here’s what we need to see, and these are the mitigation measures. I think turtles would be as safe as mice here. I think these people are willing to do whatever they have to do in the way of performance standards, and we have to assume that our laws, just like compliance or mitigation measures, we can’t say, oh that doesn’t make sense, nobody will pay attention to that. That runs contrary to everything that we all do here every day.

So, with that, we hope you agree that this is a reasonably sized project, that it’s a responsible project, that it’s going to take the larger vehicles off the road, which would be many of
the grape trucks. I was up and down that road frequently, and I can tell you that just this week, I met traffic, a mail truck, a grape truck, a UPS truck, and cars of all sizes. We were in a vineyard truck.

Nobody had to pull off the road. Nobody had to stop. There were turnout points, but everybody managed to navigate, and when you say, well, there are going to be more trucks that aren’t reported, the trucks that would be things like labels and caps, those come by UPS now. UPS is on the hill anyway. And there are a certain number of truck trips that are required with a winery that don’t translate into the number of grape trucks that you get a credit for taking off the road, but those truck trips are evaluated in your traffic study. The multipliers that you see on the famous page 15, all assume a certain level of truck traffic that is necessary for the winery.

That’s all I have. I hope you agree and can see fit to approve the Fingermans’ application. Any questions for me? Thank you.

CHAIR GALLAGHER: Thank you. Is there anyone else who would like to speak?

TIM BAUSE: My name’s Tim Bause, I live at 2031 Diamond Mountain Road adjacent to their parcel. Sorry, I’m very nervous speaking in public, I didn’t want to do this. But, Donna, the winery she pointed out, Joseph Cellars is on Highway 29. What does that have to do with this winery. Checkerboard comes down onto Azalea Springs, which is right on Highway 29 and is a very wide road. I forget whether they were referring to Reverie, or what used to be Von Strasser. They’re less than a mile up the
road. That doesn’t have anything to do with the Fingermans’ winery. And like George, I want to say I like the Fingermans. This isn’t about the Fingermans. This is about the winery that will be there long after the Fingermans are gone.

And then the other real issue that hasn’t been discussed that much is calling it a restoration of the pond when they’re putting cave spoils into the pond, and the pond will be shallower. I don’t understand how that’s a restoration, that seems like a change. And I’m sorry I’m shaking too much, my time’s not up, but I’m going to stop there. Thank you.

CHAIR GALLAGHER: Thank you, Mr. Bause. Could everyone please silence their phones? We’ve just been hearing a lot of phones today. Or, you know, turn it off if you can’t silence it. That would be great, thank you.

MS. OLFORD: Very briefly, all of these wineries that I mentioned are shown in your Staff Report as having Diamond Mountain Road addresses. And there’s one that we didn’t include, Constant Winery, the old Constant Winery. And that has even higher levels of visitation. They’re on the north fork of the road, not the south fork. So, you know, and, so I just wanted to point that out. This is in your Staff Report.

CHAIR GALLAGHER: Thank you. I have a question, and maybe it’s for Mr. Hade and maybe it’s for the applicant, so I’m going to go ahead and ask it now before I close the Public Hearing. It would be helpful if you could review the transportation management plan. What I’m reading in the Staff Report says, events at the winery—this is in the Conditions of Approval. Events at the winery shall not be scheduled to begin or end...
between 3:00 and 6:00 p.m. To minimize trips during the evening peak hour a shuttle bus system shall be utilized for events of 125 guests. So I’m guessing that the shuttles will not be then used for the events with 75 guests, which I would actually like to see.

And then I have a question about where people are actually parking to get on the shuttle. It says that guests will be transported from additional temporary parking along vineyard roads and along the shoulders of the winery access road. So, I think if we could get a little bit more clarification on that plan and how that would work that would be helpful.

MR. HADE: Sure, so that is correct that this was envisioned to apply to the events of 125 people or more. However, as you point out, that could be adjusted certainly to apply to the 75-person events as well if the Commission chooses to go that direction.

This is a requirement for a plan to be developed in the future so that the details aren’t all known at this point. But just the basics are laid out there as far as the parking along the vineyard road, or also the winery access road would be the driveway, so the idea would be that guests would park there and then take that shuttle further on to the site to the actual winery location. But a lot of that would have to be determined as that plan is developed, and it would be required to be submitted to County Staff for review and approval prior to those events taking place.

CHAIR GALLAGHER: Okay I think that when we think about shuttles, we think about off site [inaudible]...
MR. HADE: Offsite. Well there are—I was going to add that too. There’s actually a possibility, if this wording is confusing or you have to change it we could actually shift that to maybe require—it could be some other, maybe offsite location somewhere else with the same concept and that could be applied again to the 75 percent events, as well as the larger events, although, I think from what I heard the applicant intends to maybe possibly eliminate the largest events, but...

CHAIR GALLAGHER: Well, two of the 75.


CHAIR GALLAGHER: So that’s still two 75, but it sounds like Ms. Oldford might have a comment on it.

MS. OLDFORD: Donna Oldford. We are offering shuttle service for the events of 75, as well as the larger one. Frankly, most wineries are doing this already. They’ve got high occupancy vehicles and when they go to a parking lot to—they can’t park along Diamond Mountain Road, obviously. But they go to a legally approved parking lot and they shuttle the people from there or they might go to a hotel. You might have a number of people staying at a hotel. But it would be a legally approved parking lot that the shuttle serves from. And so. Thank you.

CHAIR GALLAGHER: Thank you. It sounds like we might need to make some changes in that to reflect that.

MS. GALLINA: And historically we’ve always allowed this because it’s included in the standard condition [inaudible] at the end, talking about marketing event activities that is not limited to valet service or offsite parking and shuttle service to the winery. It’s a little bit difficult for an applicant to
make prearrangements at this time when it could possibly take anywhere from three to five years to build the winery and then get it under operation, so we allow that flexibility of them to come in in the future to let us know, you know, what kind of arrangements they’re making to make sure that it’s appropriate, and legal location.

CHAIR GALLAGHER: All right. Okay. Thank you for the clarification, but I think we need to work on that piece so that it’s clarified based on what Ms. Oldford stated. Okay.

Commissioner Cottrell.

COMMISSIONER COTTRELL: Thank you. Mr. Hade, I am, having just done the site visit yesterday and driven up and down Diamond Mountain Road, I’m just concerned about the characterization of that road and also how we find in the Staff Report pieces about the road. So if you could help me understand, I think—in one place it says, it’s talking about offsite, it’s a County-maintained road that is, and I’m paraphrasing here, but that it’s steeper than the 16 percent requirement in certain places and narrower than the standard width in certain requirements, and we’ve heard a lot of testimony today about the road being one lane rather than a two-lane road for many stretches, and I guess, and maybe this isn’t important, but in some places it’s called a collector.

So, I guess I’m just really concerned about the steepness and narrowness of the road and perhaps because it’s not, like the project site, we don’t see a lot of discussion of it in the Staff Report, but maybe you could comment on that.

MR. HADE: Sure. So some of the--I guess we’re kind of--
there’s different components here, but some of the information in the CEQA document came from the traffic study, which has a--it characterizes the road as different types of width and use.

Also I think what might be helpful for as part of the Road Exception request, it’s in your packet, the Staff memo, it also talks about the driveway width and the varying width and topography for that, but, are you talking about more of the existing condition of Diamond Mountain Road rather than the onsite improvements?

COMMISSIONER COTTRELL: Right. Yes. And I guess maybe what I need is some clarification that the scope of the review here does not include that road. Is that true?

MR. HADE: No. That’s actually not correct. So the scope of the review, the traffic study, it looked at, from the highway all the way to the project site, so the road was looked at as part of the traffic study, and there’s some minor, some site distance improvements proposed as part of that, so that was, again, part of the traffic study. I could maybe have our Public Works staff speak to, maybe, the existing condition of the road if you want more details, but that’s kind of what I can offer at the moment.

COMMISSIONER COTTRELL: I think that does it for the time. Thank you.

CHAIR GALLAGHER: And I forgot to close the Public Hearing, so I’m going to do that. Any Commissioners like to speak?

Do we need a break to do some reading? Or thinking? Okay. Okay.

Apologies. We have issues with our iPads, too, so we’re
trying to navigate up here. If you’d like. Commissioner Cottrell.

COMMISSIONER COTTRELL: All right. Thank you. Thank you, first of all, for everyone who came to speak today and for the work done by the applicant. I’m sure it’s been a long road and it’s many pieces here.

Again, I have just a lot of concerns about this access road, the access road being Diamond Mountain. It is a public road, and it’s steep and windy, and the fact that the request is for 20,000 gallons when only a fraction of that is currently grown on site, in my mind means that we’re going to be asking, baked into this use permit is a lot of truck trips bringing wine up--excuse me, bringing grapes to the site, and I appreciate what’s been shared by the applicant and the neighbor saying, you know, perhaps other grapes could be coming from down the mountain to the site, but at this point, that’s not--that’s speculation. That’s not what--that’s not part of the package today, and you know, I think as has been raised before, this issue of a winery at, you know, miles up a narrow, winding road, I think there’s questions for me about safety and access in terms of, you know, emergencies, but also those regular truck trips that have to be going up and down the mountain, and again, the built-in need here to have grape trucks going up that steep road is of concern to me.

And, you know, having visited the site, it’s a large parcel. The winery is a relatively small footprint with innovative features, the caves, the drive through aspect of the operations there. I just feel that this ask for this level of
production and the visitation, and again, I appreciate the applicants working to try to bring down their visitation numbers, but it does feel at this point in my review too big a project for the access that has to occur to get to the site.

CHAIR GALLAGHER: Thank you. Commissioner Whitmer.

COMMISSIONER WHITMER: Yeah. Thank you. You know, a 20,000-gallon winery in my estimation is not a huge ask and I agree that the site is remote, but that is the character of the Napa Valley and the roads that we have.

I am appreciative of the concerns that have been given to the number of visitors, and I think that what’s been proposed as a revision to those numbers brings this project a little bit more in line to the numbers of folks that I thought would be more applicable to this kind of site and location. I think that this is appropriately zoned. I think Staff have done a tremendous job in working with the applicant and the applicant’s representatives to bring this forward.

All of the background on traffic and water and biology, I appreciate hearing from the State agency responsible, and that folks are going to be responsive to the issues that are raised there.

I understand the requirements of CEQA to reach out to the tribes, but the tribes have a responsibility to get back to the folks within a reasonable timeframe, and quite frankly, the applicant is going over and beyond in my estimation to try and accommodate the tribes’ concerns here.

So at this point I haven’t heard anything that would dissuade me from voting in favor of this proposal.
CHAIR GALLAGHER: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Chair Gallagher, and also for my fellow Commissioners’ comments. I was just, again, trying to navigate through some of the information and just taking some notes as far as the visitation based on what I heard about the reduction today. We would be looking at something more similar to the second option in the Staff Report, which is the revised reduction alternative. So, right? It’s a reduced visitation proposal even though there’s no numbers in there, it seems like this is closer to where we would be coming into. Okay.

And then just again on some of the conversation around exceptions or exemptions, I do think that those words have in the past probably been given a different meaning than how they are being used in planning. I still see them as a tool that we have available in our deliberations, in our thoughtful decision making to use them in a way that does in fact lead us to an environmentally, in many cases, in most cases, or public safety, a better alternative or a better option. So I do want to make sure that we are defining those things in the most appropriate and clear way possible, that in this particular case, for example, the Road & Street Standards Exception where it—on one of the, I can’t—page 9 of the Staff Report, it meets the same overall practical effect while protecting life, safety, welfare, of the public, providing vegetation management and doing all these things, so I want to make sure that we’re seeing those as in this case a positive tool that we can use to deliberate.

Also, just to interrupt myself, maybe Ms. Anderson, the remote winery conversation that was happening at the Board
level, there isn’t any definition of that as of today, it’s really been more of a conversation?

DEPUTY COUNSEL ANDERSON: That’s correct.

COMMISSIONER HANSEN: Okay. So what we have is, again, back to we are framing this in the current policy environment in which we have to assess our decision making. Should that time come when the Board of Supervisors defines a remote winery, I think at that point we can use it as a way to evaluate a particular project. But we shouldn’t get into the habit of creating broader policy on a project by project basis. So I understand that this is a consideration, but it’s certainly not something that we can assess, and it hasn’t been assessed here today.

So. I appreciate that the applicant was really responsive and listened to concerns about numbers of visitors, and thank you for bringing us another alternative, which I think brings down some of the other pieces that we’re talking about. Like traffic or water impacts should there be any.

So, again, with that—also, just to go back to something that Ms. Gallina mentioned about the traffic and the transportation demand, I do think it would be too premature to describe in a transportation Condition of Approval really specific things. I think we need to absolutely wait for the applicant to understand a little bit better what they need at the time and then come to Staff, and that would be one of the Conditions before even they were able to start operating to have that reviewed by Staff and checked off. Correct? Okay.

So I am comfortable with the way that that’s written, and
as we have written it in the past just so we can provide that flexibility and also the planning that the applicant needs and that the Staff can help them get there. So. Thank you for clarifying that.

Anyway, with all that, I would be prepared to support this application and this project.

CHAIR GALLAGHER: No? Do you want to speak? If you’d like.

COMMISSIONER MAZOTTI: I--sure. Well, I mean, I think in a vacuum looking at the site it makes a lot of sense. I think we sort of talked about that yesterday.

Yeah, I see the road is a concern, but I agree with Commissioner Whitmer that this is what we deal with in the Napa Valley and we deal with it well, and while it’s not ideal, the road seems adequate to me. So at the moment I don’t feel compelled to deny the project.

One thing I do want to make a comment on that’s sort of aside from this is I was looking at the wine and food pairings as part of the tours and tasting, and I know that that’s allowed, but I would hope that the pairings that you’re envisioning are not substantial, and would not take away from the cities because I do believe that the primary food activity should be taking place in the cities to promote thriving downtown, so, as a side comment I just wanted to say that.

CHAIR GALLAGHER: Okay. Thank you. Duly noted. Okay. I think this is really a tough one, I have to say. I feel that way because I know that the remote nature of this site, it does cause me concern when I drive up that road and I see how narrow it is, and it is in places like one lane. But I also know that,
you know, we drive around this Valley and we’re not going to widen every road to be a two-lane roadway either. I mean, that’s totally out of character with the Valley, so we’re not going to do that.

I do really appreciate the reduction in the marketing and visitation. I think that’s very important because I do think that that was too large. I think I’d rather see lower production, but in some ways, it’s like, well, you know, you’re going to go up and build the winery and I don’t know that it’s going to matter as much. I think that it sounds like not only are there grapes on site, but there’s potential for additional vineyards on site to, you know, to be produced there as well as the offsite vineyards owned by the Fingermans.

But I think that what this illustrates to me is the need to have more conversation about the remote wineries and whether, you know, where wineries should, indeed, be on these really remote areas, especially areas that are considered in severe fire hazard zones. I think that brings up a lot of questions and a lot of—there’s a lot of discussion needed around that.

So, you know, I feel like we don’t really have the policy behind us right now to necessarily deny this. It is in an ag zone and I’m not entirely comfortable with it, but I also don’t feel like I have a lot of policy backing at this point.

But I think it really illustrates the need to have more discussion and for the Board to certainly have more discussion about these remote locations. So.

And I did want to ask about that. I know I’m probably making a nuisance of myself about this Condition of Approval.
4.19a and how that’s going to read. We want it to say that—
shuttle bus will be utilized for guests of 75 or more and then
can we just strike out that from additional temporary parking
along vineyard roads and along the shoulders of the winery
access road, that makes me really uncomfortable.

MR. HADE: Sure. That works. So what I’m hearing, yeah, we
can strike that and then I think the idea would be just to have
it read so that—my understanding is that a shuttle—it’s for
all of that essentially. It wouldn’t—I don’t think there would
be a number, necessarily...

CHAIR GALLAGHER: Okay.

MR. HADE: ...it would just be if that works for the
applicant.

CHAIR GALLAGHER: Right. Right. And understanding that the
applicant has to figure out, you know, where they’re going to
park, etcetera, and Ms. Oldford mentioned an appropriate place
and that that plan would come back to you at some point for, you
know, authorization or whatever.

MR. HADE: Correct.

CHAIR GALLAGHER: So that’s great. But I did want to make
sure we changed that language in that. And Commissioner Hansen.

COMMISSIONER HANSEN: Yeah. And just sort of in the forward
thinking way, by striking that language, that does not preclude
that language from being a part of a transportation management
plan for a specific event in the future. It just means that it’s
not part of these Conditions of Approval. So it could be a
separate document where the applicant says in this particular
case, we’re going to be utilizing the vineyard road leading up

OCTOBER 16, 2019

--53--
to our property, but it won’t affect anybody else, we just want
to make sure we get people down that road safely. That could
still be a part of their transportation management plan as
presented to Staff prior to opening. Correct?

MR. HADE: That’s correct. And by making this change it
actually would give a little bit more flexibility, so it doesn’t
lock them into what I think the Commissioner expressed concerns
about.

COMMISSIONER HANSEN: Right. It doesn’t have to be, but it
also doesn’t not have to be. So, I just want to leave that
flexibility in case for some reason that is the best alternative
at the time.

DEPUTY COUNSEL ANDERSON: Excuse me, Chair. I would also
say that Condition of Approval number 4.3 would also need to be
wordsmithed to make sure that the shuttle activity occurs for
all events, not just the ones where there’s not sufficient
parking on site.

CHAIR GALLAGHER: Okay. Okay. That’s—oh. Commissioner

COMMISSIONER WHITMER: Sorry. Well, I was willing to try
and make a motion if the time is appropriate.

CHAIR GALLAGHER: So just for clarification, would we be
making the motion the second alternative recommended by Staff,
because it’s a reduction in the marketing and visitation?

MS. GALLINA: Hold on a minute. So we’re going to change to
remove what, Type number two?

MR. HADE: Correct. So you would go that direction. So I
think it’d be the second option under Recommendations there, and
then we would just want to, we may need the applicant just to
confirm, or just to clarify the numbers that they had specified.

Probably best to start with the Staff memo dated October
16th. This is the latest Conditions of Approval Recommendation
and just probably walk through a couple Conditions here,
specifically, I think we’ve already covered the TDM1, but we
would need to amend 4.2c at a minimum to just specify the
maximum number of persons per week. I think that was 80, but we
may just want to get confirmation from the applicant on that.

And then we’d also need to change 4.3a, I believe, that
would be—frequency would change from four times a year to two
times per year, so I think those would be the recommended
changes to make that happen.

MS. GALLINA: And eliminate b.

DEPUTY COUNSEL ANDERSON: And the language at the bottom.

MR. HADE: And also b, I think the 125-person event. If I
understood correctly, I think that would be eliminated
altogether. That would be the Type 2 event, but I’m not quite
sure about that. We could probably confirm with the applicant on
that one.

DEPUTY COUNSEL ANDERSON: We can put in special...


DEPUTY COUNSEL ANDERSON: They need to be consistent.

MS. GALLINA: Okay.

MR. HADE: So we may need to have the applicant just
briefly confirm what we just went over here, so.

CHAIR GALLAGHER: Yes. Ms. Oldford.

MS. OLDFORD: Do you want to open?
CHAIR GALLAGHER: Yes. We’ll open it up so you can speak.

MS. OLDFORD: Thank you. Ms. Oldford. Just to reiterate the numbers. The marketing events would go from four events of 75 each to two events of 75 each, which would utilize some form of shuttle service. The other marketing event would be the 125, otherwise known as auction event that would also utilize shuttle services, and that was in the original application.

And then the tours and tastings would show as 16 per day on the busiest days, but a maximum of 80 per week instead of the originally proposed 112 per week.

CHAIR GALLAGHER: Great. Thank you.

MS. OLDFORD: Does that answer your question?

CHAIR GALLAGHER: I think so.

MS. OLDFORD: Thank you.

CHAIR GALLAGHER: Thank you very much. I’ll close the Hearing again. And do Staff have everything you need for...

MR. HADE: Yes. Thank you.


COMMISSIONER WHITMER: So I would move that the Planning Commission number one, adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program based upon Recommended Findings 1 through 7 in Attachment A, approve an Exception to the Napa County Road & Street Standards based on Findings 8 through 10 of Attachment A and subject to the Recommended Conditions of Approval in Attachment B.

MS. GALLINA: The...

[DEPUTY COUNSEL ANDERSON:] Using the revised memo. We would use the revised memo.
COMMISSIONER WHITMER: Using the revised memo. Approve Use Permit Exception to Conservation Regulations Number P19-00315-UP based on Recommended Findings 11 through 17 in Attachment A, and subject to the Recommended Conditions of Approval (as amended) in Attachment B. And Four, Approve Use Permit number P16-00333-UP based on Recommended Findings 18 through 22 in Attachment A and subject to the Recommended Conditions of Approval in Attachment B (as amended).

MS. GALLINA: Which is referring to the memo.

COMMISSIONER WHITMER: Well, Staff memo and the changes we’ve made here today during the session.

CHAIR GALLAGHER: Good job. Would anyone like to second that motion? Commissioner Hansen.

COMMISSIONER HANSEN: I will second that.

CHAIR GALLAGHER: Okay. We have a motion and a second. All those in favor please signify by saying aye. Aye.

COMMISSIONER WHITMER: Aye.

COMMISSIONER MAZOTTI: Aye.

COMMISSIONER HANSEN: Aye.

CHAIR GALLAGHER: All those opposed.

COMMISSIONER COTTRELL: Nay.

CHAIR GALLAGHER: Okay. Motion passes.

MS. OLDFORD: Thank you, Commission.

CHAIR GALLAGHER: Thank you. Thank you, and thank you, Mr. Hade.

MR. HADE: You’re welcome.

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I, Kathryn F. Johnson, do hereby certify and believe:

That the foregoing pages are a true and correct transcript of the proceedings before the Napa County Planning, Building & Environmental Services Department, Napa, California, excepting words noted “inaudible” or words placed in [brackets] to the best of my ability. Speech disfluencies, discourse markers and pause fillers have been deleted, except when deemed function words. Commas may be used for emphasis as well as for grammar.

I further certify that I am not interested in the outcome of said matter or connected with or related to any of the parties of said matter or to their respective counsel.

Dated this 9th day of December, 2019.

Kathryn F. Johnson

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