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To the Napa County Planning Commission

**RE: FINGERMAN WINERY APPLICATION P16-00333-UP / 1755 Diamond Mountain Road South Fork**

**COMMENTS:**

**1) GENERAL:**

The application is for a 20,000-gallon production facility on Diamond Mountain Road South Fork. The property is planted with approximately 4 acres of vines which per hillside vineyard standards produce 8 – 10 tons of grapes equaling approximately 1,000 gallons of wine.

The balance of 19,000 gallons of wine sought by the applicant (approximately 160 tons) will be from imported grapes. This is not an estate producing winery. It is an outsourced grape crush facility or a custom crush facility.

The project requires several exemptions to Napa County Code:

- Encroachment to the 55-foot stream setback to be reduced to 30-35 feet.
- Reduction to the commercial street width.
- Exemption to the maximum access road slope of 18%.
- Exemption to the required transition zones.

**The question before the Planning Commission is whether this type production winery relying on imported grapes and predicated on several County Code exemptions (rendering them meaningless) is appropriate in this remote hillside location.**

**2) INCONSISTENCIES BETWEEN DOCUMENTS POSTED ON THE NAPA COUNTY WEBSITE:**

Winery Application:

16 day-visitor trips – 80 trips / week max.  
5 annual events @ 75 persons

Initial Study Check List:

16 day-visitor trips – 112 trips / week  
4 annual events @ 75 persons  
1 annual event @ 125 persons

If there are updated quantities in the application, they are not posted on the County website so that citizens may have an opportunity to respond.

**3) ROAD CONDITION MISTAKES IN THE INITIAL STUDY CHECK LIST (NEGD):**

The NEGD describes Diamond Mountain Road (DMR) as *“a narrow two-lane Rural County Collector”* with a posted speed limit of 15 miles/hour and Diamond Mountain Road South Fork (SF) as *“a very narrow two-lane road 14-15 feet wide and no posted speed limit”*.

The distance from highway 29 to the DMR / SF crossing is 2.2 miles and the distance of said crossing to the subject site is 1 mile making the total distance of the subject site to Highway 29, 3.2 miles. The first 2.05 miles from Highway 29 to the subject site have a width of 18 feet while the remainder 1.15 miles of road accessing the subject property is 12 or less-feet wide, not 14-15 feet wide.

To characterize a 12-foot county road as a two-lane road – especially a steep, winding up hill road – is incorrect. One only need encounter an opposing passenger vehicle on that section of the access road let alone trucks of any kind as the proposed winery contemplates for its grape imports, caves spoils exports, catering trucks or bussed visitors to realize the mischaracterization.

The 15 mile/hour speed limit which applies to both roads and the fact that their occasional non-complying turnouts which are mandated to facilitate emergency evacuations are being used to accommodate routine opposing traffic is an indication that these roads are too narrow for commercial vehicle traffic.

As the County Road Standards discussed below show, both DMR and SF roads are non-conforming and substandard.

#### **4) NAPA COUNTY ROAD STANDARDS:**

Napa County has established road standards. Nowhere is the NEGD designation “*Rural County Collector*” let alone “*narrow two-lane Rural County Collector*” to be found.

##### SECTION 14 / Street and Road Classifications:

###### Major Roads:

The pertinent road classifications serving vineyards and wineries are either (a) *Arterial* (collectors to highways) or (b) *Collectors* (1,000 to 5,000 vehicles per day). These roads are through-roads, not dead-end roads. Note that both DMR and SF are dead-end roads.

###### Minor Roads:

These are defined as serving “up to 1,000 vehicles per day”. They may have a Cul-de-Sac (e) but then they must have “a maximum traffic volume of up to 250 vehicles per day”.

“Cul-de-Sac situations with lengths greater than 1,000 feet shall be provided with turnaround areas at 1,000-foot intervals and emergency access unless it is not considered feasible by the County Engineer”.

It is important to note that the requirement is for *turnarounds* not *turnouts* and that the non-feasibility engineering discretion is one based on topographic conditions rather than on public safety or health and welfare considerations. Granting mandated turnaround exemptions for commercial uses in a high fire danger area as Diamond Mountain with no public secondary escape routes as in the case of DMR and SF is unacceptable.

###### Other Roads:

###### (i) Agricultural Special Purpose Roads

“Serve agricultural related single use facilities and light traffic facilities which generate up to 100 vehicle trips per day. This road is not applicable to any winery access”.

All other roads must comply with either the Major or a Minor road specification listed above.

SECTION 15 / Design Criteria:

Roadway Width:

- All streets and roads, with the exception of Agricultural Special Purpose Roads shall be constructed to provide a minimum of two 10-foot traffic lanes and a minimum of one foot of shoulder on each side.
- Both Arterial and Collector Roads with no Parallel Parking Lanes (Details C-2 and C-3) require a Right of Way of 40 feet with two 14-foot traffic lanes and shoulders.
- General Minor Roads with no Parallel Parking Lanes require two 12-foot traffic lanes, and a total of 12 feet of shoulders.
- In addition to the 1,000 feet turnaround maximum spacing requirement for dead-end roads, roads with turnouts (Detail C-11) “shall be spaced a maximum of 400 feet apart and must be Inter-Visible unless allowed by the County Engineer and Fire Marshall”.

Dead-End-Road specifications:

- Maximum road length for parcels zoned 5 acres to 19.00 acres – 2,640 feet  
For parcels zoned 20 acres or larger – 5,260 feet.  
*Such distance for the proposed winery is 3.2 miles or 16,896 feet.*
- (b) Turnarounds where parcels are zoned 5 acres or larger shall be provided at a maximum of 1,320-foot intervals.

**The access road to the subject winery does not comply with not even one single County Road Standard.**

**5) NEGD / TRANSPORTATION:**

Statement: “The majority of cave spoils shall remain on the site”. The term “majority” is not quantifiable in terms of assessing impacts. In fact, other sections of the application contradict it.

The application states that such spoils shall be hauled by 2 truck per day for 8 months. Ten- wheelers on steep roads may carry 8 cubic yards each (9-10 on flatlands) for a total of 16 yards/day. Assuming no hauling occurs on weekends there will be 160 days of hauling for a total of 2,560 cubic yards of export. This constitutes 60.5% of the total spoils of 4,230 cubic yards.

**This means that instead of the majority of cave spoils being deposited on site (in the pond) as the application contends, they are actually being exported.**

The transportation study maintains that only one additional in and one outbound trip will be added by this permit. Considering that 16 visitors per day, four new employees (excluding the 5 annual events), as well as grape importing and catering trucks are added the NEGD finding is hard to confirm.

**Given the fact that the study is not posted on the County website, it is impossible for the public to adequately review and comment on it.**

## **6) NEGD / HYDROLOGY - WATER QUALITY – WASTEWATER:**

The NEGD relies on the Napa County water table data to ensure that the water supply is adequate to accommodate the additional 0.49-acre feet (160,000 gallons) the proposed winery will require.

As the Carneros Inn debacle has shown, relying on this type of hydrology may not be reliable and may lead to wrong conclusions and permitting.

The permit for the Enchanted Resort (now Calistoga Hills) across the Diamond Mountain canyon was conditioned on the resort not drawing water from its existing wells.

The Tom Seaver vineyard at 1761 SF immediately bordering the subject property imports water on occasion when its well does not produce enough.

Most wells on Diamond Mountain are very low producing. Our own 340-foot deep well produces 5 gallons / minute.

The applicant states that its well produces 15 gallons per minute. The County website does not contain information as to whether this production level has been certified and how it varies during the season.

### **WASTEWATER:**

About 140,000 gallons of the additional water demand is attributed to the 20,000 gallons of wine making (7 gallons of water per 1 gallon of wine). The potential problem the NEGD has not addressed is the fact that 90% of this wastewater need to be treated during the months of August, September and October. It is doubtful that the proposed leach field in this rocky geology (even resorting to a mound system) will be able to process 42,000 gallons of waste in a 30-day period, 3 months in a row.

This is a serious issue because once a permit is granted, the only remedy will be a hold and haul operation which will add even more truck traffic on the narrow SF road.

## **7) NEGD / BIOLOGICAL RESOURCES:**

Two Special Species plants have been identified on the property, also Tambark Oak and mature Redwoods providing valuable canopy will be compromised by the reduction in stream setback to accommodate the proposed road alignment.

The mandated stream setbacks are there for a reason especially ones with a healthy tree canopy such as this in the face of the Napa river having been designated “impaired”.

### **MANE-MADE POND:**

There is no record of this pond ever having been created subject to a permit or review by California Fish & Wildlife, U.S Army Corps of Engineers and the Regional Water Quality Control Board. Nevertheless, according to recent court rulings, the existing condition is the accepted CEQA baseline. Given this situation it is incorrect to characterize the proposed changes to it as a “restoration” as the applicant and the NEGD do. While the existing pond is grand fathered, any changes to its current condition are subject to the above agencies’ review and approval.

The area under discussion consists of a seasonal pond and a Coastal & Fresh Water Marsh, a wetland habitat, each with their own ecosystems.

The proposed disposal of cave spoils - a minimum of 1,700 cubic yards and perhaps more than 2,500 cubic yards according to the application (See 5 above) will elevate the water table considerably.

Once the water level of the pond rises, it will encroach into the 1.16-acre wetland habitat area changing both individual ecosystems. This issue has not been identified let alone addressed by either the Kjeldsen or the Vollmar studies.

A further issue is the timeline of cave excavation, spoil export and/or their disposition into the pond relative to their effect not only on bird nesting season but also the pond's use by migratory birds. Traffic, noise, dust, all impact these populations. The bird breeding season is between February 15 and August 15 (a 6-month period). Yet spoil trucking is supposed to continue uninterrupted for 8 months of which 5 (December - April) are rainy ones during which grading is not permitted. This leaves only ONE "safe" month of operation. These are incompatible and irreconcilable scheduling conflicts.

The conflicting timelines do not bare out the NEGD mitigation of avoiding work during the bird breeding season. In addition, the mitigation of collecting seeds and relocating species such as turtles while the pond is being altered requires more extensive review than the one provided in order to avoid an environmental disaster.

The NEGD statement that, "Although the proposed project could have a significant effect on the environment, there will be no significant effect in this case because revisions on the project have been made" is not a credible one.

**Given the complexity of the task, the incompatible construction and export trucking and grape importing timelines with the bird breeding season, the disruption of migratory bird patterns, seed collection and species relocation, it seems that an Environmental Impact Report is the proper instrument to address them.**

#### **8) NEGD / MANDATORY FINDINGS:**

Such findings must consider future projects.

One such project is the planned forest conversion to a 2.99-acre vineyard, parcel APN 020-300-066 immediately to the south of the subject property.

Said property consists mostly of mature redwoods and other species which must be hauled away in large trucks marginally able to negotiate the 12-foot-wide SF and DMR.

Furthermore, once this vineyard has been planted and comes in production, additional truck traffic will be generated concurrent with the one by the subject property.

The NEGD has failed to consider the mandated impacts of this future project.

#### **9) WINE AND FOOD PAIRINGS:**

The applicant proposes to serve catered food. Such food constitutes a full meal disguised as "incidental" to a wine tasting. Even though it is catered this constitutes a restaurant-type food service.

In addition, there is no stated limit to the number of catered food events. They may take place every day of the week to the daily visitors to the winery.

Such considerations aside, at a time when restaurants are becoming casualties to food served at wineries due to customer or labor force competition (among the 4 restaurant closings in St. Helena alone in the past two year, Cook's Tavern is their latest casualty), it is unfair to the cities' restaurant community and counterproductive to the overall diverse experiences of the Napa Valley for the County to facilitate such permits.

## **10) CONCLUSION:**

Given the following essential County Code exemptions and other requirements needed to make this project viable...

- Accessibility over non-conforming substandard roads.
- Encroachment into the stream set back.
- Three additional variances in commercial road width and excessive grade and lack of transition zones.
- Production relying on 95% of grapes being imported, an essentially custom crush facility and entertainment center.
- The generation of truck traffic, both during its long construction period and in its subsequent regular operation particularly disruptive and potentially unsafe in that location.
- Unresolved questions about the ecology of the pond and wetlands which seem incompatible with the extent and time-coordination of the proposed construction operations.
- Increased guest traffic which enhances the chances of a man-made fire incident in this highly combustible forest environment.
- Unresolved questions regarding the ability to safely dispose wastewater on site.

... it becomes evident that this project is a poster child of a wrong project in a wrong location.

Attached are my comments regarding the Fingerman application P16-00333-UP.

The first picture (left) is the entrance to Diamond Mountain Road South Fork

The second is South Fork 500 feet to the south

The third is on Diamond Mountain Road at Patchateau Road 0.9 miles north of the South Fork intersection, 16 foot road!

The fourth is 500 feet south of the intersection, same width as South Fork 12 feet.



