



A Tradition of Stewardship  
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## Napa County Board of Supervisors

### Rutherford Ranch Appeal #P23-00208

February 6, 2024

Appeal of: Use Permit Major Modification P19-00126 and Use Permit Exception to the Conservation Regulations P23-00145 as approved by the Planning Commission on June 21, 2024

Appellant: Water Audit California (WAC) on July 18, 2023



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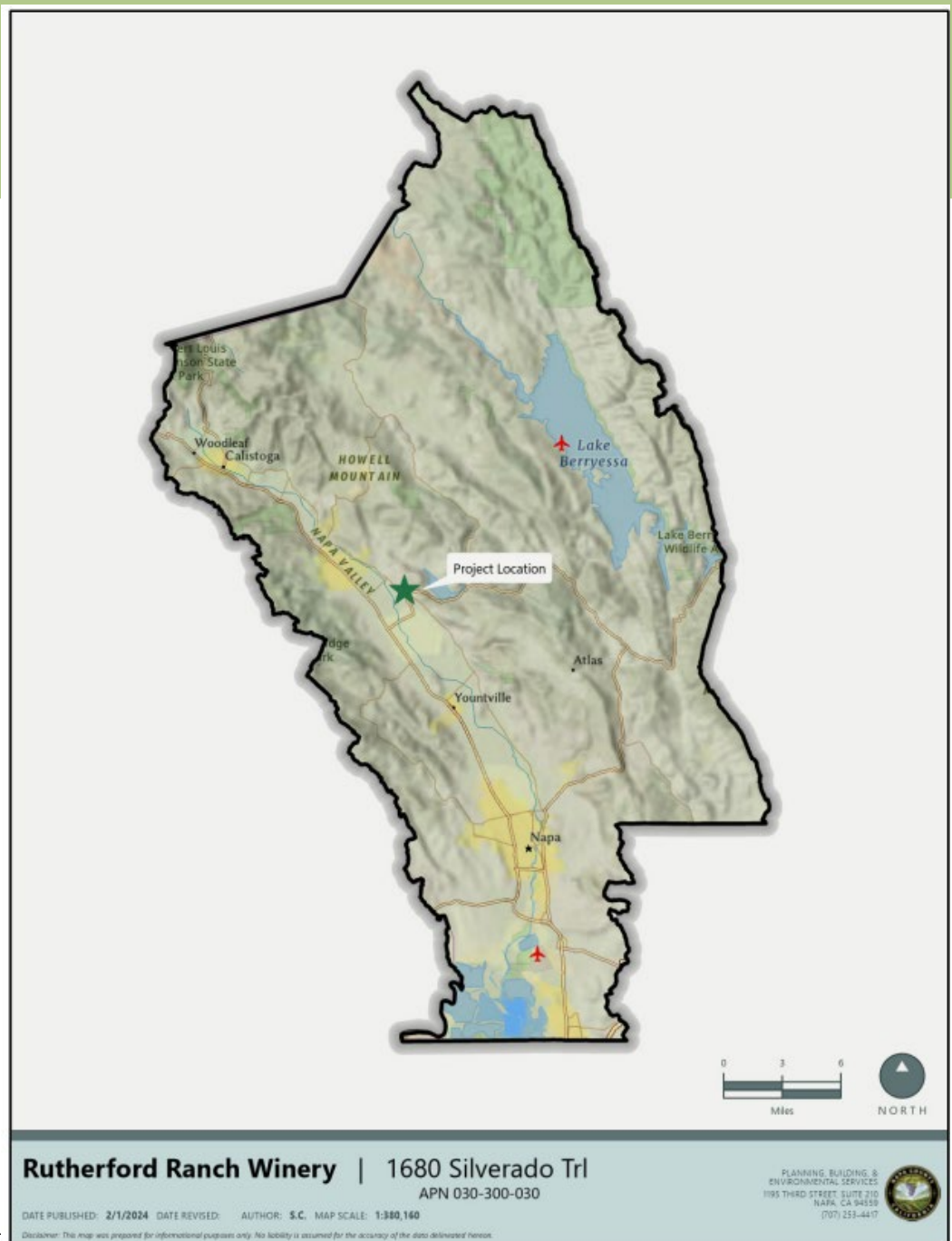
## Project Location

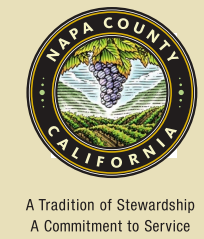
1680 Silverado Trail, St. Helena

APN 030-300-030

General Plan Designation: Agriculture,  
Watershed, and Open Space (AWOS)

Zoning Designation: Agricultural  
Watershed (AW)

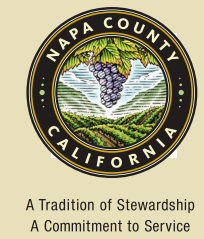




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## Project Timeline

- March 27, 2019: Use Permit Major Modification submitted to participate in the Use Permit Compliance Program (Resolution No. 2018-164 adopted by the Napa County Board of Supervisors on December 4, 2018).
- May 15, 2023: The application for an Exception to the Conservation Regulations was submitted in our record system. The stream setback components were evaluated throughout the application process.
- June 21, 2023: Planning Commission adopted the Initial Study/Negative Declaration, and approved the Use Permit Major Modification and Use Permit Exception to the Conservation Regulations.



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## Planning Commission Approval

### Use Permit Major Modification

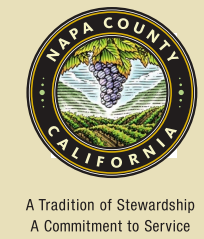
1. Recognized components that were out of compliance with approved entitlements:
  - Number of employees, visitation, marketing events, days and hours of operation. Internal remodel. Covered outdoor work area.
2. Expanded beyond recognition levels or existing entitlements:
  - Increase employees, visitation, and events. Additional parking, looped driveway, TDM plan. Convert residence to office. Winery kitchen.

### Use Permit Exception to the Conservation Regulations

1. Removal of 15 improvements
2. Revegetation plan
3. Relocation of 2 water tanks
4. Kept pump house in place

### Pre-Conservation Regulations

- Items recognized. No action taken.



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## Focused Appeal Grounds

- Public Trust Resources - Tier 3 Analysis (Appeal Ground Nos. 1, 9, 11, 12)
- Water Availability Analysis Water Use Calculations (Appeal Ground Nos. 2, 9, 10, 21)
- Biological Resources (Appeal Ground Nos. 5, 16, 24)
- Improvements within the Stream Setback (Appeal Ground Nos. 3, 17)
- Staff Report Attachment B (Appeal Ground Nos. 4, 6, 7, 8, 13, 14, 15, 18, 19, 20, 22, 23, 25)

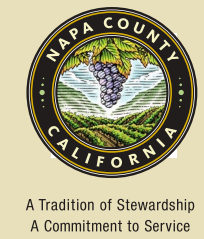


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## Public Trust Resources – Tier 3 Analysis

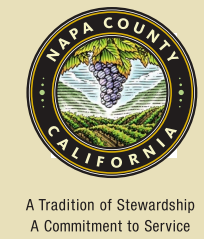
- The Commission considered alleged harm to Public Trust Resources (the Doctrine) and imposed feasible measures to reduce alleged harm.
- A Tier 3 analysis is the County's adopted method for complying with its duties under the Doctrine.
- A Tier 3 analysis considers groundwater and surface water interaction if the groundwater comes from a well within 1,500 feet of a Significant Stream which the County has determined has a high probability of being hydraulically connected to the Napa River, a "navigable waterway" for public trust purposes.



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## **Public Trust Resources – Tier 3 Analysis (continued)**

- The Project Water Availability Analysis (WAA) included a Tier 3 Analysis that opined that it was unlikely the Project well was hydraulically connected to the Napa River, Conn Creek, and the unnamed tributary that flows through the subject parcel.
- The professional conclusions in the WAA are based on substantial evidence and satisfies the County's duty to give due regard to public trust resources.



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## Public Trust Resources – Tier 3 Analysis (continued)

- The Planning Commission adopted Conditions of Approval (COA) that feasibly mitigate any alleged harm (COA Nos. 4.20.a., 6.15.a, and 9.9.c).
- To provide even greater protection and further reduce any alleged harm, staff recommends revising conditions to include:
  - Reduced maximum amount of water use.
  - Reduced pumping rate.
  - No increase to duration of pumping.



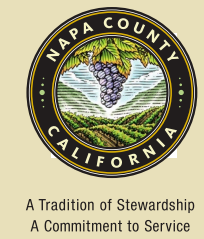


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## Water Availability Analysis – Water Use Calculations

- The WAA groundwater use calculations were project specific; based on a combination of well records and the County's WAA Guidelines.
- The Project has been designed to result in an overall reduction in groundwater use to below both the uses associated with the permitted entitlements and the existing (2019) levels.
- The project would increase domestic water use from additional employees and visitors. However, the project would decrease water use associated with production, through operational changes to the Winery's existing practices and modifications to irrigation techniques.



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## Biological Resources

- Initial Study/Negative Declaration (SCH No. 2023050520) determined the project would not result in significant impacts to biological resources.
  - The Applicant submitted a Voluntary Stream Setback Compliance Report, dated March 22, 2019, prepared by Kjeldsen Biological Consulting.
- California Department of Fish and Wildlife (CDFW) letter June 14, 2023
  - Recommended mitigation measures for (1) obtaining a Lake and Streambed Alteration (LSA) Agreement and (2) performing pre-construction surveys for Swainson's hawk.
    1. Condition of Approval No. 6.15.g requires that necessary agency permits be obtained. Added mitigation was not necessary.
    2. Biological report noted limited habitat for Swainson's hawk. Species were not observed on site. Proposed physical work is minimal. Added mitigation was not necessary.



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## Improvements within the Stream Setback

- An unnamed stream runs through the property, directly adjacent to the existing winery outdoor work area, winery building, and residential development.
- NCC Section 18.108.025 establishes a 45-foot setback from the top-of-bank (TOB) of the stream based on the associated topography of between zero (0) and five (5) percent slopes.





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## Improvements within the Stream Setback (continued)

- Total of 24 existing improvements.
- PC approved removal of 15 improvements and restoration of the areas.
- PC approved to relocate two (2) water tanks.
  - Move from 1.5 feet from TOB to 42 feet from TOB.
- PC approved to keep the pump house.
  - Pump house located 22 feet from TOB.
- No action – Seven (7) improvements identified as prior to adoption of the Conservation Regulations (1991).

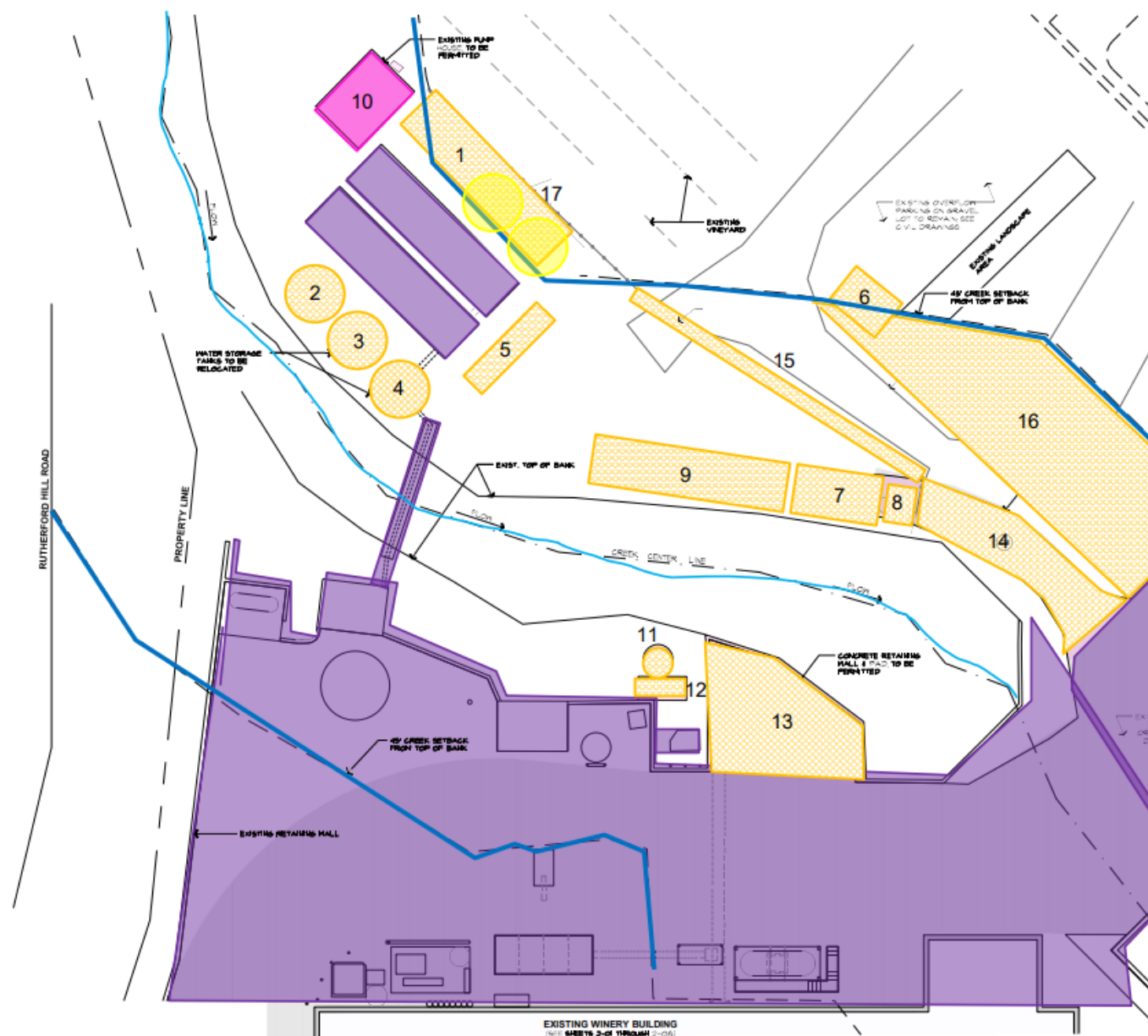
COMPONENTS NECESSARY TO REMEDY EXISTING CONSERVATION REGULATIONS VIOLATIONS			
Item		Applicant Proposal	PC Approval
1	Water tank #1	Remove	Remove
2	Water tank #2	Remove	Remove
3	Water tank #3 (to be relocated)	Remove	Remove
4	Water tank #4 (to be relocated)	Remove	Remove
5	Pergola	Remove	Remove
6	Greenhouse	Remove	Remove
7	Concrete pad - Partial (east side near parking area)	Remove	Remove
8	Tool Shed	Remove	Remove
9	Insulated container	Remove	Remove
10	Pump house	Keep	Keep
11	Surge tank	Keep	Remove
12	Wastewater transfer pump house	Keep	Remove
13	Concrete pad and retaining wall – south side of stream	Keep	Remove
14	Paved access drive to parking area	Keep	Remove
15	Fence (portion within setback)	Keep	Remove
16	Northern Parking area (portion within setback)	Keep	Remove
NEW PROPOSED WORK IN THE STREAM SETBACK			
17	Relocate water tanks (#3 and #4)	Relocate	Relocate
18	Remove unpermitted structures # 1-9 above	Remove	Remove
19	Restoration Plan	Proposed	Approve
20	Staff recommended removal of items #11-16 and restoration	Agreed to Staff's Recommendation	Remove items
ITEMS LEGALLY ESTABLISHED OR PRIOR TO CONSERVATION REGULATIONS			
	Outdoor work area north of the winery building		No PC Action
	Transformer located north of the outdoor work area		No PC Action
	Two (2) fire protection water storage tanks on the north side of the stream		No PC Action
	Fire protection storage pipes		No PC Action
	Residence (to be converted to winery offices)		No PC Action
	Outdoor patios between the winery building and residence		No PC Action
	Parking areas in front of the winery building and north of the lawn adjacent to the residence		No PC Action



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# Existing Site Development Planning Commission Approved Actions

- Existing Development Pre-Con Regs - No Action
- Remove
- Remain
- Relocate
- Stream Centerline
- 45-foot Stream Setback



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<b>COMPONENTS NECESSARY TO REMEDY EXISTING CONSERVATION REGULATIONS VIOLATIONS</b>		
1	Water tank #1	Remove
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6	Greenhouse	Remove
7	Concrete pad - Partial (east side near parking area)	Remove
8	Tool Shed	Remove
9	Insulated container	Remove
10	Pump house	Keep
11	Surge tank	Remove
12	Wastewater transfer pump house	Remove
13	Concrete pad and retaining wall - south side of stream	Remove
14	Paved access drive to parking area	Remove
15	Fence (portion within setback)	Remove
16	Parking area (portion within setback)	Remove
<b>NEW PROPOSED WORK IN THE STREAM SETBACK</b>		
17	Relocate water tanks (#3 and #4)	Relocate
18	Remove unpermitted structures # 1-9 above	Remove
19	Restoration Plan	Approve
20	Staff recommended removal of items #11-16 and restoration	Remove Items








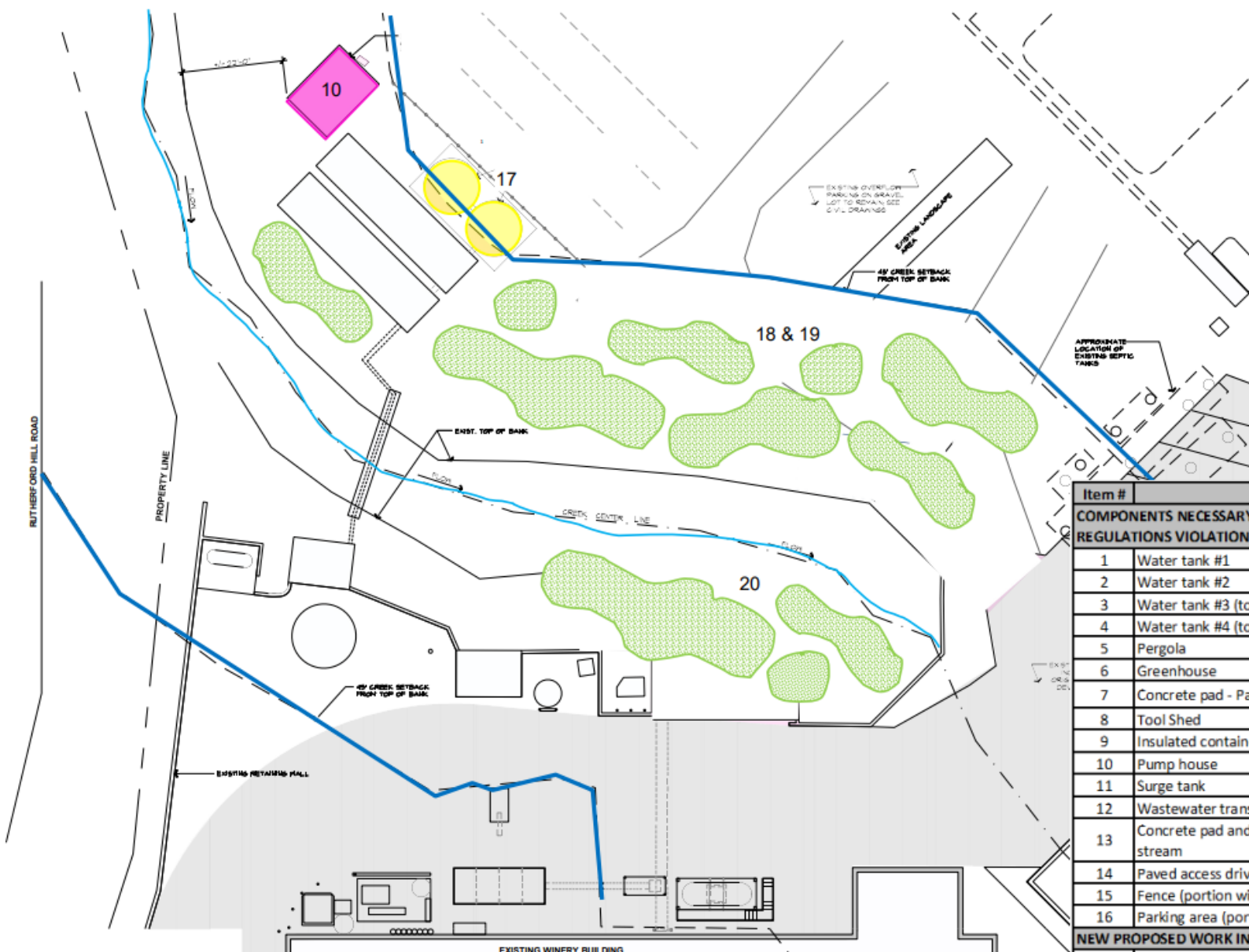
**ENLARGED EXISTING / DEMO AREA PLAN**  
SCALE: 1" = 10'-0"



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### Planning Commission Approved Plan

-  Restoration Plan
-  Remain
-  Relocated tanks
-  Stream Centerline
-  45-foot Stream Setback

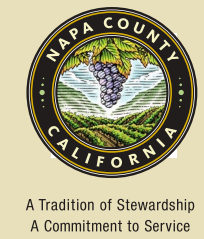


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19	Restoration Plan	Approve
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**ENLARGED PROPOSED AREA PLAN**  
SCALE: 1" = 10'-0"





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## Board Decision-Making Options

### Staff Recommendation

- Deny the Appeal in its entirety and uphold the Planning Commission's approval of the Project. Direct Staff to revise applicable COAs to include a cap on the pump rate and volume of groundwater and update other conditions with timelines affected by the appeal process.

### Other Available Options

- Modify the scope of the Project or Conditions of Approval with or without granting or denying the Appeal;
- Uphold one or more Grounds of the Appeal and reverse the Planning Commission's decision, thereby denying the Project; or
- Remand the matter to the Planning Commission with direction.



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## Questions?

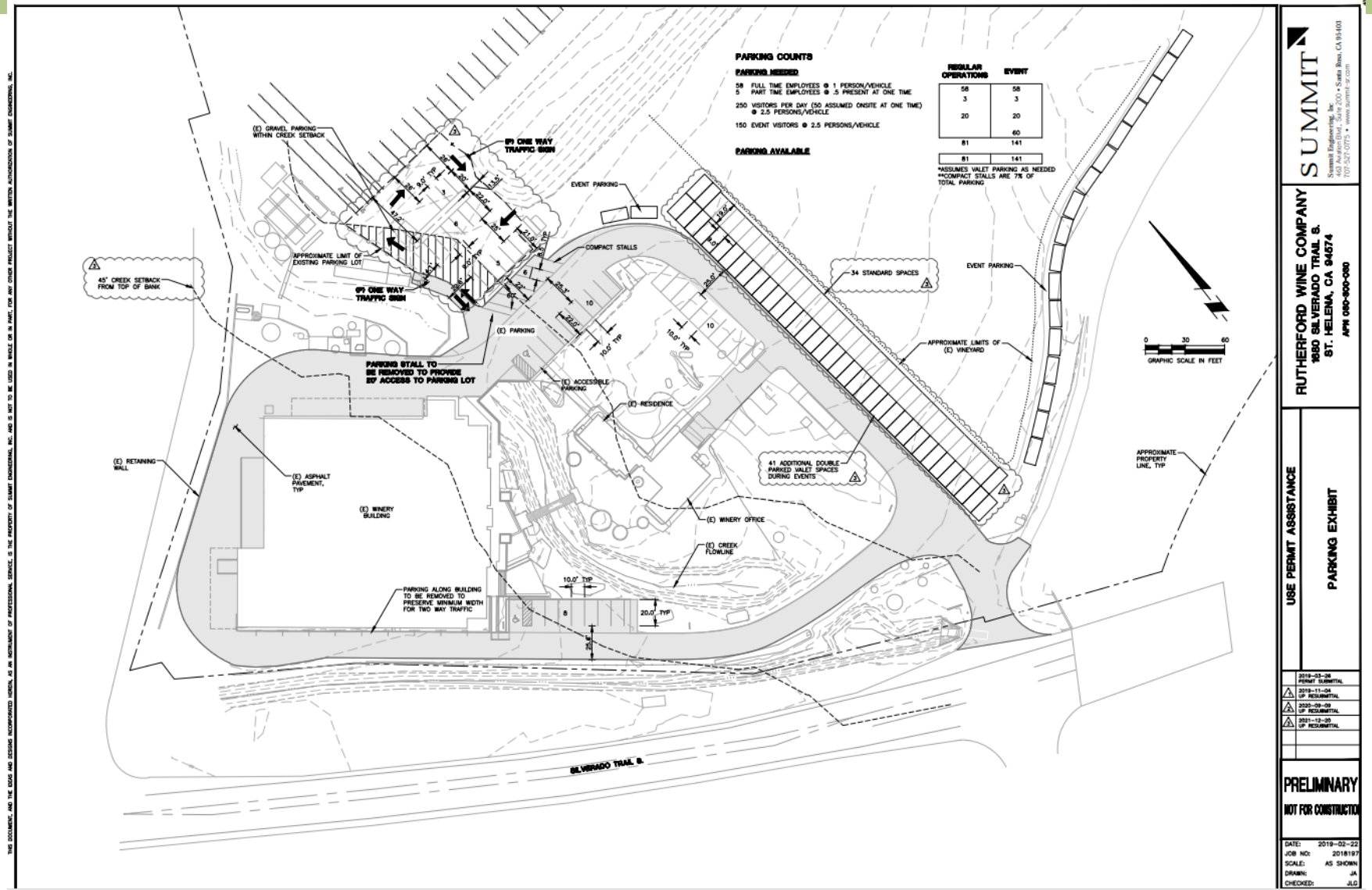




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## Other Parking Graphic





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## Other Site Aerial Well Location

