

CERTIFIED

NAPA COUNTY PLANNING COMMISSION

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IN RE: ITEM 9A
GIRARD WINERY USE PERMIT #P14-00053-UP

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TRANSCRIPT OF VIDEO-RECORDED PROCEEDINGS
MEETING OF JANUARY 21, 2015

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PRESENT:

HEATHER PHILLIPS, Chair
MATT POPE, Vice-chair
MICHAEL BASAYNE, Commissioner
ANNE COTTRELL, Commissioner
TERRY SCOTT, Commissioner

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Transcribed by: Kathryn Johnson

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1 CHAIR PHILLIPS: Okay. So that brings us to the Public
2 Hearing items. First is Item 9A. And before we hear the Staff
3 Report we have some additional materials that came in. And I
4 guess my question would be in light of the materials that have
5 arrived, if the recommendation is going to be to continue, and
6 to hear public testimony in light of that. Or are we going to
7 just move ahead?

8 DEPUTY DIRECTOR MCDOWELL: Chair Phillips, if I may, thank
9 you for asking that question. This is a continued hearing so the
10 Public Hearing is already open and as you recall you received
11 testimony at the previous hearing. So it really is at the
12 Commission's discretion. But what we're recommending is that you
13 take additional testimony today from anyone who wishes to speak
14 and then continue the item at the end of that testimony to a
15 date certain so that Staff will have an opportunity to go
16 through the materials that were submitted and provide responses.
17 And at this point we'd be recommending that a one-month
18 continuance occur. So it could--there--if folks have taken time
19 out of their day to come down here and speak, so I really think
20 it would be appropriate to hear from them.

21 CHAIR PHILLIPS: Right.

22 DEPUTY DIRECTOR MCDOWELL: Plus it would help us in forming
23 up our responses to the written materials.

24 CHAIR PHILLIPS: Make that clarification is helpful.
25 Thanks.

26 DEPUTY DIRECTOR MCDOWELL: And then unless Wyntress has
27 anything to add in the presentation I think we're ready to just
28 pick up where we left off from the last meeting.

1 WYNTRESS BALCHER: I did want to respond to the questions
2 that the Commissioners had asked at the last hearing. If they
3 want to hear that now I have that.

4 COMMISSIONER SCOTT: Yes.

5 MS. BALCHER: Okay. Wyntress Balcher. And the Commission
6 requested clarification on various things and I did the research
7 and located--the Commission requested clarification of the size
8 of the Clos Pegase as discussed in the Staff Report, the Use
9 Permit application Number 4U458687, which approved the increased
10 production capacity at Clos Pegase Winery, identified the
11 existing winery as 25,000 square-feet in area plus 19,000
12 square-feet in caves.

13 Let's see. There was a question regarding the size of the
14 project's height, and we found a couple of typos in the Staff
15 Report and one in the location on the Mitigated Neg.
16 Declaration. And the size of the parcel is 26--is 26.53 acres in
17 area. The typo in the Mitigated Negative Declaration document
18 has been corrected.

19 The Commission also asked for background information about
20 transient, non-community water systems. A transient non-
21 community water system is a water system which serves at least
22 15 service connections for 25 or more persons for at least 60
23 days of the year. Napa County has a contract with the California
24 Department of Public Health to oversee water systems with less
25 than 200 service connections. And permits are issued. So
26 therefore the permits are issued through the Environmental
27 Health Division.

28 The Environmental Health Department referred me to a very

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1 informative presentation of background information regarding
2 small water systems. And I included that in your Staff Report so
3 that you may be educated to the extent that you wish. That is my
4 additional information that I've provided you. Do you have any
5 questions?

6 CHAIR PHILLIPS: I, actually, I have a question. My
7 question hadn't been on the--actually on how the water service
8 works, but about the policy behind having a parcel that is
9 encumbered by a winery, and then actually developing on that
10 parcel. So, to me, it was kind of the context, the policy
11 context, of making that decision.

12 DEPUTY DIRECTOR MCDOWELL: Well, why don't I touch on that
13 if I may. The Winery Definition Ordinance states that wineries
14 should be on a single parcel of ten acres or greater in size. In
15 practice, since the adoption of the Winery Definition Ordinance,
16 there have been cases where the septic system, or other, I'll
17 say utility elements, of a winery have been allowed to occur on
18 a separate parcel. I'll use the example of Cuvaison since that
19 was the first winery I worked on. This is the Cuvaison in
20 Carneros where the septic system is completely on a separate
21 parcel than the winery. And it was found acceptable and
22 consistent with the Zoning Ordinance because it was the utility
23 component and not something like the parking or the visitation
24 area or production area, that sort of thing.

25 But the Environmental Management Department, as well as the
26 Planning Division required the property to be linked to the use
27 permit, and I'm going to say this in a funny fashion, where they
28 have to convey together, or--because we'd have a problem on our

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1 hands if there were a situation where the septic system was
2 owned by a different entity than the remaining elements of the
3 winery. So...

4 CHAIR PHILLIPS: Well then, and actually to make that an
5 apt analogy then, Cuvaision would be coming in to develop on the
6 parcel that had the septic on it. That would make it more
7 similar to the situation that we're looking at today.

8 DEPUTY DIRECTOR MCDOWELL: Correct. So, in that Cuvaision
9 example, if someone proposed a winery on the parcel that had the
10 septic system on it, it would raise a situation that I don't
11 think we've had before. I don't think it's necessarily
12 inconsistent with Napa County Code, but it does bring up an
13 interesting policy question of adding a winery to a property
14 that already has the septic system.

15 CHAIR PHILLIPS: But is encumbered by existing winery.

16 DEPUTY DIRECTOR MCDOWELL: Of a different winery, yeah.

17 CHAIR PHILLIPS: And that's what I--that had been the
18 original question, so.

19 DEPUTY DIRECTOR MCDOWELL: So there are some other
20 situations that have some similarities to this. I think down in
21 the Rutherford area there's a shared septic system for some of
22 the commercial uses, as well as some of the wineries down in
23 that area that are out on an agricultural parcel. And I believe
24 up near Krug Winery and the Ballentine Winery there's another
25 shared system out in that area as well.

26 CHAIR PHILLIPS: But those were all done quite a long time
27 ago and have never come in for any kind of a modification, which
28 might entail a cleanup.

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1 DEPUTY DIRECTOR MCDOWELL: I believe there's been
2 modifications but the original establishment of those mutual
3 systems I think in those two cases both pre-date the Winery
4 Definition Ordinance. And they also pre-date Measure J because
5 in at least one of those cases you've got commercial effluent
6 out on agriculturally designated land. We can provide some more
7 research as well since this item's going to be continued.

8 CHAIR PHILLIPS: Okay. Great. Are there any other questions
9 from the Commission? Seeing as there are none, I'm going to--the
10 Public Hearing is open. I will ask if there's anybody that would
11 like to speak to this matter to please come to the microphone
12 and state your name and address.

13 NORMA TOFANELLI: Norma Tofanelli, 1001 Dunaweal Lane.
14 First I would like to apologize to the Commission, Staff, and
15 the applicant for the amount of information submitted just
16 before this hearing. The timing of the continuance granted on
17 December 17 included two major holiday weeks, Christmas and New
18 Year's, limiting the time available to find experts, complete
19 research, and compile data. So, I know it's a lot of information
20 that you received late and we don't like to do that, but we
21 really didn't have a choice.

22 Please note, for the record, that although the Tofanelli
23 family are adjacent neighbors to both the proposed Girard parcel
24 and the Clos Pegase parcel, and we spoke at the December
25 hearing, the Tofanelli family did not receive any legal notice
26 of this hearing today.

27 Many of our concerns are detailed in the letter to you from
28 Ellison Folk, Shute, Mihaly, & Weinberger. But others remain.

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1 And they are in what I am distributing today and would like to
2 review. As immediate neighbors we will be forever impacted by
3 the massive change in operations on these parcels. The Girard
4 Winery building with faux stone front and tall cupolas will
5 block the most beautiful down valley view on Dunaweal Lane.
6 There's nothing else like it. As well as the incredible view of
7 the western hills that I have enjoyed all of my life. These
8 views will be gone for our entire lifetimes. Our farming
9 operations will be irrevocably altered. Fences and gates will
10 have to be installed to keep winery visitors from wandering into
11 our homelands, adding to the increasing burden from tourist
12 trespass and theft. Mr. Roney, of Girard, has agreed to install
13 fences and gates at mutually agreeable locations as conditions
14 of approval. We really appreciate that, we had a very good
15 meeting. These must be installed before the winery is allowed to
16 open for business because of the likelihood of direct trespass.

17 Mr. Roney has also agreed to conditions of approval to
18 control construction dust to protect our organic vineyards. And
19 again, we really appreciate his attitude. As many signs around
20 the Valley point out, dust is harmful to grapes, it really is.
21 And most particularly to those that are farmed organically. It
22 is critical that the dust be controlled and not creep over to
23 our vines. Mr. Roney appears to understand and be willing to
24 work with us on that.

25 While Mr. Roney has been very gracious and accommodating,
26 we are still very concerned about operations of Girard and Clos
27 Pegase and the changes they bring to a once-quiet rural area.
28 Clos Pegase is a pre-WDO winery with a permit for 200,000

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1 gallons, although it produces currently only 25,000 cases, or
2 about 60,000 gallons of wine. Warnings from neighbors, so many,
3 many years ago, 30, that the clay soils of the parcel would not
4 perk proved true. And we watched as truck after truck hauled out
5 winery waste. Then we watched the mound system fail as toxic
6 winery wastewater inched toward the Napa River. We protested
7 when they sought to pipe the waste under Dunaweal to be treated
8 in ponds on the second, now Girard, parcel.

9 County Code at the time, long time ago, mandated the merger
10 of contiguous parcels under same ownership when the use on one
11 parcel required services from another parcel. The County
12 disregarded its own Code and the neighbors didn't sue. Too bad.

13 We warned, too, that the Clos Pegase parcel could not
14 provide water as claimed. We laughed at the well drilling rig
15 atop a huge pile of cave tailings at the base of the hill.
16 Watched as well drilling and the original well failed and water
17 had to be piped in from the second parcel.

18 As long as the winery exists on the Clos Pegase parcel, the
19 two parcels are inextricably linked. The Clos Pegase parcel
20 cannot produce its own water, nor get rid of its own waste. To
21 grant another winery on this parcel is contrary to the intent of
22 the WDO. The parcel has been used. Another winery should not be
23 allowed.

24 Where once there were approximately 50 acres of prime
25 producing farmland, with a modest farmer's house and barn, there
26 will now be two industrial processing plants with retail and
27 commercial uses in their place. This appears to be a policy
28 issue for the Board of Supervisors. When has the parcel been

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1 used?

2 Once again, neighbors are concerned about water. According
3 to Staff, the County has no record of problems or complaints of
4 diminished groundwater supplies at the project site or in the
5 general vicinity. And I quote from the Staff Report. I find that
6 astonishing. You should too. You've seen me here with my well
7 logs many times. We have been submitting data to support our
8 water concerns for over 30 years. I have presented to this very
9 Commission the attached area well log. This packet is part of
10 your packet. I've presented these to you so many times. Most
11 recently Pavitt, Venge, Fisher. They should be quite familiar to
12 you by now. Familiar also should be the pages from the 1989 WDO
13 FEIR, in which Jill Pahl, Senior Environmental Health
14 Specialist, noted that the Dunaweal Lane area warranted study as
15 it appears to be a, quote, existing problem yield area where
16 quote, water is in short supply. What happens to these documents
17 that we labor to produce as evidence? Are they disappeared down
18 Orwell's memory hole?

19 While much of the County and Napa City is grappling with
20 the problem of water being trucked to increasingly unsustainable
21 projects, Staff appears unaware of water trucking in the
22 Dunaweal area, and again assures there's plenty of water. One
23 acre-foot of water for each acre of land can supposedly be
24 continuously extracted on the Valley floor with no harm.

25 However, as I read GRAC and Luhdorff Scalmanini they do not
26 provide data to support that assumption. Indeed they state there
27 is insufficient data to assume anything. And instead repeatedly
28 identify the Calistoga area as quote, high priority for study

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1 because it is particularly data deficient.

2 A small winery, Venge Vineyards, about 8,000 cases, less
3 than a mile away, was approved in 2009, also with assurances of
4 ample water from four wells. The 12-acre parcel had a small
5 vineyard and private residence, but needed four wells to
6 survive. Neighbors were told their water concerns were baseless.
7 One acre of water for every acre of land. Well, Venge was built
8 in 2010, and now trucks water in regularly. At least one Venge
9 neighbor now also has to truck in water periodically. The
10 problem in our area is the alluvium capable of storing water is
11 very thin. Geothermal waters with vineyard-killing boron, are
12 very close to the surface and the hills are so fissured from
13 volcanic activity, it is unclear how much water received in
14 those eastern hills actually recharges here. Apparently unknown
15 to the County and admittedly perhaps unknown also to the
16 applicant, is that Clos Pegase has also recently been trucking
17 in water. I watched in 2012, 2013 as water trucks regularly
18 chugged up the hill to the storage tank near the residence, day
19 after day.

20 The new owners plan to boost production at Clos Pegase to
21 200,000 gallons, as permitted, an increase of over 300 percent.
22 If water has had to be trucked in to produce 60,000 gallons, how
23 many more water trucks will be needed when production grows
24 threefold? How many will be needed when Girard is also in
25 production?

26 What is most concerning is the change that the new owners
27 have brought to Clos Pegase. It is well known that weddings are
28 illegal at Napa County wineries. One of the principals, Leslie

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1 Rudd, has apparently owned a winery here since the late 1980s
2 and surely must be aware of this unwavering WDO policy. Yet the
3 major marketing plan to grow Clos Pegase appears to be via
4 weddings. Almost immediate to the change in its ownership, Clos
5 Pegase began an intense wedding marketing program. In your
6 packet are a few screen captures downloaded from the Internet.
7 If you Google Clos Pegase, weddings is the first item that comes
8 up as you can see on the Google page. Click on Clos Pegase
9 weddings and up pops the wedding home page, which is the second
10 item in that wedding packet. Click through and you will see they
11 have pulled out vineyard to make way for a portable altar and
12 chairs. They aren't kidding. They're promoting the actual
13 wedding ceremony as well as the receptions and dinners. Lovely,
14 expensive photography, with brides and grooms all over the
15 vineyard, winery, and caves. Weddingspot.com, which is also in
16 your packet, provides more detail. Maximum outdoor wedding
17 ceremony, 250 guests. Maximum indoor reception, 250 guests.
18 Average wedding cost is between \$17,000 and \$27,000 per
19 weddingspot.com for 100 guests. Extrapolate that. That would be
20 about 70,000 dollars for the maximum 250 guests. And make no
21 mistake; this is all about weddings, and not wine marketing.
22 Only beer and wine are allowed per the data on the Internet, and
23 alcohol is noted to be BYO, bring your own. They aren't even
24 required to drink Clos Pegase wines at these weddings.

25 We have recently observed events for wedding planners, as
26 well as the weddings themselves. Napa County Sherriff's
27 complaint logs contain the detail. Code Enforcement should check
28 with the Sherriff's Department. One deputy responding to a

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1 recent wedding complaint told me that he could not do anything
2 other than request the music be turned down because, he said,
3 weddings are legal in Napa County. They happen up and down the
4 Valley all the time. When I cited the facts that weddings are
5 illegal here he responded, if that's true and you can put a stop
6 to them, you have no idea how many calls you will save this
7 department. We are always out on wedding calls. I repeat, the
8 Napa County Sherriff's deputies appear to be responding
9 regularly to complaints generated by weddings occurring all over
10 the valley, but do not shut them down because they are
11 considered legal activities. Perhaps the Board of Supervisors
12 should chat with the Sherriff, and perhaps Code Enforcement
13 should start opening some files.

14 The new owners have at least one more trick up their
15 marketing sleeve. See the California Winegrowers promo piece,
16 which is the last page in the wedding packet. And I quote, the
17 winery now hosts weddings among other events. And the remodel of
18 the house on the property will create a new event space. Not
19 only is this a wedding mill, the private residence is intended
20 to be a new event space for yet more illegal special events.

21 I have searched the file and I am very familiar with the
22 Clos Pegase from day one. It does not hold permits to allow
23 these activities. We are reminded that these same winery owners
24 also own Cosentino, which uses State Highway 29 as a loading and
25 unloading zone because the parcel is too small for the winery
26 activities it contains. The neighbors suffer. It is astounding
27 to me that the County, CHP, and Caltrans could possibly allow
28 this to continue, when one of the biggest problems we have in

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1 Napa County is traffic. We are not looking forward to policing
2 our new neighbors. Weddings and illegal events were apparently
3 conducted at the site by the former owner as well.

4 Included in the packet is, the last page, I believe, this
5 letter, which was anonymously put into my mailbox by an irate
6 neighbor who expected me to stop the shenanigans. I'm presenting
7 it at this time so they know their efforts were not in vain.

8 Every day we learn that Napa County has very serious
9 problems that are not being addressed. Thousands of winery
10 wastewater trucks are apparently a surprise to planners. At one
11 Raymond hearing Staff revealed that quote, dozens of left-turn
12 lanes throughout the county, mandated as CEQA mitigations have
13 never been installed, and traffic is one of our biggest issues.

14 This Commission has been asking for at least a year for a
15 nexus between marketing and production. For definitions of
16 marketing events versus food and wine pairings. And I've
17 attached a request from Heather--Commissioner Phillips, from the
18 July 16, 2014 Planning Commission meeting where she asked many
19 of these questions. The much-heralded NCTPA traffic study hasn't
20 been completed. I'm glad to hear that's coming up, finally. How
21 can you assess cumulative traffic impacts? No one knows yet how
22 many water trucks are delivering how much water to which
23 unsustainable projects all over the county. And yet Wine
24 Business Journal recently reported that there are 80 winery
25 projects quote, in the pipeline. How can this continue? How can
26 you keep compounding the problem by approving more projects
27 without current and complete data? And how can you issue a new
28 use permit to owners, who, while they have been very

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1 accommodating in our request for a fence and dust control, are
2 openly and flagrantly violating the WDO and Napa County Code?

3 Thank you.

4 COMMISSIONER SCOTT: I hope everybody doesn't get that much
5 time.

6 CHAIR PHILLIPS: No.

7 GARY MARGADANT: Good morning Commissioners. My name is
8 Gary Margadant, I live up on Mt. Veeder Road at 4042. I have a
9 couple of comments here. Norma has spoken at length about a lot
10 of things that I would have spoken to, but--and I thank her for
11 that. The one thing that I would mention on this is that it
12 sounds like if there's a water problem in the area up there, one
13 of the things that you really need to do is--and the County
14 needs to do, is investigate whether this is actually the case.
15 And I think one of those things ought to be a requirement that
16 the wells in the area be tested, and they be tested for the
17 water quality also. I think water quality is going to be a big
18 measure that's going to give us a lot of insight into what is
19 actually going on in these aquifers.

20 If Venge is having a problem, and its neighbors are having
21 a problem, I'm sure that the water quality measurement will
22 actually begin to tell you something about how it is progressing
23 over the years, whether it's deteriorating, whether there's
24 plumes coming in from boron, whether there's plumes coming in of
25 chlorine, whether the aquifer underneath the ground is
26 deteriorating to a point that it's going to be unusable in the
27 future, you know, and if this is the case, well, that's really,
28 really not healthy.

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1 If Dunaweal Lane turns into Calistoga hot water baths, it's
2 not going to be pleasant. And I would suggest to you that I
3 think that's one very important thing that we actually do look
4 at in the water availability analysis. Thank you very much.

5 CHAIR PHILLIPS: Thank you.

6 DAVID HALLETT: Good morning Commissioners. Chairman
7 Phillips. Commissioners. David Hallett on Soda Canyon Road. I
8 hadn't intended to speak this morning on the subject that I'm
9 going to address you on now, but after Ms. Tofanelli's remarks I
10 want to ask you about compliance.

11 I've had meetings, both in his office, and socially with
12 Director Morrison about the compliance that the County is
13 activating here in our business and on the enforcement of the
14 use permits that you as a Commission and the Board of
15 Supervisors regularly have issued in the last two years. My
16 question to you is how can you continue to issue use permits
17 that you know the County will not enforce the conditions of that
18 permit? Mr. Morrison's group doesn't have the manpower. I've
19 told this Commission, I've told the Board of Supervisors. He
20 doesn't. Earlier today he asked you to find him six people. I
21 don't know what those people are going to do, whether they're
22 going to be in compliance, whether they're going to be in
23 planning.

24 It seems to me that the planners have plenty. They are
25 producing recommendations for you with great regularity. I know
26 you don't like to hear the word moratorium, it makes your toes
27 curl. So let's call it something else. Put a pause on the
28 consideration of these 80 permits that are in the pipeline. Just

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1 tell the applicants you can't continue considering them because
2 the County cannot enforce the use permits that you are requested
3 to produce. It's that simple. You don't have to write an
4 ordinance saying you're going to have a moratorium. Just stop
5 considering them. You have that choice. Thank you.

6 CHAIR PHILLIPS: Thank you, Mr. Hallett. And I didn't know
7 if Director Morrison, you moved your speaker, if you wanted to
8 say anything in response to that? Or? I'm not trying to put you
9 on the spot.

10 DIRECTOR MORRISON: No, no, no. I will certainly entertain
11 any questions from the Commission. But I don't think it's
12 necessarily productive for Staff and speakers to engage in any
13 kind of debate. I think that really all communication should be
14 directed back and forth to the Commission and not from speakers
15 to the Staff. My own personal preference.

16 CHAIR PHILLIPS: Okay. Thank you. I saw you go for your
17 microphone. I thought...

18 GINNA BEHARRY: Hi. My name is Ginna Beharry. I live at
19 3167 Dry Creek Road. I hadn't intended to comment either, but
20 after hearing Ms. Tofanelli, and dealing with the Anthem issue
21 that we spoke at at the last Commission meeting, it seems to me
22 that, I don't know if anyone's ever framed an argument like this
23 in terms of an involuntary wealth transfer. As these projects
24 creep closer to neighbors, I have very little doubt that Ms.
25 Tofanelli's property value will decrease significantly if
26 something like the Girard Winery is approved. And as, you know,
27 in terms of the anthem project as well, that there are these
28 large event center wineries close to residential neighborhoods,

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1 or residences in Ag watersheds that if it decreases the property
2 values or the home equity of a number of, you know, by millions
3 of dollars, of people around them, is it fair to add to the
4 value of the property of the winery applicant at the expense of
5 devaluing the property of the people around it, who happen to be
6 there first?

7 And, I mean, I just, you know, I had studied economics in
8 college and went to business school, and I truly see this as an
9 involuntary wealth transfer that is really not taking into
10 account what's just for all citizens, not, rather than just
11 caring about what winery applicants want. That's my only
12 comment.

13 CHAIR PHILLIPS: Thank you. Okay, well I appreciate the
14 comments and is there anyone else who would like to speak? Yes.

15 COMMISSIONER SCOTT: Oh yeah.

16 DAVID CLARK: Good morning Commissioners. My name is David
17 Clark, 4704 Silverado Trail. And I live near the proposed Girard
18 Winery where Dunaweal hits Silverado Trail. My brother's a
19 hydrogeologist. We both grew up here in the Valley. And I could
20 have asked him to produce yet another report for you. But you
21 might have thought it was biased, and you have plenty of
22 reports.

23 What's needed now is some common sense from everybody and
24 some actual data about the project area. The GRAC report is an
25 intelligent consolidation of previous studies and available
26 data, highly professional, and beautifully illustrated. It may
27 be the bible of water reports in this county. But it recognizes
28 its limitations. Even if those referring to it don't.

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1 In my letter to County I've detailed some quotes from the
2 GRAC report. Quote, except for near St. Helena, the upper valley
3 was not examined for this study. Quote again, the upper Napa
4 Valley and MST area were largely excluded from the present study
5 because of the small size of the upper valley in the previous
6 detailed studies of the MST. Another quote, as with the
7 calculated depth to groundwater values along the Napa River, the
8 groundwater evaluation contours in spring 2010 were interpreted
9 with limited well control. And therefore calculated values in
10 many areas of the valley have great uncertainty.

11 Another quote, the stream flow gates near Calistoga was
12 only in operation for eight years. As to aquifer testing it says
13 as explained in this report, the distribution of the hydraulic
14 conductivities in the Napa Valley was based on data recorded on
15 historical drillers' reports. During the current study that
16 became evident based on approximately 1,300 reports reviewed,
17 that most of the test data are insufficient to adequately
18 determine or estimate aquifer characteristics. Since most of
19 these data were recorded during airlift operations rather than a
20 pumping test. Pumping is recommended to gather the appropriate
21 data to reliably determine well yield.

22 As to the groundwater monitoring network the report
23 illustrates the distribution of current groundwater level
24 monitoring locations, which is primarily located in the Napa
25 Valley floor, Napa, and MST sub areas. Very little groundwater
26 level monitoring is currently conducted elsewhere in Napa County
27 outside these two sub areas.

28 Maps in the report show far fewer wells in the Girard

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1 project area, and in St. Helena, and south. Some maps go no
2 farther north than St. Helena. These are not defects in the
3 report, but they are limitations. The County's, Girard
4 Environmental Determination Analysis reads, the subject property
5 is not located in a groundwater deficient area. And it goes on
6 to name various studies, including the GRAC report, concluding,
7 in general, recent studies have found that groundwater levels in
8 the Napa Valley floor exhibit stable, long-term trends with a
9 shallow depth to water.

10 However, given the many disclaimers I've just quoted in the
11 GRAC report, which refers to all available studies and
12 information of the valley, the County's analysis is certainly
13 not true for areas near Calistoga.

14 I've been present at past County meetings where Norma
15 Tofanelli has presented extensive material regarding water
16 shortages in wells near this project. This information provided
17 more detail in the immediate project area than the GRAC report
18 does and should be considered. I personally have information
19 that's even more critical for this hearing.

20 Given the reported lack of data and studies in the Clos
21 Pegase/Girard region, the current experience of those living and
22 working there becomes the main source of factual information. My
23 wife and I own 33 acres where Dunaweal hits the trail. We have
24 three wineries bordering our parcel. Our well is on the valley
25 floor. And originally it provided plenty of water. When a
26 neighbor's 12.5-acre valley floor vineyard and home needed more
27 water than their existing three wells could provide, he asked me
28 about my well, then drilled another well 50 feet from it. Our

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1 available water then decreased, and I learned a valuable lesson
2 about wells. Nobody talks about them.

3 Years later Venge Winery was built in that vineyard. During
4 the growing season, despite pumping as much as possible from
5 groundwater and affecting our well, their system does not supply
6 enough water. They've trucked water in regularly for years,
7 sometimes more than once a week. They probably would have had to
8 show sufficient supply was available to get their winery permit,
9 but that proof clearly turned out to be wrong.

10 Properties around us have multiple wells, some abandoned,
11 in order to try and meet their water needs. After the
12 neighboring vineyards reduced our well's output, we drilled
13 three or four dry wells on our property before we found water.
14 Only the variety of terrain on our property allowed that. We
15 could have drilled on the valley floor forever without success,
16 and simply drilling deeper to reach more water, it's not an
17 option, because the drillers want to avoid the boron, the
18 arsenic, and the geothermal common in the Calistoga area.

19 In my letter I've detailed how there is no real proof
20 demonstrating that the designated well can provide enough water
21 for both wineries, it only supplies production water for 60,000
22 gallons of wine now. There have been no tests proving it can
23 pump enough water for the 400,000 combined gallons of production
24 for both wineries. That's 6.7 times the volume of wine and water
25 needed that it currently produces. The feasibility study only
26 calculated the production without considering or testing the
27 drawdown effects of long-term pumping at such a high volume. In
28 fact, the drillers' data shows the well runs near dry after

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1 pumping only 5,400 gallons. Far shy of the 15,000 gallons
2 required daily for the wineries.

3 No consideration is given to the effects on neighboring
4 wells. If this well can't produce sufficient water the
5 application mentions one or two other existing wells, which
6 currently may be disconnected and/or not potable sources. The
7 production of these wells has not been referenced, and the same
8 concerns about proving actual production exist. The fact that
9 the Girard and Clos Pegase properties are to be linked through
10 sharing a water system raises doubts about the quality of other
11 wells on the property.

12 Drilling additional wells is possible, but as my neighbor
13 and I have experienced on our properties, it's no guarantee of
14 water. If sufficient water isn't available from the property,
15 Girard and Clos Pegase would end up trucking lots of water.
16 That's poor planning, and it isn't a sustainable policy.

17 With the water information before you now the Girard
18 project should not be allowed to proceed and become a precedent
19 for trucking water instead of proper planning. If wine can't be
20 made on a site, there should not be a winery there. It's that
21 simple. This is exactly what has happened to Venge's 20,000-
22 gallon winery even after drawing as much water as possible from
23 multiple wells on a 12-and-a-half-acre valley floor site. The
24 Girard/Clos Pegase Wineries will need 20 times more water. Will
25 Girard get lucky? Will the County bet on that?

26 Furthermore, the winery process water comes from well
27 number two. And a significant volume of processed wastewater,
28 920,000 gallons, is earmarked from that for vineyard irrigation.

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1 If that well doesn't produce enough water for the winery, the
2 calculated wastewater would not be available for irrigation. All
3 the project calculations fall apart. So, if there's a need to
4 truck water for winery production, that same trucked water would
5 end up as processed wastewater for irrigation. I understand that
6 the trucked water comes from municipalities. Is irrigation with
7 that water legal in this County?

8 In the absence of factual, or accurate, data from the GRAC
9 report for the Girard region, the known facts from other sources
10 concerning existing wells in the area become much more
11 important. The water situation at Venge Winery is one of the few
12 comparisons available, and does not bode well for the much
13 larger Girard project. At the very least, this project needs
14 further data and studies. Tripling production at Clos Pegase to
15 the permitted 200,000 gallons may alone create water problems.
16 Granting the Girard Winery permit will double that effect. Even
17 if the subject properties can produce the water, there have been
18 no studies of the effects to neighbors, or to the region in
19 general.

20 As in the case of the Venge Winery, repercussions to
21 neighbors do exist. The effects from the Girard/Clos Pegase
22 project will be 20 times as great. No permit should be issued to
23 Girard, unless more extensive studies demonstrate a favorable
24 outcome. Given the concerns expressed, approving this project
25 would set a precedent for irresponsible winery planning and with
26 wineries trucking water from the cities. This is not a
27 sustainable model for our valley. Thank you.

28 CHAIR PHILLIPS: Thank you, Mr. Clark.

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1 BEN MONROE: Good morning. Ben Monroe, Always Engineering,
2 131 Stony Circle, Santa Rosa. I just wanted to provide a bit of
3 clarification on what was touched on earlier and has kind of
4 come up through these other comments, too, regarding the
5 transient non-community water systems. Part of the application
6 for that through environmental management, as they've been
7 allowed through the State of California, is to look at
8 consolidation feasibility as part of your permit application.
9 There's a specific question in the application that says is
10 there any public water systems within one mile of this project,
11 and have you looked at consolidating with that system. So, in
12 this case, we already had a water line on our property, the well
13 on our property as well. And that's the reason that we've
14 decided to combine these two projects as a single water system.
15 Could we look at, you know, separating them, yes. There was a
16 well on the Clos Pegase parcel that was connected to the system.
17 It had been abandoned because it didn't meet the sanitary seal
18 depth that was required for the water system. So to remain in
19 compliance, that well was disconnected.

20 So, I just wanted to point that out, that, you know, there
21 was a reason that the systems were combined, and that is what
22 the State is asking you to look at. So, I just wanted to shed
23 some light on that, thank you.

24 SCOTT GREENWOOD-MEINERT: Scott Greenwood-Meinert,
25 Dickenson, Peatman, and Fogarty on First Street in downtown
26 Napa. I'm an attorney for the applicant. I'm going to keep this
27 really short because we're going to come back after we discuss
28 with Staff the letter and the information that came in very late

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1 yesterday afternoon and this morning, which we haven't had ample
2 time to review either.

3 There are two issues that came up in the public comment
4 that we do need to address. One of them is the wedding issue.
5 Clos Pegase is a pre-WDO winery, and weddings are allowed. And
6 the other issue is the trucking of water at Clos Pegase does not
7 occur and has not occurred. Thank you.

8 CHAIR PHILLIPS: Actually, can we--can I ask for
9 clarification from Laura in terms of the question of the--this--
10 weddings being allowed. I know that some pre-WDO wineries have
11 wedding rights, but do they all?

12 DEPUTY COUNTY COUNSEL LAURA ANDERSON: John can correct me
13 if I'm wrong, but my understanding is that only wineries that
14 were conducting weddings prior to the pre-WDO, you know, before
15 the WDO went into existence, and can demonstrate that, are able
16 to do that. Is that correct, John?

17 DEPUTY DIRECTOR MCDOWELL: I would agree with that. Yes.

18 COUNSEL ANDERSON: And as far as I know, isn't it only--
19 what's the one I'm thinking of?

20 DEPUTY DIRECTOR MCDOWELL: Sattui?

21 COUNSEL ANDERSON: Yes. That's the only one that we're
22 aware of, is that true?

23 CHAIR PHILLIPS: No there's--the Beaulieu...

24 DEPUTY DIRECTOR MCDOWELL: I know we went through a process
25 on Sattui to--it was similar to our certificate of legal non-
26 conformity process, where they submitted the evidence indicating
27 that they were conducting a certain level of weddings at a
28 certain intensity prior to the adoption of the Winery Definition

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1 Ordinance. And that option remains open to any other pre-WDO
2 facility that wishes to come forward and request acknowledgement
3 of weddings if their use permit doesn't already acknowledge
4 weddings as part of their use permit entitlement.

5 MR. GREENWOOD-MEINERT: If I may.

6 CHAIR PHILLIPS: Please state your name in for the record.

7 MR. GREENWOOD-MEINERT: Sure. Scott Greenwood-Meinert,
8 again, Dickenson, Peatman, and Fogarty on behalf of the
9 applicant. Clos Pegase was conducting weddings in the 1980s and
10 has extensive information to that point, so it is something that
11 was done prior to the WDO repeatedly, and as a prominent
12 practice.

13 CHAIR PHILLIPS: Well, I'm going to ask for more
14 clarification for Staff on--and when we come back regarding the
15 weddings with the background that we've just received.

16 COMMISSIONER POPE: Along those lines, too, I'd also like
17 to find out a little bit more about what's meant in their
18 marketing materials about bring your own. It's just something I
19 hadn't seen before.

20 DEPUTY DIRECTOR MCDOWELL: So since this is heading in the
21 direction of continuance we'll be happy to work with the
22 applicant on that. I guess for the benefit of the audience, the
23 matter before us today is, of course, the Girard Winery across
24 the street, so the decision making needs to be on Girard. And to
25 the degree that we're discussing Clos Pegase can really only be
26 as it relates to the Girard facility and not specific to the
27 Clos Pegase facility. That really needs to be handled
28 separately.

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1 CHAIR PHILLIPS: Thank you for that clarification. Well I'm
2 going to ask the Commission now if they have any additional
3 comments that they would like to make, or questions of Staff.
4 Commissioner Pope?

5 COMMISSIONER POPE: Did I volunteer?

6 CHAIR PHILLIPS: Oh I thought--no?

7 COMMISSIONER POPE: Just, yeah, I think obviously given the
8 volume of information that's been brought in at a late hour
9 here, that obviously we all concur, I think, with the idea of a
10 continuance. You know, I think as we just discussed in the new
11 water availability analysis, and we talked a little bit about
12 the language of, you know, factually demonstrating concerns
13 about water and challenging the assumptions made in our existing
14 water availability, you know, I think some pretty salient points
15 were raised here and would like to hear some, you know, really
16 specific responses to particularly the items raised in Ms.
17 Tofanelli's letter. And I made notes, and now I can't interpret
18 them. But--well, anyway.

19 CHAIR PHILLIPS: We can come back. Sorry I didn't mean to
20 put you on the spot.

21 COMMISSIONER POPE: Yeah, no, I mean, a number of--yeah, I
22 mean, I just think the number of pretty concerning questions are
23 raised in the letter, and I think, you know, I just would like
24 to hear Staff call out specifically, I think, for example, the
25 second page of the letter, second paragraph starting with Clos
26 Pegase as a pre-WDO winery. Talk about some of the issues raised
27 there. The notion that, you know, the idea that perhaps the
28 parcel has already been used. I'd like to hear discussion in

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1 that regard in terms of receiving wastewater. And yeah, I
2 certainly remember the information that Ms. Tofanelli has
3 brought up in the past, and that usually ran up against the
4 water availability analysis that we had at the time. So I'd like
5 to see some addressing of those issues and how they relate to
6 the current development in the Dunaweal area. I think that's it
7 for now, but if I think of anything else I'll bring it up before
8 we're done.

9 CHAIR PHILLIPS: Any other comments?

10 COMMISSIONER BASAYNE: I would concur. I believe that a
11 continuance is important. Certainly in light of the additional
12 information that's been provided and the need to analyze it,
13 certainly for the benefit of the applicant, but also for the
14 benefit of the neighbors.

15 COMMISSIONER SCOTT: I would agree that a continuance is
16 very appropriate. And I'd like to express some concern based on
17 the information that has been provided, by--in particular by the
18 neighbors, because in addition to the GRAC report, I don't think
19 that we can discount the actual life experience of the people
20 who are there. I mean, that has value to me. And I place a
21 certain amount of credibility, in fact, a great deal of
22 credibility with the experience. Particularly with neighbors who
23 have been there for many years, and have gone through various
24 seasons, various droughts, etcetera.

25 So I think that it is incumbent on us as a Planning
26 Commission to look at long-term impacts and to apply, or
27 interpret, if you will, the County ordinances and the WDO to the
28 extent that we've done our job as thoroughly and as completely

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1 as possible. And based on the information that we've received, I
2 for one, would have to have more time, and I would request that
3 Staff make the necessary time to determine the information that
4 will allow us to make a reasonable decision based on fact and
5 the application of our Planning principles that we have tried to
6 maintain and live up to for many, many years here in Napa
7 County.

8 COMMISSIONER COTTRELL: I would concur with my fellow
9 Commissioners about the need for a continuance here. And also I
10 would just echo Commissioner Scott's gratitude to the speakers
11 this morning to help provide some more data about water
12 availability, because I think we do need to continue to gather
13 more information on that front.

14 Two other issues I just wanted to bring up briefly to
15 Staff. A question I had about traffic impacts of the events. And
16 I know that we're talking about, you know, few events over the
17 course of the year, but we're also in an environment of lots of
18 wineries doing these single large events, and I'm wondering
19 about the cumulative impact of the 500-person event when it's
20 happening in multiple locations around the county.

21 And then my final comment, I guess, is a little bit--a--
22 30,000-foot viewpoint. We have a situation here where we are
23 looking at the Girard parcel, but as Clos Pegase is in common
24 ownership, I think it's worth noting we have a situation where
25 there is a pre-WDO winery that is not subject to that 75-percent
26 production, or grape--local production rule, and one that is.
27 And so it's a kind of classic fact pattern for grapesource
28 shifting, and I think I would look to Mr. McDowell or Mr.

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1 Morrison to provide some information to the Commission about how
2 the General Plan contemplates that kind of source shifting
3 scenario. And also if the environmental documents in that
4 General Plan EIR, look at that, and how they provide an analysis
5 for that.

6 CHAIR PHILLIPS: In that vein I have a few additional
7 things that I would like to pass on to Staff. The first being
8 the 2,628 square feet of covered seating area, I would like to
9 see that counted towards the production to accessory ratio
10 number. I feel that once you put a roof on, it becomes, what I
11 consider, or would be considered, a structure. So I'd like to
12 see that added to that calculation.

13 With regards to the water, I think that--I echo my
14 Commissioners' concerns about the evaluation of the situation.

15 And in terms of traffic on the mitigation measures, one of
16 them, the mitigation measures for traffic is to schedule
17 employee work shifts to commence include outside of p.m. peak
18 periods between four and six. So, a few questions on this, that
19 we don't require them to be scheduled between peak morning
20 hours, just peak p.m. hours. And then ten days after the
21 issuance of the final occupancy, do they need to put in a plan
22 of how they would meet this? And I mean, it's pretty difficult
23 to say that you're going to have nobody--everyone has to leave
24 before four that is working, or after six. It's going to be a
25 difficult thing to monitor.

26 But, lastly, it seems like this is a mitigation measure
27 that we're seeing more frequently within the last few
28 applications. And my fear is that we are just shifting our--that

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1 we're just shifting the traffic. We're shifting the peak period
2 of traffic. And we need to be cognizant of that.

3 And I guess--and lastly, I guess I agree with a
4 continuance, but almost before the continuance, I am wondering
5 if this does need to go before the Board. I do feel that this is
6 a policy issue, and I am not necessarily sure that it is within
7 our purview to decide on this without their guidance.

8 COMMISSIONER POPE: Specifically what aspect?

9 CHAIR PHILLIPS: The aspect of when is it considered being
10 used? You have a parcel that is already encumbered by a winery.

11 COMMISSIONER POPE: Yeah. It's kind of a--it's a little bit
12 chicken before the egg. You know, does the Board need a
13 recommendation for us on this particular question to take it up,
14 or do we postpone the question until we get some guidance from
15 the Board.

16 DEPUTY DIRECTOR MCDOWELL: If I could weigh in, John
17 McDowell, representing the Planning Division. The jurisdiction
18 of this project is firmly in the Planning Commission's court.
19 So, the, really, the only vehicle as I understand it, unless
20 Laura wants to correct me, is you need to make a decision on
21 this project at some point, and then that--if somebody's
22 aggrieved by that decision that it would work its way up to the
23 Board of Supervisors.

24 DIRECTOR MORRISON: Yeah, I would strongly--David Morrison,
25 Planning and Building. I would strongly concur with Mr.
26 McDowell's comments. I'm not aware of any mechanism for the
27 Planning Commission to refer a matter up to the Board. The Board
28 can refer matters down, but it doesn't usually work the other

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1 way. But, more importantly, this is a pending application that
2 could be heard on appeal to the Board and the Board can't
3 prejudice itself on a pre-appealed matter.

4 CHAIR PHILLIPS: True. True.

5 DIRECTOR MORRISON: So, this really is the Planning
6 Commission's issue to wrestle with. If there's some areas in
7 which the Commission wants further clarification or direction,
8 then I would encourage Commission members to make those comments
9 known to Staff so that we can respond when this comes back. But
10 ultimately it will be the Commission's decision to weigh
11 whatever factors it feels are appropriate based on its own
12 individual interpretation to the General Plan as they see it
13 currently.

14 COMMISSIONER POPE: Well, I would--yeah, I would say, I
15 appreciate that clarification. And that would be my
16 understanding of the process as well. Yeah, it is an interesting
17 policy question. It's not one that I recall seeing before. And I
18 think there's a compelling argument to be made there, this
19 notion of the parcel being used already. And I would definitely
20 like to hear further exposition from Staff on--to look at that,
21 I won't say for or against, but I guess the mechanics
22 surrounding that determination, if a parcel is used because it
23 is currently receiving wastewater from an existing winery.

24 CHAIR PHILLIPS: It's already an encumbered parcel.

25 COMMISSIONER POPE: Yes, thank you. I would also concur
26 with Chair Phillips' point about the--I forget the numbers you
27 just read off with accessory usage.

28 CHAIR PHILLIPS: The 2,628 square feet of covered space.

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1 Well, usually I'm being told that I try to make policy, and I
2 can't. So this is a new day when I'm actually within my
3 jurisdiction. [Laughter.]

4 DIRECTOR MORRISON: For clarification, I did not say that
5 the Commission could make policy, I said the Commission, just as
6 Staff does every day with literally dozens of decisions that
7 come across my desk every day, and those of the planners and
8 others, we are constantly making our best interpretation of
9 policy, we're not asking you to set policy, we're asking you to
10 interpret the existing policy.

11 CHAIR PHILLIPS: Understood. Understood.

12 COMMISSIONER POPE: But Heather heard we are making policy
13 now. [Laughter.]

14 CHAIR PHILLIPS: That's right.

15 COMMISSIONER POPE: That's what she heard. She wrote it
16 down, I can see it's right here.

17 CHAIR PHILLIPS: Well, with that being said I would
18 entertain a motion.

19 COMMISSIONER POPE: One question would be when would be the
20 time to continue this. Because I know a month from now is about
21 the 18th, and we have Syar, so I don't know if this would be...

22 CHAIR PHILLIPS: It would--so it would be to--well it's not
23 necessarily a motion, but to a date certain.

24 DEPUTY DIRECTOR MCDOWELL: Yeah. In my discussion with the
25 applicant's team prior to the meeting, we discussed a one-month
26 continuance, and that will at least, that would take us out to
27 February 18, which would coincide with the Syar item. But with
28 that said, we're either going to be able to figure this out

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1 within the next couple of weeks, or we're going to need to drop
2 the item from the agenda and re-notice it for a hearing date
3 once we line everything up.

4 DIRECTOR MORRISON: For the Commission's information,
5 there's been emails this morning. We are looking at likely
6 continuing Syar to the March 18 meeting at this point. That's
7 not a set date, but that is tentatively what we're looking at,
8 so if you're worried about a conflict with Syar on February 18,
9 I don't think that would be a problem.

10 COMMISSIONER POPE: Okay.

11 CHAIR PHILLIPS: That's good to know. And actually, before
12 we discuss about that date, I also did want to reiterate that--
13 Commissioner Cottrell's comments regarding the grapesourcing,
14 and I, too, did have some questions about where the, you know,
15 you have 12 planted acres, three acres that would come in in
16 five or so years, and about the grapesourcing as well. Okay.

17 COMMISSIONER POPE: So, John, if I understood you, that
18 perhaps...

19 DEPUTY DIRECTOR MCDOWELL: The Staff's recommending the
20 continued date certain to February 18 with the understanding
21 that we may come back later and ask that it be dropped from the
22 agenda.

23 COMMISSIONER POPE: With that proviso I would make a motion
24 that we continue this item to a date certain February 18, unless
25 otherwise advised by Staff.

26 COMMISSIONER BASAYNE: Second.

27 CHAIR PHILLIPS: All in favor?

28 ALL COMMISSIONERS: Aye.

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1 CHAIR PHILLIPS: Opposed? Passes unanimously. And we'll
2 take a five-minute break.

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

2 That the foregoing pages are a true and correct transcript
3 of the proceedings before the Napa County Planning Commission,
4 County Building, Board Chambers, Napa, California, excepting
5 words noted "inaudible" or words placed in [brackets] to the
6 best of my ability. Speech disfluencies, discourse markers and
7 pause fillers have been deleted, except when deemed function
8 words. Commas may be used for emphasis as well as for grammar.

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

12 Dated this 8th day of December, 2015.

13
14
15 Kathryn F. Johnson
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23 THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE

24 CLERK OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF NAPA STATE OF CALIFORNIA

25 ATTEST: 

26 DATE: 2/5/16

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28
JANUARY 21, 2015