

LAW OFFICES OF

MICHAEL W. RUPPRECHT

Reply To:

East Bay Office

Of Counsel

Jeffrey G. Hansen
Paul B. Justi

RECEIVED

November 28, 2007

DEC 03 2007

By Facsimile – (707) 253-4336 / Regular Mail

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

Hillary Gitelman
Director of Conservation, Development & Planning
County of Napa Conservation, Development & Planning Dept.
1195 Third Street, Suite 210
Napa, California 94559

Re: *Pavitt Family Vineyards / Shane & Suzanne Pavitt Trust*
Variance & Use Permit Requests
Request Nos: P06-01427-VAR / P06-01426-UP

Dear Ms. Gitelman:

Please be advised this office represents Robert and Sharon Freed, owners of the improved real property located at 4680 Silverado Trail, Calistoga, immediately adjacent to the property on which the above-referenced variance and use permit requests are subject. As such, our clients will be immediately and directly impacted by the use changes proposed by the applicants in these two pending applications.

The purpose of this correspondence is to request that the public hearing pertaining to the applicants' requests, presently scheduled for December 5, 2007 at 9:00 a.m., be postponed for at least ninety (90) days. Our clients only very recently (over the Thanksgiving holiday) received any notice these applications were even pending, let alone that a full hearing as to their merits would be conducted in such a short period of time. As stated previously, our clients' property, which is immediately adjacent to the applicants' property, will be significantly affected by the proposed intensified use changes proposed by the variance. As such, our clients and their consulting and legal teams require a reasonable period of time to analyze fully the applicants' requests, formulate and submit thorough and complete comments thereon to the Commission, and then participate in a public hearing. Under the circumstances, therefore, this request for a continuance of the December 5, 2007 hearing for at least ninety (90) days is reasonable, and will serve the public's rights to be fully and thoroughly heard.

East Bay Office
18 Crow Canyon Court, Suite 160
San Ramon, California 94583
(925) 837-0867 / Fax – (925) 837-6104

Napa Valley Office
1001 Second Street, Suite 205
Napa, California 94559
(707) 257-6454

Hillary Gitelman
County of Napa Conservation, Development & Planning Dept.
November 28, 2007
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Given the short time frame involved in this situation, we request that you provide us with written notification that the December 5, 2007 hearing has been continued for at least ninety (90) days by the close of business on Thursday, November 29, 2007.

Thank you, and please feel free to contact me should you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael W. Rupprecht", with a long horizontal flourish extending to the right.

Michael W. Rupprecht

MWR:pcl

cc: Clients (by fax)

[freed\napa planning dept.001]

MICHAEL W. RUPPRECHT

Reply To:

East Bay Office

Of Counsel

Jeffrey G. Hansen
Paul B. Justi

November 30, 2007

By Facsimile – (707) 253-4336 / Regular Mail

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DEC - 4 2007

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

Mary Doyle
County of Napa Conservation, Development & Planning Dept.
1195 Third Street, Suite 210
Napa, California 94559

Re: *Pavitt Family Vineyards / Shane & Suzanne Pavitt Trust*
Variance & Use Permit Requests
Request Nos: P06-01427-VAR / P06-01426-UP

Dear Ms. Doyle:

Thank you for contacting our office yesterday with respect to our November 28, 2007 correspondence regarding the above-referenced project, which was scheduled to be heard by the Commission on December 5, 2007.

This is to confirm your communication to our office yesterday that, in response to our November 28, 2007 correspondence requesting a continuance of the hearing, the matter has in fact been taken off calendar for December 5th and will be rescheduled to a later date. We assume, based on our correspondence, that the new date will be at least ninety (90) days from the old date of December 5th.

Please provide notice of the new hearing date to this office as soon as it is scheduled.
Thank you.

Very truly yours,



Michael W. Rupprecht

MWR:pcl

cc: Clients (by fax)

[freed\napa planning dept.002]

East Bay Office
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San Ramon, California 94583
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4 December 2007

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To Chairman Fiddamen and Napa County Planning Commissioners

re: PAVITT FAMILY VINEYARDS
Use Permit and Variance Request

We understand that items #9 & 10, scheduled for hearing on December 5, 2007, have been placed on the consent calendar for continuation and renoticing.

As longtime residents of this area, representing 5 generations farming our own property, we are against this winery project. It is not suitable for the area or the property for which it is proposed - just check the file to see how many variances were required for it to proceed this far.

We object for the following main reasons:

1) Traffic impact:

This is a very dangerous stretch of road - see CHP records for accidents at the intersection of Dunaweal Lane and Silverado Trail, just a few feet away from the entry to this project. Just last week, the area was without power for over 12 hours as a speeding car took out a utility pole and transformer just seconds from the driveway of this proposed winery. Calistoga's mineral water trucks constantly speed through here and turn onto Dunaweal from the Silverado Trail. Large trucks are banned from main street Calistoga and are warned by a sign at Larkmead Lane that they must turn onto Dunaweal and then left onto the Silverado Trail if they are to proceed North. This forces large trucks and trailers hauling goods for Safeway, Raleys, Albertsons, etc. onto this country road. Add in moving vans, freight haulers, bicycles, tourists (a bit tipsy from all that tasting at the 5 wineries within a mile from this site), roller bladers and just plain commuter traffic and you have the potential for more problems, injuries and liabilities.

Additional tours and tastings "by appointment" and special events are just too dangerous in this already over-tasted neighborhood.

2) Water impact:

This neighborhood is one of severe water shortage. Many residents have minimal

wells (1/2 gpm) and at least one resident has had to have water tanked in for the past several years.

The dry conditions in this area are recognized and cited by Environmental Management in several instances. Large amounts of water drawn by a winery requires further study in this area as mandated by the county-wide Master EIR completed in 1990. At that time, the Master EIR recommended that, due to severe lack of water, no more wineries or irrigated vineyards should be allowed in the Calistoga area. How much worse is the situation today?

3) Neighborhood impacts

While the addition of more "special events" with the accompanying noise, lights, loud music and screaming will ruin the neighborhood environment and the private enjoyment of our own properties, one property owner will be most negatively impacted. The existing home on the adjacent property owned by Freed will bear the brunt of this ill-conceived project. This property will lose significant value and the permitting of the Pavitt Winery may represent a "taking" which may demand reimbursement. This home, (which was in situ, before the Pavitts' thoughtlessly constructed this "ag"/winery building), is directly above the "ag"/winery building. All the noise and lights of not only special events but normal winery operations will be magnified and amplified as it reverberates through this house just a few feet away - sound travels upward and amplifies, echoing, as it goes. These people will not be able to live in their own home - they will certainly not be able to "enjoy" it. There is no noise barrier proposed and one is probably not possible in this area.

4) Disguising the construction of the winery building as an "ag" building and then just 3 years after completing it, attempting to get the county to let it be used as a winery is a violation of the California Environmental Quality Act (CEQA). Phased projects MUST be presented in their entirety from the start - NOT piecemealed. This is not discretionary - this is mandatory under CEQA. It is unlikely that the Pavitts innocently built an "ag" barn (which just happens to have an attached crush pad and large floor drains) and then, lo and behold, just woke up one morning, and decided it might make a great winery. The extensive planning files and all the variances granted so far seem pretty clear that the Pavitts may have suspected that a winery building in that location would be in violation of so many county ordinances and regulations that it would not be allowed as built. So it appears that they built it first and now expect the county will be forced to permit it.

For these reasons and more, we respectfully request that this Commission does not let the wool be pulled over its eyes and that it deny this permit request. If the matter is continued, we wish to be advised of any future hearings so that we may comment further.

Thank you for your time and consideration,

Norma J. Tofanelli

1001 Dunaweal Lane, Calistoga 94515 707.942.4641

Pauline Tofanelli

1076 Dunaweal Lane, Calistoga 94515

cc: M. Doyle, Principal Planner
D. Dillon, Supervisor

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DEC - 5 2007

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

MARY Pls contacts 12/5/07
DAVID CLARK

re:

Pavitt
Development (Wardpa)

Ask into PLEASE

942-0127 Home
963-0239 Work

Box 92 St. Helena
94574

SHANE & SUZANNE PAVITT / PAVITT FAMILY VINEYARDS

VARIANCE REQUEST #P06-01427-VAR
USE PERMIT REQUEST #PO6-01426-UP

My name is Robert Freed. Our full time residence is located at 4680 Silverado Trail, Calistoga, California. We have lived in our home for three and one half years. Our home is located adjacent to the Pavitt property. Our main residence is directly above the 3,915 square foot agricultural structure for which the Pavitt's are requesting a variance and a use permit. I am a strong supporter of property rights and I respect the Pavitt's wish to operate a winery on their property. That being said, they purchased and developed their property with full knowledge that the proposed winery operation is not a permitted use. My wife and I also purchased our home with the full knowledge that the proposed winery operation was not a permitted use. The Pavitt's desire to operate a winery is no stronger then our desire to see the current land use remain unchanged. Our desire is consistent with the County's land use policies, the Pavitt's desire is not.

SHOULD THE COUNTY GRANT THE PAVITT'S REQUEST, THE RESULTING WINERY OPERATIONS WOULD 1) HAVE A SIGNIFICANT ADVESRE EFFECT ON OUR PRIVACY AND THE QUIET ENJOYMENT OF OUR HOME, 2) MATERIALY DECREASE THE MARKET VALUE OF OUR HOME 3) CREATE A SIGNIFICANT PUBLIC SAFETY HAZARD BECAUSE OF EXISTING TRAFFIC CONDITIONS, 4) CREATE A SIGNIFICANT INCREASE IN NOISE, 5) POTENTIALLY IMPACT THE WATERSHED UPON WHICH WE OBTAIN OUR WATER SUPPLY.

WE RESPECTFULLY REQUEST THAT THE COUNTY DENY THE PAVITT'S VARIANCE AND USE PERMIT REQUEST.

2) TRAFFIC - The agricultural structure where the Pavitt's desire to operate their winery is located immediately adjacent to a stretch of Silverado Trail that is HEAVILY traveled by cars, trucks and bicycles. This portion of the

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NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

Silverado Trail is the northern access point for vehicles heading into Middletown and the Clear Lake region. The agricultural structure is located up hill from and within 600 feet of the Dunaweal Lane intersection with Silverado Trail. Dunaweal is a major east/west truck route for the majority of the truck traffic heading in and out of the upper valley area; the volume of truck traffic is significant. At the exact point where the driveway to the agricultural structure is located, the trucks turning left onto Silverado Trail (from Dunaweal) are just commencing to accelerate up hill from a full stop. On the other side of the road from the agricultural building, the truck traffic is slowing to a near stop in order to complete the right turn onto Dunaweal. The traffic from the proposed winery operations mixed with the existing traffic and road conditions/design would result in a very dangerous situation. Any consideration of granting the variance and use permit must include proper traffic mitigation including but not limited to the construction of right and left turn lanes for traffic entering the Pavitt property.

The driveway for our property is immediately north of the agricultural building. At the point where our driveway intersects the Silverado Trail, there is a "U" shaped section that loops around at large oak tree. It is reasonable to conclude that some number of vehicles which are headed to the Pavitt property will miss the entrance on the first try and will use our driveway to turn around. Again, any consideration of the requested variance and use permit must include appropriate mitigation measure for this situation.

2) NOISE - As stated above our home is located immediately adjacent to and up the hill from the existing agricultural building. Noise from this site directly impacts our home. The winery operation will generate significant new noise impacts from the crush activities, wine production, bottling, truck and car traffic, employee and visitor voices. Given the proximity of our property to the agricultural building, any consideration of granting the variance and use permit must include mitigation measures that will reduce the noise. These measures might include reduced capacity (well below the 10,000 gallon level as requested in the use permit), sounds walls, under grounding and enclosure of production activities, driveway paving, very limited hours for production and the elimination of visitors and events.

3) WATER - There should be concern that the proposed winery operation

might draw down the existing water table and potentially effect our and our neighbor's water supply. I presume that the County has an obligation to evaluate the potential for this serious negative impact and to provide adequate mitigation measures as part of the variance and use permit consideration.

4) PERMIT COMPLIANCE - The proposed limitations on visitors and events as detailed in the public hearing notice provides us no comfort that the Pavitt's intend to abide by these conditions. In support of this contention, I have attached a copy of the Pavitt's "Pickup Party" which took place on October 20th at the existing agricultural building. The event invitation has no indication that attendance was restricted as to the number of visitors and would more significantly would appear to indicate that the Pavitt's have chosen to commence their winery operation without regard to the County's approval. I have no desire to become a permit compliance officer and respectfully request that any consideration of the variance and use permit include mitigation measures that account for the Pavitt's willingness to ignore the rules. A potential mitigation measure would be the posting of a \$250,000 performance [^]
bond used to insure permit compliance.

Robert and Sharon Freed
4680 Silverado Trail
Calistoga, Ca. 94515
707 942-5476

PHIFER PAVITT

Pickup Party

first annual release party and open house

Please join us to celebrate another harvest
& the first release of Phifer Pavitt (DATE NIGHT).
Friends, food, wine & live music on tap.
Saturday, Oct. 20th, 2-5pm in THE BARN
at Pavitt Family Vineyards, Napa Valley
4660 Silverado Trail, Calistoga, CA 94515

See y'all there! Please reply to Suzanne at
707.942.4787 or suzanne@phiferpavittwine.com