Agenda Date: 5/4/2016 Agenda Placement: 9A



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# Napa County Planning Commission Board Agenda Letter

TO:	Napa County Planning Commission
FROM:	John McDowell for David Morrison - Director Planning, Building and Environmental Services
REPORT BY:	Wyntress Balcher, Planner II - 707 299-1351
SUBJECT:	Canard Vineyard Winery Use Permit #P15-00249

# **RECOMMENDATION**

# CANARD VINEYARD WINERY - RICHARD AND CAROLYN CZAPLESKI - USE PERMIT #P15-00249

**CEQA Status**: Consideration and possible adoption of a Categorical Exemption Class 3: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act, pursuant to Class 3 (New Construction or Conversion of Small Structures) which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15303 and pursuant to Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.

**Request**: Approval of a Use Permit to establish a 10,000 gallon per year winery with the following components: a) conversion of the 925 sq. ft. lower floor of an existing 2-story residential storage building ("barn") for winery production where the second story will continue for private, residential, personal use only; b) construction of an 800 sq. ft. covered crush pad which will also serve as a mobile bottling truck processing area; c) construction of a 1,280 sq. ft. pad for wine fermentation, storage tanks, equipment and receiving area; d) installation of a 10,000 gallon water tank; e) construction of four parking spaces; f) improvements to the existing driveway to Dunaweal Lane to increase to the required 20 ft. width; g) construction of a 460 sq. ft. outdoor tasting area adjacent to the winery building; h) employment of three full time employees on weekdays and one employee on weekends; i) establishment of the hours of operation: Production, 7:00am to 6:00 pm, Hospitality, 10:00 am to 6:00 pm; j) Visitation of a maximum of 10 visitors per day; maximum 70 per week; k) establish a marketing program that will include: 8 events per year for a maximum of 30 guests (all Marketing events will be catered); and, l) allow on-premises consumption and sale of wine produced onsite and purchased from the winery in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 (AB 2004-Evans Bill) for consumption within the tasting room and the 460 sq. ft. outdoor tasting area.

The project is located on a 24.69 acre parcel and on the northwest side of the intersection Dunaweal Lane and Silverado Trail. The General Plan land use designation is Agricultural Resource and is within the Agricultural

Preserve (AP) zoning district; 1016 Dunaweal Lane, Calistoga; APN: 020-150-027.

**Staff Recommendation**: Find the project Categorically Exempt from CEQA and approve the Use Permit, as conditioned.

Staff Contact: Wyntress Balcher, Planner II, (707) 299-1351; wyntress.balcher@countyofnapa.org

Applicant Contact: Richard and Carolyn Czapleski, (707) 530-906-1060

### EXECUTIVE SUMMARY

#### Proposed Actions:

That the Planning Commission:

1. Find the project Categorically Exempt from CEQA based on Findings 1-3 of Exhibit A; and,

2. Approve a Use Permit #P15-00249-UP based on proposed Findings 4 through 8 of Exhibit A; and subject to the recommended conditions of approval in Exhibit B.

#### Discussion:

The applicants are residents of the parcel where there are 22 acres of vineyards that have been producing and storing wine off-site. A Home Occupation Use Permit was issued in 2008, to utilize a portion of the home for an office for order taking and record keeping in association with the wholesale wine sales. In 2012 complaints were received that unauthorized tastings and/or marketing events were occurring at the residence which were confirmed by Code Enforcement Staff. The applicant has since ceased unauthorized visitations and the case is closed. They are now requesting approval of a use permit to establish a 10,000 gallon per year family winery with a visitation and marketing plan, which will be located within an existing accessory building that will be converted to winery use.

Staff finds the proposed project consistent with the Napa County Zoning Ordinance and applicable General Plan Policies and recommends approval of the project, subject to the proposed conditions based upon the following reasons: 1) the comparatively large parcel and vineyard to that of the proposed winery; 2) closure of prior code violations; 3) substantial distance of off site residences to the proposed winery; 4) suitable design for a Napa County winery; 5) placement of the winery building on previously disturbed land with no vineyard removal, and 7) no variances or design exceptions. It is noted however that Board of Supervisors Resolution 2010-48 discourages the conversion of structures built within the last 5 years to winery use, which is the case in this project.

The Commission has four general decision making options as follows and detailed in the main body of this report: 1) approve Applicant's proposal (Staff Recommendation); 2) require project alternative; 3) deny the request; or 4) continue the project.

### FISCAL IMPACT

Is there a Fiscal Impact? No

## ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 3: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Section 15303, "Class 3: New Construction or Conversion of Small Structures, #10. "Construction and operation of small wineries,". This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5

Attachment "E" is a CEQA memo that provides justification for the use of a Categorical Exemption.

## BACKGROUND AND DISCUSSION

**Owner & Applicant**: Richard & Carolyn Czapleski, 1016 Dunaweal Lane, Calistoga, CA 94515, <u>Carolyn@canardvineyard.com</u>.

Zoning District: Agricultural Preserve (AP).

General Plan Designation: Agricultural Resource (AR).

Filed: July 29, 2015; Revised: October 9, 2015; Revised :December 31, 2015; Revised: February 22, 2016; Complete: February 22, 2016

Parcel Size: 24.69 acres.

**Existing Development**: A  $\pm 2,600$  sq. ft. single family residence, a two story  $\pm 1,850$  sq. ft. residential storage structure (delineated as "barn" on the site plans), a personal wine cellar structure, swimming pool, two wells, 10,000 gallon water storage tank, an agricultural barn, and vineyards.

Vineyard Acreage (Existing): 22 acres.

Vineyard Acreage (Proposed): ±0.09 acres removed for driveway improvements.

**Winery Characteristics**: Conversion of 925 sq. ft. lower floor of an existing 2-story residential structure ("barn") for winery production, barrel storage, office space, tasting room, and restroom. An 800 sq. ft. covered crush pad will be constructed adjacent to the proposed winery in addition to a 1,280 sq. ft. pad for wine fermentation and storage tanks, equipment, and receiving area. The covered crush pad will also serve as the site for the mobile bottling truck. Four paved parking spaces are proposed adjacent to the tank and crush pads, to be served by the existing driveway, which will be improved with pavement and increased to the required 20' width. The second story of the "barn" will be for private personal residential use (the stairs to the second story are located outside the building). An 460 sq. ft. outdoor tasting area adjacent to the winery building is proposed for an additional on-premises consumption area, pursuant to Assembly Bill 2004 (Evans) & the Sale of Wine for Consumption On-Premises".

Production Capacity (Proposed): 10,000 gallons.

Winery Development Area (Proposed): ±3,648 sq. ft.

**Winery Coverage** (Proposed): Approximately ±26,528 sq.ft.; 0.609 acres and 2.46% coverage (Maximum allowed 25% or 15 acres).

**Accessory/Production Ratio** (Proposed): 133 sq.ft. accessory use / 3,022 sq.ft. production area equals a 4.4% ratio (with 460 sq.ft. outdoor tasting area; total 19.6%) where a Maximum 40% is allowed.

Number of Employees (proposed): Three full-time employees weekdays; one full-time employee weekends.

Visitation (Proposed): Maximum of 10 visitors.

Marketing Program (Proposed): Eight marketing events per year with a maximum of thirty guests.

**Days and Hours of Operation**: Monday-Sunday, 7:00 AM – 6:00 PM (production); Monday- Sunday, 10:00 AM – 6:00 PM (visitation).

Parking (Proposed): Four spaces; one loading area.

Setbacks (Required): 600' front (Silverado Trail); 300 ft (Dunaweal Lane); 20' side; 20' rear.

**Setbacks** (Proposed): ±745 feet Silverado Trail; ±650 ft. from Dunaweal Lane; ±650 ft. south property line; ±300'west property line.

## Adjacent General Plan Designation/Zoning District/Land Use:

North: Agriculture, Watershed and Open Space (AWOS) General Plan Designation, AW Zoning – Separated by Silverado Trail, there are four parcels less than five acres in area with residences and one 22.84 acre parcel with a winery.

South: Agricultural Resource (AR) General Plan Designation, AP Zoning – a 20.39 acre parcel, residence, Clos Pegase Winery and a 9.18 acre parcel with single family residence and vineyards.

East: AR General Plan Designation, AP Zoning – a 21.84 acre parcel with a residence and vineyards.

West: AR General Plan Designation, AP Zoning – 55.69 acre parcel with winery, residence and vineyards.

### **Property History:**

The applicant narrates in their project description that they have owned the property since 1983 and have been producing wine at custom crushing facilities since 1984. In 2008, the applicants applied for and were granted a home occupation use permit which allowed an office in the home, limited to order taking and record keeping in association with wholesale wine sales. No on-site sale of wines was permitted. The applicants seek to establish a winery on their property which will allow the applicants to produce their wine on the property, where nearly all of the grapes are grown on the 22 acres. The on-site vineyards are dry-farmed.

### **Code Compliance History:**

There is a record of a Code Compliance Violation which has been resolved. A code compliance Notice of Violation was issued to the applicants on September 18, 2012, based upon an investigation of a complaint that wine tasting and winery events were occurring on the applicant's property. The investigator found a website for Canard Vineyard, the applicant's brand, offering wine tastings and food experiences on the project property. The violation was referred to the County District Attorney's office, and on April 6, 2016, a Final Judgment Pursuant to Stipulation was issued. The applicants were ordered to cease commercial activities, including but not limited to wine tasting and/or special events without a proper use permit. Civil penalties and cost were also issued.

### **Discussion Points:**

<u>Setting</u> - The 24.69 acre parcel is bordered along the north and east side by Silverado Trail and by Dunaweal Lane, a collector status road. The existing land uses include a residential complex located in the middle of the 24.69 acre parcel, consisting of single family residence, two-story residential storage structure ("barn"), personal wine cellar structure and, swimming pool and patio all served by an unimproved driveway from Dunaweal Lane. A large

agricultural barn serving the vineyard's agricultural activities is located on the west side of the parcel and there are three wind machines serving the 22 acres of vineyards. The closest residence is located 670 feet (as a crow flies) from the winery development area, but is located on a knoll about 120 feet above the project. The next closest neighbor is located 720 feet, across the street from the project's driveway. The grapes from the 22 acres of vineyards are transported off-site for processing for the Canard Vineyard Wines or sold to other producers.

<u>New Winery Proposal</u> – As proposed, the existing residential storage structure ('barn"), which includes a second story personal den, will be converted into the winery, with an office, barrel storage, tasting area, and restroom. The building is delineated on the plans as "barn". The "barn" is adjacent to the existing residence and private wine cellar structure and is served by a circular driveway. Adjacent to the winery, immediately south, the project proposes a 460 sq.ft. outdoor tasting area, bordered by the two covered pads (total 2,080 sq. ft), to be used for crushing, wine tanks, equipment storage, and a general work area. The existing driveway to Dunaweal Lane will be improved and increased to the required 20 ft. width. The increase in driveway width will result in the loss of .09 acres of vineyards.

The applicant's submitted a letter dated February 12, 2016, outlining changes to the project application, clarification of the number of employees, and a reduction in number of marketing events and attendance. As indicated in the application, there will be three employees assisting the owners during the weekdays, but the resident family members will operate the winery on Saturdays with the possibility that one employee may be needed. The number of marketing events were reduced to eight per year, with a maximum attendance of thirty guests.

Canard Wines are currently produced and stored off-site. The application requests a 10,000 gallon production capacity, and of the amount produced each year, a minimum of 90% will come from grapes grown on-site. The proposed winery will allow for crushing and fermentation on-site, however, the proposed winery has barrel storage capacity for approximately 4,000 gallons. The applicants narrative states that the wine is aged in barrels for two years, and at full production approximately 8,000 gallons of wine from each vintage will be barrel-aged off-site before returning to the property for blending and bottling.

<u>Conversion of Existing Structures</u> - Resolution 2010-48 was adopted by the Board on May 11, 2010 to establish interpretive guidance on marketing activities. The resolution also included a section to discourage property owners from constructing residences and barns with the express intent of converting them to wineries, stating that the County does not generally support use permit proposals seeking to convert existing buildings to winery use if the buildings have been constructed or substantially modified within the last 5-7 years. The original garage/barn was replaced in 2013 by the two story, three-car garage/storage building ("barn" on the plans) proposed for conversion into the winery. A bathroom and sprinklers were also included in the new garage/storage building. The conversion of the building into the winery will require improvements to commercial standards. Although the replacement garage was constructed three years ago, the building will be used for only a portion of the barrel storage, hospitality and bookkeeping. The majority of the wine production activities will occur on the new covered pads.

<u>Tours & Tasting/Marketing Events</u> – The applicant is proposing tours and tastings "By Appointment Only" which occur on a daily basis up to a maximum of 10 visitors per day (or 70 per week) from 10:00 AM to 6:00 PM daily. On February 12, 2016, the applicant submitted a letter requesting changes to the original project application regarding marketing events. The proposal is requesting eight annual marketing events, with a maximum number of thirty guests.

Staff has provided a table in Attachment 1 comparing marketing and tours and tastings visitation at other wineries with annual production of 10,000 gallons per year for informational purposes. The proposed visitation falls near the average with regards to the annual number of visitors and also near the average in the proposed number of events among its peer group of wineries with an approved production capacity of 10,000 gallons per year. The total annual visitation is above slightly above average (3%), however, it should be noted that the proposed visitation numbers and the number of marketing events are consistent with the criteria established for Categorical Exemptions, Class

3: New Construction or Conversion of Small Structures in the "Napa County's Local Procedures for Implementing CEQA", Appendix B, Categorical Exemptions. As stated in this document, "the Board has found several other kinds of projects that typically do not have a significant impact on the environment. Therefore, pursuant to Section 15300.4 of the State CEQA Guidelines, Napa County hereby adds the activities and permits listed in Appendix B to the list of Class Numbers 1, 3, 4, and 5 activities that are categorically exempt in the County."

Traffic & Parking – A Traffic Impact Study was prepared for the Canard Winery project by W-Trans (dated December 30, 2015). The original project proposed three full-time employees year round and one part-time employee during harvest and an average of four visitors on a weekday and six on the weekend with a maximum of ten visitors daily for tours and tastings. The maximum visitors during the PM peak hours (4:00 PM -6:00 PM) will be five visitors on weekdays; four visitors on weekends. Proposed marketing events include four wine club events with up to seventyfive attendees and two wine auction events with up to one hundred persons attending. Based upon the Napa County Winery Traffic Information/Trip Generation Sheet, the study concluded that the proposed project would be expected to generate 12 daily trips with 5 trips during the PM peak hour. The infrequent marketing event trips, which would occur outside peak periods, would result in an estimated 18 trips during any single hour in each direction on Dunaweal Lane north and south of the project. Given that the events would be infrequent, would occur outside of the peak periods, and result in a minimal increase in traffic, the marketing events were not included in the daily trip generation and resulting intersection analysis. Subsequent to the report, however, the project was revised to reduce the number of weekend employees to one, the number of events to eight, and has reduced the maximum number of guests attending the events to thirty. Based upon the County Traffic Information/Trip Generation Sheet, the project would generate 12 daily vehicle trips; 4.56 vehicle trips could occur during the weekday PM peak period.7 weekend trips could occur, with 4 vehicle trips during the weekend PM peak period. 41 trips could occur during the largest marketing event.

Currently, all grapes are removed from the property for processing and storage. The project will substantially eliminate the grape transport during harvest, but after fermentation, there will be removal of barrels to the current off-site location for the two year aging. The proposed winery has barrel storage capacity for approximately 4,000 gallons. At full production, approximately 8,000 gallons of wine from each vintage will be barrel-aged off-site before returning to the property for blending and bottling. This is noted in the traffic analysis which states that project includes a possible importation of up to 10% of the grapes, if needed for blending purposes. The report noted that because the grapes are grown on-site, there will be a benefit in terms of the reduction in truck traffic associated with harvest, when larger trucks are typically be used, verses the smaller trucks and loads that would be associated with deliveries of materials such as barrels and bottles, and that would be dispersed more evenly over the course of the year rather than being consolidated into the short time period of harvest and, therefore, not significant in the traffic generation numbers.

The intersections of Dunaweal Lane/Silverado Trail and Dunaweal Lane/State Route 29 (SR 29) were evaluated in the study and are expected to operated acceptably at LOS A overall, with the minor approaches operating at LOS A or LOS B, under the existing conditions and upon the addition of project-generated trips. Under Cumulative conditions, the intersections are expected to continue operating acceptable at LOS A overall though the Dunaweal Lane minor approaches at Silverado Trail and SR 29 are projected to operated at LOS E and F, respectively. Upon the addition of project-generated trips to the cumulative volumes, the intersections are expected to continue operating at the same levels of service as without the project.

The report concluded that access to the site would be from the existing driveway located about 600 feet from Silverado Trail. The proposed improved driveway would have adequate sight lines in each direction, provided no landscaping or signing be placed along the frontage that blocks visibility from the perspective of a driver. The need for a left-turn lane at the project driveway was analyzed under the cumulative plus project volumes, and based on the 2011 Napa County Road and Street Standards, a left turn lane at the driveway is not warranted. This is confirmed in the Department of Public Works memorandum dated August 11, 2015.

Pursuant to Sections 15022 (a)(1)(C) and 15300.4 of the State CEQA Guidelines, the Board found that "Additional Categorically Exempt Projects in Napa County ", listed in Appendix B would typically not have a significant effect on the environment. Under the listed Class 3: New Construction or Conversion of Small Structures, #10, the construction and operation of small wineries that are less than 5,000 sq. ft in size, excluding caves; will involve either no cave excavation, or excavation sufficient to create no more than 5,000 additional square feet with all of the excavated cave spoils to be used on site; will produce 30,000 gallons or less per year; will generate less than 40 vehicle trips per day and 5 peak hour trips except on those days when marketing events are taking place; will hold no more than 10 marketing events per year, each with no more than 30 attendees, except for one wine auction event with up to 100 persons in attendance; AND will hold no temporary events.

Since the project will generate less than 40 trips per day and 5 peak hour trips with the revisions to the project, these traffic generation levels are consistent with the levels of identified by the Napa County's Local Procedures for Implementing CEQA, Appendix B, and are considered Categorical Exemption, under Class 3.

The project proposes a total of four parking spaces and one loading area. These parking spaces would be sufficient to accommodate parking needs during normal business days for employees and visitors. Additional parking required for the marketing events, which can be temporarily on the vineyard access roads on the parcel.

<u>Groundwater Availability</u> - A Tier One water availability analysis (WAA) was prepared by Delta Consulting and Engineering (dated July 24, 2015) for the 24.69-acre parcel located on the "valley floor". The Tier 1 analysis detailed the existing and proposed groundwater demands. Napa County has established a water availability threshold of 24.69 AF/YR for this parcel, which is calculated by applying a rate of 1.0 AF/YR multiplied by the acreage of the parcel. The water use for the property is currently .850 AF/YR: residence, .75AF/YR; pool/spa w/cover, .03 AF/YR; and landscaping, .07 AF/YR. Since the vineyards are dry-farmed, there is no demand of groundwater. The projected water use with the new winery is 1.197: winery, .215 AF/YR; Domestic Water & Landscaping, .050 AF/YR; employees, .039 AF/YR; visitors, .020 AF/YR; event visitors, .023 AF/YR; an increase of 0.347 AF/YR. As estimated, the overall water demand of 1.197 AF/YR is less than 5% of the threshold established for the parcel. The modification of the project to decrease the number of marketing events and the maximum number attending was not analyzed in the WAA, however, with the 48% decrease in annual visitation from the originally marketing plan, there would be a corresponding decrease in groundwater demand.

<u>Grape Sourcing</u> - The subject property is planted in 22 acres of vineyards, and the applicant has indicated in the project statement that a minimum of 90% of the grapes will come from grapes grown on the site.

<u>Greenhouse Gases/Climate Action Plan</u> - The County requires project applicants to consider methods to reduce Green House Gas (GHG) emissions consistent with Napa County General Plan Policy CON-65(e), which requires GHG review of discretionary projects. The applicant has completed the Department's Best Management Practices Checklist for Development Projects, which is attached to this report as part of the application materials. The applicant proposes to incorporate GHG reduction methods including: bicycle incentives; low impact development with incorporation of bio-retention facilities; and water efficient landscaping to include drought tolerant landscaping.

GHG Emission reductions from local programs and project level actions, such as application of the CalGreen Building Code, tightened vehicle fuel efficiency standards, and more project specific on-site programs including those winery features noted above would combine to reduce emissions.

## **Consistency with Standards:**

Zoning – The project is consistent with AP (Agricultural Preserve) Zoning District regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.16.030) are permitted in the AP District with an approved use permit. The project as conditioned

complies with the Napa County Winery Definition Ordinance and all other requirements of the Zoning Code as applicable.

Environmental Health Division – Recommends approval with standard conditions in the attached Memorandum dated February 4, 2016.

Engineering Services Division – Recommends approval with standard conditions in attached Memorandum dated December 11, 2015.

Public Works Department (Transportation) - Recommends approval in the attached Memorandum, dated January 7, 2016.

Fire Department – Recommends approval with standard conditions in the attached Inter-Office Memo dated April 13, 2016.

## **Decision Making Options:**

As noted in the Executive Summary Section above, staff is recommending approval of the project with conditions of approvals as described in Option 1 below. Decision making options also include a reduced visitation/marketing alternative and no project alternative.

Option 1 - Approve Applicant's proposal (Staff Recommendation).

Disposition - This option would result in approval of the proposed 10,000 gallon per year winery and associated visitation and marketing program.

Action Required - Follow proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. This option has been analyzed for its environmental impacts and found that it can be considered Categorically Exempt from CEQA (Class 3 (New Construction or Conversion of Small Structures)). The project proposes the conversion of an existing structure with minimal support structures, covered pads. Sufficient grapes and water supplies are available to serve the proposed project and the code enforcement issues have been resolved. The requested number of guests per year for the visitation are close to the average amount compared to wineries of similar production levels. The requested number of marketing events per year less than the average amount compared to wineries of similar production, but the proposed events have small numbers of guests, 30 people. In addition, the existing locational and operational criteria of this proposed winery, including the large parcel size, distance of the winery to the highway and neighbors. No variances are requested; there are no viewshed impacts, limited vineyard removal, there is the availability of estate grapes, and there are letters supporting the applicant and project. Considering all of the enumerated reasons, staff finds the level of visitation acceptable. The project meets all County Code requirements and complies with General Plan Policies. Staff supports this option based on the reasons discussed above.

Option 2 - Require Project Alternative.

Deposition - This option would result in the implementation of Board of Supervisors Resolution 2010-48 regarding the timeline for conversion of existing structures. The Commission would find that the garage/storage building ("barn") was constructed with the express intent of conversion into a winery, and not support the use of the building for the winery. This option could result in potential additional coverage of land with a new building beyond the existing property development compound in the middle of the property.

Action Required - The Commission would remove the item from the agenda to allow the applicant tine to revise project to add a new structure for tastings, bookkeeping and barrel storage.

Option 3 - Deny Proposed Project.

Disposition - In the event the Commission determines that the project does not, or cannot meet the required findings for the granting of a Use Permit. Commissioners should identify what aspect or aspects of the project are in conflict with the required findings. State Law requires the Commission to adopt findings, based on the General Plan and County Code, setting forth why the proposed Use Permit is not being approved. Based on the administrative record as of the issuance of this staff report, there does not appear to be any evidence supporting denial of the project.

Action Required - Commission would take tentative motion to deny the project and remand the matter to staff for preparation of required findings to return to the Commission on a specific date.

Option 4 - Continuance Option.

The Commission may continue an item to a future hearing date at its own discretion.

## SUPPORTING DOCUMENTS

- A. Winery Comparison Charts
- B. Exhibit A Findings
- C . Exhibit B Proposed Conditions of Approval
- D. Division-Department Comments
- E . CEQA MEMO
- F. Public Comments
- G . Application Documents
- H . Water Study
- I. Wastewater Analysis
- J. Traffic Study
- K . Biological Survey
- L. Graphics

Napa County Planning Commission: Approve Reviewed By: John McDowell