

OCT 21 2015

Agenda Item #

9B

modified - Handed in at the meeting

Good Morning Commissioners.

Dave Moffitt, 7323 St. Helena Highway.

I'd like to thank Deputy Director McDowell for bringing this issue to the Planning Commission for a public hearing. Speaking on behalf of several of the neighbors of Ca' Nani, we appreciate the opportunity to comment on the project.

I'd also like to thank Staff, who took the time to help me in the difficult task of researching and re-constructing the history of the project and its changes. And I appreciate the time that project manager Dan Cunningham and owner David Del Dotto and his family took in reviewing the project with me.

I'd like to start by stating that I do not have an objection per se to the minor modification before you. My concerns lie with the history of this winery project and some of the events that have taken place without adequate public review.

According to the Staff report, the original project was reviewed and approved with conditions by the Planning Commission in their meetings of September and October 2010. The approved project included caves, a combined winery production and hospitality building, crush pads, and a planned residence. There was also an existing garage that the applicant proposed to convert to an equipment storage building.

Then, in August 2013, the first "minor" modification was approved in a Zoning Administrator hearing. This change replaced the planned residence and equipment storage building with a new one-story hospitality building. I presume that today's Staff report doesn't mention the residence because residences do not require a use permit and therefore the planned residence is not included in Ca Nani's original use permit. Please bear in mind that the fact that the residence was replaced by the new hospitality building does not preclude construction of a residence elsewhere on the parcel at a later date. Perhaps even more important to today's discussion is that the addition of a brand-new hospitality building with tasting room and kitchen was not subject to review and conditions as were the already approved non-production areas of the winery. The changes constitute a substantial alteration to the original plan – and consequently should not have been a "minor" mod because replacing the house and equipment building with a new hospitality structure fundamentally alters the project that the Planning Commission approved.

One further note about this first minor modification: While I have been assured by staff that this minor mod was approved, there is no documentation supporting the approval. This is due in part, I'm told, to the turnover in Planning staff charged with reviewing the modification. Nonetheless, there is no documentary evidence that the approval took place.

Moving on, in October 2014, the previous "minor" mod was further modified in a subsequent Zoning Administrator hearing to expand the new hospitality building by adding a second story of about 1,680 square feet.

Now you have before you a third minor mod, expanding the planned commercial kitchen area to include an outdoor wine tasting and food experience bar.

Let me be clear – I do not think that the proposal before you right now is more than a minor modification, nor do I believe that, in and of itself, review by the Planning Commission would have been warranted.

However, the first and second modifications alone, which replaced a planned residence and equipment storage building with a two-story hospitality building, constitute a significant change in the nature of the use of the property from what was originally approved by the Planning Commission. Taken together with the third modification, the trio represents an increase in the intensity of hospitality use, and should have been subject to consideration by the Planning Commission and to public review and comment. This is particularly important because of the hold and haul wastewater disposal system that was approved for the original uses of the property in 2010. Would a new hospitality building not increase water use, and shouldn't this be part of the analysis of the revised project?

We understand that building a winery can be an unpredictable process that in some cases requires minor changes during the construction phase. We are also cognizant of the business component that makes agriculture possible and makes it sustainable. But the use of serial modifications to gain approval of major cumulative changes to the original project suggests that the "minor modification" process used by County Planning Staff is fundamentally flawed and should be revised.

So where do we go from here? We would recommend that the Planning Commission consider the following actions:

1. Direct Staff to revise the "Minor Modification" policy for review and approval by the Planning Commission. While allowing for the substantial variation between projects and modifications, it must be flexible enough to guide Staff and the Zoning Administrator in their determination of modification status. A simple "25% Rule" is demonstrably insufficient, especially in light of the current level of scrutiny winery projects receive. If there is any question about whether or not a single modification is minor or major, or if multiple modifications cumulatively represent a major change to a project, especially with regard to a change in the nature of the use of the property, it should automatically be referred to the Planning Commission.
2. Direct Staff to determine how best to electronically store and retain all public documents and relevant non-private material. At a minimum, they should be scanned (if paper) or filed directly (if electronic) and organized into Internet-available project folders, ideally organized by APN and/or by Planning Division project ID, and indexed appropriately. Staff should be directed to develop both an immediate and long-term strategic direction and detailed plan to achieve these goals.
3. Finally, direct Staff to provide the formal approval document for P13-00054, Ca'Nani's August 2013 modification. If formal approval does not exist, determine what was contemplated for approval, produce a Notice of Intent, and follow the existing process for Minor Modification approval. We have no intent of opposing this modification; we are merely seeking to document, understand, and render legal that which was constructed under this "minor mod".

Thank you.

SUMMARY OF USE PERMIT MODIFICATIONS

Use Permit	Wine Production	Visitation	Winery Development Area	Building Area	Cave	Production Space*	Accessory Space	Accessory/Production Ratio
P09-001985	Base	Base	56,370	34,044	15,970	24,540	9,504	38.73%
P13-00054	No Change	No Change	63,610	41,284	22,000	29,516	11,768	39.87%
P14-00141 [^]	No Change	No Change	59,505	31,085	12,712	25,481	5,604	21.99%
Proposed	No Change	No Change	69,068	42,510	15,970	33,586	8,924	26.57%

*Cave is included in Production Space Total

[^]Calculated for opening of Tasting Room (Does not include Building out of P09-001985, as Submitted and Approved)

Planning Commission Mtg.

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9B

Frost, Melissa

Subject: FW: Ca'Nani hearing
Attachments: Ca'Nani PC 10-21-15 comments FINAL.docx

From: McDowell, John
Sent: Tuesday, October 20, 2015 8:11 AM
To: Sharma, Shaveta; Frost, Melissa
Cc: Gallina, Charlene; Apallas, Chris; Anderson, Laura
Subject: FW: Ca'Nani hearing

From: Dave Moffitt [<mailto:dave.moffitt@sbcglobal.net>]
Sent: Monday, October 19, 2015 7:56 PM
To: heather@vinehillranch.com; napacommissioner@yahoo.com; anne.cottrell@lucene.com; tkscottco@aol.com; JeriGillPC@outlook.com
Cc: McDowell, John; Morrison, David
Subject: Ca'Nani hearing

Dear Commissioners,

I'm looking forward to the opportunity to discuss the Ca'Nani winery project on Wednesday (item 9B on your agenda). I apologize for not getting this document to you sooner, but I wanted to review the staff report before I finalized my comments.

I've attached a draft of my remarks for your information and consideration prior to the meeting; I don't expect them to change substantially before I present them in person. If you would like to discuss this prior to the meeting please don't hesitate to call; cell is best.

Thanks,
Dave Moffitt

David R. Moffitt
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Yountville, CA 94599
(707) 944-1393 (h)
(707) 339-1152 (c)

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