

NAPA COUNTY
PLANNING COMMISSION
MEETING 1/20/16

Regarding
ITEM 9C
D.A.KOTA SHY

Geoff Ellsworth
geoffellsworth@
Yahoo.com

I believe we must halt all
winery approvals and modifications
including this one
until enforcement & code compliance
issues are settled.

Particularly when variances are
proposed.

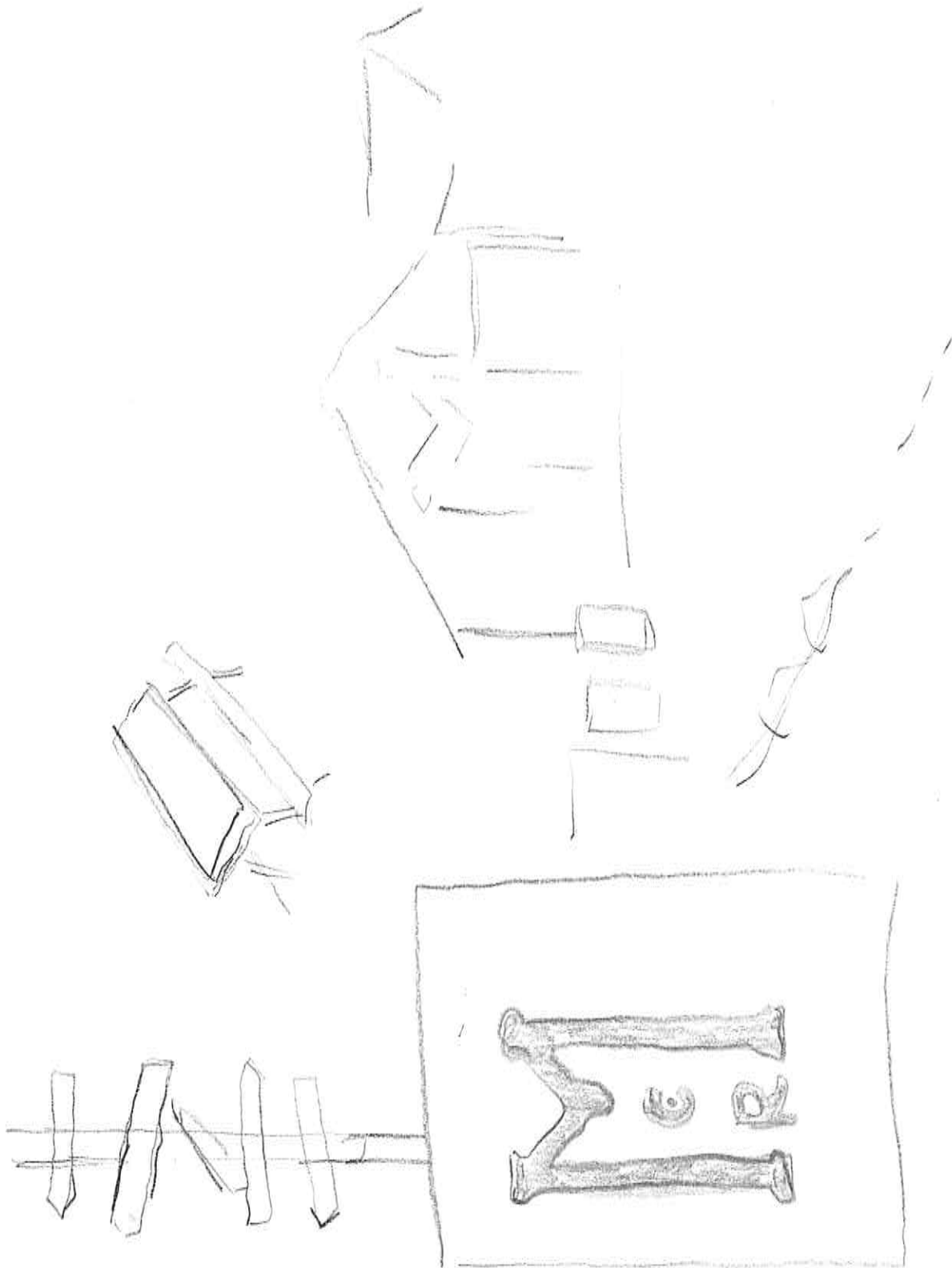
I also believe that ALL
Approvals must be part of
a countywide cost/benefit
analysis on this type of
alcohol based tourism.

Planning Commission Mtg.

JAN 20 2016

Agenda Item # 9C

Google Maps



NV PC

Dakota

Geoff Ellsworth
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~~1/15~~ 1/20/15

SHY

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- AND NEEDS TO BE ANALYZED
IN TERMS OF CUMULATIVE
IMPACTS

Planning Commission Mtg.

JAN 20 2016

Agenda Item # 9C

NAPA COUNTY
PLANNING COMMISSION
JAN: 20 2016

Regarding
Summers
WINERY ITEM QB

Geoffellsworth
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I URGE DENIAL OF THIS PROJECT DUE TO FURTHER NEED FOR ANALYSIS REGARDING CUMULATIVE IMPACTS, POSSIBLY AN EIR IS AS WELL AS: NEEDED.

- EXCEEDING PERMITS / ALLOWING OR BUILDING UNPERMITTED STRUCTURES VIOLATES CEQA AS DOES OVERLIMIT VISITATION ^{§ 121013}
- QUESTIONS SURROUNDING STATEMENTS REGARDING TIMEFRAME OF CONVERSION FROM RESIDENTIAL TO COMMERCIAL USE
- SAFETY / FIRE SAFETY CONCERNS REGARDING CONVERSION FROM RESIDENTIAL TO COMMERCIAL USE
- ANALYSIS NEEDED ON IMPACTS TO CITIZENS FROM EXCEEDING USE PERMIT
- QUESTIONS REGARDING STAFFING NUMBERS regarding volume of INCREASE
- QUESTIONS REGARDING GRAPE SOURCING. WHERE WILL THE EXTRA TONNAGE COME FROM
- CONCERNS REGARDING UNSETTLED COUNTY CODE COMPLIANCE POLICY

I THINK WE NEED TO HOLD OFF ON ALL APPROVALS UNTIL OUR COUNTY CODE COMPLIANCE, ENFORCEMENT ISSUES ARE SETTLED AND A COUNTYWIDE COST/BENEFIT ANALYSIS IS CARRIED OUT ON IMPACTS FROM ALCOHOL BASED TOURISM AND OUR COUNTY

I ALSO CONTEND THAT THE 2008 CHANGES TO THE DEFINITION OF AGRICULTURE AND 2010 WINERY DEFINITION ORDINANCE WERE NOT PROPERLY PRESENTED TO THE PUBLIC AND HAVE ~~ALLOWED~~ ENCOURAGED THIS TYPE OF BEHAVIOUR / PROJECT EXPANSION.

THIS MUST BE RECTIFIED BEFORE WE CONTINUE APPROVALS.

- ALSO NEED ANSWERS TO QUESTIONS REGARDING HOW MANY WELLS ARE ON THE PROPERTY? WHY SO MANY? DID OTHERS RUN DRY? WAS BORON DETECTED?

- ALSO THE VARIANCE ISSUE IS CONCERNING

Direct No.: 510.273.8723
jramiza@bwslaw.com

Planning Commission Mtg.

January 19, 2016

JAN 20 2016

Agenda Item # 9C

VIA U.S. MAIL AND E-MAIL

County of Napa
Planning Commission
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Re: Dakota Shy Winery Expansion Project

Chair Phillips and fellow Planning Commissioners:

This firm represents Roger Walther, who lives across Sage Canyon Road from the Dakota Shy Winery. Mr. Walther has owned this home in Napa County since 1985 and cares deeply about the community. While our client wholeheartedly supports local agricultural and winery land uses and generally supports the proposed project, he initially questioned whether the proposed access location is appropriate. We write today only after conducting several unproductive in-person meetings with the applicant, including as recent as this very morning, wherein we indicated our general support for the project, discussed our limited concerns and proposed reasonable alternatives. While the applicant hosted those meetings and listened respectfully, they have declined to make project modifications to address our concerns about the project entry when viable alternatives exist.

As demonstrated below and supported by the attached letter and expert opinion of licensed traffic/civil engineer Jim Jeffery, Mr. Walther's initial concern proved valid and stems not from obstructionism, but rather, is based on substantial evidence supporting a fair argument that the project's proposed access on Sage Canyon Road may result in significant adverse traffic safety impacts. Additionally, the Initial Study/Negative Declaration ("Neg. Dec.") fails to accurately describe the project and properly analyze cumulative traffic impacts. Finally, the proposed variance and use permit findings are not supported by substantial evidence. In sum, while County staff has worked hard to try to make the proposal meet legal requirements, the reality is that the County's Initial Study/Negative Declaration is legally inadequate and neither a

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variance nor a use permit modification can be granted/approved based on the administrative record as it exists today.

This letter presents the evidence and the legal conclusions that must be drawn from this evidence and demonstrates that the Neg. Dec. is legally inadequate because the project has the potential to result in an adverse traffic safety impact and because the cumulative traffic impact analysis fails to comply with current California Court decisions on cumulative impacts.

These issues would have been satisfied had the applicant relocated the driveway as we requested of them. On a site as complicated at the applicant's – which fails to meet current minimum winery parcel size, which requires a variance, and which access is located on a dangerous stretch of road – compromise and creativity is required. We do not believe that refusing to work with a neighbor whom is willing to support the project if the legitimate concerns are addressed is the right way to approach a project in Napa County.

Accordingly, due to the substantial evidence we have provided, unless and until further environmental review is conducted under CEQA and additional analysis and evidence supporting the required findings for the requested variance and use permit modification is provided, it would be improper for the Planning Commission to approve the proposed project at this time. Thus, we respectfully request that you refrain from approving the project and refer the project back to the applicant and staff with direction to return after preparing an Environmental Impact Report to fully and accurately describe the project, adequately assess its potential impacts and develop mitigation measures and/or alternatives that avoid or lessen those effects to insignificant levels, and developing more robust analysis/evidence to support the requested variance and use permit modification.

The following pages present our legal case on these issues. Thank you for considering our concerns. I plan to attend tomorrow's hearing and will be happy to answer any questions you may have at that time.

LEGAL ANALYSIS

I. The Negative Declaration Is Legally Inadequate.

Because Negative Declarations involve the least rigorous level of environmental review under CEQA, their appropriateness is gauged and legal adequacy is adjudged by what is commonly known as the "fair argument" standard. The fair argument

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standard commands that "if a lead agency is presented with a fair argument that a project *may* have a significant effect on the environment, the lead agency *shall* prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." (See Pub. Res. Code § 21151(a), 14 Cal. Code Regs. ("CEQA Guidelines") § 15064(f)(1) (emphasis added); see also *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 85; *Keep Our Mountain Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 730; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927.)

As is evident by CEQA's use of the words "may" and "shall" in this context, evidence of even a *potentially* significant impact precludes a negative declaration and requires an EIR. Accordingly, "[t]he fair argument standard is a low threshold test for requiring the preparation of an EIR. (citations omitted) It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is *de novo*, with a preference for resolving doubts in favor of environmental review." (*Pocket Protectors, supra*, 124 Cal.App.4th 903, 928 (emphasis in original).) Based on this low threshold standard, lead agencies can only approve projects based on negative declarations when there is no evidence of a possible significant adverse impact, and if there is disagreement among experts over the significance of an impact the agency shall treat the impact as significant and prepare an EIR. (*Keep Our Mountains Quiet, supra*, 236 Cal.App.4th 714, 729, citing CEQA Guidelines § 15064(g).)

A. The Project Has The Potential To Result In Significant Adverse Traffic Safety Impacts.

To follow up on our client's concern regarding the appropriateness of the project's proposed access point on Sage Canyon Road, we retained Jim Jeffery, a highly qualified and experienced traffic and civil engineer. Pursuant to facts he learned and observed during his site visit and review of the project application materials and relevant regulations and Google Maps and Street View data/images, Mr. Jeffery concluded that in his professional opinion, "the proposed Dakota Shy Winery Expansion project has the potential to result in significant adverse traffic safety impacts." (See Mr. Jeffery's letter attached hereto as Exhibit A.)

His opinion is supported by numerous facts that apparently were not known or considered by the applicant's traffic consultant, including: (1) the disproportionate percentage of truck traffic along Sage Canyon Road (28% truck traffic in project vicinity compared to only 7% truck traffic on all other Napa County portions of State Route 128); (2) the regular use of Sage Canyon Road in the project vicinity by bicyclists and trucks

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towing boats, trailers and other recreational gear despite the fact that the roadway lacks bicycle lanes and even shoulders; and (3) existing trees on the project site "line up" for vehicles traveling west on Sage Canyon Road at a point only 200 feet east of the proposed winery exit driveway to create a site clearance blind spot blocking sight distance of vehicles exiting the winery for one full second of travel time. In sum, Mr. Jeffery demonstrates that these factors¹ combine to create multiple sight distance issues requiring additional sight distance clearance to facilitate adequate stopping distances for the unique mix of vehicles (cars, trucks, cars/trucks pulling boat trailers, bicyclists) that are sure to abruptly encounter employees, vendors and/or visitors entering and exiting the winery. Furthermore, some of these abrupt encounters will likely be fueled by alcohol tasted by winery visitors and nearby boating enthusiasts alike, especially on weekends when their trips along Sage Canyon Road will no doubt coincide.

In contrast to Mr. Jeffery's detailed investigation and analysis, the Neg. Dec. ignores these factors and simply offers an unsupported, one-sentence conclusory statement disclaiming any sight line/stopping distance-related impacts on Sage Canyon Road. (See Neg. Dec., page 19 under "d.-e." section.) That conclusion is presumably based on the applicant's traffic study, but that study's sight distance investigation and impact analysis is similarly perfunctory, and, as demonstrated by Mr. Jeffery, fails to consider the unique conditions and vehicles/users along Sage Canyon Road which lead him to conclude that longer sight distance clearance is needed to facilitate the increased stopping distance necessary to ensure traffic safety. As noted above, even if the applicant's traffic consultant *had* considered all the relevant factors and still concluded that the project would not result in a significant traffic safety impact, the existence of such a disagreement among experts in this context does not justify use of a negative declaration, but rather, requires an EIR.

In sum, because this letter and Mr. Jeffery's letter attached hereto as Exhibit A present substantial evidence supporting a fair argument that the project may result in significant adverse traffic safety impacts, an EIR is required. That is important here because EIR's are not only required to develop mitigation measures but must also

¹ At the time of Mr. Jeffery's December 14, 2015 letter, one such noted factor included the apparent lack of speed limit signs on Sage Canyon Road pursuant to Google Maps/Street View image research. We have since physically driven and learned that speed limit signs are present along Sage Canyon Road (likely installed by Caltrans *after* the Google Street View images taken/dated April 2015). We have discussed this with Mr. Jeffery and he stated that he continues to believe that the project has the potential to result in a significant adverse traffic safety impact due to the unique conditions and users associated with Sage Canyon Road in the project vicinity (e.g., trucks, bikes, lack of shoulders, boat trailers and blind spot).

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explore a reasonable range of project alternatives in an effort to avoid a project's significant impacts. As discussed in Mr. Jeffery's letter, such a feasible access alternative exists along Silverado Trail. Specifically, Mr. Jeffery notes that should the project site's existing access via Silverado Trail be deemed insufficient for any reason, another feasible access alternative to/from Silverado Trail exists. Mr. Jeffery recommends that the proposed HMA driveway that is shown on project plans just south of the proposed new winery building could be easily extended to connect to Silverado Trail. Not only would this provide a 90 degree driveway to/from Silverado Trail with optimal sight lines/distances (exceeding 500 feet in both directions), this shift should not require any significant modifications to the proposed new winery plans.

B. The Neg. Dec.'s Project Description And Cumulative Traffic Impact Analysis Are Also Inadequate.

The fundamental starting point of any CEQA document is an accurate, stable and finite project description as all subsequent analysis compares when, where and how the project will change the status quo in identifying the project's potential impacts and determining the significance of those impacts. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) In other words, an incomplete or inconsistent project description infects the adequacy of the entire environmental review document and process and "draws a red herring across the path of public input." (*Id.* at p. 198.) The Neg. Dec.'s project description falls short of this standard by failing to adequately and completely describe the project's construction phase as it is mostly silent as to the extent, time-of-year, and duration of the construction phase as well as the number and type of construction vehicles and equipment to be used. Similarly, it fails to quantify or even discuss the extensive grading required to remove the tennis court and orchard or address whether soils or other material will be imported on or exported off site as part of the grading and site preparation component of the construction phase. These omissions inappropriately curtail and stunt the Neg. Dec.'s analysis of potential air and water quality, traffic, cultural, biological, greenhouse gas and noise impacts.

Further, the Neg. Dec.'s cumulative traffic impact analysis also violates CEQA. CEQA defines cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (CEQA Guidelines § 15355). Thus, cumulative impacts may result from individually minor but collectively significant projects taking place over a period of time (*Id.*, § 15355(b)), and why CEQA requires cumulative impact analysis to employ one of two methods – the list-of-projects approach or the summary-of-projections approach – to ensure the project's individual contribution to impacts of related projects is properly assessed (*Id.*, § 15130(b)).

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Despite acknowledging that a significant cumulative traffic impact already exists along the adjacent Silverado Trail roadway segment and nearby intersection of Silverado Trail and Sage Canyon Road because they currently operate at level of service F (generally described as the most extreme congestion/delays possible), the Neg. Dec. summarily concludes, without utilizing either analytical method, that because the project will contribute less than 1% of the total traffic volume to this extremely congested roadway and intersection, the project's cumulative impact is less than significant. This analysis and conclusion is impermissibly myopic and violates CEQA because it doesn't look at the project's cumulative impact *together with related projects* at all, but looks solely at the project and ends the analysis by characterizing its contribution as "de minimis." This is entirely impermissible under CEQA pursuant to the *Kings County* line of cases,² which hold that cumulative impact analyses employing such "de minimis" or "ratio theory" methodology violate CEQA because by only and improperly focusing on project-specific impacts without properly considering the collective effect of the project and other relevant projects, the seriousness of the problem (here, unacceptable traffic congestion and delays) is masked. And, as demonstrated by the *Kings County* line of cases, this violation is most egregious the larger the collective problem is because under such "de minimis" or "ratio theory" analyses, the larger the existing problem, the more likely that any proposed project would have an insignificant contribution/impact. Kudos to County planning staff, which originally spotted and flagged this deficiency in the applicant's traffic study and cited it as one of the reasons why the project application was incomplete.³ Notwithstanding, planning staff's flagging of the issue, the Neg. Dec. falls back on this unacceptable justification without any further analysis or rationale.

² See, e.g., *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718 [rejecting cumulative impact analysis concluding cogeneration plant's air emissions were not cumulatively significant based solely on determination that the plant's emissions would be less than 1% of area emissions of relevant pollutants]; *Los Angeles Unified School Dist. V. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1024-1028 [rejecting cumulative impact analysis concluding urban development plan's cumulative noise impacts were not significant simply because the plan would only minimally increase traffic noise approx. 3 decibels above already unacceptable ambient noise level of 72.1 decibels]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099 [similar result].

³ See Exhibit A, point 13, of County Planner Shaveta Sharma's July 2, 2015 "deemed incomplete" letter to applicant DS Properties, LLC, wherein she states the following in support of her request for supplemental environmental information necessary to adequately evaluate potentially significant impacts: "The traffic study does not provide sufficient qualitative analysis as to why the project will not result in cumulative impacts. The less than one percent increase is not an adequate measure in analyzing cumulative impacts."

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C. The Neg. Dec. Includes Numerous "Mitigation Measures" As If It Were A Mitigated Negative Declaration, But Without The Required Analysis And Mitigation Monitoring And Reporting Program.

Finally, while we applaud the imposition of various conditions of approval to minimize the project's environmental effects, it is inappropriate and violates CEQA to do so without formally identifying the environmentally-protective measures outlined by those conditions as mitigation measures. Indeed, despite admitting potentially significant light/glare, air quality, cultural and noise impacts, and identifying measures to ensure those impacts are lessened, the CEQA document is referred to as a negative declaration (i.e., concluding the project will not result in any significant impacts or require any mitigation measures).

Referring to necessary protective measures as "standard conditions" as opposed to mitigation measures in this fashion in a negative declaration violates CEQA for two reasons. Because it sidesteps the analysis (demonstrate, with supporting evidence, that the mitigation measure will be effective in reducing the potential impact below the identified threshold of significance) and procedure (include all mitigation measures within an adopted and enforceable mitigation monitoring and reporting program) required of all Mitigated Negative Declarations and EIRs.

II. The Project Cannot Be Approved At This Time Because Various Required Findings Are Not Supported By Substantial Evidence In The Record.

As discussed further below, the record does not support a number of key environmental, variance and use permit findings.

A. Negative Declaration.

As demonstrated above and in Mr. Jeffery's letter attached hereto as Exhibit A, two of the environmental determination findings cannot be made/are not supported by the record at this time. For example, due to the inadequacies associated with the Neg. Dec.'s project description, cumulative impact analysis and failure to treat required protective measures as formal mitigation measures, proposed finding number 3 is inaccurate and unsupported as the Initial Study and Neg. Dec. were not prepared and considered in accordance with CEQA. Further, finding number 4 is also inaccurate and contrary to the record in that there is substantial evidence in the record that the project may result in significant adverse traffic safety impacts.

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B. Variance.

Three of the variance findings cannot be made/are not supported by the record at this time. For example, proposed findings number 9 and 10 do pass legal muster. For some of the same reasons contained in the factual and legal analysis in the "Summers Winery Request for Variance Memorandum" ("Variance Memo") included as supporting document "B" for the Summers Winery use permit major modification (P14-00232) and variance (P14-00233) also scheduled to be heard by the Planning Commission at its January 20, 2016 meeting (which memo is incorporated by reference herein), evidence demonstrating the requisite special circumstances and hardship is lacking here. For example, while the dual street frontage/setback aspect of the project site may be unique, the analysis supporting proposed finding 9 is focused exclusively on the project site and is devoid of any comparative information or analysis about surrounding properties. As such, the potentially unique circumstances associated with the project site lack legal significance as the finding expressly requires such a comparison with privileges enjoyed by other properties in the vicinity and under identical zoning classification. No such comparison properties are identified or discussed in the record.

Proposed finding number 10 fares no better as it fails to demonstrate the requisite level of hardship. Per the Variance Memo, if a property can be put to effective use, consistent with its existing zoning, without the deviation or expansion sought, it is not significant that the variance sought would make the applicant's property more valuable or would enable him to recover a greater income. Profit, community benefit, superior building design/materials and attractive architecture are legally irrelevant to this hardship finding. As the staff report correctly acknowledges, the site already contains a single family residence (replete with tennis court, pool and guesthouse) and a small winery and orchard, which in themselves are substantial property rights. Neither the variance nor the expansion of the winery is necessary to preserve the use and enjoyment of those existing and substantial rights. Moreover, the county's analysis in support of this hardship finding centers on the property's substandard size and status as a pre-WDO winery, but ignores the fact that the applicant recently purchased this substandard size winery and knew or should have known about the applicable dual setbacks and other limitations to winery expansion. It would set a very disastrous precedent to allow entrepreneurs to knowingly buy substandard, nonconforming winery properties and then soon thereafter grant them variances from applicable zoning standards based on hardships associated with the property's inability to meet those standards. Such an exception would swallow the rule and nullify the policies and culture inherent in those standards, and could spur others to actively seek out

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substandard pre-WDO wineries to purchase for expansion knowing those same substandard conditions could facilitate the needed variances.

Finally, because the project has the potential to result in significant adverse traffic safety impacts, finding number 11 cannot be made or supported unless or until an EIR is prepared to adequately address and effectively mitigate this impact.

C. Use Permit.

Again, because the project has the potential to result in significant adverse traffic safety impacts, finding number 17 cannot be made or supported unless or until an EIR is prepared to adequately address and effectively mitigate this impact.

Sincerely,

Burke, Williams & Sorensen, LLP

 ON BEHALF OF JERRY RAMIZA
Gerald J. Ramiza, Esq.

Encl. (Exhibit A – Jim Jeffery letter to Gerald Ramiza dated 12.14.15)

cc: Laura Anderson, Deputy County Counsel/Commission Counsel (via e-mail only
Laura.Anderson@countyofnapa.org)

David Morrison, Director of County Planning, Building and Environmental
Services Department (via e-mail only David.Morrison@countyofnapa.org)

John McDowell, Deputy Planning Director (via e-mail only
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Shaveta Sharma, Project Planner (via e-mail only
Shaveta.Sharma@countyofnapa.org)

Exhibit A

December 14, 2015

Gerald Ramiza
Burke, Williams & Sorenson, LLP
1901 Harrison Street, Suite 900
Oakland, CA 94612

RE: Potential Traffic Safety Impacts of Proposed Dakota Shy
Winery Expansion

Dear Mr. Ramiza:

I have been retained by your law firm to perform a review of the Dakota Shy Winery Use Permit application, for the purposes of evaluating potential traffic safety impacts. In my review I have focused on the portion of the project's Traffic Impact Report that deals with the proposed access to/from the project site, including sight line, or sight distance, investigation. While my investigation is ongoing because relevant facts are currently still being sought and/or developed, I write to inform you that based on the facts currently known and in my professional opinion, absent the development/imposition of mitigation measures and/or the selection of a project alternative, the proposed Dakota Shy Winery Expansion project has the potential to result in significant adverse traffic safety impacts.

I. Qualifications And Basis For Opinion.

I am a licensed traffic engineer, and a licensed civil engineer. I have been in private practice for 35 years. I have been a forensic traffic engineer and expert witness for over 25 years. During my career I have performed more than 100 Traffic Impact Analyses, and have peer-reviewed analyses prepared by other Traffic

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December 14, 2015

Engineers, including numerous analyses that involved sight line any cases of litigation where a Traffic Impact Analysis was a contributing factor in evidence. Recently, I successfully defended, for the State of California, a Traffic Collision alleged to have been 'caused' by a sight distance limitation that involved an incident on Route 29 in Napa County. A full copy of my CV is attached as Exhibit A to this letter.

To frame my comments I note that I have reviewed relevant County and Caltrans regulations and standards as well as all of the documents you have provided, including the project application materials and engineering plans, the County's draft initial study/negative declaration and the applicant's Traffic Impact Report, visited the project site and investigated the sight lines/distances associated with the project site's access to/from both Silverado Trail and Sage Canyon road on December 7, 2015. Further, it should be pointed out that Sage Canyon Road, on the eastern side of the winery, is a narrow roadway lacking adequate shoulders and under the jurisdiction of Caltrans, being SR-128. Silverado Trail, along the western side of the winery (and south of Sage Canyon Road) is under the County's jurisdiction.

II. Factors Resulting in Potentially Significant Adverse Traffic Safety Impacts.

Caltrans sets forth minimum sight distance standards in Chapter 200 of the Highway Design Manual, March 7, 2014 edition. A sight distance standard is the minimum sight distance ahead of a continuous length of highway required to be visible to the highway user in order to stop safely, at any given speed.

The Dakota Shy Winery Traffic Impact Report, in Section XI.A, at Page 29, in the segment entitled 'Sight Line Adequacy at Project

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Exit Driveway” analyzes the sight lines to/from the project’s proposed ingress/egress along Sage Canyon Road “at the posted speed limit of 40 miles-per-hour.” Per the edition of the Highway Design Manual previously cited, Caltrans states the minimum sight distance required to safely stop, at 40-miles-per-hour, is 300 feet.

My site distance investigation resulted in conclusions similar to that of the author of the Traffic Impact Report, i.e., that Caltrans minimum sight distance requirement is met, as long as the speed limit is, and remains at, 40-miles-per hour. The Crane Traffic Impact Report shows sight distance in one direction at the existing westerly (proposed exit) to be 350 feet, however, I determined it to be 300 feet, just barely compliant with the Caltrans minimum standard. However, I could find no evidence of a posted 40-mile-per-hour speed limit sign along either side of State Route 128, beginning at Silverado Trail and going as far as Lower Chiles Valley Road. Additionally, the actual uses of this roadway by the traveling public are relevant for the following reasons and challenge the site-specific adequacy of this standard.

First, a significantly disproportionate percentage of truck traffic (28 percent) regularly utilizes this segment of State Route 128 (*see* Caltrans 2013 Annual Average Daily Truck Traffic on California State Highway, page 143)¹. This is significant as the average percentage of truck traffic on all other Napa County portions of State Route 128 is 7%. Due to their physical characteristics, trucks require longer distances to stop than passenger vehicles and thus require additional sight distance clearance to ensure adequate traffic safety. The fact that there is a 65-foot truck length limit sign posted at the western entrance to SR 128 for eastbound traffic

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¹ http://traffic-counts.dot.ca.gov/docs/2013_aadt_truck.pdf

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December 14, 2015

indicates Caltrans is aware of the issues related to large truck traffic on SR 128. This disproportionate percentage of truck traffic was not considered in the project's Traffic Impact Report.

Second, trucks towing boats also regularly use State Route 128 as a travel way to Lake Berryessa and Lake Hennessey, destinations popular with boating, recreation and camping enthusiasts. There are a significant number of trucks with boat trailers and other recreational gear on this roadway, certainly many more than on a typical roadway. Like commercial trucks, passenger trucks loaded with gear and/or pulling boats or trailers also require longer sight distances than regular passenger vehicles to safely stop. The presence of truck traffic and recreational vehicle traffic creates the need for greater-than-minimum stopping sight distance.

Third, despite the fact that the roadway lacks bicycle lanes or even, for many stretches, shoulders, State Route 128 remains a popular travel way with bicyclists. A website informing the public about Napa Valley bicycle touring states, when describing the popular 'Pope Valley Triangle' route: "Hwy 128 has little to no shoulder and is a popular route for boaters heading to Lake Berryessa; we recommend planning to ride this route Monday-Thursday to minimize sharing the road with trucks towing boat trailers."² Thus, in addition to the disproportionate percentage of trucks and other vehicles pulling boats or trailers, this roadway's routine users also include bicyclists despite the lack of formal bicycle lanes or adequate roadside shoulders.

Fourth, and perhaps most important, there are several mature (mostly) walnut trees of approximately one foot diameter, which 'line up' for SR 128 westbound vehicles at a point only 200 feet

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² <http://www.napa-valleybiketours.com/napa-valley-cycling-routes.html>

Gerald Ramiza
December 14, 2015

east of the exit driveway. At 40 miles-per-hour, the trees will limit/block the sight distance for about one full second of travel time. This sight clearance 'blind spot' would impact all of the routine travelers associated with the trucks, boats and bikes noted above.

Since sight distance is dependent upon speed of travel, and since I observed no speed limit posting on Sage Canyon Road, it must be assumed that the speed limit is 55 miles-per-hour, the maximum speed limit in California for a two-lane roadway such as Sage Canyon Road.

It may be noted that I did not find any reference in the Administrative Record to anyone contacting Caltrans for its comments regarding this project. In the past, the County has been more pro-active in in contacting Caltrans regarding situations such as this, e.g. sight distance/driveway encroachment permits.

The project site's current driveways on Sage Canyon Road, both with full access, are proposed to be reconfigured into a 'loop' so that the eastern driveway facilitates ingress to the project site and the western driveway facilitates egress to State Route 128 (the entrance driveway being at milepost 7.75). The exit driveway does meet Caltrans minimum sight line requirements (just barely) for stopping sight distance; however, for the reasons discussed herein – travel in excess of the speed limit, regularly observed, heavy truck traffic, significant passenger truck with boat/trailer traffic and recreational vehicle traffic, the creation of blind spots for regular passenger vehicles by the presence of these larger vehicles, the use of SR 128 as a significant recreational bicycling route, the presence of the trees, which will create another blind spot, the lack

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December 14, 2015

of a shoulder on Sage Canyon Road - multiple sight distance issues are present which require additional sight distance clearance to ensure traffic safety. All of these factors lead me to conclude that the proposed ingress/egress on Sage Canyon Road has the potential to result in significant adverse traffic safety impacts.

As has been noted, it may be assumed that the speed limit is 55 miles-per-hour on Sage Canyon Road. With any speed limit above 40 miles-per-hour, further sight line study becomes necessary, and would very likely result in the minimum sight line requirements not being attainable. An Engineering and Traffic Survey – otherwise known as a speed survey – has been requested from Caltrans, in addition to accident histories requested from the California Highway Patrol, and I expect to have the requested data available for my review and analysis within the next 2-3 weeks.

III. Superior (Traffic Safety) Site Access Via Silverado Trail

To avoid the potentially significant traffic safety impacts associated with project ingress/egress on Sage Canyon Road, I recommend development and use of an alternative access point on Silverado Trail.

Napa County's sight line distance requirements appear to be lower for the same type of facility than Caltrans' requirements, which are similar to those of AASHTO (American Association of State Highway and Transportation Officials). Caltrans is not likely to accept a reduction in sight distance on its route; however, the County may, at its discretion, implement its own requirements on Silverado Trail. Even though under the control of Napa County, I have utilized Caltrans stopping sight distance requirements, the same as would be used on Sage Canyon Road, to compare and contrast the project's proposed access driveways on Sage Canyon

James C. Jeffery III, P.E., P.T.O.E.
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408-377-6222
info@trafficandcivilengineer.com

Gerald Ramiza
December 14, 2015

Road with alternative access from Silverado Trail.

Access via Silverado Trail currently exists; the project proposal suggests this current access be used as an emergency only access. If for any reason this current access should be deemed insufficient, another access point via Silverado Trail is readily accessible, as I realized during my visit to the site. The proposed HMA driveway that is shown just south of the proposed winery building could be extended to connect to Silverado Trail. Not only would this provide a 90 degree driveway to/from Silverado Trail with optimal sight lines/distances (exceeding 500 feet in both directions) this shift should not require any significant modification to the proposed winery site plans.

IV. Conclusion

Extending the proposed HMA driveway in this fashion in this location and making that a realigned access point to Silverado Trail is a superior alternative. It provides ample sight distance for safe travel, eliminates potential adverse traffic safety impacts associated with the use of Sage Canyon Road and fits nicely into the proposed project plans, requiring no significant modification to them.

Sincerely,



James C. Jeffery III, P.E., P.T.O.E.
Enclosure (Exhibit A – James C Jeffery III CV)

James C. Jeffery III, P.E., P.T.O.E.
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JAMES C. JEFFERY III, P.E., P.T.O.E.

Traffic and Civil Engineering Consulting Services

CURRICULUM VITAE

Professional Experience

<i>Principal Consultant</i>	Traffic and Civil Engineering Consulting Services Offices in Sacramento and San Jose, CA 1983 – Present
<i>Consulting City Traffic Engineer</i>	City of Saratoga, CA 2000 – 2004
<i>Regional Traffic/Transportation Engineer</i>	Association of Monterey Bay Area Governments Monterey, CA 1981 – 1983
<i>Assistant Civil Engineer</i>	County of Santa Cruz, Santa Cruz, CA 1979 – 1981
<i>Engineer Associate</i>	City of San Jose, San Jose, CA 1975 – 1979

Professional Licenses

<i>Traffic Engineer</i>	Professional Engineer Registration No. 1179, California
<i>Civil Engineer</i>	Professional Engineer License No. 36644, California
<i>General Engineering Contractor</i>	License No. 391026, California
<i>Professional Traffic Operations Engineer</i>	License No. 197 Transportation Professional Certification Board
<i>California Driver's Licenses</i>	Class C, A and M1

Education

Bachelor of Science Degree, Engineering Management, San Jose State University (1971)
Bachelor of Science Degree, Environmental Studies, CSU San Jose (1973)

Professional Affiliations

Institute of Transportation Engineers (ITE) **Life Fellow**
Expert Witness/Safety Council
California Board of Professional Engineers and Land Surveyors, Technical Witness
Forensic Expert Witness Association
American Society of Civil Engineers
Engineers Without Borders

Publications

<u>Implementing Road Safety Audits in North America</u>	ITE TSC 96-01
<u>Survey of Traffic Circulation & Safety at School Sites</u>	ITE TSC 4S-08
<u>ITE Expert Witness Information Notebook</u>	ITE IR 099

JAMES C. JEFFERY III, P. E., P.T.O.E.
Traffic and Civil Engineering Consulting Services
CURRICULUM VITAE ATTACHMENT

Detailed Description of Experience and Expertise

Traffic Engineering

Highway Design

Designed streets and highways, including signing and striping
Provided peer review of geometric design of streets and highways
Performed preliminary roadway engineering, including analysis of alternatives
with accompanying cost estimates
Conducted sight distance investigations
Determined the best solutions for traffic access to subject site; recommended
modifications to access solutions proposed or provided by public agencies
Determined appropriate traffic control devices, including speed humps
Designed traffic control plans for construction zones

Plan Line Studies

Reviewed survey information and existing improvements
Prepared plan lines showing the ultimate right-of-way, curb, gutter and sidewalk,
utility easements, medians and roadway cross sections; cost estimates included

Traffic Signal Design and Traffic Systems

Designed and redesigned traffic signal installations
Optimized traffic signals using SOAP, Passer II, TRANSYT 7 and other
computer programs
Determined potential regional air quality produced by optimizing region's
signalized intersections

Transportation Engineering Studies

Recommended neighborhood traffic control measures in order to mitigate adverse
thru traffic in a residential area
Created School Area Pedestrian Safety Policy
Conducted counter programs, license plate surveys, road condition surveys and parking surveys

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Traffic and Civil Engineering Consulting Services
CURRICULUM VITAE ATTACHMENT

Detailed Description of Experience and Expertise

Transportation Planning
Rural, Small Urban & Metropolitan Areas

Traffic Impact Analyses

Level Of Service (LOS) calculations
Site planning, parking, access, circulation studies
Traffic impact fee nexus
Mitigation measures recommended include on and off-site roadway traffic control devices, roadway and parking lot re-design, signing and striping, signal modification, neighborhood traffic control

Traffic Data Studies

Vehicle count and classification, speed survey, traffic delay, signal pre-emption and traffic signal warrant studies, license plate and origin/destination surveys
Highway Program Monitoring System Inventory including pavement condition

Traffic Data Analysis Reports

Traffic safety, on/off street parking analysis, trip generation rate
Mixed use traffic and parking reduction
Pedestrian flow in non-commercial expressive activity

General Plan Circulation Element

Created comprehensive traffic demand and forecasting studies for the corridor and circulation element of a General Plan using several traffic demand models; prepared accompanying environmental impact analysis

School Site Circulation

Pedestrian safety policy and traffic circulation in school zones

Land Use

Eminent Domain
Prescriptive Easement
Roadway Easement
Public Representation
Public Records Research

JAMES C. JEFFERY III, P.E., P.T.O.E.
Traffic and Civil Engineering Consulting Services
CURRICULUM VITAE ATTACHMENT

Detailed Description of Experience and Expertise

Roadway Design Defect and Design Immunity

Collision Site Investigation

All Jurisdictions

All Types of Vehicles Pedestrians Bicyclists

All Land Use Types

All Roadway Types

Freeways and Highways Urban and Suburban Streets

Rural Roadways Intersections Private Roadways, Driveways

Special Sites

Guard Rails, Poles, Medians

Parking Lots (Speed Bumps, Wheel Stops & Pedestrian Access)

Rail Lines Mass Transit

Roadway Design, Construction & Maintenance Evaluation

Sight Distance Evaluation

Dangerous Condition of Public Roadway

Roadway Construction Defects

Signing and Striping Defects

Standard of Care Compliance

Change of Condition Determination

Pavement Condition Rating/Defects

Maintenance Standards & Practices

Construction Zone Accident Investigation

Work Zone Traffic Safety

Traffic Control Plans

Inspection Practices

Contract Compliance

Accident Hazard Review

Roadway Safety Audits

Accident Mitigation Measures

Identifying Conditions Causal to Accidents

Accident Frequency Review for Notice

Risk Assessment/Exposure

Traffic Signal Timing, Design and Maintenance

Designed and reviewed traffic signal plans and lighting studies

Frost, Melissa

Subject: FW: Dakota Shy Winery Expansion Project

From: McDowell, John
Sent: Tuesday, January 19, 2016 4:18 PM
To: 'Faszholz, Debbie'
Cc: Sharma, Shaveta; Frost, Melissa
Subject: RE: Dakota Shy Winery Expansion Project

Thank you for the comments. This has been forwarded to the Clerk and Staff for incorporation into the administrative record and distribution prior to the hearing.

John McDowell
Deputy Planning Director
Napa County Planning, Building and Environmental Services Department
(707) 299-1354

From: Faszholz, Debbie [<mailto:DFaszholz@bwslaw.com>]
Sent: Tuesday, January 19, 2016 1:34 PM
To: heather@vinehillranch.com; napacommissioner@yahoo.com; anne.cottrell@lucene.com; tkscottco@aol.com; JeriGillPC@outlook.com
Cc: Anderson, Laura; Morrison, David; McDowell, John; Sharma, Shaveta; Ramiza, Gerald J.
Subject: Dakota Shy Winery Expansion Project
Importance: High

Dear Chair Phillips and fellow Planning Commissioners,

Attached hereto please find a letter from Jerry Ramiza along with Exhibit A regarding the Dakota Shy Winery Expansion Project. Please note, a hard copy will follow by regular mail.

Regards,

Debbie

Deborah Faszholz | Legal Secretary to
Gerald J. Ramiza, Karen W. Murphy,
and Michael G. Biddle
1901 Harrison Street, Suite 900 | Oakland, CA 94612
d - 510.903.8825 | t - 510.273.8780 | f - 510.839.9104
dfaszholz@bwslaw.com | [vCard](#) | [bwslaw.com](#)



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