

CERTIFIED

NAPA COUNTY PLANNING COMMISSION

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IN RE: ITEM 9A
BELL WINE CELLARS--USE PERMIT MAJOR MODIFICATION
NO. (P13-00055)

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TRANSCRIPT OF VIDEOTAPED PROCEEDINGS
MEETING OF MAY 6, 2015

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PRESENT:

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

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Transcribed by: Kathryn Johnson

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1 CHAIR PHILLIPS: We move on to the Public Hearing items,
2 which brings us to Item 9A, Bell Wine Cellars, Use Permit Major
3 Modification No. (P13-00055). Wyntress, would you please like to
4 present?

5 WYNTRESS BALCHER: Good morning.

6 CHAIR PHILLIPS: I know, it's a little unsettling at first.

7 MS. BALCHER: Good morning Madam Chairman, members of the
8 Commission. The Bell Wine project was first heard on April 1,
9 2015. And in the original request the applicant had requested
10 100 visitors per day, which would equal 700 visitors a week,
11 maximum 420 visitors per week, which would come to 21,840, and
12 100 visitors a day for 52 weeks, which is the number I came up
13 with was the [thirty-six, four thousand]. The average 420
14 visitors per week does not give a total number, that was what
15 our concerns was, and so when we had put a condition on--the
16 proposed condition was 21--was to put a maximum of 420 visitors
17 a week, but we still considered this visitation overshadowed the
18 wine production operations, and suggested the Commission
19 consider--thank you--consider--that they would consider a lower
20 amount. Therefore the Commission recommended that the Staff meet
21 with the--that the item be continued and Staff meet with the
22 applicant and discuss the visitation. Staff met with the
23 applicant, and representatives on April 2, which was very
24 productive. The applicant's business program outlined in their
25 March 28 letter was discussed, along with the Staff's concerns
26 regarding the visitation and marketing activities, which seemed
27 to overshadow the production activities of the winery.

28 The applicant is now presenting a reduced visitation and

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1 marketing proposal as outlined in their April 16, 2015 letter.
2 The applicant is proposing a maximum of 13,780 visitors per
3 year. The applicants proposed to focus the visitation and
4 marketing activities to the Valley's busiest time of year. A
5 hundred visitors are proposed daily, but during the period of
6 May 1st through October 31st, the average number of expected
7 visitors is 355, with a maximum of 400 proposed. And between
8 November 1st and April 30th, an average of 175 visitors per week
9 are expected, with a proposed maximum of 250 visitors. The
10 applicants have asked that the Commission include these average
11 numbers as part of the conditions of approval.

12 The applicants are requesting the weekend tasting
13 appointments to continue to be offered from 10:00 a.m. to 4:00
14 p.m., the last customers to leave before 6:00. This is
15 consistent with the later departure time for staff and to avoid
16 the peak traffic hours. The applicant has reduced the number of
17 the up to 40-person events to two per month, and these guests
18 are to be included in the tally for the total number of annual
19 visitors per year.

20 During the marketing events the applicants may serve lunch
21 or dinner with the tasting. There is no change proposed in the
22 four large events.

23 In deference to the adjacent property owner, the applicant
24 proposes to cut back the hours of operation to 7:00 p.m.,
25 subject to harvest and production needs. Staff feels that the
26 proposed visitation and marketing program does not overshadow
27 the production facility as more subordinate to the making of
28 wine.

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1 Staff has recommended the adoption of the Negative
2 Declaration, and has been able to make the Use Permit findings
3 to approve the project subject to the Conditions of Approval. In
4 the Staff Report, Staff had provided a tracking copy of the
5 proposed Conditions of Approval to allow the Commission to see
6 the changes made to the project. A non-tracking copy has also
7 been provided to the Commission.

8 There are a couple of corrections that need to be made in
9 the Condition. The 13,780 annual maximum needs to be indicated
10 in the Visitation section, in the 4A. And the hours of
11 visitation need to be changed to 6:00. And that's in Section 4
12 under Visitation.

13 That concludes Staff's presentation, if you have any
14 questions, I'll be able to--happy to answer them.

15 COMMISSIONER SCOTT: I have one.

16 CHAIR PHILLIPS: Commissioner Scott.

17 COMMISSIONER SCOTT: Okay. The question I had was, is Staff
18 confident that the applicant and the facility can adequately
19 handle four 200-person events per year? I'm not sure...

20 MS. BALCHER: In terms of parking?

21 COMMISSIONER SCOTT: In terms of parking and accommodating
22 them in the facility. In other words, I'm saying if it's in the
23 middle of the summer or during those nine months when they have
24 the highest visitation, they're going to have a number of folks
25 outside. It's not large enough to accommodate them inside.

26 MS. BALCHER: Mm-hmm.

27 COMMISSIONER SCOTT: But if, in fact, any of those events
28 were in the wintertime, I was questioning how they could be

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1 accommodated.

2 MS. BALCHER: I would have to--I'm of the opinion...

3 COMMISSIONER SCOTT: Maybe the applicant can address that.

4 MS. BALCHER: Yeah. I believe originally that the events
5 would last like four hours, but I don't think they're all to be
6 on the property at the same time. And I believe there's a
7 restriction on the number of people they can have. And the use
8 permit regarding the marketing events, I'd have to pull it out
9 and make--but I can...

10 COMMISSIONER SCOTT: But it says four per year at a maximum
11 of 200 guests. Those are the ones I was concerned about.

12 MS. BALCHER: Yeah. They've indicated in their application,
13 actually 100 to 200. But the four events, I believe they
14 currently have two of the events that were originally approved.

15 COMMISSIONER SCOTT: Okay.

16 MS BALCHER: And to clarify that, I will have to defer to
17 the applicant in terms of how they're going to do that. I'm of
18 the opinion that they are not all going to be there at the same
19 time.

20 COMMISSIONER SCOTT: Okay. Thank you.

21 CHAIR PHILLIPS: Anne.

22 COMMISSIONER COTTRELL: I'm practicing the buttons Chair
23 Phillips.

24 CHAIR PHILLIPS: It didn't go--I can't--oh, upside down. I
25 thought I was looking at Mike. Okay. [Laughter.]

26 COMMISSIONER SCOTT: Which way to turn your head.

27 COMMISSIONER PHILLIPS: Yeah.

28 COMMISSIONER COTTRELL: Thank you, Ms. Balcher. I had a

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1 couple of questions about the breakout of the visitation
2 numbers. And I first just wanted to thank Staff and the
3 applicant for meeting, and also trying to be creative and coming
4 up with ways to address the concerns mentioned at the last
5 meeting.

6 One of the things that I think I've seen Staff and Ms.
7 Gallina in particular working on over the past months is an
8 effort to bring our visitation numbers across the board into
9 some sort of standard format so that we can compare better
10 what's happening from winery to winery. And while I understand
11 the interest in coming up with a high season and low season
12 number, I do have some question about whether we've done that
13 before. Because I think we--it seems to me that it's in the
14 Planning Department's interest in being able to keep being able
15 to compare apples to apples. And so, I guess, Ms. Gallina, can
16 you let me know if you've seen other applications that break out
17 visitation in a high season or a low season way?

18 CHARLENE GALLINA: No. This is the first time we've had the
19 seasonality in our conditions of approval. I believe we added a
20 project-specific condition on page 18 of the Staff Report. And
21 it's in the track changes. And it's Condition Number 2H. And
22 this is also a first, is to have a monitoring program for the
23 first three years where the applicant needs to submit their
24 marketing numbers and visitation numbers so we can determine
25 whether or not they're in compliance along with the annual
26 review of wineries if they were selected for the wine audit. And
27 that--those numbers would be brought back to the Commission for
28 reporting purposes just to check to see if this was--this

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1 implementation of the seasonality-type condition was appropriate
2 or not.

3 COMMISSIONER COTTRELL: Okay. So, it's not something
4 that...

5 MS. GALLINA: It's not something that we've done in the
6 past.

7 COMMISSIONER COTTRELL: Okay.

8 DEPUTY DIRECTOR JOHN MCDOWELL: We've done the opposite. On
9 the Hall Winery, and I can't recall if you were on the
10 Commission at that point, but that was within the last probably
11 six months when Ted Hall's winery just south of St. Helena went
12 to the Commission...

13 COMMISSIONER BASAYNE: Long Meadow Ranch.

14 COMMISSIONER SCOTT: Long Meadow Ranch.

15 DEPUTY DIRECTOR MCDOWELL: Long Meadow Ranch, thank you.

16 The Commission entertained his proposal to have visitation be
17 higher during low season periods and during the middle of the
18 week and then lower on weekends and in the summer.

19 MS. GALLINA: What we've done in the past is we've
20 identified a number that was high on the weekends and low during
21 the week, Monday through Thursday, then Friday, Saturday, Sunday
22 it was a higher maximum number, and then we provided a total
23 maximum for the week.

24 CHAIR PHILLIPS: I do appreciate your asking that question.
25 It had occurred to me as well in terms of enforcement and
26 simplicity, and being able to use the numbers in a meaningful
27 way for analysis. It's setting a trend that makes all of those
28 things more difficult.

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1 COMMISSIONER COTTRELL: And I guess I just had a similar
2 question about this idea to include the event numbers within
3 visitation counts, if that's something that Staff sees as a good
4 policy moving forward, if we've done that in other situations.
5 If that helps clarify things.

6 MS. GALLINA: Well, we've--I don't understand. We've
7 broken--in the chart we break down the daily--you know, the
8 visitation.

9 COMMISSIONER COTTRELL: Right.

10 MS. GALLINA: And then we identify the numbers of events.
11 And then lately we've been providing an annual amount, which
12 includes those people in attendance at the marketing events, as
13 well as the daily visitations.

14 COMMISSIONER COTTRELL: Okay. Okay. Thank you.

15 COMMISSIONER SCOTT: The daily numbers also include the
16 marketing events. In other words, if they have a 40-person
17 marketing event, that's 40 out of the 100 visitors they're
18 allowed that day.

19 MS. GALLINA: Yes, that's true.

20 COMMISSIONER SCOTT: Okay.

21 MS. GALLINA: That's true.

22 COMMISSIONER SCOTT: That's what I think you were looking
23 for.

24 MS. GALLINA: Okay, I'm sorry, yes.

25 CHAIR PHILLIPS: Well, while we're talking about the
26 visitation numbers, you know, it's really where the discretion
27 of the Planning Commission lies, and you don't want it to be
28 subjective. So I always like to use our comps as kind of a

1 benchmark in terms of what the averages are. So, I have a few
2 questions on the comparison chart that we did. And I actually
3 then just put it into the spreadsheet that I have been doing so
4 that we can--so that you can follow my train of thought.

5 So, the assumptions with this were that I took all of the
6 60,000-gallon wineries that were listed on the visitor averages
7 chart. And then I also put down the Bell Winery's. Two of the
8 wineries were pre-WDO wineries, Freemark Abbey, and Sinegal, was
9 a pre-WDO winery. The one that, Ms. Balcher, that I called you
10 about, was the Silverado Trail Winery, which, I wasn't sure
11 that--I wanted to confirm the numbers for that winery.

12 MS. BALCHER: I did check on that particular winery because
13 you asked about it. And I found that there was an error on the
14 figures on that. And so I've had that corrected. And I'm sorry I
15 forgot to bring it with me...

16 CHAIR PHILLIPS: You forgot, okay.

17 MS. BALCHER: What the actual numbers are, sorry.

18 CHAIR PHILLIPS: Okay. Well then, let's remove that since
19 it's not--since its data that's not applicable since it is
20 incorrect.

21 So then in terms with the averages of what we are looking
22 at with Bell, I really just--for the daily visitation--oh and
23 that was the other question, too. You had mentioned that the
24 yearly max was 13,700. But the Staff Report says the yearly max
25 is 16,900.

26 MS. BALCHER: That was an error on my part. I just did the
27 calculation. I did not--I missed the 13,000, and I apologize. So
28 I was trying to emphasize the fact that they were--in their

1 letter they proposed 17,000--what did they--excuse me.

2 DEPUTY DIRECTOR MCDOWELL: 13,000...

3 MS. BALCHER: 13,788, I believe is the number. And I...

4 CHAIR PHILLIPS: But it totals up to sixteen nine.

5 MS. BALCHER: Yeah, if you tally it all up. But they were
6 proposing that they have a maximum of 13,788.

7 MS. GALLINA: So, it totals up to the 16,000, but they're
8 proposing a limit on top of that.

9 MS. BALCHER: A cap.

10 MS. GALLINA: A cap on that number.

11 CHAIR PHILLIPS: Of 13,000.

12 MS. BALCHER: Correct.

13 MS. GALLINA: Of 13,000.

14 DEPUTY DIRECTOR MCDOWELL: 700.

15 MS. GALLINA: 700, thank you.

16 CHAIR PHILLIPS: But the actual limit would be 16,000--no.

17 MS. GALLINA: No. We would condition it to be the maximum
18 of 13,700...

19 COMMISSIONER PHILLIPS: The 13,700. Okay. Since that's
20 what...

21 MS. BALCHER: That's why I wanted to amend the condition to
22 make sure that that was known.

23 CHAIR PHILLIPS: Okay. So if you look at--so I did the
24 daily visitation numbers. If you took 13,700 a year max, and
25 divided that by 360 days, so you know, a week off for Christmas
26 or the holidays, the daily visitation average would be 38. And
27 if you did the same for the weekly visitation, it would be--with
28 doing 360 days divided by the 13,700 would be 269. And if you

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1 look at the averages when you take out the post-WDO, and the no
2 Silverado Trail winery since that was flawed, the daily average
3 is 24, and the weekly is 123. So it's 24 versus 38, and 123
4 versus 269. And actually in terms of events, it's four below for
5 events. So, it's just a--again I'm only doing this to provide
6 some perspective to everyone about when we throw these numbers
7 out, what we are looking at in terms of averages, and I think we
8 had talked about, you know, knowing what the average is, and
9 then applying discretion to that point. So I'm only adding that
10 for perspective.

11 COMMISSIONER COTTRELL: Chair Phillips, I appreciate you
12 doing this spreadsheet, and I think that sort of goes back to my
13 initial question about breaking--coming up with another, sort
14 of, set of parameters by which to assess it, because I think
15 it's only when we kind of go through this multiple step think
16 that we're able to kind of compare. So, anyway, I think that's
17 quite useful, and it reiterates for me an interest in not
18 changing formats at this point, unless that's something that
19 Staff feels like is a useful policy going forward in terms of
20 coming up with a seasonal difference.

21 CHAIR PHILLIPS: Commissioner Scott.

22 COMMISSIONER SCOTT: I was going to ask virtually the same
23 question. Is Staff recommending that we look at seasonality as a
24 significant consideration, or as a guideline for setting
25 visitation? I appreciate the applicant's efforts, and Staff's
26 effort to work with them to come up with the reduced numbers
27 that we're seeing. But, I guess, is this going to be the
28 standard operating procedure, or is this an exception? And we

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1 kind of need to know that because I want to know which direction
2 we're steering this ship in.

3 DEPUTY DIRECTOR MCDOWELL: Yeah. Commissioner Scott I think
4 you should--my recommend...

5 CHAIR PHILLIPS: Deputy Director John McDowell for the
6 County.

7 DEPUTY DIRECTOR MCDOWELL: Thank you, I apologize for
8 interrupting.

9 CHAIR PHILLIPS: It's the new microphones. [Laughter.]

10 DEPUTY DIRECTOR MCDOWELL: In absence of the County
11 adopting a set policy, the Commission is still at this point of
12 reviewing each application on its own merits, and judging it
13 against the regulations as they currently stand. This was a
14 proposal that was put forward by the applicant as a measure to
15 try to address the concerns that came up at the prior meeting.
16 And it's really up to you to determine whether it's responsive
17 to the concerns that you raised.

18 From Staff's perspective they did come substantially off of
19 the visitation numbers and the marketing numbers that were in
20 their original proposal. There was a great deal of benefit in
21 the follow-up discussion that we had with the applicant after
22 this item was initially continued. During that discussion, if
23 you recall the prior proposal had numerous marketing events. And
24 as we talked that out with the applicant, the applicant realized
25 that much of what they were asking for in the way of marketing,
26 actually didn't classify as marketing as it is currently
27 defined. They just wanted the ability to continue to have group
28 tastings occurring within normal business hours. That's why you

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--12--

1 saw the marketing number get pulled way back. The seasonality
2 component, I think it would be appropriate to hear from the
3 applicant on why they're proposing that, as well as get feedback
4 from the public in general on whether the public feels that's a
5 good idea, and then decide appropriately.

6 CHAIR PHILLIPS: I just had one--oh I'm sorry...

7 COMMISSIONER SCOTT: Go ahead. I was going to add that in
8 some regards the seasonality makes sense to me, depending on the
9 types of visitation they have. For example, those wineries that
10 are in--that cater to a lot of bikers, and groups on bikes,
11 makes sense that those people are going to be here during the
12 summertime during warm weather, preferably not during a rainy
13 season. Assume we will have rainy seasons again. But we want to
14 avoid, I think, overburdening the applicants with reducing, or
15 having the same number of visitations on a warm sunny day as we
16 do on a cold winter day. So it does make sense to me from a
17 business perspective. Whether or not that's the direction that
18 the County wants to go I don't know. That's why I'm asking.

19 CHAIR PHILLIPS: Commissioner Basayne.

20 COMMISSIONER BASAYNE: And just on the tailcoats of what
21 you were saying, Commissioner Scott, I think the decision,
22 ultimately, as to whether or not an applicant has greater
23 numbers during, say, the summer versus the winter is a function
24 of location and the facility and what the facility can
25 accommodate. And what the applicant wants indeed.

26 I have a question for you, Chair Phillips. As I understand
27 it, you put together the spreadsheet.

28 CHAIR PHILLIPS: I did.

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1 COMMISSIONER BASAYNE: And so I just wanted to confirm that
2 with regard to all of the wineries listed these are the only
3 wineries in The Valley that produce 60,000 gallons?

4 CHAIR PHILLIPS: Well, I mean, I think you're giving me a
5 lot more credit, Commissioner Basayne, than I--than--no. This
6 was--the data was taken directly from the visitor averages
7 sheet/chart that was provided on page 29 in our packet.

8 COMMISSIONER BASAYNE: Right. Okay.

9 CHAIR PHILLIPS: So I just pulled out the 60,000-gallon
10 wineries which seemed to be the most applicable from this chart.

11 COMMISSIONER BASAYNE: Okay. I was wondering if you were
12 doing an independent survey and had firm data of the locations.

13 CHAIR PHILLIPS: [Just a minute.]

14 COMMISSIONER BASAYNE: But thank you so much.

15 CHAIR PHILLIPS: I love land use. But not that. [Laughter.]

16 COMMISSIONER POPE: So I make a motion that we adopt the
17 Phillips rule now. [Inaudible.] [Laughter.]

18 CHAIR PHILLIPS: Right.

19 COMMISSIONER BASAYNE: Thank you.

20 COMMISSIONER COTTRELL: Well, Chair Phillips, just to--I
21 mean I think it's clear here that there's so many ways to slice
22 and dice to Mr.--Commissioner Basayne's point about, you know,
23 where we get these, and I think it's also worth noting, I think
24 these are the 60,000-gallon wineries from the sheet that have
25 visitation, right, as opposed to...

26 CHAIR PHILLIPS: And that's, actually, that's an
27 interesting point. Because if you look at the bottom of the
28 sheet on page 29 it has wineries with no visitation and there

1 are, one, two, three, four, five, six, seven, eight, nine within
2 that from 50 to 75 that have, actually one is at 40, that have
3 no visitation. So I guess that they are choosing not to utilize
4 the direct-to-consumer model at all, so that is nine for
5 comparison that have no visitation. And they--and I did not
6 include, like, Spelletich into your point. I did not include
7 that in the spreadsheet. And then I guess to clarify also that
8 with Freemark Abbey to--they had--it was blank where they had
9 events, so I put not available, and on visitation I did an
10 average.

11 COMMISSIONER COTTRELL: I mean, I think that's worth noting
12 because as you point out, probably a 60,000-gallon winery with
13 no visitation has a very different business model than the one
14 that the applicant is proposing here today. And again it is not
15 our business to be prioritizing business models, but I think it
16 is worth noting the existence of those other wineries because
17 those still have all the other impacts that we're being asked to
18 assess today, you know, the truck traffic, the employee traffic,
19 the water and wastewater, so again, it's many ways to slice and
20 dice the numbers, I think.

21 COMMISSIONER SCOTT: Yeah.

22 CHAIR PHILLIPS: It is interesting. Oh. Commissioner Scott.

23 COMMISSIONER SCOTT: I have to add, too, that one of the
24 factors that, you know, needs to be considered, and in this
25 process is the location of the winery. A winery on the Silverado
26 Trail is different than a winery on the top of Soda Canyon Road.
27 And I think some of the residents of Soda Canyon would agree
28 with that. So I think that's one of the aspects that we have to

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1 look at in terms of visitation. And I also guarantee you're not
2 going to have large groups of bicyclists heading up to the top
3 of Soda Canyon Road.

4 CHAIR PHILLIPS: And like I said, this was a--this was
5 created so that we would have a perspective on what the ask was--
6 was compared to the average and then there is, you know, room
7 for discretion based on the size of the parcel or other factors,
8 but--so it--the averages that they're--24 is the average and
9 they're asking for 38 on a daily and 123 on the weekly is the
10 average for 60,000 gallons and this ask is for 269.

11 DIRECTOR DAVID MORRISON: Madam Chair, for clarification,
12 just checking the winery database and the ones you have listed
13 on this table are the only ones that are at 60,000-gallon
14 production. The only other--the two that you did not include
15 were Burgess Cellars and Spelletich, which have no visitation as
16 was noted, so those are all the wineries that are right at
17 60,000 production within the county.

18 CHAIR PHILLIPS: Thank you for that clarification.

19 DIRECTOR MORRISON: And before the Commission goes too far
20 down into debating the merits or the specifics of the project, I
21 think it would be best to hear from the public and move on to
22 the Public Hearing.

23 CHAIR PHILLIPS: Thank you.

24 COMMISSIONER SCOTT: And the applicant.

25 COMMISSIONER PHILLIPS: So I would like to open the Public
26 Comment and I will ask that the applicant, if they would choose
27 to speak at this time.

28 SCOTT GREENWOOD-MEINERT: Quickly, I'll start off. Scott

1 Greenwood-Meinert, Dickenson, Peatman & Fogarty for the
2 applicant. After I speak I'm going to ask--Mr. Bell would like
3 to make a few comments as well.

4 With regards to--I just feel it's necessary to point out
5 that the spreadsheet that you presented this morning, we
6 provided a spreadsheet of more recently approved winery
7 approvals and modifications prior to the first hearing on this
8 matter that we felt were real good comparisons as to not only
9 what's been done recently within the last few years, but within
10 a range rather than at 60, because 60 doesn't mean you're making
11 60, it means you can be making 40. We're making 40 right now. So
12 there's a range in there and when we start talking about
13 averages I think we should stick to averages, but visitation and
14 business models is at this point in time in the wine industry
15 probably the single biggest discussion in California that
16 everybody is having, and I was just on a conference call on
17 Monday in Oregon where, you know, what's our business model
18 going to be going forward because what we're doing doesn't work
19 anymore.

20 So with that, with regards to our specifics, it was never
21 the applicant's intention when we came in in April that we would
22 have 22,000 people a year. It was never our intention that we
23 would have 22,000 people plus another 212 marketing events.
24 Somehow, we just had a miscommunication. When we started out
25 with this and when we came originally, we wanted to make sure
26 that we had the idea in place that there's a perfect day and
27 there's a perfect week because Mr. Bell, when they break down
28 their modeling and when they look at their business very

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1 closely, and he looks at his business as closely as anybody in
2 the Valley does, they wanted to have a perfect day in December
3 and acknowledge that in December it's slow, but they still might
4 have--we mentioned bike tours. They're just south of Yountville.
5 They get bike tours. I've actually been out there when they've
6 had bike tours riding up. They get the wine trolley. They do a
7 lot of business with private drivers that come and bring eight,
8 twelve, fourteen, twenty people. We want to be able to
9 accommodate a good Saturday. That's why when we came here the
10 first time, and we took a continuance, we went back and we met
11 with Staff, we said let's take an even more realistic look at
12 what this business looks like and that's what came back with our
13 April 16th letter to Staff, which was an attempt to say we can do
14 theoretical maxes on septic systems and wastewater systems and
15 traffic and parking and whatever, but the reality of it is,
16 Commissioner Scott, when you were out at your site visit, that's
17 what it looks like in early--you know, in late March. And that
18 was the intent coming back in here. I don't know if this is at a
19 policy level, this is what everybody in the Valley wants to do
20 or should be held to do. But in terms of trying to model a
21 business going forward that is realistic, that is accountable,
22 and makes sense for the Planning Commission, for the County, and
23 for the Bells. We actually think this is relatively
24 unprecedented.

25 And with regards to that, and I applaud my client for this,
26 while being his lawyer, which makes me go, [clears throat
27 sound], he's willing to put it out there and say we will report
28 our visitation. We will have our perfect day, we will have our

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1 perfect week, we will stick to these averages, and these
2 averages actually mean something. We're not talking theory
3 anymore, we're talking about reality and we'll report that to
4 you. Now, does that mean everybody's going to want to do that
5 and does that make your jobs actually any easier at the policy
6 level or the Board's job at the policy level any easier, I'm not
7 sure it does, but in terms of accountability, for use permits
8 and use permit modification processes, and how people come in
9 and true up their business model as time goes along, because no
10 business in the world stays stagnant. It just doesn't happen.
11 Everything has to have room to adjust. This makes an awful lot
12 of sense to our--to Mr. Bell.

13 And we would hope you guys would really look at this. Not
14 in just in terms of trying to come back in and true things up
15 and provide something to you guys that looks better. Our intent
16 here is not to make this look better. Our intent is to make this
17 work going forward. And with that, here's Anthony Bell.

18 ANTHONY BELL: Anthony Bell, 4323 Kingsford Drive, Napa.
19 Good morning, Commissioners and Planning Staff. I appreciate the
20 opportunity to address the Commission. I have previously
21 submitted a detailed overview and rationale for our use permit
22 modification. This morning I would like to make note of a few
23 points contained therein and then address the most recent
24 amendment to our application.

25 One, this is not a second career for me. I've been making
26 wine in Napa Valley for 36 years and am familiar with the WDO,
27 the Ag Preserve, and the machinations that surrounded them as
28 they were debated.

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1 Two, I co-founded my wine brand in 1991 and this vintage we
2 will celebrate our 25th vintage in Napa Valley. For seven years
3 we custom crushed grapes and we moved to our present location
4 eighteen years ago. Eighteen years ago. Between the eighteen
5 years in our present location I believe we've been great
6 stewards of our environment and been kind and considerate
7 neighbors. Those certainly have been our goals. To the best of
8 our knowledge there have been no complaints regarding our
9 winery. We've also been open and communicative with our closest
10 neighbor regarding each of our use permit modifications.

11 Three, the present marketing plan was developed in 1990 and
12 approved by the Board of Supervisors in January of 1992. This
13 marketing plan is now almost 24 years old.

14 Number four, our winery was part of the 2010 Napa County
15 winery audit and we are found to be in complete compliance with
16 our use permit. However, in preparing submittals for the audit,
17 it became apparent that our 23-year-old marketing plan was out
18 of date and inadequate. Subsequently in January of 2012 we began
19 working on the use permit request presently before you.

20 Five, as stated in my prior submittal, our winery was
21 focused on this three-tier distribution channel for many years,
22 selling as much as 86 percent of our wine through that channel.
23 However, beginning in 2007, it became apparent that the
24 economics of that channel were not sustainable for our small
25 winery. We began to focus our energy on our tasting room
26 operation, which gets us to the visitation component of our
27 request.

28 In our original application, the letter I wrote on March

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1 28th, we attempted, in retrospect, very poorly, to indicate that
2 our visitation request was not the maximum weekly visitation
3 count multiplied by 52 weeks, 21,840 guests, but was in fact
4 substantially lower. I appreciate Commissioner Cottrell
5 suggesting avoiding horse trading during that meeting. This
6 allowed us to have a very very productive meeting with Planning
7 Staff and discuss very detailed information regarding our actual
8 and planned visitation, recognizing our on- and off-season
9 visitation, and clarifying the events.

10 Regarding visitation, as a matter of good business
11 practice, we keep detailed records of our tasting room
12 operation. When one looks at the ebb and flow of visitation
13 during the year, there are two very different phases, and these
14 have a substantial impact on the total annual visitation. Hence,
15 in this revision, we have attempted to put forward a very
16 meaningful and accountable visitation application.

17 One, we kept the daily visitation 100 guests.

18 Two, we kept the total annual visitation at 13,780 guests,
19 including those attending the marketing events.

20 Three, we have a weekly maximum of 400 guests in season,
21 averaging 355 per week. We have a weekly maximum of 250 guests
22 off season, averaging 175. These averages have meaning in our
23 proposal and they are how we keep to the annual visitation total
24 of 13,780 guests.

25 Regarding events, we typically record appointments of more
26 than eight guests as an event. The required time, space, and
27 attention, and we need to plan our day accordingly. Hence, our
28 original application requested 212 events. Although we

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1 attempted, again unsuccessfully, to clearly state that these
2 guests were included in our visitation number.

3 In meeting with Planning Staff, we realized that we had
4 inappropriately categorized these visits as events. Hence, we
5 have reduced our event request to 24 events annually with no
6 more than 40 attendees per event. With an event defined as a
7 marketing event that includes meal service. These potential 960
8 attendees are included in the total annual visitation count.

9 In summary, I would suggest that a revised request is easy
10 for the winery to manage, and easy for the County to monitor.
11 More importantly, we have agreed to report our annual visitation
12 figures. Whilst [our peers initially] will find this alarming, I
13 believe as a matter of trust we should be held accountable. In
14 fact, I would suggest that all individuals and businesses within
15 the Ag Preserve be held accountable. As I do not think wineries
16 alone own accountability. We all share water, waste, footprint,
17 traffic, and employee issues. But I guess that's for another
18 forum.

19 In conclusion, I would like to thank you for taking time
20 out of your busy schedules to visit our winery and review our
21 project, and for time--your time to hear me today and consider
22 our application. I would also like to thank Planning Staff for
23 the tremendous amount of time they've dedicated to evaluating
24 our application, and for guiding us through what is becoming a
25 rapidly evolving permitting process. Thank you very much. And
26 I'll take any questions.

27 CHAIR PHILLIPS: Are there any questions for Mr. Bell at
28 this time?

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1 COMMISSIONER SCOTT: Yeah. I have one.

2 CHAIR PHILLIPS: Commissioner Scott.

3 COMMISSIONER SCOTT: Yeah. Mr. Bell I had asked a question
4 earlier about the 200-person events...

5 MR. BELL: Yes sir.

6 COMMISSIONER SCOTT: ...that you had. That represents
7 almost six percent of your visitation. Is that included in your
8 numbers? I mean...

9 MR. BELL: No. The four events of 200 people are not
10 included in the 13,780. And on the days those events occur we
11 close the winery to the general public.

12 COMMISSIONER SCOTT: Okay. Thank you.

13 CHAIR PHILLIPS: Thank you very much, Mr. Bell.

14 MR. BELL: Thank you very much.

15 CHAIR PHILLIPS: Thank you.

16 COMMISSIONER BASAYNE: Mr. Bell, just a quick question for
17 you.

18 MR. BELL: Yes, sir.

19 COMMISSIONER BASAYNE: What is the capacity of the winery
20 in terms of being able--assuming that Mr. Scott had talked about
21 potential for inclement weather outside, if you were to hold an
22 event, could you conceivably put this number of individuals
23 inside the winery?

24 MR. BELL: We could not put 200 people inside the winery,
25 no. But we would not hold an event if we could not do that.

26 COMMISSIONER BASAYNE: So it relies--the numbers basically
27 rely on sort of a blend between interior and exterior
28 entertainment.

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1 MR. BELL: For the 200-people events?

2 COMMISSIONER BASAYNE: Yes.

3 MR. BELL: Yes, sir.

4 COMMISSIONER BASAYNE: Thank you.

5 CHAIR PHILLIPS: Thank you, Mr. Bell. Is there anyone from
6 the public that would like to speak on this matter? So, if you
7 could come to the podium and state your name and address.

8 BERNADETTE BROOKS: Bernadette Brooks, 3103 Dry Creek Road
9 in Napa. And I'm sorry that I sent a letter very late last
10 night, but it looks like Chairwoman Phillips and I were thinking
11 along the same lines. The letter that I provided did the same
12 sort of analysis looking at the 40k to 80k. And it's listed as
13 Walter Brooks, my husband, only because we share an email, but
14 actually it was sent by myself. I picked out the 11 wineries in
15 the listing that went from 59,000 to 65,000. I also dropped out
16 the Silverado Trail Winery because that seemed erroneous, and
17 those that were open to the public.

18 When I look at that, and the total annual visitors for
19 those 11, average out to about 6,800 annual visitors, or about
20 130 people per week. Which is a little higher than the median of
21 5,200, and I have to say median is a better number to use than
22 average because it leaves out outliers, both low and high. But
23 in either case, they're somewhat similar, and half the amount
24 that--the revised.

25 Now, I do have to give both Planning Staff and Mr. Bell
26 credit for trying to bring things down, make more sense of them,
27 even come up with the seasonality. But I guess I also have to
28 ask if you have less than ten acres, and you know, we are going

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1 here now to trying to make sure we have more sizeable tracts,
2 and if you can't without more visitation sell 50,000 gallons,
3 why are you even asking to up it, other than to get more
4 visitation. If you're not going to be producing more, and you
5 know, I have to say, at least looking at the website, a lot of
6 the grapes are coming from places outside our area, maybe only
7 25 percent of them, but still. You know, I think staying in the
8 40,000 gallon and with lesser visitation, may do better for the
9 bottom line. I don't know. But it seems kind of--talking on both
10 sides of the hat to say we can't sell what we have without more
11 people, but let me get a higher gallon permit, and then how am I
12 going to sell that, get more people. And really it's all about
13 getting more people and more traffic.

14 And I say when I didn't look at the most recent approvals,
15 but I have to say, yeah, probably it's a little higher. But from
16 the listing itself here, we're looking at, you know, them asking
17 for twice as much per year as is average for their size. So,
18 anyway, I'd just ask people to consider that as well.

19 CHAIR PHILLIPS: So, just to clarify, so your median was
20 5,200 annual visitors for the--you had an expanded range.

21 MS. BROOKS: From 59,000 to 65,000 gallons.

22 COMMISSIONER PHILLIPS: Okay. Thank you.

23 MS. BROOKS: Yeah.

24 COMMISSIONER PHILLIPS: Thank you.

25 MS. BROOKS: Thank you.

26 GEOFFREY ELLSWORTH: Geoff Ellsworth, 1434 Sylvaner, St.
27 Helena, California. I've got a letter here, I'm going to read
28 the first half of it, my time will probably run out, so I'll--

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1 David Hallett will read the second half.

2 I'm opposing the Bell Winery expansion. I object to an out
3 of compliance winery being brought into compliance by expanding
4 their use permit. Not only does it set a bad precedent for other
5 wineries, but as Andy Beckstoffer's letter to the Board of
6 Supervisors of April 29 of this year states, by exceeding a use
7 permit, a winery skirts the CEQA process tied to that use
8 permit, and also nullifies any baseline for proper analysis.

9 By exceeding the use permit in the first place, CEQA would
10 have already been violated. If the mission of CEQA is to protect
11 our environment, and in doing so also protects the health and
12 safety of our citizens, and if the mission of the County of Napa
13 is dedicated to preserving agriculture and the environment, and
14 to providing leadership and services to advance the health,
15 safety, and economic well-being of current and future
16 generations, and if the health, welfare and safety of our
17 citizens has already been compromised by this exceeded use
18 permit and skirting of CEQA, whether by over visitation or
19 overuse of chemicals or excessive depletion of water or
20 whatever, do we not owe it to our citizens to determine the
21 extent of the damage already incurred by skirting CEQA before we
22 consider allowing more.

23 Considering these variables, a more exhaustive CEQA
24 analysis must be done on this proposal, perhaps an EIR,
25 certainly a more thorough analysis of possible impacts to
26 neighboring properties must be done by the proposed expansion of
27 a business model of a heavy visitation, value added winery/event
28 center scheme such as this, that is by its very nature

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1 disruptive to its neighborhood and the environment.

2 Bell Winery has a background of code violations being
3 brought into compliance by the practice of expanding their use
4 permits. Citizens must have assurance this will not keep
5 occurring. Assurances are needed that damages and impacts beyond
6 those already incurred by the neighbors and environment from
7 non-compliance will not continue, which could be the case if the
8 applicant is to be rewarded for this type of behavior. The
9 citizens must have assurances of proper enforcement of and/or
10 compliance to use permits to protect our own health, welfare,
11 and safety.

12 Considering the proximity of Native American Burial sites
13 on Hopper Creek, an archaeological consultant should be brought
14 in before project approval to determine if there is
15 archeological significance to the area. Again, damage may have
16 already occurred due to exceeding the current use permit.

17 Traffic. More traffic analysis is needed. The traffic study
18 is inadequate considering the increase vehicular visitation
19 along a country lane in proximity to an out of the ordinary type
20 of intersection with access to Highway 29, including increased
21 tour bus traffic along a country lane. It's not clear how many
22 buses and how big those buses will be. The noise and carbon
23 emissions for these buses entering, and exiting, and idling,
24 could be substantial. There also needs to be analysis of the
25 impacts from the trucking in of grapes, not only in terms of
26 traffic flow, but also impact on our county roads, which are
27 maintained by the citizens' dollar.

28 Also, there is a strong argument that we already have

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1 enough capacity to process Napa Valley grapes, so, we don't need
2 to add more processing capacity. Also regarding traffic,
3 increased vehicular traffic to an alcohol-based hospitality
4 center will certainly increase drunk driving on that road, an
5 increase also in the chances for neighbors to be involved in an
6 alcohol-related traffic fatality. The current exceeding of the
7 use permit would have already increased those chances.

8 I'll read the last thing on water, and then I'll pass it
9 over to David.

10 CHAIR PHILLIPS: You know what, if you guys are going to--
11 you can go ahead and finish it, Geoff.

12 MR. ELLSWORTH: Oh. Okay. I don't--I just don't want to
13 take more than my three minutes.

14 COMMISSIONER PHILLIPS: If the plan is to read the whole
15 letter, then we'll--yeah.

16 MR. ELLSWORTH: Water. The water analysis needs to be
17 clarified and more exhaustive. If as a 20,000-gallon winery with
18 no landscaping they were using 6.28 acre feet, there are
19 questions as to how a 60,000-gallon, heavily landscaped winery,
20 could get by on 6.4 acre feet. We need to see more data on that.
21 There also needs to be more information about the well. Also,
22 once again, due to exceeding of the current use permit, any
23 assessment would have been made with no idea what the true
24 baseline is.

25 Additionally, we are in the midst of a 3-year extreme
26 draught with Sierra snow packs at record low levels. It is
27 unfair to citizens and other business owners to increase
28 permits, particularly in relation to hospitality uses, when we

1 simply have no idea how long our water will last.

2 Noise. Considering they are planning an augmented outdoor
3 hospitality program, a more adequate noise study must be done.
4 Certainly partying, or educational marketing events on an
5 outdoor bocce court while drinking wine would add significant
6 temporary or periodic increases in ambient noise levels in the
7 project vicinity above levels existing without the project.

8 Perhaps the education elements could occur in an indoor
9 area where they would have less impacts on the neighbors. Events
10 going on until 9:00 p.m. with cleanup until 10:00 will create
11 disruptive noise in the neighborhood and diminish quality of
12 life for the neighbors. Noise studies must be done to determine
13 CEQA standards will not be violated by decibel levels traveling
14 past the property line. There are other questions and concerns
15 about the bocce court, whether approval was for use by family
16 and employees and/or for the general public. The increase in
17 production will likely also add to the noise level with added
18 forklift backup beeping, winery chiller noise, etcetera.

19 Lighting. Lighting is also a problem with events going
20 until 9:00 p.m. and clean-up until 10:00 p.m. This is a rural
21 country lane away from the lights of town. Glare from lighting
22 alone could create a disruption to the ambience of life in the
23 neighborhood. Combined with noise and wine consumption from
24 night-time marketing events this could be very disruptive.

25 Visitation. You guys went over that a little bit. But I'll
26 just read what I wrote. We need more clarification on
27 visitation. While the new number of marketing events appears
28 considerably lower than the astronomical 212 originally

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1 proposed, there needs to be more clarification on the actual
2 visitation numbers as it seems to be falling between the 13,000
3 and 16,000 with remaining questions as to how and when that will
4 be manifested. There are concerns that the asked for visitation
5 numbers are higher than those at other wineries of that size.
6 Also, the process for determining the visitation levels needs to
7 be re-examined in both the using of other wineries to create
8 averages and whether initial visitation proposals were over-
9 inflated to make the current ask appear more reasonable by
10 comparison. It is unclear what we are looking at--actually
11 looking at here and what those impacts would be. This increased
12 visitation also furthers urbanization of our rural areas and the
13 adding of a commercial kitchen further distorts the original
14 intent of the Ag Preserve by in effect transforming an
15 Ag/Residential zone into one of heavy commercial visitation.

16 I also argue that the 2010 WDO changes that have allowed
17 the proliferation of this type of event center winery were
18 misrepresented to the public and should be made void. Further
19 analysis must be done on this project to determine the extent
20 that quality of life for the neighbors will be affected, as well
21 as the effects on neighboring property values. I believe there
22 is an inherent inequity when one property owner seeks to
23 maximize profits on his own profit without proper regard for the
24 impacts to neighboring properties and community using our shared
25 common resources such as roads, water, etcetera, to this end.
26 Questions have also been raised as to who is the actual owner of
27 this project.

28 My last bit on cumulative impacts. Expansion of this use

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1 permit would add to the cumulative impacts we are experiencing
2 due to development in Napa County. Development that impacts the
3 health, welfare, and safety of our entire community. Cumulative
4 impacts in Napa County need to be addressed now, projects in
5 Napa County cannot be designed in a vacuum. Analysis must be
6 done on all cumulative impacts from projects such as this,
7 including such things as impact to emergency vehicle response
8 times and greenhouse gas emissions. No new winery approvals or
9 expansions should be awarded until we undergo a county-wide
10 assessment of cumulative impacts already incurred. No new winery
11 approvals or expansions should be awarded until we design a
12 cohesive, coordinated, integrated plan for our county and
13 municipalities to work together to minimize these cumulative
14 impacts. If the Planning Commission believes they need
15 additional tools to deny this permit I would suggest looking at
16 the California Government Code on conditional use permits,
17 particularly the noise standard and the general welfare
18 standard. Thank you.

19 CHAIR PHILLIPS: Thank you, Mr. Ellsworth. Is there anyone
20 else wishing to speak on this matter? Oh, I think we have
21 additional members--oh, okay.

22 MR. GREENWOOD-MEINERT: Two items. This isn't an event
23 center, and there have been absolutely no reported code
24 violations on this property since my client has owned it. So, to
25 the extent that misinformation is being stated in the public
26 record, it's irritating, to say the least.

27 CHAIR PHILLIPS: Understood. And thank you, that was Mr.
28 Greenwood on behalf of Bell.

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1 GARY MARGADANT: Good morning Commissioners. This is Gary
2 Margadant from up on Mt. Veeder Road. I had a couple of comments
3 to be making about this project. I mean, they're really trying
4 to increase their business model by bringing in a lot more
5 visitors. And my question to you is the closeness of the
6 neighbors right across the creek, which is within 150 feet of
7 that. And my question to all of you is whether you would like to
8 live there when they have all of this visitation going on. And I
9 think that that's really pertinent to understanding what David
10 [sic] Clark is going through next door, and I would say that it
11 would be something that you really have to look at.

12 I know that Scott talks about enforcement and stuff, but I
13 find it interesting that one of the reports that you do not have
14 available to you is this--is actually something from the
15 enforcement department of the Planning Department. I think that
16 that would be very, very useful to you to find out as to the
17 veracity of really whether that is the case or not. Because, I
18 know that Michael Clark has spent a lot of time talking with Mr.
19 Bell about the violations of his property rights, as well as,
20 you know, the permit requirements, you know, for the use of his
21 property. And I know that there has been a lot of discussion
22 about that, and maybe that is something you would really, really
23 like to hear.

24 It seems to be that the applicant here, while he's not the
25 owner of this property, it certainly speaks to what is going on
26 on the property, and I wonder about his ability to actually
27 control the visitation and meet the permit requirements. Because
28 his visitation, as he says that what we're doing now, is way

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1 over what is actually--he has in his permit. So I would say that
2 that's a very interesting proposition, because he's coming to
3 you, having and stating that he actually has made these
4 violations.

5 The traffic mitigations are kind of interesting, especially
6 in the traffic report. They suggest that because of the Hoffman
7 intersection outside, trying to cross a--four lanes on 29, which
8 is at 60 miles an hour, can be very dangerous, especially if
9 you're, you know, if you've been having a good time at the
10 winery. Their mitigation in this, which I thought was very
11 interesting, is to suggest to their guests that they drive north
12 on Washington Boulevard--Washington [Avenue], and go up to
13 California [Avenue], and then enter the freeways from there on
14 the on ramps going north and south.

15 That might be a good idea, for one you've got to remember
16 that you're going to do this, and two, the guests are going to
17 want to do that and not try to enter the road at Hoffman, which
18 I think is very dangerous, or even going down to [Dryer] Lane, I
19 think that that's--I think that's really not a good thing. I
20 think they could certainly do better.

21 You know, they talked about a stagnant business plan. But,
22 you know, I think that they're--again, they're going back to
23 their ability as to actually meet their permit is quite stagnant
24 in itself. And I think that hand in hand is a good comparison
25 here. If they're going to have such a large production, and
26 they're going to have such a large visitation, I think that
27 those things should go hand in hand. And if you aren't producing
28 the wine, you shouldn't have that much visitation. It should go

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1 hand in hand. And thank you very much.

2 DAVID HEITZMAN: David Heitzman, 23 Rockrose Court, Napa. I
3 had a of couple quick comments here. We live up in the
4 watershed, and specifically this is what this is addressing. I
5 would like to applaud Mr. Bell for agreeing for compliance,
6 keeping track of who will be going and what day his visitors
7 will be. Because so far in all my time in the county, the 30
8 years here and being real active in the music business here, I
9 have yet to see a winery closed that turns someone away and
10 says, oh, we've met our capacity for today. I've never seen that
11 unless it's closed down for an event. And yes, they do close
12 down for the events. It gets back to monitoring. Much of the use
13 permits here are good. The monitoring seems to be a significant
14 issue, and what the penalties would be for violations. Napa has
15 a reputation. I've been a general contractor for 30 some years.
16 It has a reputation for being lax in some things. That's--it's
17 not the legacy we want. It would be nice.

18 Now, to get to what I was really here to talk about, was
19 increase the capacity. Every time we increase the capacity and
20 allow sales, in this case 50 percent, it affects the watershed.
21 Because--where's the grapes going to come from. They have to
22 come from the watershed. That's all that is left. You have no
23 management program for the watershed. It does not exist, not per
24 se. Please consider that. It is a permitted process, anything
25 under five percent can go into vineyards without a use permit.
26 Fine. That's probably a more appropriate place for it. But
27 currently we have projects going in 30 percent. 30 percent
28 grade. That's tough.

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1 The marketing here again, because if the winery owns these
2 vineyards or buys the property, then they have estate grapes,
3 and you have a more valuable bottle just because of the label.

4 We all know about the water. But I just want the Planning
5 Commission to please consider every time you allow excess
6 capacity, everything going forward, it's affecting the hills and
7 everyone who lives up there. And we need a plan to monitor and
8 manage that. Until we get that maybe we should slow that down.
9 Thank you.

10 CHAIR PHILLIPS: Thank you. Okay.

11 MICHAEL CLARK: Hi. I am Michael Clark. And good morning to
12 the Chair, Vice-chair, and Commissioners and Staff and the
13 public. So. I am the neighbor that there's been considerable
14 conversation about. I'm the neighbor that lives 150 feet from
15 Bell Wine Cellars. And as I spoke at last meeting, Anthony and
16 Sandra have been very good neighbors. And it is difficult again
17 this morning to be up here, basically saying, you know, I just
18 can't allow this visitation. So. They worked with me when they
19 did the very large expansion a few years ago. Because of the
20 noise factors that we'd had, it's been an on-going problem since
21 the winery was built in 1980.

22 We have contacted the County on many occasions, and I do
23 want to say, yes, there is no code violations on record. I
24 checked with Wytress Balcher about that. So that is correct.
25 But over the years myself and my family have made many, many
26 phone calls to the County, to Fish and Game, to many public
27 agencies because they were in violation. So. Not just the Bells,
28 but the property owners prior to that. And each time what has

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1 taken place is it's the County's, kind of, protocol to get them
2 into compliance. So. And I feel like that that's what's
3 happening again is they've increased their visitations, the
4 noise levels have been considerably higher over the last couple
5 of years that I've had to face next door. Trying to be good
6 neighbors, it's difficult. The visitation is my big issue. So. I
7 presented you with a letter this morning. I could read it, if
8 you'd like, to the public, or you all have the letter in front
9 of you. I pointed out everything in that letter that concerns me
10 basically because I am told to go into the appeal process on
11 this, that everything has to be brought up. So, do I need to
12 read that letter? I would actually like...

13 COMMISSIONER PHILLIPS: No.

14 MR. CLARK: Okay.

15 CHAIR PHILLIPS: It is part of the record with its
16 submittal. Yes.

17 MR. CLARK: Okay, that's what I assumed. Yes. So my
18 attorney is also--I've hired counsel. It's going to cost a great
19 deal of money to appeal this process, but if that's what I have
20 to do to save the value of life on our property, that's what I'm
21 going to do. So. One of the things is, I still to this day want
22 to work with Sandra and Anthony. I don't know the Spanos', I
23 don't know Berberian. They've never introduced themselves to me,
24 it's like they're not my neighbors. Sandra and Anthony are my
25 neighbors. They've entertained me at their home, they invited me
26 to their wedding, I've entertained them at my home. My issue is
27 not with Sandra and Anthony directly.

28 So, what I'd like to say is, and I don't know if this is

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1 possible, but you know, yes I understand they need--I have
2 businesses myself, I understand the need for adding, you know,
3 maybe they need some more visitations, or they need marketing
4 things, or something like that, I mean I'd be willing to help
5 them, I used to sell grapes to them. But my big concern here
6 besides the noise is when Sandra and Anthony are gone. I mean,
7 they may retire in two or three years, and then the Spanos and
8 the Berberians, who are the property owners, can sell this
9 property for a great deal more money. And if we give them the
10 modifications that they're asking for, it's going to be worth a
11 great deal more money, and I'd no longer have Sandra and Anthony
12 to talk to. I have the next property owner, and then I get to go
13 back again and hire attorneys, and fight with yet another
14 property owner.

15 So, I don't know how you solve this. I mean, one of the
16 things, I have vacation rentals in Napa. Legal vacation rentals,
17 I'd like to point out. My homes were finished two years prior to
18 the--when basically you could just walk in and get a permit.
19 Well, then I walked in to get the permit, I missed it by three
20 days. So, I had to wait through a couple-year process to make my
21 vacation rentals legal. I kept them empty and ready to go, but I
22 didn't rent them. One of the things that they put in that is,
23 and now there's discussion whether to overturn that, is that it
24 doesn't pass with the property. Well, that could be an
25 interesting thing to do here. I don't know if the County has the
26 mechanisms to do that, but once this property would sell in
27 later years, could it resort back to the use permit that my
28 family spent a great deal of money to put in today--excuse me,

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1 to put in in 1991 and '92. So, the next owners would have to go
2 through the process. Now I realize, that's digging me back out,
3 I've got to go through the process again, but right now I have
4 neighbors, I don't know who I'm going to have next. So, does
5 anyone have any questions?

6 CHAIR PHILLIPS: Any questions at this time? No. Thank you
7 Mr. Clark.

8 MR. CLARK: So, yeah, I mean, I do have the different
9 things that I've called in on over the years for code
10 enforcements. There was parking lots being put in without
11 permits, there was a nut oil business, there was a number of
12 different things.

13 CHAIR PHILLIPS: But not under Mr. Bell's watch.

14 MR. CLARK: Under Mr. Bell's watch actually, yes. Those
15 were items under Mr. Bell's watch. Yeah. When he first bought
16 the winery they started a nut oil business. And magazine
17 articles said they had a baking of bread business, I don't know
18 that for a fact. The parking lot, I called the County, they had
19 to stop the parking lot being built because it was being built
20 without permits. So. So, there's a number of things. I could go
21 on for hours, but I don't want to dig up the past. What I want
22 to do is see if we can come to some sort of an understanding.
23 So, but definitely 400 people a week next to my home, I would
24 appeal the process. Thank you.

25 CHAIR PHILLIPS: Thank you. And just to clarify that--is
26 that--we do in our Staff Report, they do have a Code Compliance
27 History section, and it does state there are no open or pending
28 code violations for the subject site. The winery places a non-

1 conforming A-frame sign on Washington Street adjacent to its
2 approved winery monument sign. Placement of the sign is
3 violation of the Sign Ordinance and must be removed. Therefore a
4 Project-specific Condition has been added to the Conditions of
5 Approval requiring this removal. So, as part of our Staff Report
6 we do review the code compliance history, and that is what is
7 stated.

8 VIRGINIA BEHARRY: Good morning, my name is Ginna Beharry,
9 3167 Dry Creek Road. I just want to echo Michael Clark's
10 comments that as great as it is to hear the history of Mr.
11 Bell's use of the property, the use permit, once again, does not
12 go with the owner, it goes with the property. Nothing to--I mean
13 [he's] already sold the property. Nothing to prevent the current
14 owners from selling the property to someone with a different
15 business plan.

16 And in terms of Mr. Bell's attorney's comments about the
17 trend towards more visitation and more events, and whether or
18 not this is an events center, it seems to me like a lot of
19 neighbors would consider this to be an event center just based
20 on the huge visitation numbers alone even though they don't have
21 that many events. But, you know, that's precisely, you know,
22 there are data that show, I believe, Mr. Morrison has presented
23 data that show there has been an increase in requests for
24 visitation events since the 2010 amendment to the WDO and that
25 is precisely the trend that many in the community are trying to
26 change. That is not a trend that we want you to use as a reason
27 to approve more visitation or more events or more production of
28 huge numbers of gallons on small properties that do not grow the

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1 grapes.

2 This is the issue. That is--the issue we all--many of us
3 are dealing with and thinking that is a trend regardless of
4 Mrs.--you know, they--businesses cannot profit at the expense of
5 the rest of the community or their neighbors. There is something
6 known as an external diseconomy. Coal plants would like to
7 produce as much coal as they could and spew pollutants into the
8 air. Drug companies would like to produce drugs and pollute
9 rivers with their byproducts.

10 We do not allow that. We have tried to curtail those
11 activities and wineries also have external diseconomies. They
12 are--they produce traffic, they produce noise, they produce
13 disturbances to the environment, disturbances to their
14 neighbors. So I really think we have to look at all of these in
15 the context, not just of the averages on spreadsheets, but of
16 the limits to our--to Napa's growth and resources and the
17 appetite of the community to deal with more production, more
18 visits, more--more events. Thank you.

19 COMMISSIONER PHILLIPS: Thank you. Okay. Would anyone else
20 care to speak on this matter? I'm going to close the Public
21 Hearing and bring it back to the Commission. And I want to gauge
22 the Commission to--are people--we've been--this was a long--do
23 people need a comfort break, or are we--are you fine?

24 COMMISSIONER POPE: Wouldn't hurt.

25 COMMISSIONER BASAYNE: I just need comfort. [Laughter.]

26 COMMISSIONER PHILLIPS: Mike, I'll give you a hug. All
27 right. We're going to take a, literally, a five-minute break and
28 come back.

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1 --o0o--

2 COMMISSIONER PHILLIPS: All right. I'd like to call the
3 meeting back to order. I've closed the Public Hearing and am
4 bringing it back to the Commission for discussion. I'd like to
5 ask the Commissioners, are there any additional questions for
6 Staff at this time? Oh, I'm sorry, Commissioner Cottrell. It's--
7 to have the lights again. It's...

8 COMMISSIONER COTTRELL: Thank you Chair Phillips. I--we've
9 heard a lot of information from applicant and community members
10 on a range of things, especially visitation. I do want to move
11 in another direction with a question for you, Ms. Balcher. I'm
12 still struggling to understand this application's--the numbers
13 in terms of the square footage and the relationship between
14 proposed accessory and production. I know we talked about that
15 last time as an item where--or an issue where, you know, the
16 applicant has already had approved a set of square footages of
17 accessory and production, but I think that is still an issue
18 before us as we're considering this increase in production and
19 visitation. So can you guide us through your rationale and/or
20 what things we're supposed to be including in accessory space
21 here. And particularly I'm thinking about the outdoor space.

22 MS. BALCHER: I'm sorry Commissioner Cottrell, you've
23 caught me off guard.

24 COMMISSIONER COTTRELL: I'm sorry, I should have...

25 COMMISSIONER PHILLIPS: It's probably in the Staff Report.

26 MS. BALCHER: I know. I'm in it.

27 COMMISSIONER PHILLIPS: So the--on--it would be on...

28 MS. GALLINA: Page 67 of the prior Staff Report, the April

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1 1st Staff Report.

2 MS. BALCHER: Page 67?

3 MS. GALLINA: Um-hmm, yes.

4 COMMISSIONER PHILLIPS: That's what--I have it as page 3 of
5 the original Staff Report.

6 MS. GALLINA: Oh I'm--I'm sorry. This current Staff Report
7 says page 67. I apologize.

8 DEPUTY DIRECTOR MCDOWELL: And page 3 of the old one.

9 COMMISSIONER PHILLIPS: It's page 3.

10 MS. GALLINA: And page 3 of the old one.

11 MS. BALCHER: Page 3 of--okay.

12 MS. GALLINA: You want me to...

13 MS. BALCHER: Please. I'm not finding it.

14 MS. GALLINA: Okay. The numbers are not...

15 COMMISSIONER PHILLIPS: Well, actually page 4. I take that
16 back.

17 DEPUTY DIRECTOR MCDOWELL: Yeah. It goes on to page 4.

18 MS. GALLINA: Yeah.

19 COMMISSIONER COTTRELL: So I guess the question to me is it
20 still looks like what we're talking about here is a 56-
21 percent...

22 MS. GALLINA: Yes.

23 COMMISSIONER COTTRELL: ...accessory to production. So I
24 guess I'm just...

25 MS. GALLINA: Well, no, no, no, no, no, no. No. It was
26 thirty, let's see. It's 33 percent total of, I believe, the way
27 we account for accessory, which is enclosed space. Because right
28 now there's no--there's been no policy change to include outdoor

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1 areas.

2 COMMISSIONER COTTRELL: Okay.

3 MS. GALLINA: But we were providing what it would be if
4 we...

5 COMMISSIONER COTTRELL: Okay.

6 MS. GALLINA: ...had changed that policy.

7 COMMISSIONER COTTRELL: Great. Okay. Thank you for the
8 clarification on that and for the reminder that we had not
9 changed the policy...

10 MS. GALLINA: That's correct.

11 COMMISSIONER COTTRELL: ...that that's something that's
12 been discussed, but not...

13 MS. GALLINA: It's under discussion.

14 COMMISSIONER COTTRELL: Right. Okay. Thank you. Sorry, Ms.
15 Balcher, for...

16 MS. BALCHR: Thank you.

17 COMMISSIONER COTTRELL: ...making you dig through that.

18 MS. BALCHER: And thank you, Charlene.

19 MS. GALLINA: Okay, you're welcome.

20 COMMISSIONER PHILLIPS: And just to clarify, it's--that
21 includes--it's not--it--even if it's been paved, it has to have--
22 -be covered.

23 MS. GALLINA: That's correct.

24 DEPUTY DIRECTOR MCDOWELL: Production space?

25 MS. GALLINA: The accessory.

26 COMMISSIONER PHILLIPS: Accessory space.

27 DEPUTY DIRECTOR MCDOWELL: Accessory space are only
28 enclosed, fully enclosed areas that are used for tasting,

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1 offices, and non-wine-production-related activities.

2 COMMISSIONER PHILLIPS: I had one question, which was, in
3 reading the original Conditions of Approval in the permit that
4 was last done. There were--it was very specific about the types
5 of events that were included and, like, naming the actual events
6 and I hypothesized that this is because that that permit was
7 developed through the appeal process.

8 DEPUTY DIRECTOR MCDOWELL: I'm happy to dive in on that.
9 John McDowell, representing Planning Division. When that permit
10 was issued was during a period of time where it was very common
11 to have a great deal of specificity on marketing events. In more
12 recent times we've simply described marketing events as a
13 maximum number of people and a maximum frequency per year or per
14 month or per week. It became a compliance issue of somebody was
15 having, I'll say, a harvest lunch and they decided five years
16 later that the event be named something different and it was no
17 longer the harvest lunch, but the vintner's lunch, whether or
18 not that was in compliance with the marketing plan and from a
19 planning/land use perspective, we're counting toilet flushes and
20 the number of cars coming and going from the site.

21 COMMISSIONER PHILLIPS: Right. I guess I hadn't seen that
22 before. But it also--I don't think I've ever seen a permit
23 coming in that had been developed as part of a compromise on an
24 appeal either. That was something that has not been before us
25 before.

26 DEPUTY DIRECTOR MCDOWELL: Yeah, that's pretty rare.

27 COMMISSIONER PHILLIPS: That a permit is created through
28 the appeal process and then comes back around for modification.

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1 DEPUTY DIRECTOR MCDOWELL: Correct.

2 COMMISSIONER PHILLIPS: And then I just feel that for due
3 diligence in terms of the letter that was presented this morning
4 with the concerns regarding CEQA, if Laura, you would like to
5 make any comments with--in reference to that?

6 DEPUTY DIRECTOR MCDOWELL: Mr. Ellsworth's letter?

7 COMMISSIONER PHILLIPS: Well, there was both Mr.
8 Ellsworth's letter and then the letter from Mr. Clark
9 regarding...

10 DEPUTY DIRECTOR MCDOWELL: Mr. Clark's letter as well and
11 it's the...

12 COMMISSIONER PHILLIPS: With--on behalf of his--the lawyer,
13 DeMeo DeMeo & West.

14 DEPUTY DIRECTOR MCDOWELL: Yes.

15 COUNSEL LAURA ANDERSON: So they--he pretty much just
16 raised a bunch vague general categories of topics that he's
17 concerned about but there really isn't any substantive issues
18 that change the analysis in the record at this point.

19 COMMISSIONER PHILLIPS: So the County feels comfortable.

20 COUNSEL ANDERSON: Yes.

21 COMMISSIONER PHILLIPS: Thank you. Okay. Any other
22 questions for Staff at this time? Then I would entertain a
23 motion that would be--could be amended or open for discussion.

24 COMMISSIONER POPE: Well, if we're all feeling shy...

25 COMMISSIONER PHILLIPS: Oh, I'm sorry, did you...

26 COMMISSIONER SCOTT: No, I just--I didn't...

27 COMMISSIONER PHILLIPS: Okay. Okay.

28 COMMISSIONER SCOTT: I was pleased to allow Matt to go

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1 first. He was...

2 COMMISSIONER PHILLIPS: Commissioner Pope.

3 COMMISSIONER POPE: I'll jump on the grenade. At this point
4 briefly I don't want to deluge you with a whole lot of comments.
5 I would be prepared to make a motion for Option 1, which is the
6 Staff recommendation. I think we had a chance to from our last
7 discussion clear up some important discussions, clear up some
8 vagaries around the--what exactly was a visitation event versus,
9 I think, really, what was being intended by the applicant here.
10 I think there's been some really productive dialogue and, you
11 know, at this point, I think, still, in consistence with what is
12 encouraged in the General Plan, balanced with what we know is
13 happening to--within these accessory agricultural uses, it seems
14 to be a valid recommendation to me. So. Unless there's other
15 discussion, I'd be prepared to make that motion.

16 COMMISSIONER PHILLIPS: Is there discussion on that motion?

17 COMMISSIONER BASAYNE: I'd just like to make a few comments
18 if at all possible. I just wanted to say that I appreciate the
19 concerns expressed by Mr. Clark and certainly the issue of
20 visitation is front and center before us today and no doubt that
21 the initial application of April 1st was unrealistic and to the
22 applicant's credit they went back and they revised their
23 proposal to present something more reasonable.

24 I don't think we're by any means turning a blind eye to the
25 issue of visitation and to the contrary, I think, we've vetted
26 it. I think the applicant has vetted it. I think Staff has
27 vetted it and I appreciate the effort of the applicant to
28 disclose activity now on a monthly basis, which is beyond

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1 standard practice. I don't believe that we're rewarding
2 nonconforming behavior by supporting Option 1. In fact I think
3 we're acknowledging, if not encouraging, a trend towards greater
4 disclosure and I can't personally deny or turn a blind eye to
5 the need to acknowledge direct-to-consumer business models in
6 light of what's happened to the three-tier system. The question
7 is how far should we go and that's something that certainly will
8 be debated at greater length down the road for us, but I think,
9 to answer Commissioner Pope's question, I am supportive of
10 Option 1 as well.

11 COMMISSIONER PHILLIPS: Oh, I'm sorry. Commissioner
12 Cottrell.

13 COMMISSIONER COTTRELL: I appreciate what we have heard
14 today. I still have concerns about the large increase in
15 visitation and I think to me, you know, as Mr. McDowell said,
16 that we are still considering use permits and use permit
17 modifications and visitation and production levels on a case-by-
18 case basis.

19 The charts that we've been provided with, I think, make a
20 compelling argument that the visitation being requested here is
21 significantly higher than similarly situated wineries. And I
22 appreciate the applicant's creative approach here, particularly
23 the piece about the accountability, being willing to track the
24 numbers and share the numbers with the County. I think that is a
25 real step forward and one that we have not seen from other
26 applicants. So I applaud that and I hope that that will be
27 something we continue to hear more about is applicants who are
28 willing to share the--what's happening for them in their

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1 business.

2 Again, I come back to the fact that a use permit or a
3 modification runs with the land, not with a particular owner or
4 even a particular business model. So having said that, I also
5 think it's important to go back to the basis for any use permit
6 or modification that we're granting in the Ag Preserve, namely
7 that a winery is an accessory use to agricultural activity, that
8 meaning the production of wine on the site, and then the
9 marketing and visitation is accessory to that winery use. So
10 we're looking at second and third tier accessory here and I feel
11 that this request still presents a scenario that significantly
12 intensifies those accessory uses.

13 I think it's worth noting that the neighbor's concerns here
14 don't go to the agricultural activity on the parcel, that we're
15 not hearing about any challenge to the applicant's right to
16 farm. But more that Mr. Clark's concerns have to do with the
17 visitation and the impacts therein and again I think it's
18 important to remember the size of this parcel, that we're
19 looking at something less than ten acres.

20 So in short, I would not be supportive of Option 1, but
21 would be interested in looking at other options. I guess the one
22 final comment I would like to make is in Option 2, in the Staff
23 Report, Staff notes that a reduction in the requested visitation
24 would make the winery more consistent with similar wineries and
25 does not seem to significantly overshadow the operation of wine
26 production. And I want to just focus on that phrase,
27 significantly overshadow.

28 Basically what's being said there is accessory use doesn't

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1 significantly overshadow production, but really the standard
2 that we're being asked to apply based on the WDO is that
3 accessory use is clearly incidental and related to production.
4 So I think the concept of accessory use not significantly
5 overshadowing production doesn't go far enough in carrying out
6 what the hierarchy should be there. So that's what I have to
7 share at this point.

8 DIRECTOR MORRISON: For clarification, Commissioner
9 Cottrell, is that a substitute motion to the motion standing on
10 the floor?

11 COMMISSIONER PHILLIPS: Well I--just to...

12 COMMISSIONER COTTRELL: Not sure.

13 COMMISSIONER POPE: I don't think I've actually made a
14 motion yet.

15 COMMISSIONER PHILLIPS: So we--I don't know. But I've asked
16 for help in terms of--to Director Morrison with help in the--
17 that's not my specialty, so I appreciate the...

18 DIRECTOR MORRISON: I was under the understanding that
19 Commissioner Pope had made a motion, so I thought we had a
20 motion standing. I guess we--although it hasn't been seconded
21 yet. But perhaps I was in error in that. I was just asking for
22 clarification about the discussion.

23 COMMISSIONER SCOTT: Well, and I had interrupted the...

24 COMMISSIONER POPE: [Inaudible] I was prepared to make a
25 motion if--pending further discussion, so.

26 COMMISSIONER SCOTT: And I had interrupted that by making
27 my comments, so.

28 COMMISSIONER PHILLIPS: Supportive of--so...

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1 COMMISSIONER SCOTT: Okay, here we go...

2 COMMISSIONER PHILLIPS: So there is no motion. But I
3 appreciate--I have talked with Director Morrison about moving
4 over to the Rosenberg's Rules of Order and--where you can have a
5 motion and then amend it and have up to three motions on the
6 floor at one time. Just to, you know, make it more exciting, you
7 know. [Laughter.]

8 COMMISSIONER COTTRELL: So with that excitement in mind...

9 COMMISSIONER PHILLIPS: Yes.

10 COMMISSIONER COTTRELL: I would be prepared to offer a
11 motion in support of Option 2, the reduced development
12 alternative.

13 COMMISSIONER PHILLIPS: Commissioner Scott, your light is
14 on.

15 COMMISSIONER SCOTT: Yes. I've been given too many options
16 here. First of all, I would like to recognize and thank the
17 input from not only the applicant and his representative, but
18 also Mr. Clark, who is the--really, the only directly affected
19 resident here, and I appreciate the opportunity to see things
20 from his perspective.

21 And I'm sympathetic to that, but I also believe that the
22 issue here is agriculture and in this case wineries, and I think
23 that with the request to increase the production, it seems only
24 appropriate that you would increase the visitation as well to
25 accommodate and to, you know, to build the additional sales that
26 would be required to meet those production goals.

27 I don't want to get into, you know, I don't want to get out
28 of our purview in terms of trying to dictate to people or to

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1 applicants how they make their living or how they build their
2 business plans. That's really their matters and I'm trying to
3 look at it from, you know, as Commissioner Cottrell and several
4 others have mentioned, this is a use permit that goes with the
5 land and we have been--we have experienced in recent years with
6 a number of applications that basically are tied to and in some
7 cases to sales of their property and in some cases are
8 contingent with--the sale of the property is contingent upon our
9 approving modifications to the use permits and I think that
10 that's something, again, it's unnerving to a degree, but it also
11 is beyond our purview. This is not what we are here to do. And I
12 think that I understand and can appreciate the applicant's
13 request. I think that they're both reasonable and I think the
14 applicant has made a very clear effort to accommodate the impact
15 on his neighbor, but also to basically build a business plan
16 here that works.

17 Again, that's not it. It goes back to the use permit and
18 the land use. This was determined a long time ago. We're not
19 here to make that determination now. This seems to be a
20 reasonable request, and in summary I would support Option 1. It
21 makes sense.

22 DIRECTOR MORRISON: Is that a motion, or is that just an
23 indication?

24 COMMISSIONER SCOTT: I'll make that as a motion as well.

25 DIRECTOR MORRISON: That would be a substitute motion.
26 Neither the primary motion nor the substitute motion have been
27 seconded I would just note.

28 COMMISSIONER BASAYNE: I'll second that.

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1 COMMISSIONER PHILLIPS: And then I can then put out--so if
2 there--so, Anne, you did not make a motion.

3 COMMISSIONER COTTRELL: Yes I did.

4 COMMISSIONER PHILLIPS: But--and it wasn't seconded.

5 COMMISSIONER COTTRELL: Right.

6 [COMMISSIONER BASAYNE:] Should we hear from everybody
7 before we...

8 COMMISSIONER PHILLIPS: All right, well, while we're--Okay.
9 So there is a motion on the table, but I--still--we are open for
10 discussion before the vote is called and the comments that I
11 wanted to make were one, that I am still a little uncomfortable
12 with the move to the seasonal visitation approach. I agree that
13 it does make sense on one hand, but I'm concerned about, you
14 know, the simplicity. Keeping it the simple, ongoing
15 enforcement, its ability for the numbers to be used in analysis,
16 and then the unintended consequences of setting a new standard
17 or approach without really unintended consequences.

18 And then secondly, to me, this is not about the business
19 plan that's--Anne, I appreciated your comments about the
20 agriculture and if you look at the--if you really look at the
21 numbers and the facts, this winery is asking--it would be
22 setting a new ceiling in terms of visitation for--it would be on
23 the very high side of visitation for a 60,000-gallon winery and
24 it's hard to justify the increases. For example, from 123 versus
25 the average to 269 asking, you know, those are the numbers and
26 then that is where our discretion comes and it's--using that
27 discretion, it's hard to justify the higher numbers when you
28 look at the size of the parcel, the fact that it's on the creek,

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1 and the fact that there was this original agreement that was
2 developed through an appeal process.

3 So for both of those facts and the fact that, you know--is
4 it--Mr. Bell, I think that you are very thoughtful and sensitive
5 and I appreciate the work that has gone into this and the
6 efforts and really believe that you do have the best intentions,
7 but as we've talked about, the permit travels with the land and
8 not the person. And would support--would--I can't make a motion,
9 so would support the second option.

10 COUNSEL ANDERSON: You can make a motion.

11 COMMISSIONER PHILLIPS: Oh.

12 COUNSEL ANDERSON: Yeah.

13 COMMISSIONER PHILLIPS: Or I would second Anne's motion on
14 Option 2.

15 COMMISSIONER SCOTT: Now we have two motions.

16 COMMISSIONER COTTRELL: I don't think we have...

17 COMMISSIONER PHILLIPS: Now you have two motions.

18 DEPUTY DIRECTOR MCDOWELL: So, through the Chair, there are
19 two motions on the table.

20 COMMISSIONER PHILLIPS: Correct.

21 DEPUTY DIRECTOR MCDOWELL: The primary motion by
22 Commissioner Cottrell, the secondary motion by Commissioner
23 Scott. I believe under the order, the first, or the substitute
24 motion is heard first by the Commission.

25 DIRECTOR MORRISON: That is correct.

26 COMMISSIONER PHILLIPS: I'm going to need a cheat sheet.
27 Okay so the substitute motion is the motion that was brought
28 forward by Commissioner Scott, and so then I call for the vote.

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1 All in favor?

2 COMMISSIONER BASAYNE: Aye.

3 COMMISSIONER SCOTT: Aye.

4 COMMISSIONER POPE: Aye.

5 COMMISSIONER PHILLIPS: All not in favor? Nay.

6 COMMISSIONER COTTRELL: Nay.

7 COMMISSIONER PHILLIPS: So the--it passes.

8 [COMMISSIONER BASAYNE:] Three to two.

9 COMMISSIONER PHILLIPS: Three to two.

10 COUNSEL ANDERSON: And you need to announce the votes.

11 COMMISSIONER POPE: You and Anne in dissent.

12 COMMISSIONER PHILLIPS: Oh. Commissioner Phillips and

13 Commissioner Cottrell vote nay. Commissioner Basayne,

14 Commissioner Scott, and Commissioner Pope vote...

15 COUNSEL ANDERSON: Yes.

16 COMMISSIONER PHILLIPS: Yes. I apologize for the--I know
17 that this is painful, but I think we'll all--it will benefit us
18 all going forward in terms of process, so I apologize for the
19 wonkiness of that.

20 DEPUTY DIRECTOR MCDOWELL: So as a disposition, the
21 application has passed on a three/two vote based on Option 1,
22 which is outlined in the Staff Report and conveyed in the
23 Conditions of Approval of the Staff Report in Exhibits A and
24 Exhibits B of the April--excuse me, the May 6th Staff Report.

25 COUNSEL ANDERSON: As amended.

26 DEPUTY DIRECTOR MCDOWELL: As amended.

27 COMMISSIONER PHILLIPS: Thank you. Yes. So now we will move
28 on to our next item.

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1 COUNSEL ANDERSON: Excuse me, Chair. Sorry. Just for a
2 point of clarification, since that option that was outlined in
3 the Staff Report did not include the CEQA determination, I think
4 it would be best if you had a separate motion to make the CEQA
5 determination. So it would be to adopt the Negative Declaration
6 based on Findings 1 through 6 of Exhibit A.

7 COMMISSIONER POPE: So moved.

8 COMMISSIONER SCOTT: Second.

9 COMMISSIONER PHILLIPS: And then the full vote.

10 COUNSEL ANDERSON: Yes.

11 COMMISSIONER PHILLIPS: All in favor?

12 COMMISSIONER BASAYNE: Aye.

13 COMMISSIONER SCOTT: Aye.

14 COMMISSIONER POPE: Aye.

15 COMMISSIONER PHILLIPS: Opposed?

16 COMMISSIONER COTTRELL: No.

17 COMMISSIONER PHILLIPS: No. And now do I need to review
18 the--okay. Commissioner Basayne, Commissioner Scott,
19 Commissioner Pope in favor, Commissioner Phillips, Commissioner
20 Cottrell in--opposed.

21 COUNSEL ANDERSON: Right. Thank you.

22 COMMISSIONER PHILLIPS: Thank you.

23 --o0o--

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28

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

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

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

12 Dated this 25th day of June, 2015.

13
14
15 Kathryn F. Johnson
16
17

18 **THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE**

19 **CLERK OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF NAPA STATE OF CALIFORNIA**

20 **ATTENT:** *[Signature]*

21 **DATE:** July 13, 2015
22
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24
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