

CERTIFIED

NAPA COUNTY PLANNING COMMISSION

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IN RE: ITEM 9B
REVERIE ON DIAMOND MOUNTAIN WINERY/REVERIE ON DIAMOND
MOUNTAIN, LLC.
USE PERMIT MAJOR MODIFICATION
NO. P13-00027
AND USE PERMIT EXCEPTION TO THE CONSERVATION
REGULATIONS
NO. P15-00141

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TRANSCRIPT OF VIDEOTAPED PROCEEDINGS
MEETING OF JUNE 3, 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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CHAIR PHILLIPS: Which brings us to Item 9B, Reverie on Diamond Mountain Winery Use Permit Major Modification No. P13-0027 and Use Permit Exception to the Conservation Regulations No. P15-00141. Deputy Director McDowell.

DEPUTY DIRECTOR MCDOWELL: Thank you Chair Phillips. Commissioners, John McDowell representing the Planning Division. While I'm waiting for the graphics to come up, this project consists of a request to expand an existing winery that was originally approved in, I believe, 1994.

CHAIR PHILLIPS: And I'm sorry. I'm am so sorry, Deputy Director McDowell, but I--we have correspondence that just arrived and I wanted to take a moment to make sure that Staff had--or, I'm sorry, that the Commission had time to review it before we started.

DEPUTY DIRECTOR MCDOWELL: Certainly.

COMMISSIONER BASAYNE: Does that include the joys of Yiddish? [Laughter.]

CHAIR PHILLIPS: Not time enough to translate it into [inaudible]. So with that being said, it is 9:19 and why don't...

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CHAIR PHILLIPS: Thank you very much. We had quite a bit of material that came in this morning and we want to make sure that we had the ability to process it all. So thank you.

So, Deputy Director McDowell, I'm going to ask that you can continue with your presentation. Thank you.

DEPUTY DIRECTOR JOHN MCDOWELL: Thank you. Chair Phillips, Commissioners, John McDowell representing...

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1 CHAIR PHILLIPS: I think your mic...

2 COMMISSIONER SCOTT: He's not mic'd?

3 DEPUTY DIRECTOR MCDOWELL: How's about now?

4 COMMISSIONER SCOTT: Mucho good.

5 DEPUTY DIRECTOR MCDOWELL: These mics are super hot, too.

6 Boy, you get really close to them--and get the feedback going.

7 So, I'll walk you through some details on the project and
8 then speak a little bit about Staff recommendation. But I guess
9 before getting into that, Staff recommendation on a project like
10 this is a little more challenging than on other projects due to
11 the circumstances involved. That's why I'm presenting this item
12 instead of one of the rank and file Staff Planners, although
13 Charlene did the lion's share of work on this project. When push
14 came to shove and a recommendation needed to be made, I'm the
15 one who made the recommendation. So, this is why I'm presenting
16 the item.

17 I was not influenced in any way by the Director or County
18 Counsel. I seek their advice on the recommendation, but this
19 recommendation belongs to me; it doesn't belong to anybody else.
20 I feel personally pretty convicted about this--that's a good--
21 maybe that's a poor word choice, but I don't think it's an
22 option to, double negative here, to not give a recommendation. I
23 think the citizens of this county and Planning Commission and
24 the applicant all are entitled to Staff making their best
25 professional--putting forth their best professional judgment on
26 something.

27 So, with that, this is a proposal that's located just south
28 of the City of Calistoga. It's in our Agricultural Watershed and

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1 Open Space General Plan designation. Property is zoned
2 Agricultural Watershed, shown in yellow on the Exhibit. You can
3 see the--let me use the little magic hand here--this is the city
4 limit line for the City of Calistoga. The hillside area south of
5 the City of Calistoga. This is approved for the Enchanted Hills
6 resort development. Unincorporated county land surrounds this
7 particular project site. You'll note that there's two other
8 existing wineries, Diamond Creek Vineyards and von Strasser
9 Winery adjoining this particular property, and then there's the
10 approved Wallis Family Estate, which, for those of you who are
11 on the Commission, that's the Pacheteau Castle property. This
12 property is accessed off of Diamond Mountain Road, which doesn't
13 show all that clearly on this exhibit, but it's in this area
14 here, and there's a private drive aisle that goes through the
15 von Strasser property and connects with the Reverie property.

16 This geographic area is known as Kortum Canyon. It's an
17 area well known for producing high-quality grapes. The Diamond
18 Creek Vineyards is one of those early wineries that was rather
19 iconic in, I'll say, bringing high-end hillside vineyard
20 production into the limelight for Napa County. Kortum Canyon is
21 also an area of controversy regarding the removal of trees and
22 steep hillside vineyard plantings.

23 The subject property, as you can see, was planted in
24 vineyards in the late 1980s, early 1990s just prior to the
25 adoption of the County's conservation regulations. As such, the
26 vineyards that are on site are fully compliant with our
27 regulations. The winery is located on the lowest portion of the
28 property where Teal Creek, which runs through the Diamond Creek

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1 Vineyards property and an unnamed tributary merge.

2 The winery building is located, what was, I'll say, a
3 historic structure at one point, but it's been rehabilitated and
4 I don't think it qualifies as a historic structure anymore, but
5 if you go back to the 1940 aerials and the original USGS maps,
6 this main winery structure, which I think was a barn originally
7 of some sort, exists in those earlier photos, earlier
8 documentation.

9 So this aerial photo was taken, I believe, in 2014, and it
10 shows several additional structures on site. Some of these
11 involved code violations that were addressed in the Staff
12 Report. If an aerial photo was being taken today, I believe this
13 structure has been removed as well as this structure here as
14 part of our Code Enforcement work with the property owner.

15 So this is the site plan--actually comes--shows a lot
16 clearer on the overhead than it does on the screen here--of the
17 overall project, and I'll walk you through some of the details,
18 try to differentiate between the existing improvements that were
19 approved versus those that approval is now sought.

20 But before getting into that, this proposal involves, as
21 I'm sure you've covered in the Staff Report, increasing the wine
22 production from 5,000 gallons annually to 9,200 gallons
23 annually. Presently there are 8,400 gallons annually being made
24 at the facility.

25 The overall winery coverage area is very low. I don't see
26 it as any sort of issue on the project site. It's generally
27 something that only comes up on smaller properties when you
28 start getting close to the 25 percent coverage requirement.

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1 Accessory to Production Ratio will be changing as a result
2 of this project because upstairs area that was a guesthouse is
3 being converted to office space as well as the addition of the
4 cave areas adds a substantial amount of production space, so
5 overall, as proposed by the applicant, the Accessory to
6 Production Ratio would be 16 percent, which is well below the 40
7 percent allowed by Code. They are asking for some outdoor wine
8 tasting areas and I'll refer you back to the site plan.

9 Again, Teal Creek is in this area here on the site plan.
10 There is a small bridge that's existed for many decades that
11 goes to the south part of the property and there's a lawn, a
12 gazebo, and a redwood grove. The applicant is asking that
13 tastings be allowed in these areas. Presently tastings occur in
14 these areas to some degree. Orange is the existing building and
15 this gray area to the west and south of the building was the
16 originally approved 3,000-square-foot outdoor work area where
17 the crush pad is and fermentation tanks.

18 So new improvements, or improvements that were constructed
19 after the approval of the winery, oops, changed pages, is the
20 4,710-square-foot cave. The portion of it actually crosses the
21 property line, but an easement has been recorded to deal with
22 the underground facility actually crossing a property line. If
23 you'll recall from past cave applications, that the County does
24 not actually require a setback for the underground portions of
25 the cave, so it really shouldn't cross the property line, but
26 there really is no prohibition against something crossing a
27 property line.

28 The portals here are located in close proximity to the work

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1 area. But I'll point out that part of this application includes
2 a Conservation Regulation Use Permit Exception to allow earth
3 disturbance or the earth disturbance that occurred when the wine
4 cave was constructed within a creek setback.

5 So the unnamed tributary that comes off of Teal Creek is
6 piped underneath the property in this area here. The dark dashed
7 line represents the drainage pipe. It daylights for a few yards
8 and then it goes back in underneath a pipe in this area here
9 before daylighting out into the vineyard that goes up the hill.

10 When the cave was constructed--actually, let me point out--
11 this very faint line here is the creek setback line, so earth
12 disturbance within that zone requires a Conservation Use Permit
13 Exception. So this portal and the access path into this portal
14 resulted in earth-disturbing activities within the creek setback
15 area, which triggers the need for the Conservation Regulation
16 Exception.

17 What I find very interesting, and hindsight being whatever
18 hindsight is, is at the time that this winery was approved in
19 the mid-1990s, the County's conservation regulations already
20 existed, but we did not require a conservation use permit
21 exception at that time in order to construct the--hey, I lost my
22 magic hand. There. Okay. I'm back. We did not require a
23 conservation use permit exception to allow the outdoor work pad
24 in that area. I find that very interesting.

25 CHAIR PHILLIPS: I find--you know, I--that was one of my
26 questions. Sorry to interrupt, Director--Deputy Director
27 McDowell. It's--I was surprised to see a 3,000-square-foot pad
28 so close to a creek. And the--so--and with the drainage, too. I

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1 was unclear as to where that drained to. So if we could--oh I
2 guess the applicant will touch on that.

3 DEPUTY DIRECTOR MCDOWELL: Yeah, oh, I think the
4 applicant's engineer is here, so he can explain the drainage in
5 more detail. But ultimately, all of these facilities drain to
6 the creek in one form or another. So regardless of how the
7 Commission ultimately moves forward on this project, the
8 drainage improvements all need to comply with County standards
9 anyway, so that'll be worked out between the County Engineer and
10 the project engineer, whether this project's approved, denied,
11 or approved in some other fashion.

12 Pointing out just a couple more details on the site plan,
13 the project's original septic system is in this area here. The
14 proposal is to abandon that system. It's kind of problematic to
15 have a septic system over in close proximity to a cave portal,
16 so the applicant's proposing to construct a standard domestic
17 septic system that would disperse out on the south part of the
18 property here across Teal Creek, crossing Teal Creek over the
19 bridge with the pipe is standard practice and is not considered
20 something that would normally trigger a conservation regulation
21 exception.

22 And then they're proposing a hold and haul system but they
23 have an alternative in there that if a hold and haul system is
24 not constructed that they'd be able to do one of these new live
25 systems, which I understand are pretty expensive and I think
26 that's why they would prefer to go down the hold and haul path.
27 The hold and haul tank is located in this area here, which is on
28 the east side of the building. I have a little trouble with the

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1 directions because from when you're out there and when you're
2 looking at a map that's like, well, east feels like south and
3 north feels like east, so.

4 So the proposal includes changes to the visitation and
5 marketing plan. Presently the approval--the approved use permit
6 allows the busiest day at 20 visitors and an average of 20
7 visitors per week. The applicant is seeking to raise that amount
8 to 40 visitors on the busiest day and an average of 200 per week
9 and then to retool the marketing plan such that there are four
10 events for 60 persons, two events for 40 persons, 12 events per
11 year for ten persons and then participation in Auction Napa
12 Valley should that occur at some point. I think you're all well
13 aware that when you participate in Auction Napa Valley you might
14 go several years before you're actually able to participate and
15 then you'll have the--some portion of the event at your
16 facility.

17 Employment levels are presently at two full-time and one
18 part-time employee. The applicant's proposing to go to five
19 employees. From Staff's perspective, I think, as you recall us
20 most recently talking about this on the Melka Winery, we fully
21 support wineries characterizing employment at a much higher
22 number than being so specific as two full-time and one part-
23 time. I think that gets lost in the details over the years and
24 it's very rare that you'll see a winery actually operate at that
25 level of employment.

26 So, I guess I can't put off talking about the Staff
27 recommendation for much longer here. You know, as you're aware,
28 this project involves a substantial component of requesting

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1 approval for things that are already occurring. The facility
2 presently makes more wine than what the project's entitled to
3 do. They're presently having more visitors and they constructed
4 a cave that literally doubles the size of the overall winery 15
5 years ago without any approvals from the County.

6 This code enforcement process started in 2012 when this
7 winery was selected to participate in the wine audit and the
8 applicant had filed an application in advance of us conducting
9 the wine audit work with them, seeking approval of these
10 improvements. At the time this was a standard practice of the
11 County, to work with applicants and process use permit
12 modifications for projects that were out of compliance and to
13 move forward.

14 So I imagine some people take exception to the way I
15 characterized it in the Staff Report about the applicant
16 voluntarily submitting, but from my perspective, that's what has
17 been occurring. I'm not trying to spin it in any particular
18 fashion, I was just simply trying to state what I believe are
19 the facts, understanding that everyone's entitled to their own
20 view and they might see it differently.

21 So recognizing the fact that we are obligated to process
22 this application, and the County does not have an ordinance or a
23 General Plan policy that says if a violation is found you must
24 correct it before you can move forward, you must replace it, we
25 needed to consider this application from a standpoint of does it
26 merit approval. And the only way I was able to peel that onion
27 was to kind of go back in time and say if the cave wasn't there,
28 if the wine production hadn't already started, if the visitation

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1 wasn't beyond what the permit was allowed, would we be
2 supporting the request.

3 And I'll walk you through the different pieces of it, but
4 in short, yeah, there are elements of this request that we would
5 clearly support. But likewise, it's troubling to come back,
6 especially in light of most recent direction from the Board of
7 Supervisors and the Planning Commission to refrain from
8 rewarding violations of the Code with an after-the-fact
9 approval. It's something that frankly is somewhat
10 irreconcilable.

11 So I broke the project up into pieces and then just tried
12 to figure out, well, do we support that component, do we not
13 support that component. So here it is in a nutshell.

14 Wine production: We support the project increasing its wine
15 production. Simply from the standpoint of it seems like it was a
16 little shortsighted to approve only 5,000 gallons on a property
17 that had 27 acres. You do the math and the property is at 10,000
18 gallons, even if they're producing a small tonnage per acre.
19 Twenty-seven acres of fruit for 5,000 gallons is only, I think,
20 1.2 or 1.3 tons per acre, a pretty low yield. So generally the
21 County in the past has been supportive of estate-grown
22 facilities. So in moving forward we...

23 CHAIR PHILLIPS: If the site can--if the site is able to--
24 to be able to support that.

25 DEPUTY DIRECTOR MCDOWELL: Yes. Yeah. So from that
26 perspective, going from 5,000 gallons to 9,200 seemed like a
27 reasonable request.

28 The cave status: Boy, a big struggle. I look at that cave.

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1 Perhaps it's not fair to sit there and say well what would we
2 have done if we were looking at it. But thinking of it as a new
3 proposal, if I was working with the applicant on trying to
4 decide where the best place for the cave is, my recommendation
5 to them would have been have a portal here outside of the creek
6 setback and loop it around and do your cave system in here, and
7 do a smaller cave where you're not in danger of crossing a
8 property line; 4,700 square feet of caves is a pretty
9 substantial cave for 10,000 gallons of wine. It's not out of
10 the--it's not extraordinarily large, but it's not small either.

11 And then if a cave portal had to be here, if there was some
12 rationale why it couldn't be over here, and the applicant said
13 well we really need it in this location for these reasons, x, y,
14 and z, then I think Staff would have been coming back saying,
15 well we need something in turn for the encroachments into the
16 creek. And that's where I arrived at the rather late-hit
17 proposal on the applicant to move forward with some sort of
18 stream restoration project. If we're going to allow a cave after
19 the fact, what benefit is coming back to the County for the
20 encroachment that we're allowing into the creek? And what seems
21 reasonable to me is that the area south of Teal Creek be changed
22 into from what it is now, which is a lawn area, and the redwood
23 grove, and a gazebo, into some area that's showcasing, or
24 restored environmental enhancement area, something that
25 showcases the native plants that were once in that area. And I'm
26 not saying it's some nature preserve that people would never be
27 able to go into. I support the idea of retaining the redwood
28 area as a tasting area, but perhaps something that is a spot

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1 where people can come to and see what this land was like before
2 man came and did what man did to it. Moving on with details.

3 The second floor office conversion: Again, hindsight being
4 what it is, these are the original plans from the '94/'95 use
5 permit. And we allowed the creation of the office and a
6 reception area on the second floor, and then retention of these
7 guest rooms that were accessed by an internal staircase, and the
8 guest rooms are only allowed under zoning as an accessory use to
9 the single-family home, which is 1,300 feet up the hill. In
10 hindsight being what it is, it's like, gosh, well this really
11 should have been part of the winery from the start. This is
12 maintaining guest quarters in a winery building that's 1,300
13 feet from the house does not seem to be accessory to the house
14 use. So, yes, it was converted without permits to winery office
15 use, probably should have been converted to winery office use
16 when the project was originally approved.

17 Outdoor visitation and marketing activities: Staff supports
18 outdoor visitation occurring at wineries within reason. I think
19 if they were asking to establish tastings out in the redwood
20 grove right now, we'd say, great, no problem, sounds like a good
21 thing. But where I really struggle with the marketing plan and
22 the visitation plan is, you know, it's well known that this
23 property is for sale. And for years this winery has been
24 operating without the benefit of an approval to exceed their
25 approved marketing and visitation plan. And it just seems odd
26 now that we're coming in and asking to expand the marketing plan
27 in advance of the sale occurring. It seems like this is
28 completely being driven by a real estate deal. I expressed that

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1 to the applicant last week, and they've responded with their
2 marketing plan, which I have not reviewed in detail. But perhaps
3 that marketing plan will assuage any concern that you might have
4 that I'm putting forward right now. At this point, though,
5 Staff's position is we see no reason for the need to change the
6 visitation and marketing plan. But we support the idea of
7 tastings being established in a limited number of outdoor areas.

8 The septic system: In hold and haul there has been no
9 change to the County's policy allowing hold and haul.

10 CHAIR PHILLIPS: Oh, I'm sorry. Commissioner Scott.

11 COMMISSIONER SCOTT: I have a question. When you talk about
12 the outdoor visitation and are you--having visited the site I'm
13 very familiar with the lawn areas that exist there, and that can
14 be used for visiting. Are you proposing to just take those out,
15 return them to dirt, or what?

16 DEPUTY DIRECTOR MCDOWELL: I would propose that it turns
17 into a wonderful little Napa Valley restoration project of
18 native vegetation out there.

19 CHAIR PHILLIPS: All of the grass areas? Or just--if I'm at
20 Teal--if I'm on the bridge, there's the grass area that--and the
21 barbecue area, and then there is the redwood grove, and then
22 more grass area. Do we have a shot of that, or no?

23 DEPUTY DIRECTOR MCDOWELL: I don't think we have any...

24 CHAIR PHILLIPS: Okay.

25 DEPUTY DIRECTOR MCDOWELL: ...photos of that area. And if
26 the Commission is heading anywhere near Staff's recommendation
27 of requiring a restoration project, this would require
28 continuation of the item. We'd need to develop a plan in the

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1 area, and then bring that back to the Commission for you to
2 adopt.

3 I don't think the applicant is in any way supportive of
4 that idea. And I was reluctant to go ahead and put a plan
5 together, because honestly, I have really no idea where you're
6 going to go with this project.

7 CHAIR PHILLIPS: We like to keep you on your toes, John.

8 DEPUTY DIRECTOR MCDOWELL: Yeah. So, finishing up on the
9 septic system and the hold and haul. There's been some concerns
10 raised about hold and haul systems. There's been no change to
11 policy that would prohibit a hold and haul system. Staff feels
12 like this is a rather modest amount of wine production. So the
13 hold and haul truck coming and going every once in awhile, I
14 don't think would cause any discernable change in the level of
15 traffic out on the roads. But, if the Commission's not
16 supportive of the hold and haul, I think, you'd simply require
17 the applicant to install the second alternative of the live
18 system.

19 We are recommending the exception to the Road and Street
20 Standards for the drive aisle going in. There are a number of
21 existing environmental constraints that are detailed in the
22 Public Works memo, and the applicant's request for the Road Mod.
23 This exhibit is somewhat difficult to read, but the hashed areas
24 are the areas where they are widening the road to standards. It
25 is a substantial portion of the road that's going to meet
26 standards, and it's only next down in a few minor areas like
27 where it crosses the creek coming into the property, those sorts
28 of things.

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1 So to conclude, Staff sees four options for the Planning
2 Commission moving forward detailed in the Staff Report. First
3 would be to approve the applicant's proposal, either as proposed
4 or with a limited amount of modification. The Draft Findings and
5 Conditions of Approval that are in your Staff Report are
6 reflective of the applicant's proposal, if you wish to move
7 forward in that fashion. So, you could take a final action
8 today.

9 The second option, which is Staff's recommendation, that
10 I'm calling the reduced development alternative, would involve
11 the Commission continuing the item and then having us return to
12 you with a package of findings and Conditions of Approval and
13 additional details. Again, to detail that option we would
14 support the wine production increase. We would not support a
15 change to the levels of visitation and marketing. And we would
16 require a stream restoration project of some design as a quid
17 pro quo for allowing the encroachment into the creek setbacks.

18 Third option would be to deny the project. I think this can
19 be done by a simple motion similar to what was--what occurred on
20 The Caves project. But I think we want to remand that to County
21 Counsel for preparation of detailed findings on the rationale
22 behind the denial of the project.

23 Staff's not supportive of that approach, simply because the
24 denial--you know, there's advantages to that process, but it now
25 turns the project completely into a code enforcement case, which
26 isn't necessarily a bad thing, it's just it changes the working
27 relationship with the applicant from what it has been, to
28 regulator and those being enforced.

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1 And then the last option would be to commence revocation,
2 or suspension of the use permit in some form. That takes its own
3 separate public hearing process. So, if the Commission is
4 unwilling to move forward with this project and feels that the
5 nature of the past violations are so egregious that it warrants
6 some level of reduction of the existing entitlement, then you
7 would commence a process today, and we'd have to return with a
8 noticed public hearing process to consider the merits of
9 revocation or suspension of the permit.

10 I apologize for the long, rambling presentation. But that
11 concludes it. And I'd be happy to answer any questions.

12 CHAIR PHILLIPS: Well I have one question, because I just
13 want to clarify. There's so many pieces that we're trying to
14 clean up, so to speak, so just to be clear in terms of the Staff
15 Recommendation, it's the 5,000 to 9,200 gallons. You had
16 discussed that the--limited solely to the production of wine
17 grapes to 100 percent grown on site. So, I don't know how that
18 would be achieved at that through submitting your 702 every
19 year, or how that is at all enforceable. But, wanted to point
20 out that had been part of the Staff recommendation, that the
21 caves were supported but no marketing or entertaining within the
22 caves in that the requirement of the creek restoration project,
23 the guest quarters to the winery use, the outdoor visitation,
24 the removal--or the restoration of the grass and barbecue area,
25 and the visitation remains at 1,185 annual maximum, three
26 events, and 20 weekly average. It would also include the
27 exception for the road, and the application also includes the
28 new well, a new septic system, a new drainage system, and a new

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1 hold and haul, or live system.

2 DEPUTY DIRECTOR MCDOWELL: All said, yes correct.

3 CHAIR PHILLIPS: Okay, thank you. Okay are there any
4 questions for Staff at this time?

5 I had one question, which years ago, when we were dealing
6 with a hotel with a--it was in the County, but that it had a
7 parcel attached to it that was--that there was the question of
8 whether you could have a--how you accessed a parcel within the
9 Ag Preserve to a commercial use, and I guess we'll have to hear
10 from the applicant, because there--when I was on the tour there
11 was talk of golf carts going between the winery and the hotel,
12 and that wasn't mentioned anywhere in the Staff Report. And I
13 remember with the Carneros Inn that was an issue in terms of
14 accessing a commercial use through the Ag Preserve. So, is there
15 any light that Staff can...

16 DEPUTY DIRECTOR MCDOWELL: Yeah, I can think of two
17 examples. One is Carneros where the issue was the driveway for
18 the commercially zoned portion of the property was going to come
19 from the north across Agricultural Watershed land. And the
20 conclusion of the Board of Supervisors was that that triggered a
21 Measure J vote because it was an expansion of a commercial use
22 out onto agriculturally designated land.

23 The other example that I can think of is Meadowood where
24 the--I forgot the name of the winery that was built by the
25 Meadowood owner that's out closer to Silverado Trail there.

26 [PLANNING DIRECTOR DAVID MORRISON:] The Reserve.

27 DEPUTY DIRECTOR MCDOWELL: The Reserve, yes thank you. The
28 Reserve is completely on Ag Watershed land. I'm not exactly sure

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1 how they get--how guests get back and forth from Meadowood over
2 to The Reserve, but I'm quite certain that guests of Meadowood
3 go to The Reserve, and they might even be members of The
4 Reserve.

5 I guess I can't think of any other examples than that. But
6 in discussing this with the applicant, if the owner of a resort
7 buys a winery in Napa County and transports their guests to and
8 from that winery, I don't think that's a violation of any Napa
9 County Agricultural Preservation requirements. This one's a
10 little bit interesting because the resort that's potentially
11 buying this is immediately next door to the winery. But what if
12 this winery was a mile from the resort?

13 CHAIR PHILLIPS: Well I--you know, the reason why I ask is
14 that I had been aware of it with the Carneros Inn and I guess I
15 was looking for County Counsel. Because we've never come--at
16 least on my tenure we've never come across this issue. And so
17 there is some, for me--and I hate it when I say precedent
18 setting, but there--it is something that we haven't dealt with
19 before in terms of a question and was wondering if there was any
20 insight that can be provided.

21 DEPUTY DIRECTOR MCDOWELL: Yeah. The issue isn't on the
22 table though, because it's not part of the proposal.

23 CHAIR PHILLIPS: You're right.

24 DEPUTY DIRECTOR MCDOWELL: It's been discussed, but it
25 still remains speculative whether that'll actually be requested.
26 And then at that time, it would be subject--if it is requested,
27 be subject to a use permit modification that would have come
28 before the Commission.

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1 CHAIR PHILLIPS: You are absolutely right. Okay.

2 DIRECTOR MORRISON: Yeah. We--Staff had talked about this
3 internally, and for lack of a better example, we'd talked about
4 what if somebody had bundled together a package where you could
5 have dinner at Don Giovanni and go to a tasting at Darioush
6 nearby and they would transport you between the two. As long as
7 it was within Darioush's visitation limits, I don't think the
8 County has a role.

9 CHAIR PHILLIPS: Yeah, it's interesting. I mean I--the--I
10 brought it up because it's nothing that I had seen before, so
11 it's always good for discussion.

12 [COMMISSIONER BASAYNE:] Yeah.

13 CHAIR PHILLIPS: Commissioner Scott.

14 COMMISSIONER SCOTT: I was thinking, and this hasn't
15 occurred yet, but that we have approved a resort near the
16 airport industrial area Monte...

17 DEPUTY DIRECTOR MCDOWELL: Montalcino.

18 COMMISSIONER SCOTT: Montalcino. And I can certainly at the
19 time that we approved that resort, there were only one or two,
20 maybe three wineries in the airport industrial area. Now there
21 are 16. I can see this coming back to us in there being
22 visitation between that resort and the wineries that are located
23 in--and that's a little different. Although, you know, depending
24 on how the resort is constructed, it's possible that there could
25 be a pathway that could lead to some of these resorts that they
26 could take golf carts, or whatever. So it's something that at
27 least has the potential for the airport industrial area in terms
28 of visitation. And of course, and in many cases they would be

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1 using public roads, obviously, to do that as well.

2 CHAIR PHILLIPS: Thank you Commissioner Scott. Commissioner
3 Basayne.

4 COMMISSIONER BASAYNE: Yeah, I just wanted to weigh in in
5 terms of just my opinion with regard to the proximity of
6 wineries to resort properties in the valley. It's abundant. And
7 if you just go up and down either Silverado Trail, or 29, you're
8 going to find numerous examples where you virtually have
9 contiguous situations where you have--it might even have a
10 winery that's nestled right up against a resort, and so there is
11 a temptation to potentially take visitors to that winery as a
12 way of accommodating their needs. So...

13 CHAIR PHILLIPS: Well, to that point, this is something
14 that we'll probably be seeing more and more of.

15 COMMISSIONER BASAYNE: Right.

16 CHAIR PHILLIPS: Commissioner Scott.

17 COMMISSIONER SCOTT: Yeah, it occurred to me that I have
18 seen golf carts from the residents in Silverado go to William
19 Hill Winery on, you know, the adjacent road there. And that's
20 not--oh it's not common, but it does happen.

21 CHAIR PHILLIPS: Okay, since this is--I appreciate as again
22 this is a--it's good discussion, and something you'll probably
23 be seeing more of but as Deputy Director McDowell pointed out
24 that is not on the table in front of us today. So.

25 DEPUTY DIRECTOR MCDOWELL: So, if I can beg the
26 Commission's indulgence.

27 CHAIR PHILLIPS: As long as it's not about golf carts.

28 DEPUTY DIRECTOR MCDOWELL: No. It's about pictures from the

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--21--

1 1990's. In your Staff Report materials and up on the screen, it
2 might be helpful for your deliberations today. There's--I find
3 these pictures wonderfully insightful into what the property was
4 like at the time that the winery was originally being
5 considered. Not so much the winery building itself, but to call
6 your attention to the sideline areas.

7 So, on this particular picture, the cave portal under
8 question is off the screen here, and the road that accesses that
9 cave portal came down through this area here, and crosses just
10 off the screen. And you can see this area, which is literally
11 right next to the creek, is--it's highly disturbed at that time.

12 Likewise on this picture, where this propane tank is over
13 here, is where the access road is to the tank pad, and the
14 concrete pads are in this area here. And where that propane tank
15 is, is where the road went to get to the cave portal.

16 And then this is the old pole barn, which was torn down,
17 which was replaced, and then the illegal building was torn down,
18 that sits on top of this unnamed creek channel. And likewise,
19 you can see part of the pole barn in this shot here. And this is
20 the part of the creek that was covered over when the cave portal
21 was installed.

22 So in one regard you can see that it's not some pristine
23 creek setting at the time the improvements happened. But in
24 another regard, it's--well, a creek was filled in. So. How that
25 all gets resolved.

26 This one's, I think, really telling because the portal
27 literally sits just to the--would sit just to the right of this
28 photo. This is all work area now. And then that road went off in

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1 this area here.

2 CHAIR PHILLIPS: Thank you Deputy Director McDowell. I'm
3 going to now, unless there are no--are there any other questions
4 for Staff at this time? Seeing as there are none, I'm going to
5 open Public Comment, and ask if the applicant would care to
6 speak.

7 SCOTT GREENWOOD-MEINERT: Commissioners, Staff, Deputy
8 County Counsel, Scott Greenwood-Meinert of Dickenson, Peatman &
9 Fogarty on behalf of the applicant, Reverie at Diamond Mountain.

10 I want to start out by saying thank you to Staff. We have
11 worked diligently with them for almost four years now,
12 consistently for three years on this application. I want to
13 highlight the fact that I know that Staff has put an awful lot
14 of time and consideration and analysis into this matter. That
15 analysis has been revised multiple times by changes, either
16 official or unofficial with regards to policies related to water
17 analyses and so forth. So there's been a lot of movement over
18 the course of time with this application.

19 I do want to start out by highlighting the fact that
20 regardless of the rhetoric, and regardless of some of the
21 letters of opposition that came in previously, and as early as
22 at the time the hearing started, this was a voluntary process
23 that was begun prior to any audit calls that were made or any
24 audit notices that went to Reverie and that timing shouldn't be
25 nefariously impugned. Mr. Kiken came to our law firm in November
26 of 2011, hired us, and we started vetting with him the various
27 conditions on the property, and the production and marketing
28 increases that were necessary to continue his operations. It's

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1 not unprecedented that use permit applications take some time to
2 process. It is unique, perhaps, the amount of time that it has
3 taken.

4 We have voluntarily worked with Staff to develop the record
5 on this property with regards to a biological baseline report
6 that is independent and thorough. There is a supplement to that
7 that was submitted in March after further discussions with Staff
8 related the Blueline creek area that some of us affectionately
9 refer to as a ditch. And the record clearly shows that it has
10 been for quite some time in a disturbed format and that Reverie
11 has actually done very little to it other than put a pathway
12 over it at one point and actually remove structures that were
13 over it. We have also submitted voluntarily a traffic analysis
14 that bolsters the negative declaration, the clean negative
15 declaration, that was issued on this application.

16 As each of the Commissioners has seen, it's a unique
17 location. I know everybody in the Valley believes that they have
18 a unique location, or in the hills, has a unique location. Napa
19 Valley is a unique place. However, as Staff has commented, you
20 get up into that little valley, you don't know what north is,
21 south is, east is or west is and if you're standing in the
22 redwoods, you certainly have no idea.

23 This is an estate fruit operation. Comments were made
24 earlier about perhaps the original use permit should have been
25 for more. I think there are a lot of wineries out there in the
26 Valley that got applications and permits in the '80s and '90s
27 that looking back on it go, viticulturally speaking, what were
28 we thinking. Maybe that wasn't enough back then. Maybe we've

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1 gotten better at farming in the time.

2 I think this process that Reverie has gone through is quite
3 frankly a classic example of just that. The vines were planted
4 before Mr. Kiken owned the property, before Reverie operated,
5 and the goal has always been to make it a sound and a better
6 operation. That's just occurred as time goes along, and then
7 like everybody else in the Valley, the last three harvests at
8 least have been unprecedentedly abundant and the idea here is to
9 acknowledge the organic improvements that have already occurred
10 so that Norm can bottle his estate fruit and then have in this
11 process a little bit of room on the north side, if you will, for
12 continued improvements in the vineyard.

13 We asked Norm when we were discussing visitation and
14 marketing and production numbers for this to give us his best
15 idea of what this thing was going to look like ten years from
16 now so that we had some margin in there going forward where
17 maybe that margin, frankly, didn't exist when the analysis was
18 done back in 1994, '95.

19 We appreciate Staff's considered recommendations in the
20 Staff Report. We do differ with them on visitation and
21 marketing, but overall they have been abundantly careful and
22 abundantly thorough in reviewing this project.

23 In support of the increase in visitation we have provided,
24 apologetically but belatedly, a business plan that demonstrates
25 Reverie's needs now and in the future. This plan has been vetted
26 and supported by winery business experts like Professor Thach of
27 Sonoma State as reasonable. The assumptions in it are not some
28 highfalutin business plan developed down in Silicon Valley for a

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1 startup. These numbers are realistic. They're based on industry
2 standards and in some instances Norm is a victim in his
3 marketing plan and visitation plan of having a rather robust
4 wine club.

5 The production and visitation increases are actually
6 supported by the negative declaration and I think this is an
7 important point to make because to a certain extent we have been
8 asked to justify visitation increase requests here when, you
9 know, in a public forum, when that's, to a certain degree,
10 private business operation, and as a lawyer I can stand up here
11 and start talking about some of the information that we've put
12 in the record here in a lot of instances would be considered
13 under contracts as trade secrets and confidential. This is kind
14 of a new tack that we have to take in order to justify this
15 stuff where previously a negative declaration [had] said quite
16 literally there are no significant traffic impacts to the
17 visitation increases. There are no significant impacts to the
18 marketing plan or the production increase. There are no
19 significant impacts even to needing--possibly needing in the
20 future a hold and haul system for two trucks to come in and out
21 if we ever get that high in terms of production. So from that
22 perspective the negative declaration as to our marketing and
23 visitation we believe stands on its own in support.

24 The negative declaration, the biological analysis, the
25 supplements, clearly establish that the letters that have been
26 submitted so far, even the belated letters that were submitted
27 this morning in opposition to this project, are factually
28 unsupported and legally deficient. We have carefully analyzed

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1 this project and provided a tremendous amount of detail on an
2 application for what is an--essentially an estate fruit
3 operation that is asking for 9,200 gallons of production and a
4 modest and reasonable increase in visitation.

5 In the record there are a number of letters of support from
6 neighbors and from fellow industry folks around the Valley.
7 Those letters are concise and they outnumber the letters of
8 opposition and on behalf of the applicant I have to say we
9 greatly appreciate the support that we have. They also highlight
10 the fact that Reverie's immediate neighbors support Reverie and
11 support this application. In furtherance of that point I would
12 add that notice went out to everyone on Diamond Creek--excuse
13 me--on Diamond Mountain Road, not just those within the
14 carefully defined notice parameters.

15 At this point we have our traffic engineer here, Dalene
16 Whitlock. We have Carl Butts, our engineer, and we have as well
17 representatives from the buyer. I want to add one point on that.
18 It's a prospective buyer. I have not been involved in the
19 transactional aspects of that at all, but this buyer has not
20 been a secret to anybody. This has been in process, at some
21 point, I actually don't know when, after we started the land use
22 process here. Be that as it may, you will likely hear from that
23 prospective buyer's representative at some point here, I can
24 almost promise you that.

25 With that I would close by saying we believe Option 1 is
26 clearly supported by the record here and is a very reasonable
27 request. If you have any questions for us at any time in this
28 process, please go ahead and ask. Thank you.

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1 CHAIR PHILLIPS: Are there any questions at this time? What
2 I'm going to actually--this is a little unorthodox, but what I'm
3 going to actually do is--it's been brought to my attention that
4 we need to take a quick comfort break and so I'm going to close
5 the Public Hearing, we're going to take a quick comfort break,
6 and then open to anyone else that would care to speak on this
7 matter, reserving the time at the end for the applicant to talk.
8 So we have a--so...

9 --o0o--

10 CHAIR PHILLIPS: Okay, I'm going to call the meeting back
11 to order and invite anybody that cares to speak on this matter
12 to come to the podium and state your name and address for the
13 record.

14 YEORYIOS APALLAS: Good morning again, Yeoryios Apallas
15 previously stated the name and address, Madam Chair, gentlemen
16 and ladies of the Planning Commission, Director Morrison, County
17 Counsel, County Staff, and a special reach out and shout out to
18 Mr. McDowell, who has done a yeoman's job of putting a rather
19 complex set of facts and circumstances together in a cogent way
20 and presented in an able manner for all of us mortals in the
21 audience to understand.

22 I differ with, respectfully, Mr. McDowell in certain
23 analyses that he has performed where he builds supposition on
24 speculation and engages in retrospective analysis of what this
25 project might have looked like in 1990 or in years past. And,
26 you know, that is speculation and I suppose if my aunt had
27 wheels she'd be a wheelbarrow.

28 The problem with retrospective analysis is that it never is

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1 right on. We've spent a great deal of time, Staff time, trying
2 to do this where if applicants followed the procedures, I think,
3 this process would have been more efficient. Leaving that aside,
4 I'd like to speak, you know, from a [macro] perspective of what
5 is wrong with this let us build it and seek forgiveness in
6 future.

7 You see what is going on here. This is the second of the
8 projects that is coming before you again for retroactive
9 approval. And what is wrong with this process? The cumulative
10 violations that are evident on this property and those in Caves
11 and others that will come before you deprives the citizens of
12 this county [on comment,] surely when these projects were put
13 together and brought before all of you, we would have had an
14 opportunity to weigh in on the caves, on the encroachments on
15 creeks, on the impacts on the environment. We cannot now un-ring
16 that bell and those things have already happened.

17 And what is wrong with this process? We have been denied a
18 CEQA analysis on its--the cumulative impacts. How can you
19 reverse that process now unless you request, if it can be, a
20 CEQA analysis of all that is going here?

21 And what is wrong with this process? The applicant has been
22 rewarded for many years through an illegal operation. He has
23 made a profit. He has--probably going to capture that profit
24 through the sales price of the property with all these
25 violations on it which will be asked to be sanctioned.

26 Again, from a [macro] perspective, there is no incentive
27 for anyone out there similarly situated to Reverie's operators
28 to come before you and seek approval when in fact they know that

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1 they can do this--they can engage in this process and ask for
2 approval. That is not sound public policy.

3 I submit to you that you should at the very least capture
4 or harvest the increased benefits from the illegal activities
5 from the sale price. It is not fair to the citizens of the--of
6 this county to be put in this position now, having been deprived
7 of their rights to comment on this project. And how do you do
8 that? Mr. Pope is well aware of the discounted cash flow value,
9 he is well aware of the other items that can be used to analyze
10 the delta between what this project was worth without the
11 illegal activities and what it is currently worth with those
12 projects about to be approved, if the Staff recommendation is
13 embraced by you all.

14 And I think it's important that you capture that delta and
15 use that to beef up your enforcement procedures, increase Mr.
16 Morrison's staff so that we can have a lawful activity out in
17 this community. There is no incentive currently to abide by use
18 permit conditions. You have seen two exhibits of this, Reverie
19 and Caves. I daresay these will not be the last of them. Thank
20 you very much for listening to me.

21 CHAIR PHILLIPS: Thank you Mr. Apallas.

22 GEOFF ELLSWORTH: Geoff Ellsworth, 1434 Sylvaner, St.
23 Helena. I urge the Planning Commission to refrain from approving
24 this permit modification until analysis can be done on the
25 impacts from exceeding the current permit. If someone exceeds
26 their permit, it follows that CEQA mitigations would have been
27 skirted. If somebody exceeds their use permit in production
28 levels then they would have exceeded the associated chemical use

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1 with that production, chemicals that get into the winery waste
2 and into our common environment.

3 I grew up in a wine business family and I accept the risks
4 of living in an area with certain levels of chemical use.
5 However, I only accept the levels that were permitted, the
6 levels that would have been presented to the environment by
7 exceeding the permit I do not accept. Before any modification of
8 this permit is approved we need to analyze those levels actually
9 used to understand the impacts to our community and citizens
10 made by the choice to exceed the permit.

11 Relatedly, if somebody exceeds their permit in terms of
12 visitation and hospitality, winetasting, etcetera, and once
13 again, I'm from a wine business background, I accept a certain
14 level, the permitted level of hospitality and visitation.
15 However, I do have issue if somebody exceeds their permitted
16 visitation, hospitality, winetasting, and wine pouring.

17 And we understand that a certain percentage of wine tasters
18 at any winery become impaired. The California DMV says that even
19 one drink can make you impaired. So by exceeding the permitted
20 levels of hospitality and winetasting, it could not help but
21 increase the risk of allowing impaired drivers and perhaps
22 bicyclists onto our public roadways.

23 We must pause and analyze the impacts of this project, both
24 as it stands alone, and in the context of cumulative impacts
25 from all winery and hospitality projects in Napa County. We must
26 do this to protect the health, welfare, and safety of our
27 citizens and communities in Napa Valley. It will be interesting
28 to me to hear any argument for allowing our community to be less

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1 safe for our citizens. Thank you.

2 CHAIR PHILLIPS: Thank you Mr. Ellsworth.

3 TED LEMON: Ted Lemon, 780 Gold Ridge Road, Sebastopol,
4 California, next county over. Eighteen-year resident of St.
5 Helena. I have been Norm's winemaking consultant since 1993, so
6 I saw the property in the original condition that had existed at
7 the time he purchased it and I want to underline what the
8 planner said earlier regarding the condition of the property and
9 the impaired condition of the creek at the time of purchase,
10 because it certainly was not some pristine wonderland at that
11 time and really Norm did very little that affected the creek
12 directly during the time that I've been involved with him.

13 I just want to speak to winemaking, however, alone, because
14 I am not a consultant on use permits or anything of that kind.
15 The amount of limitation that--that--or the increase in
16 visitorship that is being requested is really very, very minimal
17 for any small winery. I think that its absolute minimum, as you
18 all know very well, direct to consumer is essential for small
19 wineries to survive and exist in the modern world and when this
20 project began and was originally approved in '93 we were in a
21 completely different world in terms of what wineries needed to
22 survive in order to gain an audience. There is nothing that he
23 is requesting that involves Disney-park, Disneyland-like
24 amenities.

25 What has been done on the property during the entire time
26 I've been involved is of the utmost dignity and involves just
27 consumers visiting the property, tasting the wines and buying
28 the wines based upon the merits of the wines that they are

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1 tasting.

2 So I think it would be wonderful if you could actually give
3 the applicant the benefit of the doubt. Four long years of going
4 through this process I don't think anyone within Napa County
5 would ever look at that and say, gee, I want to go through what
6 Norm just went through. Thank you.

7 CHAIR PHILLIPS: Thank you Mr. Lemon.

8 BERNADETTE BROOKS: Howdy. Bernadette Brooks, 3103 Dry
9 Creek Road in Napa. I don't know if I'm seeing some different
10 numbers and seeing the wrong thing, but what I see in terms of
11 visitation, currently it's 20 persons per day, average 20 per
12 week with 52 weeks a year gives you 1,040 visitors and based on
13 Director Morrison's recent visitation analysis report it was
14 accepted that 110 visitors per thousand gallons seemed like a
15 reasonable number to go with. And if we did that for 9.2
16 thousand gallons, that would be 1,012 visitors per year.

17 But now if we increase it to 200 persons per week, we're
18 going to ten times that. We're not just doubling it or tripling
19 it, we're doing ten times the number that we, ourselves, the
20 Department, and the County have thought was a reasonable amount
21 per thousand gallons. So you're up a road that is not meeting
22 Road Standards and needing exceptions.

23 I don't see times. I see starting of tastings at eight a.m.
24 in the morning. That doesn't seem reasonable to me. And I don't
25 see hours listed on the marketing request, just the numbers of
26 events and the size of the events and maybe somewhere else in
27 the documents, and I apologize if I didn't read every single
28 document that was out there, but I didn't see the hours and

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1 anytime I see things in the Ag Watershed for--that are going
2 with what I think are outrageous amounts of visitors into the
3 watershed, I have exception to that, as well as, you know, if
4 it's a rural area, having anything after, you know, dark, to me,
5 is not acceptable either. Thank you.

6 CHAIR PHILLIPS: Thank you Ms. Brooks.

7 SARAH LIVERMORE: Good afternoon. My name is Sarah
8 Livermore and I live at 5500 Lake County Highway in Calistoga.
9 Thank you, Commissioners, for your tireless effort on the behalf
10 of this community and Counsel and Staff. I know this has been a
11 long process.

12 I am an employee of Norman Kiken's for a very long time and
13 I am also a very long-term resident. Residents--both my great
14 grandparents on both sides of my family resided in the Napa
15 Valley since 1880. My father was a farmer. My family is in
16 farming. So I just wanted to address particularly the amendments
17 to visitation and marketing.

18 I believe 20 people a day is very minimal and I'm afraid
19 that if you don't adopt these modest changes and allow cave
20 tours, frankly, that I--he won't need a sales staff and I will
21 lose my job. Norm has employed countless people, gardeners,
22 office staff, many people in the vineyards, for over 20 years
23 and just have to say that I have worked for many other families
24 in the Valley, the Martini family, I've worked for Del Dotto,
25 I've worked for Kuleto, and there is nobody who is more
26 generous.

27 I have a very decent living wage. All my medical benefits
28 are paid for, as he does to all his employees. He's given me

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1 advances in times when I've needed them as a single mother, no
2 questions asked, never asked me when I need to pay them back but
3 just if I needed it he would give it to me for a car or for a
4 first and last month's rent for instance, so it's difficult to
5 find positions like that and bosses like Norm. I'm proud to work
6 there.

7 I also, for the people who are, you know, hesitant--Ted
8 Lemon was winemaker of the year for the whole state. He was on
9 the cover of Jon Bonné's new book, the wine critic for the San
10 Francisco Chronicle. He grows biodynamically. So I'm very proud
11 to work here. Our wines have been in the French Laundry. Only
12 five percent of the wineries in the Napa Valley are estate.
13 That's very little. So when the visitors come and I educate them
14 in farming and can show them right here, these wines come from
15 this property, there's no chemicals in our wine, I mean, so,
16 we're very natural. It's beautiful.

17 And so I just hope that you would consider all the
18 employees that work there. Nothing is really changing in any
19 major way. And to address just one more issue on the stream
20 restoration. I feel that he's done a lot of work on that
21 already. He's removed a building and all--he's just done so much
22 already. The grass area is--people picnic there on occasion and
23 it's such a nice area. Food and wine is such an important part
24 of the Napa Valley and I feel it would be a travesty to--to
25 change that. So thank you very much.

26 CHAIR PHILLIPS: Thank you Ms. Livermore.

27 DONALD WILLIAMS: Donald Williams on View Road in
28 Calistoga. I look forward to your response to the letters of Mr.

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1 Caloyannidis and the one that came to you this morning. And as
2 for my comments, the Staff analysis focuses naturally on the
3 details of a single business. I'd like to think that you
4 Planning Commissioners are concerned about the cumulative
5 impact, the overall impact of these changes that are proposed.

6 I have no objection whatsoever to a winery wanting to make
7 more money. That's what their purpose is. Most of the comments
8 are about the economics of the enterprise. But there are costs
9 to the commons as well in terms of traffic and the loss of semi-
10 rural quality of life and infrastructure degradation. And those
11 costs are, I think, too high a price to pay--for the public to
12 pay as private companies make more and more money.

13 I'm familiar with the roads in the county and we think of
14 Mt. Veeder Road or Soda Canyon Road as difficult, but Diamond
15 Mountain Road makes them look like freeways. It's incredible to
16 think that additional visitation is not going to affect traffic
17 in that area.

18 The increasing urbanization that we've seen in Napa Valley
19 has not occurred overnight, but in small increments by approval
20 of a permit here and a variance there with only lip service paid
21 to the aesthetics and the quality of life because we continue to
22 believe the press reports about this lovely, semi-rural valley.
23 But it's being compromised. It's actually dying. It's not a
24 dramatic death like a beheading, but it's a--it's death by a
25 thousand cuts as these variances and permits are approved one by
26 one. The cumulative impact is all around us. We see it in the
27 traffic increase and the diminishment of the water level and the
28 creeks being compromised.

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1 And as the urbanization is encroaching, I'm concerned that
2 we not maintain business as usual. I think we need to stop being
3 oblivious and have the vision and the courage to see that the
4 Valley is being compromised right before our eyes. Otherwise I
5 wonder what's the point of a plan if variances to setbacks are
6 approved routinely or what's the point by meeting there at Napa
7 High School when dozens and dozens of people addressed the
8 County about the growing impact of the increasing urbanization.

9 So I trust that you Planning Commissioners representing all
10 of us people are unafraid to act independently of Staff but on
11 behalf of all the folks that you hear repeatedly at meetings
12 like that in Napa or that you read about in the letters to the
13 paper over and over again under cover of professional reports,
14 the Valley's being compromised and not enhanced.

15 So my request is that we change the culture of approval for
16 these requests that are collectively and incrementally
17 compromising the quality of life here. Thank you.

18 CHAIR PHILLIPS: Thank you.

19 GARY MARGADANT: Good morning to the Planning Commission.
20 My name's Gary Margadant. I live up on Mt. Veeder Road and I'm
21 the president of the Mt. Veeder Stewardship Council. And after--
22 in reviewing this project, we find that there are several,
23 several things that give us pause. I went through the exhibits A
24 and exhibits B by the County and through the mitigated neg. dec.
25 and I was making a list of all of the violations that this--
26 what--that took place on this--this parcel. And I came up with
27 17 and what I would ask from the County in the future is that if
28 this comes up again and we have a parcel that has a lot of

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1 violations on it, it would be nice if there was just a flat list
2 of these as to how many violations there were when they took
3 place, that sort of thing, so that the Planning Commission and
4 the rest of the citizens who are part of this public forum have
5 a pretty good idea of what we're looking at. I don't think that
6 17 is the highline on this because I think there was probably
7 several that were divided up at various parts.

8 Now I was struck by what Scott said earlier about something
9 being--[effing] nefarious was taking place up there in the
10 applicant coming forward with his violations. But I would point
11 to the--and if we want to ask about nefarious things, I would go
12 back to one of--a couple of the letters that were presented here
13 by Richard Svendsen, I assume to be a neighbor nearby, and he
14 relates in here about finding too much traffic coming down his
15 road to the winery. He found limos, he found private cars, he
16 found a 66-passenger bus twice and in the meantime he talked to
17 the applicant and said, you know, you're violating what your use
18 permit is. You need to cut back on this traffic or I'll talk to
19 the Planning Commission and he promised that he was going to
20 change, that he would stop doing that.

21 It was only a week's--month later that another bus showed
22 up, or another limo showed up or something like this. So if
23 we're going to talk about nefarious stuff here, I think that we
24 really ought to deal with it straight up and down.

25 I'm concerned about these violations because of what
26 Yeoryious brought up and that's capturing the increased business
27 dollars and the delta from what you get from an illegal
28 operation like this. If you put in a cave, you're going--John

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1 Tuteur wants to know about that and he's going to charge you
2 extra taxes for that kind of thing. But if it's not reported,
3 the cave was actually constructed and stuff like this, we lose
4 out as citizens of this county that the taxes aren't paid. Now I
5 can't--I don't know the history on this particular situation,
6 but it's something that should be calculated in here so that you
7 have a better idea on what you are going to decide to do with
8 this situation.

9 We recommend that you go with number 4 on this, you know,
10 because we think that this--these are egregious things that were
11 done over a long period of time and it's a modus of operandi for
12 this man to go ahead and continually do this, do this to
13 Svendsen, do this to neighbors, do it to us. We don't feel that
14 this is something that really is a business plan that is
15 conducive to good relationships in the Valley and we would
16 [really] like to have it stop. Thank you.

17 CHAIR PHILLIPS: Thank you Mr. Margadant.

18 GINNA BEHARRY: Good morning. Ginna Beharry, 3167 Dry Creek
19 Road. I would like to also acknowledge the incredible amount of
20 time that Staff has put into this over a number of years and I
21 would like to say I appreciate how much Deputy Director McDowell
22 appeared to agonize over this decision, although I may not agree
23 with his ultimate decision, I do appreciate that you agonized
24 over this. It's something worth agonizing over I think.

25 I'd also like to address Ms. Livermore's comments, as
26 wonderful as she seems and as kind an employer as Mr. Kiken
27 seems to be, once again, this is a use permit that runs with the
28 land and those comments are quite irrelevant. It's not about how

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1 nice a person is. It's about what they're doing with their
2 property and what future owners will do with that property. In
3 this case we have reason to believe there will be future owners
4 who may act nothing like Mr. Kiken has toward his employees or
5 his land.

6 Regarding Mr. McDowell's comments that the County does not
7 have an ordinance that forces correction of permit violations
8 and therefore there is some give and take in this area, I would
9 submit that the County also does not have a regulation that
10 prevents that or that says you must give leeway to permit
11 violators. This is actually a question of the culture of the
12 Department and I believe it is a cultural issue that really
13 needs examination and I believe change because it is a culture
14 of enabling.

15 We are creating a moral hazard here. If you remember in the
16 financial crisis of 2008 one of the big discussions was you
17 could not forgive people who were behind on their mortgage
18 payments or lower their interest rates because it creates a
19 moral hazard, meaning that it will encourage others to do
20 exactly the same thing in the future and that it--as--if you
21 know anybody who had a problem with their mortgage, most people
22 did not get forgiveness for that very reason.

23 I would also like to ask that the grand jury
24 recommendations that were recently released regarding this issue
25 of compliance be made part of the record. I am assuming that the
26 Planning Commissioners have seen those recommendations and that
27 they definitely apply to this situation and that they recommend
28 that compliance become more stringent.

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1 There was also a letter to the editor about the grand jury
2 recommendations from a vintner who also said that they do not
3 believe that a few should be punished--the many should be
4 punished for the few. I wouldn't agree with the total contents
5 of that letter but even vintners are saying that we need more
6 than wrist slapping for people who abuse the rules.

7 Mr. McDowell also said that a denial would change the
8 relationship with the applicant from one of working with them as
9 an applicant to code enforcement. I would also--I would submit
10 that the applicant made that change in the relationship
11 potentially when they broke the rules. That is a chance that an
12 applicant is taking when they violate their permit. You know,
13 that--there's nothing that says they won't become an object of
14 code enforcement.

15 Also, the attorney stated that this is--that we should be
16 very grateful to the applicant for the voluntary process that
17 has been--that they have been involved in and I would submit
18 that going for a permit before the fact is also a voluntary
19 process, which the applicant did not do. And I don't see how you
20 could possibly applaud someone for going voluntarily to get ex
21 post facto permission when they did not do it in the first place
22 and they knew full well that they were breaking the rules. Thank
23 you. That's my only comment.

24 CHAIR PHILLIPS: Thank you Ms. Beharry.

25 DAVID HALLETT: Good morning, Commissioners. David Hallett
26 from Soda Canyon Road. Director Morrison is on the record of his
27 view on compliance with use permits in this County. He's
28 constrained by his budget and his Staff. And currently we have a

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1 policy in the county of asking for wineries or vineyards that
2 are not in compliance to come in and ask for use permit
3 modifications.

4 I think I'm more concerned about the policy through the
5 County than I am about Mr. Kiken and Reverie. I was here a month
6 ago when you talked about The Caves on Soda Canyon with the
7 requested modifications there. This is far more egregious in
8 front of you today than The Caves. I counted up 18 violations
9 here. I have no idea how you're going to even consider granting
10 absolution for all these contradictions of a use permit and
11 issue a new use permit that will start from--if you do, if you
12 do agree to apply your discretion and say you can start all over
13 again with a complete new permit, it's what it will be. It will
14 start from the day you say so.

15 I came to live in this country because I believed what I
16 read about it, that this country was built on the rule of law. I
17 accept that. I came here, I worked here, I became a U.S.
18 citizen, and I've told so many Americans, natural-born
19 Americans, that they should go to see the people queuing up,
20 1,200 people when I became a citizen, were they are asking to
21 join this country because they believe that we would come here
22 and we would live under the rule of law.

23 Giving absolution to people who just came in and said, I'm
24 sorry, who have broken the law, because that's what it is. Your
25 use permit is the law here. And I think you should use your
26 discretion. You should listen, of course, to Mr. McDowell, but
27 you should see all the holes in his presentation to you today.
28 And I believe you should tell him I'm sorry, you tell the

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1 clients I'm sorry, you deny it, and you turn it back into a
2 compliance code violation. And give it back to the Planning
3 Commission--Planning Department and tell them investigate all
4 the violations of the code. Thank you.

5 CHAIR PHILLIPS: Thank you Mr. Hallett. And just to clarify
6 there is--you referred to as a policy. There actually isn't a
7 specific policy about the asking for--it's a direction, I think
8 that we need to clarify for the record. So.

9 MR. HALLETT: Thank you.

10 RUDY VON STRASSER: Good afternoon. My name is Rudy von
11 Strasser. I live at 1510 Diamond Mountain Road. I am Norm's
12 neighbor. And I have a problem with a quote that I wrote down
13 that was thrown out before, that visitation--I'd like to talk
14 about visitation. I'm sorry. And the quote is that visitation is
15 being driven by a real estate deal. And if any of us in our
16 house puts a bedroom on the house, we're thinking about whether
17 we're going to sell that house at some point down the line.

18 Anything we do is a real estate deal, because none of us
19 have access to the fountain of youth. None of us are going to
20 live forever. And as we get older we're going to sell a
21 property, we're going to sell our house, we're going to sell our
22 car. And changing the oil is something you do for your car
23 because you're going to sell it down the road and you want to
24 keep it healthy.

25 In this valley there's 500 wineries, or 400, or whatever
26 the name is. And a lot of those are going to come on the market,
27 and a lot of people are planning on selling them. So, I don't
28 think whether this winery is going to be sold sooner or later or

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1 sold again 20 years down the word is germane to the issue.
2 Really the issue is what's best for the parcel.

3 And the County is making--I've seen a lot of numbers about
4 visitation, and none of those numbers take into account--I've
5 never seen a number put out by the County or anybody else, how
6 much wine does an average consumer buy? How many dollars, how
7 many bottles? And if you want to have a winery and you want to
8 sell--an estate winery like this one, and you want to sell your
9 wine to your customers, you need a certain amount of customers
10 to do that. And I think Norm has put together a business plan
11 which shows how many customers he needs. And those are real
12 numbers. Those aren't numbers that, you know, seem good, well
13 maybe we'll do 20 a day, or maybe we'll do 24 because those are
14 round numbers. He has real numbers. And I think for this
15 application, and any application in the future, the County needs
16 to allow a winery to make financial sense. And if it doesn't,
17 they shouldn't give a winery a permit and say, by the way, you
18 can only see 10 visitors a week. Because then you might as well
19 not build that winery.

20 So I think you need to have real numbers. I think Norm
21 provided real numbers. I think the overall impact on the Valley
22 is miniscule. Down the road we have The Castle, which has, you
23 know, two or three thousand people a day. And here we're talking
24 about, you know, two extra cars a day or something like that. So
25 it's really a miniscule amount, and you know, for this project,
26 and future projects, if you can't allow a winery to be
27 successful, have less wineries or don't permit them. But it
28 doesn't make sense to come up with arbitrary numbers that

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1 appease a lot of people that make no financial sense. Thank you.

2 CHAIR PHILLIPS: Thank you Mr. von Strasser. I just wanted
3 to let people know that Commissioner Cottrell will be needing to
4 leave by 12:30. So we--that's our schedule for today. But
5 Commissioner Pope said he could stay until four. [Laughter.]

6 COMMISSIONER POPE: I underestimate nothing at this point.
7 [Laughter.]

8 DAVID HEITZMAN: Good morning Commissioners. David
9 Heitzman, 23 Rockrose Court. I am still a licensed general
10 contractor. I have done major projects and minor projects, most
11 not in this valley. I've done commercial for Xerox in South San
12 Francisco, warehousing work, estate homes, working on them here
13 under my license. Dealt with a lot of communities, and a lot of
14 counties, at least to me.

15 When I first came here 30 years ago, my wife was hired as
16 a--I became a building contractor in Butte County, so of course,
17 my wife became a building inspector--became wrong on so many
18 things. She moved here, and hence I was in the county, and I got
19 to meet a lot of people in the contracting business, A's, and
20 B's, and the C's.

21 And at that time, what struck me, what was kind of
22 interesting, was that the County had a reputation of
23 forgiveness--or not forgiveness, that's inaccurate, I want to
24 take that back. It was if you--it is okay--there are times when
25 it's going to be to your advantage to just do it ahead of time,
26 and then get caught, because it's faster, the process is faster.
27 And in the long run you can make money. It had that reputation
28 then.

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1 Among grading contractors, and a certain amount of B
2 contractors, as I'm sure there's a--it's an interesting group.
3 To do this day, it still kind of has--the County, not the City,
4 not the City of St. Helena, still has that reputation of it's to
5 your advantage just to do it in some cases ahead of time. And if
6 you put an end to, quote, forgiveness, and deal with compliance
7 first, maybe you'll--you could cut down your work load a bit, is
8 what I'm saying. Anyway, thank you very much, and it's a
9 pleasure, and an honor to be a resident of this county. Thank
10 you.

11 CHAIR PHILLIPS: Thank you. Okay, is there anyone else who
12 would like to speak on this matter?

13 NORMA TOFANELLI: Excuse me. The microphones again. Norma
14 Tofanelli for Napa County Farm Bureau. And I hope it's not until
15 4:30. Yesterday was a killer at the Board, and we didn't get
16 enough comfort breaks.

17 Last Friday, Jim Laube's Wine Spectator Blog, Wine Flights,
18 noted that consequences for noncompliance in Napa County are so
19 minimal that, quote, some vintners are willing to develop
20 properties without permits and pay the fine later. Laube's blog
21 is widely followed. I don't think this is a reputation we should
22 be proud of. We have worked too hard to protect our land and
23 other resources with carefully crafted regulations to allow
24 their irrelevance to be our legacy.

25 Napa County Farm Bureau has repeatedly, both individually
26 and jointly, with the Napa Valley vintners, grape growers, and
27 winegrowers, urged the County to enforce these regulations. The
28 vintners offer a program to help their members maintain

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1 compliance. They are serious. They are really working at it.

2 Enforcement is a critical component for the protection of
3 quality of life and resources as well as for the integrity of
4 our system of governance. We appreciate that Staff is steering
5 the ship in the right direction, as indicated by recent Staff
6 Reports and recommendations.

7 Requiring demolition of unpermitted structures is
8 appropriate. We also appreciate the willingness to embrace--or
9 to enforce demonstrated recently by this Commission. We do,
10 however, disagree with Staff's recommendation in this case. And
11 instead support Option 3, denial. For several reasons, including
12 Staff reports that this application was not filed in response to
13 a code compliance investigation; however, the application was,
14 quote, voluntarily submitted in advance of submitting required
15 information in the winery audit process, in effect preempting
16 investigation.

17 The property has recently sold or is in escrow so the
18 blessing of use permit violations and increased entitlements
19 serve to increase the property value, rewarding non-compliant
20 behavior. Staff reports that the applicant is, quote,
21 uninterested in the opportunity to participate in stream
22 restoration in exchange for approval of some of the unpermitted
23 activities.

24 Denial should also include a requirement to prove
25 compliance with the original use permit for a period of time as
26 well as to complete stream restoration before being allowed to
27 reapply. Protection of our watersheds is critical and operating
28 within your use permit is not punishment. We have to lose that

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1 idea.

2 Napa County Farm Bureau also opposes any further approval
3 of hold and haul systems and has presented this position for
4 APAC consideration. Hold and haul is not sustainable. As
5 recently reported, thousands of trucks move over our crowded
6 roads, hauling winery waste to Oakland for disposal, increasing
7 traffic, as well as our carbon footprint. Projects that require
8 water to be trucked in and/or waste to be trucked out should
9 simply not be permitted. They are not appropriate for the site
10 nor beneficial to the community.

11 Attached is a copy of a letter dated April 29, 2015,
12 prepared by Abbott & Kindermann, LLP, which details the CEQA
13 consequences of continuing to process after-the-fact permits
14 such as this one. We appreciate the opportunity to comment and
15 thank Staff for a thorough report.

16 And one separate comment. We are a bit concerned with the
17 comment heard this morning in terms of traffic analysis that
18 Staff doesn't think that a hold and haul truck coming and going
19 once in a while is going to affect anything. Does that meet the
20 CEQA standard for impact analysis? How many hold and haul trucks
21 are there going to be? I find no mention of that in the Staff
22 Report and I see this in other Staff Reports on hold and haul.
23 It's just a casual throw off sentence it will be a hold and haul
24 and then we see the media reports where everyone's in alarm. How
25 come there's so many trucks, thousands of them going up and down
26 the roads? You permitted every single one of them.

27 And we are also concerned with this increasing commercial
28 use of agricultural land without assessing the cumulative

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1 impacts. We're seeing increasing urbanization of this entire
2 county and it's in your hands. You have approved every single
3 one of those. Thank you.

4 CHAIR PHILLIPS: Thank you Ms. Tofanelli.

5 CHRIS CANNING: Good morning. My name is Chris Canning and
6 I'm here today in my role as the executive director for the
7 Calistoga Chamber of Commerce and Visitor Bureau. I just wanted
8 to make a few comments. Reverie Winery has been a member of the
9 Calistoga business community for many years, as you have heard
10 previously. They have been a member in good standing through the
11 Chamber of Commerce and a strong contributor to local
12 organizations. They offer a very unique experience that occurs
13 within a very unique location for those of you that have visited
14 it, in a very unique place in the Valley called Calistoga. They
15 deliver world-class and world-renowned hospitality known
16 throughout Napa County and they are a strong asset in Calistoga.

17 Regardless of who the ownership is, and Norm Kiken has been
18 a fantastic owner, the property itself, whether we speculate on
19 who owns it going forward, is a very remarkable and unique place
20 that we would love to see staying where it is doing what it does
21 in Calistoga. Thank you very much for your time.

22 CHAIR PHILLIPS: Thank you. Is there anybody else wishing
23 to speak at this time?

24 ROBERT PECOTA: Good morning still. My name is Robert
25 Pecota, a 44-year resident of Napa County and a winemaker
26 operating Robert Pecota Winery on Bennett Lane in Calistoga for
27 38 years before I decided that maybe golf was more important
28 than making wine.

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1 But another thing, and thank you, Commissioners, and I
2 would like to shout out to your deputy planning director, John
3 McDowell, who over the years on a number of occasions I've dealt
4 with, and on various projects and I have found him to be a real
5 community servant and a very fair and levelheaded administrator.
6 So I don't understand why he is only a deputy and not the
7 planning director. So. Just for you, John, but...

8 CHAIR PHILLIPS: Because as I think as David would say, no
9 one would want the job--wants the job. [Laughter.]

10 DIRECTOR MORRISON: He's been more than welcome to it for
11 the last 14 months. [Laughter.]

12 MR. PECOTA: I was--I have known Norm Kiken and been a
13 resident of Calistoga, as I say, for 44 years, and I did a
14 little research yesterday because I was trying to say where is
15 this wonderful valley going that my wife, Susan, and I decided
16 to move to in 1970 and I remember a conversation with--with Jim
17 Hickey in the early days when I was much younger and when he
18 came to Napa County as Planning Director. And I remember him
19 telling me that he was appalled with watching the Santa Clara
20 Valley, known for its wonderful pome fruits, its grapes, and its
21 tree crops, be paved over. That was a function of World War II
22 and Moffett Field and the development of what became Silicon
23 Valley today.

24 And he left Santa Clara County and took the job here as
25 Planning Director in Napa County. And he told me, you know, my
26 job is not to let that happen to another valuable agricultural
27 resource.

28 And I think we've done a pretty good job. But I'd like to

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1 take a longer vision and just make some comparisons to other
2 grape-growing areas. The one that comes to mind that's almost
3 identical to the Napa Valley is Alsace. It's on the eastern side
4 of the Vosges Mountains and the Rhine River runs on--it's on the
5 eastern slopes to the Vosges, and then the Rhine River is three
6 or four miles away. And 38,000 acres are under cultivation, just
7 about the same that we have here in Napa County. It's about 90
8 miles long, a little longer from Colmar to Strasbourg, and they
9 have been growing grapes there since the third century. And if
10 you go to Alsace, and I would highly recommend that you all go
11 to Alsace, it's a beautiful place.

12 You have to ask yourself the question, how have these
13 people been able to maintain what appears to be a Napa Valley
14 tilted a little bit on its side for 1700 years. We've only been
15 here 160 years since John Patchett planted a few grapes in Napa.
16 And I think that in order to protect the land you have to allow
17 the agricultural community to exist, to sell its product, to
18 build its reputation.

19 We are in the Garden of Eden. How many people do you know
20 who live in Napa County who say, I live in the Garden of Eden.
21 In order to protect that Garden of Eden, you've got to protect
22 that agricultural resource. That output has got to go,
23 hopefully, through a number of small wineries like Reverie. Now.
24 We say, oh my goodness, we can't--WDO--we've got to stop the
25 winery development and so on and so forth.

26 Guess how many winegrowers and winemakers with labels there
27 are in Alsace. Two thousand. Two thousand. But when you go to
28 Alsace, you never get this feeling that you're being inundated

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1 by commercial development or residential development or anything
2 like that. They have the concept that Napa has if we could only
3 stick to it and that is development in the villages and open
4 space agricultural land supported with a crop that's profitable
5 and can build a reputation.

6 So I am looking down the road--I'm not going to speak
7 specifically about any aspect of Norm Kiken and Suzie, you're
8 very good friends of mine, but I'm not going to speak about
9 Reverie. I'm going to talk about the real issues that the County
10 faces. The real issues are the grandfather clause.

11 Rudy von Strasser mentioned 2,000, 2,500 visitors at the
12 Castle. Two miles up the road is Reverie and we're arguing about
13 20 visitors a week? What are we thinking? We need to think about
14 that grandfather clause which exempts, I think, how much, 70
15 percent of all the wine production in the Napa Valley?

16 We need to think about solving our transportation problem
17 so that it's more like Alsace, the Route des Vins runs right up
18 the middle and then down along the Rhine River they have a four-
19 lane divided highway so if you want to go from Basil to
20 Strasbourg, you're not going to drive up the Route des Vins,
21 that'll take you five hours. But if you drive up the freeway,
22 which is on the side, to transit through that area, you'd get
23 there in an hour and fifteen minutes.

24 So to me the issues are greater, the policy that needs to
25 be considered is not whether a winery can have 20 visitors, 40
26 visitors, whether or not they need to restore a small area, the
27 real issue, long run, to save this very valuable resource is
28 changes in transportation policy and changes in the grandfather

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1 policy.

2 Alsace, you cannot bring grapes in from Burgundy or
3 Beaujolais or something like that to make wine in Alsace. You
4 grow the grapes in Alsace, you make the wine in Alsace, you sell
5 it as Alsatian wine.

6 Norm Kiken in Reverie are an estate winery. All these
7 little wineries you're beating on for these violations are
8 estate wineries. The ones that you really should be considered
9 are all those trucks that Norma talks about running up and down
10 the Valley. They're not going to the small wineries, they're
11 carrying bulk wine from other places.

12 So that's just in my--I'm getting old, you know, so I
13 can...

14 CHAIR PHILLIPS: Right. And the--we have to--we need to--
15 right--focus on what is on our plate today. Correct.

16 MR. PECOTA: So I can philosophize about life now, but
17 those are the issues I think you really should be considering
18 and I thank you for listening to an old winemaker.

19 CHAIR PHILLIPS: Thank you Mr. Pecota. And again, that is
20 not exactly what is on our plate today, but I would--I encourage
21 you to take those comments to the APAC committee who are dealing
22 with some of the larger and broader issues. And the Board of
23 Supervisors. So thank you for your thoughts.

24 MARCO DIGIULIO: My name is Marco DiGiulio, 1245 Firview
25 Drive in Calistoga. I'm a longtime friend of Norm Kiken's. A
26 resident of Calistoga for 22 years, a winemaker in the Valley
27 for 31 years, 32 years, and just wanted to echo a couple of
28 things that have already been said.

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1 That somebody who is familiar with the property, having
2 purchased fruit from the property since 1994, I'll echo what Ted
3 Lemon has said about the general state of the property being far
4 preferable now to what it was back then. And I'd also like to
5 echo some of the sentiments that both Rudy von Strasser and Bob
6 Pecota brought up about the importance of allowing small estate-
7 grown, family-owned properties to thrive and to try to alleviate
8 the risk of the Valley turning into a very large, commercially
9 driven wine region. That's it. Thank you very much for your
10 time.

11 CHAIR PHILLIPS: Thank you. So I'm going to ask if the
12 applicant would care to speak before I close the Public Comment
13 period.

14 DAVID GILBRETH: Yeah. Good Morning Madam Chair,
15 Commissioners, ladies and gentlemen, my name is David Gilbreth
16 and I represent a prospective purchaser. And I want to--I want
17 to give you a little background information on that. I sincerely
18 think that as a matter of this proceeding that it's irrelevant,
19 but I understand the interest that the public might have about
20 it and I want to walk through that and give some people some
21 information...

22 CHAIR PHILLIPS: Well, I want to be respectful, but I think
23 we've established that it is irrelevant and we aren't
24 discussing, necessarily, the realm of who the potential buyer is
25 or what the scenario would be. So I'm hesitant to open that line
26 up. Commissioner Scott?

27 COMMISSIONER SCOTT: I'd like to hear what Mr. Gilbreth has
28 to say. I'll say it a little louder. I'd like to hear what he

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1 has to say.

2 MR. GILBRETH: Well, Madam Chair, before you make your
3 final ruling, a number of the speakers have either expressly or
4 by innuendo spoken today in a Public Hearing, as is their right,
5 and made comments about the prospective purchaser. So in my
6 view, in all fairness, that is an issue before you.

7 CHAIR PHILLIPS: Agreed. And what I--I guess what I was
8 trying to say...

9 MR. GILBRETH: I can limit it.

10 CHAIR PHILLIPS: And I guess what I was trying to say is
11 that, you know, when we had the discussion earlier and we said
12 that's not on the table, so I don't necessarily want to open it
13 up to that conversation anymore and I was trying to be sensitive
14 to the fact that Commissioner Cottrell has to leave in 45
15 minutes. So that being said--you can talk as long as you want.

16 MR. GILBRETH: Well, thank you. I will briefly touch on
17 this topic and then I'll move on to what I think are the real
18 merits of the matter that's before you.

19 Several years ago the owner of Spring Mountain Winery
20 became a client of mine and that particular individual got
21 approvals with a team for a resort within the city limits of
22 Calistoga and in that process that owner became interested in
23 getting certain options, one of which would be on the Reverie
24 Winery. And they have not made a decision as to whether or not
25 they will or will not buy the property. They're certainly
26 seriously considering it and as a matter of due diligence on
27 their part I was requested by the former owner and now the
28 present owner to work with Norm and his counsel, a colleague of

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1 mine, Scott, to determine what was going on in that site, if and
2 when they chose to purchase it. And in that process, Norm
3 candidly, voluntarily, over number of years, disclosed
4 everything that he could possibly think of and that's a
5 challenge for any owner of property. You continue with your
6 business plan. You don't always remember everything.

7 Unfortunately that process took several years. There was
8 changes in his representation, there were staff changes and
9 there were delays. There never ever was, and I have checked the
10 record very carefully, any code enforcement aspect imposed upon
11 Norm or the Reverie Winery. Ever. And in the process he got
12 notified that on a standard audit basis the County was
13 interested in his production and I think visitation, but nothing
14 is in writing. There never was any discussion about the access
15 in there, the cave, the other aspects of it at all by the County
16 and when I talked to Norm he candidly told me answers to the
17 questions that I had and in that vein--in that vein of
18 cooperation, full disclosure, with, I would say, good integrity,
19 he disclosed a variety of items.

20 And in that process I remarked that perhaps he should go
21 get a couple of demolition permits for work that he did in
22 closing an existing structure and building a shed. And some
23 people could argue that he didn't even need a building permit to
24 do what he did. But rather than debate it, he went in and he
25 got--voluntarily, there was no request from the County
26 whatsoever to do that. He got the demolition permits and at his
27 own expense and time he took them down.

28 We went further and then we analyzed the cave and despite

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1 what people might have otherwise said here, there is a permit
2 for the cave from the State of California and we have a copy of
3 it and I believe Staff has it and we can produce it for the
4 hearing if you like.

5 And in that process, which was really what was going on,
6 and I've been around here a long time, people would go to a
7 contractor, they'd get the cave permit, it would be drilled, and
8 there was a serious question as to whether or not anybody would
9 think who was not deeply involved in the land use world, whether
10 or not the County had jurisdiction to do anything, to regulate
11 it once you had the State permit.

12 And I remember personally representing Mr. Jarvis with
13 other people when I was at DP&F about those issues. So this was
14 something that was out there. What he did with that cave he did
15 under the State authority to do it.

16 And then I wanted to get to this encroachment and I would
17 ask Staff if they could put up the, I think it's the western
18 view of the winery so you can see the lack of magnitude of any
19 impairment to the corridor. This is the old winery building
20 we're--there we go.

21 So let's look at this and--this egregious result. You can
22 see here, and we have two biological reports on this site. We
23 have a comprehensive one, again, working with Norm at the
24 request of myself, my client, in concert with my colleague,
25 Scott, we got a complete biological report, it's in the file,
26 none of the opposition has made one single comment about that
27 very professional report and its accuracy.

28 And then just to go even further, we got an addendum to it

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1 so that this little corridor was examined and the conclusion of
2 that was that the gravel road, and you see it, this is the best
3 evidence of what was there, didn't include any native
4 vegetation. This was long before the cave took place under the
5 State permit.

6 So when we're asked about mitigation for this, we look at
7 it and we think that's not very reasonable. What is it that we
8 are mitigating? Do you want us to go somewhere else and pour out
9 15,000 square feet of flat gravel? I mean is that really what
10 this is about? It looks that way to us.

11 Then why did he even do that? Did he know about these
12 requirements? I submit after talking to him for three years,
13 working with Staff, he didn't know about it. Why would he be
14 lulled to sleep a little bit? He had the State permit, there's
15 nothing there that was removed and he also had a use permit for
16 the winery, which already is within the setback. So how would a
17 non-professional turn around and say, well they gave me one foot
18 away the right to build my building, remodel it, put the tanks
19 out there, pour concrete and somehow I'm egregiously violating
20 the setback? That's not the case. That's not reality.

21 Then further, which is in the file, which nobody has talked
22 about so far, there's a landscape plan that's approved by Napa
23 County and there's no reference in there, be careful, don't get
24 into the setback. So we have an incredibly innocent person who
25 is smart and rational, operating, getting his State permit,
26 getting his use permit for his winery, getting his plan approved
27 for landscaping and he moves forward.

28 And prior to that, what did this--what did Norm do? He went

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1 out and got an erosion control plan to put in a road and a house
2 for his benefit and take care of the existing planted vineyard.
3 And I have a copy of that. And during that process, what did the
4 County do? They properly reviewed it under CEQA and determined
5 that there were no impacts at all for the proposed work. None.
6 So we got a guy that's complying with the law, getting permits
7 all along, reasonably relying on them, and moving forward.

8 Then things come up. Yes. He's had more tastings, he's had
9 them in the cave, he's had them over in the other area on the
10 other side, which I think is south, it is hard to figure that
11 out of Teal Creek. Wow. Is that horrible to walk over there and
12 have tastings and have people enjoy that?

13 This is not anything like The Cave and the discussions that
14 people want to relate it to. And then in the very letters that
15 some of these people have submitted from the lawyer who I submit
16 probably doesn't represent them on this matter, but they've
17 taken a letter from another lawyer--if I were that lawyer, I
18 wouldn't appreciate that. I wouldn't appreciate somebody taking
19 my remarks and my product and saying, well, you can just hand it
20 in and have it apply in a general sense.

21 And what one of the letters says, and I think it's the one
22 that's starting to quote Beckstoffer, do the CEQA analysis. We
23 did. We have a negative dec. going back for the ECP, we have a
24 negative dec. for the winery, he also has building permits for
25 the home, by the way, and you move through that, the landscaping
26 permit, we have a negative dec. here. Staff didn't require the
27 biological report, they didn't require the addendum to it, they
28 didn't require the traffic study, nothing the opposition has

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1 said is other than we think that it's, to use one of their terms
2 and maybe twist it, there's some nefarious activity on the part
3 of evil Norm violating his use permit and with some plan and no
4 permits and the implication, if not the express statement, that
5 he's destroying the environment.

6 And when you go back up here and maybe you could do that,
7 we could look at the aerial that shows what this property looks
8 like. It is fantastic. It is environmentally sound. What has he
9 done under his stewardship? Everything that's great. Has he
10 worked with the Staff? You see this thing here? This is your
11 Staff Report. Tens of thousands of dollars have been spent. If
12 someone wants to punish him, let it be that. That's an awful lot
13 of time and money to go through this process, which is totally
14 unnecessary. Certainly if you look at all the facts you see
15 that. There's nothing really to mitigate. Did he act
16 responsibly? Yes.

17 So people make comments and they say, well, there's--if
18 there's a policy, maybe it's a directive, as the Chair has said,
19 on and on, and I want to find that letter for just a minute, I
20 think it's over here...

21 Well, as some of you know, I've been here for a long time.
22 Not as long as Bob, wherever he is back there, but a long time.
23 And there has in fact been a policy and it's been a good policy,
24 that when you come in voluntarily, which he did, regarding the
25 cave, the tastings, the setback, all of it, save and except,
26 really, the production, there's been a reasonable policy that
27 we're going to work with you, we're going to examine it under
28 CEQA, as Beckstoffer himself said, as quoted in the letter, and

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1 then you make your determination as to whether or not it should
2 be approved. And of course it should be approved. There's no
3 question about it. Look again up on the monitor. It's a fabulous
4 place.

5 I'm struggling to get that letter, but I want to quote it
6 for you, or paraphrase it for you, maybe I can dig it out here.
7 The policy has always been what I indicated. And in fact about a
8 year and a half ago I had occasion to call John. And by the way,
9 Staff did a remarkable job on this in my view, notwithstanding
10 John's recommendation, which he agonized over. But that's why
11 you're here. You're here to exercise, with respect, your
12 responsibilities and your judgment, based upon the facts and the
13 circumstances.

14 If it is clean under CEQA, if it is consistent with the
15 General Plan and the zoning, if Norm did get all those other
16 permits, which he did, I submit you should look very carefully
17 at what you want to do as a result of all of that compliance,
18 even with these minor items.

19 And I'm not sure where the other gentleman--what other
20 country the other gentleman came from, but a little bit of
21 reason goes a long way and that's an American tradition too. But
22 in the letter, getting back to John, I went to John three years
23 ago and said, there are all these violations. What should we do?
24 And as he indicates in the Staff Report, David, well, you know
25 how this policy is, he's got to come in, he's got to disclose
26 everything, we don't have an enforcement proceeding going on,
27 and we'll work with the applicant. We want to check and make
28 sure that it's in compliance with CEQA. We want to do this right

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1 and then we'll proceed and all the information will be before
2 the Commission and they'll make their decision on it.

3 And in furtherance of that, getting back to my comment
4 about a year and a half ago, the District Attorney's office,
5 very much unlike this, had an enforcement matter and one of the
6 deputies, I thought, was new and a bit unrealistic about what
7 these policies might be and they were in dispute, and so I
8 called up John and I said, John, believe it or not, you may be
9 an expert witness. And I just want to refresh my memory
10 regarding the policies here.

11 My memory is that John said, well, yeah, that's exactly
12 right. And eventually, and maybe I need a break here to find
13 this letter, there is a quoted section...

14 Thank you--that I wanted to read because some of the people
15 don't understand this. And why wouldn't you have a policy like
16 this? My goodness. Wouldn't you want these small wineries to
17 thrive? So I'm handing here, and Scott was nice enough to give
18 me a copy of it, Napa County Planning Commission Board Agenda
19 letter dated August of 2014. And he's a very thorough guy, he's
20 highlighted this. And it says, among other things, in regards to
21 production and visitation, a winery has two options--and there
22 are a couple sentences before that talking about violations--
23 they can either modify their use permit or return to the allowed
24 levels.

25 Wow. So apparently it is in writing and it's something that
26 I've worked with for years. And that's exactly what you want to
27 have happen. You want people to come forward, evaluated under
28 CEQA, analyze it all and decide whether or not you would approve

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1 it or you would not approve it. How did he get there? Well, if
2 you're in a small business, and some of you are in business and
3 have been in business, are you looking at your use permit when
4 a--when you got 21 people there all the time? Are you trying to
5 be a good citizen and stay in compliance? Sure. Are you running
6 out and is it your obligation to go out when the County has
7 given you permission to do things and say, well, maybe the law
8 changed, maybe you made a mistake about the setback and I guess
9 I'll hire a lawyer to double, triple check all that. This is--
10 this is what good citizens--this is how they operate in the real
11 world. And they should not be penalized for this. The--I would
12 urge you to approve what is requested because it's highly
13 appropriate and it's so different.

14 And then we get into the marketability. If you're going to
15 open that door, and this is very facetious, are you going to
16 tell him what varieties to plant? How to farm it? What your
17 bottle's going to look like? What your label's going to look
18 like? What your marketing literature is going to look like? You
19 ought not to be involved in the marketing of the products. Other
20 than if you think they don't make sense, wow. You're requesting
21 something on an overview that doesn't make sense. Could you
22 explain that to me?

23 So Norm has explained it. He's got a marketing plan. He may
24 be smarter than you, he may not be as smart as you, he may be a
25 better marketer, he may be less better at it. But that's what he
26 thinks works, that's what he tries to do, and he's had it
27 reviewed by a professor from Sonoma State University that has a
28 lot of experience on that and her professional opinion is, hey,

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1 this is reasonable. Wow.

2 I don't think anything--and I would not want to say
3 anything to the opposition other than a lot of nice people, some
4 of whom I know, and I like, some I don't--know, I'll probably
5 like them if I knew them. They're wrong. One and one is two. And
6 if the opposition says that it's another number than that and
7 there's some CEQA issue which they have not raised in any
8 scientific way at all, with all respect to them, their comments
9 should be dismissed. They're unmeritorious.

10 Do they have a fervent concern for the Valley? Absolutely
11 and I respect that and I do too. But if they have nothing to say
12 other than, you know, I'm concerned about this and I want to
13 punish these people without understanding all of the complete
14 background and the facts, that doesn't add up either.

15 I appreciate your time. And again I urge you to approve it.
16 Thank you very much.

17 CHAIR PHILLIPS: Actually I have one quick question for
18 you. I want to, you know, I want to apologize, because I was
19 unclear that you would be addressing the actual project rather
20 than the sale. But the question I have for you then is in the
21 Staff Report it asked if the applicant had not expressed an
22 interest in pursuing the concept of stream restoration, is--that--
23 --is that the case, or...

24 MR. GILBRETH: Well, that would be a question for my
25 colleague, Scott, his client. Again, my client has not decided
26 whether or not...

27 CHAIR PHILLIPS: Oh I'm sorry, because you were speaking--
28 oh...

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1 MR. GILBRETH: Yeah. So I don't speak for them...

2 CHAIR PHILLIPS: ...Since you were speaking on the project,
3 okay. Then...

4 MR. GILBRETH: I can tell you, I can reiterate in two
5 sentences the thoughts that I just expressed and that is...

6 CHAIR PHILLIPS: Well then I'll...

7 MR. GILBRETH: ...what's the need?

8 CHAIR PHILLIPS: ...I can wait and hear from him because--
9 I'm sorry. You were speaking about the project so I was
10 confused. So if Mr. Greenwood--you can come and answer on that
11 question, that would be great for me.

12 MR. GREENWOOD-MEINERT: Again, Scott Greenwood-Meinert on
13 behalf of the applicant. With regards to the creek restoration
14 component of Option B, I don't think there's enough facts
15 discussed yet between us and Staff to even know whether the
16 15,000-foot component of it is reasonable, where it would go,
17 quite frankly, there's a lot of work that would need to be done
18 with regards to that before we would reasonably entertain it.

19 Not to say that we would not. To be honest, we're here as
20 an applicant asking for Option 1. There are aspects of Option 2
21 that we don't have a problem with with regards to the creek
22 restoration. The idea is appreciated but it needs a lot more
23 work. And to be honest with you, sensitive to time here, unless
24 you have something else for me, I'm--I have nothing else to add.

25 CHAIR PHILLIPS: Thank you Mr. Greenwood. I'm going to
26 close the Public Hearing and bring it back to the Commission.

27 So just to recap there are four options that we--that the
28 Staff Report provided as options. And I think it would be clear

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1 that if Option 2, the Staff recommendation, were selected that
2 that would require a continuance to explore the creek
3 restoration component. Commissioner Cottrell.

4 COMMISSIONER COTTRELL: Thank you Chair Phillips. This is a
5 complicated proposal and Mr. McDowell, I appreciate your parsing
6 things out so that we can kind of go issue by issue. One
7 question I had to begin is to understand a little bit about the
8 cave permitting requirements because I think you mentioned in
9 the Staff Report that at the time the cave was begun it was not-
10 -there was not a County permit required, so I'm just trying to
11 understand the process there, so anything that you could offer
12 would be helpful.

13 DEPUTY DIRECTOR MCDOWELL: I didn't' start working for the
14 County until 2002 so it's a bit difficult for me to state what
15 the County's policy was in the late 1990s other than what was
16 relayed to me when I began working for the County.

17 As I understand the past practices and the practices that
18 existed at the time that I started to work for the County is
19 that we did not require a portal permit, a grading permit, or
20 the plumbing and mechanical permit until after the cave had been
21 dug and that the cave--you could dig a cave by getting a mining
22 clearance from a State Department of, I think, Geology and
23 Mines, and clearance from Cal/OSHA. But I believe the County has
24 always held that to use the cave once it is dug that you need to
25 get proper building permits to occupy it, essentially like a
26 tenant improvement, and that to use it for winery purposes it
27 would need to be folded into the winery use permit.

28 COMMISSIONER COTTRELL: Okay, so that--the violation that

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1 we're looking at here is more to do with usage rather than
2 digging or construction of the cave.

3 DEPUTY DIRECTOR MCDOWELL: In my opinion, yes.

4 COMMISSIONER COTTRELL: Okay.

5 DEPUTY DIRECTOR MCDOWELL: It seems like there are a number
6 of cases where people dug caves under their mine permit from the
7 State and then came in to get approval of it for winery use with
8 a use permit.

9 COMMISSIONER SCOTT: Yeah.

10 COMMISSIONER COTTRELL: Thank you.

11 CHAIR PHILLIPS: Would anyone care to comment, or does
12 anyone have any additional questions for Staff? Commissioner
13 Scott. Oh. Commissioner Basayne. I see you had [inaudible].

14 COMMISSIONER BASAYNE: Well I guess I'll just jump in here.
15 By the way, in case you haven't noticed, we are changing the
16 culture of review for these requests and I heard it mentioned
17 today that that's something we need to do. We are mired right
18 now deeply in this process.

19 This application resides squarely in the present concern of
20 providing after-the-fact use permits and by doing so, possibly
21 encouraging more violations that--from the perspective of some
22 individuals.

23 No doubt we do aspire to have a level playing field here
24 and basically we're looking at the notion of enforcement,
25 although some have said that we're not forceful enough,
26 certainly in our practices. There are differences here though
27 compared to the prior approval that has been referenced that are
28 worth noting notwithstanding the comments of Deputy Director

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1 McDowell.

2 Yes, we have a condition of non-compliance. Has this
3 adversely impacted the viewshed? No. Would we--more importantly,
4 would we support this request without these non-compliance
5 conditions being present if we are just looking at this with a
6 clean slate? And I believe the answer is yes. We would.

7 Has the applicant volunteered this information prior to any
8 audit? Yes. It's clear that this occurred at least three years
9 ago. Was there a landscaping permit provided by the County? Yes.
10 Was there a State permit provided for the cave? And of course,
11 as we just discussed, no, there was not a County permit provided
12 for usage. But as I understand it we have discretion in our
13 decisions as a Commission and our goal is to seek compliance for
14 non-compliant wineries. This process allows us to find
15 compliance and to come to some kind of happy medium.

16 Did this applicant underestimate his needs in the past? I
17 believe he did. Is that an egregious violation? I don't believe
18 so. With respect to wine production, the office conversion, the
19 hold and haul, I believe this request is reasonable. I also
20 believe the visitation request recognizes and acknowledges
21 current conditions and brings them to light.

22 Should the stream restoration occur? This is where I have a
23 bit of an unclear feeling. The stream, of course, having been on
24 the WICC Advisory Board, streams are created simply by runoff.
25 But then it's a seasonal matter. So if you have heavy runoff
26 being diverted you no longer have a stream. Diversions occur
27 naturally. So is this a stream that has disappeared by virtue of
28 the human intervention here or is this something that occurred

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1 naturally?

2 All I know is right now is we don't have a stream that's
3 running through the back of that property. But I don't believe
4 that there has been an egregious upheaval of an existing stream.

5 So I'm betwixt and between as to whether or not to really
6 even go to Option 2 on this because I--as I've said in the past,
7 I don't want to protract these approvals and continue them if we
8 can indeed make a decision today. However if there is a need to
9 do--perform more diligence that will make the County more
10 comfortable in terms of its approval then we definitely need to
11 investigate this.

12 I want to say I appreciate the applicant stepping up and
13 providing this information to us in making this request to
14 correct this condition or series of conditions of non-
15 compliance. I don't think this is a criminal matter and today
16 I'm interested in being fair and reasonable rather than making
17 an example of a small estate winery that is a contributor to
18 this community and this industry.

19 By the way, this is not a question of amnesty, it's a
20 question of compliance. So at this point I'm not entirely sure
21 as to whether or not I would support Option 2 or Option 1, I'll
22 leave it to the Commission to discuss this.

23 CHAIR PHILLIPS: Thank you Commissioner Basayne.
24 Commissioner Scott, your light is on.

25 COMMISSIONER SCOTT: Okay. First of all I agree with
26 virtually everything that Commissioner Basayne has said and I
27 have many of the same issues in terms of dealing with this. This
28 is a very reasonable application. I'd--the County policy has not

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1 been a policy of seeking punishment for someone who is
2 legitimately trying to correct a situation that has occurred
3 over time.

4 I think, as I understand our policy and have implemented it
5 over the last 15 years, is that we want small wineries to be in
6 compliance, but not necessarily punish them to get them there,
7 but to get them there as quickly as possible and to maintain the
8 best interests of the public in general and to make sure that
9 our citizens are not unduly impacted by invasions of sight,
10 sound, traffic, etcetera.

11 This doesn't--this winery doesn't have any of those
12 elements. It can't be seen from any of our viewshed roads. It
13 can't be heard. The neighbors are supportive. The town is
14 supportive. The area is supportive and frankly I think that I'm
15 drawn and I'm commanded here by my sense of reasonableness. I
16 think, you know, basic reason has to prevail here. This is a
17 reasonable request.

18 Now, I, too, am somewhat torn between the applicant's
19 proposal and Staff's recommendation. I think, you know, there's
20 some debate. If--having been on the site on at least two
21 occasions, I can tell you that the Blueline stream that has been
22 described, is basically and has been for probably ten or twelve
23 years, a ditch. I mean, it's basically--it hasn't--there hasn't
24 been any improvement to it, there hasn't been any need for
25 improvement to it. Now would it withstand a 20-year rainstorm? I
26 don't know. Probably, as has been stated, there would be a
27 different kind of runoff now in part due to the fact that that
28 entire hillside now is vineyards where it wasn't originally.

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1 And I understand that production is going to change. I
2 mean, let's face it. You probably didn't build all 18 or however
3 many acres of vineyards at the same time. They didn't go into
4 production at the same time. They didn't become productive at
5 the same time. So I can see where the gradual increase in
6 production--which would be accompanied to some degree by gradual
7 increase in visitation.

8 The one issue that I do have a problem with, and I have to
9 agree, I don't like the growth of the hold and haul system.
10 That, I think--we're creating traffic that doesn't need to be
11 there. I would support a live system for waste--you know,
12 basically, to construct a new wastewater system on the property.
13 I don't think that we should add more trucks to the road to haul
14 stuff out. We can't even keep it in Napa County. We've got to
15 haul it to East Bay MUD because they want it and it's much less
16 expensive to do so. So we're creating a, you know, a cause there
17 that doesn't need to be. I think the water should be--that
18 wastewater should be disposed on site and a system basically
19 should be established there.

20 I'm supportive of the visitation increase.

21 I am opposed to the removal of the grass areas as some kind
22 of a horse-trading because they were, quote, in violation.
23 That's nonsensical to me and I cannot support Staff on that
24 recommendation.

25 As far as the marketing events and so forth, this is a sign
26 of the times. I've been--I went to college in Santa Clara County
27 and I've got to tell you, it's changed immeasurably since the
28 farm community that I knew way back when. I want to avoid that

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1 here. And the way to avoid it is to support small wineries like
2 this that are keeping agriculture alive and if we don't support
3 them then we're going to see the same kind of impact that Santa
4 Clara County has seen. And basically we're going to see homes
5 instead of vineyards and trust me, it will happen unless we're
6 proactive in protecting what we have.

7 And so for that reason I would be primarily supportive of
8 the applicant's approval with the exception--or the applicant's
9 proposal with the exception of the hold and haul system.

10 CHAIR PHILLIPS: Thank you Commissioner Scott.

11 COMMISSIONER POPE: I didn't realize we were going in
12 linear fashion.

13 CHAIR PHILLIPS: What was it? You guys could have
14 Rochambeau'd. But since you didn't, then you're up next.

15 COMMISSIONER POPE: My thoughts, actually. Yeah, it's
16 another tricky one, of course. I think some pretty compelling
17 legal arguments have been made here and I think that sort of
18 refocused the issue on really the questions that we have to ask
19 and I think, you know, we get into this, really, uncomfortable
20 area of, you know, creating aspersions about applicants'
21 motives, intents, character, either positively or negatively.

22 But, you know, I think the questions have been focused and
23 re-focused again. I'm satisfied at this point that, you know, I
24 think this was evolving over time. There was enough concession
25 or even direction in working with Staff that, you know, for
26 instance, things like the state permit being issued for the
27 cave, in conjunction with the, you know, the building permit for
28 the building, these types of things, I think, could blur the

1 line sufficiently where you could develop a non-compliant
2 situation without necessarily any malice involved.

3 You know, certainly, I don't support the two more,
4 certainly not the draconian option of use permit revocation. I,
5 like my colleagues, am kind of--kind of settling right now on a--
6 --either an outright acceptance of Staff recommendation Option 2
7 or perhaps a hybrid of that where there might be some room to
8 work with Staff on the actual visitation numbers in deference to
9 the business plan that was presented today, which is in, you
10 know, my reading, a particular response to where Staff calls out
11 not necessarily understanding the rationale to accept those
12 numbers, but I would see, you know, perhaps--I'm less hung up
13 right now on the visitation numbers than I am on the idea of a
14 stream restoration and what can be done there.

15 I would also support Commissioner Scott's comments
16 regarding, even though it's a greater expense, the live system
17 rather than a--to avoid hold and haul, if possible. So that's
18 where I'm looking right now.

19 CHAIR PHILLIPS: If you're not ready, Anne, I can...

20 COMMISSIONER COTTRELL: Oh no. I'm--go ahead. Yeah. Go
21 ahead.

22 CHAIR PHILLIPS: Again--once again, as everyone said, this
23 is an interesting position to be in and I guess what I tried to
24 do was to look at it as if a 5,000-gallon winery came in with
25 1,185 a year visitation and they were just coming in for an
26 expansion and what--what would I look like--what would my
27 reaction be? And I still, regardless of any of the other stuff,
28 which I've taken off the table, would have some concerns.

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1 One, is that they're doubling the production capacity,
2 which then would require the proposed hold and haul to deal with
3 the increased production capacity waste, and I think through
4 previous decisions, you can--I do have an--I've made it known
5 that I do have an issue with hold and haul and made that known
6 to the applicant as well. It would require ten times the
7 visitation over the average to support its 100 percent DTC
8 model, which is the model that was chosen by the applicant, and
9 it's on a County lane that requires an exception.

10 So really it's the--the question is what capacity can this
11 site carry? We know what agriculture can occur, how many grapes
12 can be grown, but how much wine processing can it support? And
13 as I said, even if this came in as just a simple expansion I
14 would still have some concerns with it.

15 It's--you know--it's--the 100 percent DTC model, which
16 requires a balance between visitation and production, and work
17 production drives visitation to a point where it can be out of
18 balance. It's on a constrained road. It--because of the
19 constraints of steep slopes and a Blueline creek, it makes it
20 difficult to process waste and septic, so I think--that being
21 said, I'm not looking at the other issues, but it would be hard
22 pressed not to look at Option 2, the Staff-recommended option,
23 as including the stream and the hold and haul as being, to me,
24 seeming to be a reasonable option. Commissioner Cottrell.

25 COMMISSIONER COTTRELL: Thank you Chair Phillips. I think
26 there--my view is consistent with much of what has already been
27 said. I would just like to reiterate the point about, again,
28 looking at the operations on the parcel. We've got estate

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1 grapes, a small production number, small visitation, that, you
2 know, we talk about what are the models of production that are
3 sustainable in the county and I think the estate-grown factor
4 here is to be lauded and I appreciate the work that the
5 applicant has done, some of which the applicant's representative
6 called out.

7 But what we have also seen here is a failure to follow some
8 of the important Napa County regulations and the result of that
9 means that there have been impacts that have not been vetted in
10 a public place and also it means that we don't fully know what
11 those impacts are. I mean, I think this discussion about
12 Blueline stream versus ditch, or, you know, whatever--whatever
13 the impacts are there, they're largely unknown.

14 So, and I think in terms of impacts on neighbors, the
15 unpermitted visitation levels, I think, we have in the record
16 evidence that neighbors have experienced those impacts as well.
17 Again, I do think there is a lot of value in the potential
18 operation on the parcel.

19 So to just kind of go through in order here, I think in
20 general I would support Option 2. I am fine with a production
21 increase given that we are looking at estate grapes, and I think
22 I understand from Mr. McDowell's presentation that that would
23 include a condition of estate-grown grapes.

24 I appreciate Ms. Brooks' statements earlier about
25 visitation and connecting the currently approved levels of
26 visitation to what Mr. Morrison has started to set out in a
27 baseline, so I am not inclined to support an increase in
28 visitation at this point and I also would like to see a septic

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1 system on site as opposed to a hold and haul put in. And then I
2 do think, back to my initial comments about an unknown streambed
3 impact, I think that Staff's suggestion of a restoration project
4 somewhere on site is appropriate.

5 CHAIR PHILLIPS: So I'm hearing that there is almost--well,
6 that there is support across the board, some stronger than
7 others in terms of requesting the--a component that involves
8 stream restoration. Commissioner Scott.

9 COMMISSIONER SCOTT: I would--I have limited support for
10 stream restoration. I think that 1,500 feet of it is--seems an
11 excessive request to me based on what I saw. We're talking about
12 a stream that hasn't seen water in 10 years. I don't know, you
13 know, how much do we expect the applicant to spend, you know?

14 CHAIR PHILLIPS: Well I--I think--I think--but to your
15 point I think that's part of the problem is that none of us are
16 clear what that would look like and what that would entail. What
17 I was, I guess, testing was--was interested to see if there was
18 support on sending it back to Staff to come up with a
19 recommendation of what that would look like or options of what
20 that would be.

21 COMMISSIONER SCOTT: I--I have no problem with that other
22 than the fact that--that our process is becoming more of a
23 continuation process than a decision-making process and that
24 bothers me because we're increasing both the cost to the
25 applicant, the cost to the County, and we're creating, I think,
26 an indecisive environment in our--in land use processing and
27 that troubles me because we have--what--somewhere in the
28 neighborhood of 80 or 90 applications that are waiting to be

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1 processed, and he's been working on this one for over three
2 years, you know, are we going to go to a 10-year limit before we
3 make a decision? I'm concerned about that.

4 COMMISSIONER BASAYNE: Well, If I may interject?

5 CHAIR PHILLIPS: Oh. Commissioner Cottrell, your light is
6 on.

7 COMMISSIONER COTTRELL: [Inaudible.]

8 COMMISSIONER BASAYNE: Please. I'm sorry.

9 CHAIR PHILLIPS: Okay.

10 COMMISSIONER BASAYNE: Okay. Well, and to that point, I
11 would strongly urge, if we do decide on a continuance today that
12 we look at something that happens very quickly here in a
13 compressed timeframe.

14 If I might just also add that with regard to the stream
15 restoration, I am very uncomfortable with creating this mountain
16 out of a molehill and if indeed we do need to restore something,
17 then it may be significantly less than what has originally been
18 recommended to actually go in there with 15 feet of gravel and
19 dig a trench and create what should be a stream, maybe we're
20 looking at something less than that.

21 So to that point I would be interested in looking at
22 options.

23 CHAIR PHILLIPS: Commissioner Cottrell.

24 COMMISSIONER COTTRELL: Thank you. Yeah, I think--I think
25 we--it is challenging to, you know, to Commissioner Scott's
26 point to have something that requires further review,
27 investigation, negotiation. I do think this ought--it--this--
28 this component is one of several components of an--of a decision

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1 by this Commission, so I would agree with Commissioner Basayne
2 that we could ask for speedy turnaround, but I really do think
3 this is an opportunity for Staff to work with other County
4 departments and have the applicant work with them, too, to say,
5 let's come up with some assessment of some--we can't ever know
6 what the impacts are, be they large or small, but I think it
7 offers an opportunity for County environmental staff to have
8 some input here to come up with some project that would benefit
9 the local streambed in the area.

10 CHAIR PHILLIPS: Watershed.

11 COMMISSIONER COTTRELL: Yeah.

12 DIRECTOR MORRISON: Madam Chair, for clarification given, I
13 understand the time constraints on Commissioner Cottrell, I've
14 heard concerns expressed about estate grapes, about the levels
15 of visitation, about creek restoration and the hold and haul, is
16 Staff to assume that the Commission has no concerns regarding
17 the restoration of the second floor of the building or the
18 existence of the caves, the production increase? Just so that
19 we--when we bring back a package we can make sure we address all
20 this--all the Commission's concerns?

21 CHAIR PHILLIPS: I heard no objections to the guest
22 quarters for winery use and I have heard the cave supported with
23 creek restoration and project to be--TBD and that there--but no
24 marketing and entertaining was the Staff recommendation on the
25 caves. I have heard--on visitation we've heard mixed and on
26 outdoor visitation we haven't heard any feedback in terms of
27 removing the grassed area.

28 DIRECTOR MORRISON: No I would agree that the production I

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1 didn't hear any objection to the increase in production either.
2 Or is that tied to the estate grape issue?

3 CHAIR PHILLIPS: I would say it was part of the estate
4 grape.

5 COMMISSIONER BASAYNE: I have no objection to the increase
6 in production.

7 COMMISSIONER SCOTT: Nor do I.

8 CHAIR PHILLIPS: And with the production being tied to
9 estate only.

10 COMMISSIONER POPE: Yep.

11 COMMISSIONER SCOTT: I have a concern with that because if
12 in fact we're talking about this is a use permit that goes with
13 the land and maybe the current applicant has no desire to make a
14 blended wine or some kind of a blend that would require grapes
15 that he doesn't have on his property, but if in fact he did, I
16 wouldn't want to say that he couldn't use any other grapes if he
17 needed, you know, ten percent of a Bordeaux blend to come from
18 somebody else to make a product. I don't want to get into that.
19 I think that's--we're telling them how to run their business and
20 I'm not comfortable with that.

21 CHAIR PHILLIPS: Agreed. But the whole premise of what they
22 presented to us is that it is an estate program. So.

23 COMMISSIONER SCOTT: But again it--a use permit goes with
24 the land not with the owner.

25 COMMISSIONER POPE: Well I would think that would be a--
26 then that would be a question for a future permit modification
27 if they wanted to increase production again to start bringing
28 outside grapes.

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1 COMMISSIONER SCOTT: So you're proposing that it do go with
2 the owner.

3 COMMISSIONER POPE: Yeah. I would propose that we, again,
4 keep it to the estate.

5 COMMISSIONER SCOTT: I would submit that's a policy
6 decision and not within our purview.

7 COMMISSIONER COTTRELL: Chair Phillips?

8 CHAIR PHILLIPS: Commissioner Cottrell.

9 COMMISSIONER COTTRELL: I did have a brief conversation
10 with the applicant about this and one of the interesting things
11 about the parcel is that right now he does have a few different
12 varietals planted there and when I asked about this Condition,
13 it seemed to not cause consternation. We could, you know, it
14 looks like we're headed toward getting some more information and
15 having more conversations with the applicant, you know, I still
16 stand in support of an estate-grown condition of approval, but I
17 think it's worth having the discussion with the applicant.

18 CHAIR PHILLIPS: Well now I'm falling into Terry's camp
19 where this is--our process seems to be broken where we have, I
20 feel, a very, very thoughtful and well thought out
21 recommendation by Staff and that we cannot even seem--that it's
22 become so difficult that we don't seem to be working
23 efficiently. So...

24 COMMISSIONER COTTRELL: Chair Phillips, well should we try
25 to make a motion...

26 CHAIR PHILLIPS: Yeah.

27 COMMISSIONER SCOTT: Yeah.

28 COMMISSIONER COTTRELL: ...addressing the issues that we

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1 feel like we have reached resolution on?

2 CHAIR PHILLIPS: So we have the--do we do them separately,
3 as--to give direction to Staff, so the 5,000 to [nine hundred]
4 gallons...

5 [COMMISSIONER BASAYNE:] Increase.

6 CHAIR PHILLIPS: Right. Thank you. With--but having it be
7 estate-grown.

8 COMMISSIONER SCOTT: Again, we're setting policy. That's
9 not our job. It is not our job. That comes from the Board of
10 Supervisors.

11 CHAIR PHILLIPS: Well, Laura, do you...

12 COMMISSIONER SCOTT: To do otherwise changes [the lot.]

13 CHAIR PHILLIPS: ...do you feel comfortable?

14 DEPUTY COUNTY COUNSEL LAURA ANDERSON: I think it's within
15 your purview to require, and as Commissioner Pope pointed out,
16 if a future owner wants to have that flexibility they'd have to
17 come in for a use permit mod.

18 CHAIR PHILLIPS: So I appreciate, Terry, that you don't
19 want to overstep our bounds but it--I--we're going to--Laura
20 says that it's permissible.

21 COMMISSIONER POPE: I think given the eccentricities of
22 this particular project and application, I think it's reasonable
23 in this case and doesn't necessarily have to set precedent for
24 every single issue that we discuss after that.

25 COMMISSIONER SCOTT: But it does set a precedent.

26 COMMISSIONER POPE: It doesn't remove our discretionary
27 authority in the future.

28 COMMISSIONER SCOTT: And I would state it sets an initial

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1 precedent. Never been done before.

2 COMMISSIONER POPE: Now that's--that's the brave new world
3 we're in now.

4 COMMISSIONER SCOTT: Yeah, [yeah I know.]

5 CHAIR PHILLIPS: But next time you accuse me of using
6 setting a precedent, Terry, I'm going to say, well, hey.

7 [Laughter.]

8 COMMISSIONER COTTRELL: So Chair Phillips, are you asking
9 for a motion on that particular...

10 CHAIR PHILLIPS: Exactly.

11 COMMISSIONER COTTRELL: I move that we approve a production
12 level increase with a condition of approval that the grapes are
13 estate-grown.

14 CHAIR PHILLIPS: All in favor? Aye.

15 COMMISSIONER BASAYNE: Aye.

16 COMMISSIONER POPE: Aye.

17 COMMISSIONER COTTRELL: Aye.

18 [UNKNOWN:] Second?

19 CHAIR PHILLIPS: Opposed?

20 COMMISSIONER POPE: Wait. I need to second. Second.

21 COMMISSIONER SCOTT: I'm going to oppose that one.

22 CHAIR PHILLIPS: Okay, so is there a second?

23 DEPUTY DIRECTOR MCDOWELL: So if I could dive in on the
24 motion and get some--understand the intent from the Commission.
25 Are you making a tentative motion in regard to the various
26 aspects of the project in advance of taking a formal action on
27 this project?

28 CHAIR PHILLIPS: Yeah right.

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1 COMMISSIONER SCOTT: We're trying to give Staff direction,
2 I think, and let you know where we would...

3 COMMISSIONER POPE: I would recommend that we make a
4 collective on all the items listed there.

5 CHAIR PHILLIPS: Okay. Okay.

6 COMMISSIONER POPE: And then...

7 DEPUTY DIRECTOR MCDOWELL: And we will need some guidance
8 as well on the CEQA document.

9 COMMISSIONER POPE: ...have some discussion on that.

10 CHAIR PHILLIPS: So I guess then this is really--what we
11 are doing is just giving Staff direction. So that--there was
12 that item and then the cave supported. We have the--do people
13 support the caves and would that include the creek restoration
14 and no marketing or entertaining within the caves?

15 COMMISSIONER POPE: Yes.

16 COMMISSIONER COTTRELL: Yes.

17 CHAIR PHILLIPS: Yes.

18 COMMISSIONER SCOTT: Yes.

19 COMMISSIONER BASAYNE: Well, yes with options from my
20 perspective as well to--in terms of the creek restoration.

21 CHAIR PHILLIPS: Okay.

22 COMMISSIONER POPE: Can I get some direction to Staff for
23 latitude on it.

24 CHAIR PHILLIPS: The guest quarters to winery use.

25 COMMISSIONER BASAYNE: Yes.

26 COMMISSIONER SCOTT: Yes.

27 CHAIR PHILLIPS: Yes.

28 COMMISSIONER POPE: Yes.

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1 COMMISSIONER COTTRELL: Yes.

2 CHAIR PHILLIPS: Outdoor visitation to remove the grass
3 barbecue area.

4 COMMISSIONER SCOTT: No.

5 COMMISSIONER BASAYNE: No.

6 CHAIR PHILLIPS: Yes.

7 COMMISSIONER POPE: No.

8 COMMISSIONER COTTRELL: Yes.

9 CHAIR PHILLIPS: The visitation remaining as permitted per
10 the Staff recommendation?

11 COMMISSIONER POPE: Option 2?

12 CHAIR PHILLIPS: Um-hum.

13 COMMISSIONER POPE: Yes.

14 COMMISSIONER COTTRELL: I'm sorry. Can you repeat that?

15 COMMISSIONER SCOTT: Yeah. What?

16 CHAIR PHILLIPS: The visitation per the Staff
17 recommendation...

18 COMMISSIONER POPE: Visitation would not be increased.

19 CHAIR PHILLIPS: ...visitation would not be increased.

20 COMMISSIONER COTTRELL: Yes. I'm in favor of that.

21 COMMISSIONER POPE: Yes.

22 CHAIR PHILLIPS: Yes.

23 COMMISSIONER SCOTT: No.

24 COMMISSIONER BASAYNE: No. I'm supportive of the visitation
25 levels as presented in Option 1.

26 CHAIR PHILLIPS: So based on this direction the visitation
27 would not be increased, the outdoor visitation, they would not
28 be required to remove the grass or barbecue area and restore

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1 the--and do a restoration project. The guest quarters could be
2 moved to the winery use and the caves would explore the
3 restoration project and there is no marketing or entertaining
4 and there is an increase from 5,000 to 9,200 gallons of estate
5 fruit.

6 COMMISSIONER SCOTT: No marketing or entertaining?

7 DIRECTOR MORRISON: In the caves.

8 COMMISSIONER POPE: In the caves.

9 CHAIR PHILLIPS: In the caves.

10 COMMISSIONER SCOTT: Okay.

11 DIRECTOR MORRISON: I appreciate the thoroughness with
12 which the Commission has delved through these various issues.
13 Can we also get a temperature on the hold and haul?

14 COMMISSIONER POPE: Oh yeah.

15 CHAIR PHILLIPS: No hold and haul.

16 [Inaudible comment.]

17 CHAIR PHILLIPS: No. [Laughter.]

18 COMMISSIONER POPE: Yeah. I think there is general support
19 for the alternative system as opposed to hold and haul.

20 COMMISSIONER BASAYNE: Well, and just to express my
21 comments, I think there were some important compelling thoughts
22 expressed by the Commission, members, with regard to hold and
23 haul. I'd like to look at, and quite frankly I know that it
24 isn't necessarily our area of purview to look at the cost
25 benefit analysis for the applicant, but I'd just like to get an
26 understanding of what the impact of an engineered septic system
27 would be or a live system relative to a hold and haul.

28 And I absolutely agree that we don't want to put more

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1 vehicles than we have to on the road, but, again, it's
2 incremental impact that does add up down the road, but I'd just-
3 -I'd like to get a better understanding of what an engineered or
4 live system would...

5 CHAIR PHILLIPS: In the context of this permit or in the...

6 COMMISSIONER BASAYNE: Yes.

7 CHAIR PHILLIPS: Well, I'm sorry, but we had--technically
8 we had three Commissioners say that they support it, so...

9 COMMISSIONER BASAYNE: Okay. So I'm just...

10 CHAIR PHILLIPS: It might be interesting in terms of
11 [walking] forward, but...

12 COMMISSIONER BASAYNE: ...I'm spinning my wheels here.

13 COMMISSIONER POPE: And I need to parse one of my answers
14 as well. We were focused on the outdoor visitation and the
15 barbecue and the grass area, I was not looking at the fact for
16 that moment that we did talk about the grass area removal as
17 part of the restoration [I've heard said].

18 CHAIR PHILLIPS: Right.

19 COMMISSIONER POPE: It kind of divides it, but I am
20 supportive of--the barbecue area is fine, that redwood ring is
21 fine, but I am supportive of looking at that grass area in terms
22 of restoration. So I guess I would join the--Commissioners
23 Cottrell and Phillips on that one.

24 COMMISSIONER SCOTT: I have a question of Staff. When you
25 say restoration, to what? Dirt? Rock? What?

26 CHAIR PHILLIPS: I think that's what they're going to work
27 and come back with the options of--it's not dirt and rocks, it
28 would be to natural habitat and I would expect...

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1 DEPUTY DIRECTOR MCDOWELL: That would be the intent. In
2 turn for allowing an encroachment into the creek setbacks to
3 have some portion of the property have some natural
4 environmental setting.

5 COMMISSIONER SCOTT: Having visited the property I strongly
6 oppose that. I can't go there.

7 COMMISSIONER BASAYNE: Well, and I think it just--it just--
8 if I may interject, I think it gets back to that whole notion of
9 how long a--a restoration or how extensive a restoration project
10 are we looking at and if it's something that should be six or
11 seven hundred feet rather than fifteen hundred feet or two
12 thousand feet or a 900-square-foot area relative to the lawn
13 versus a half-acre-square area and I'd just like to see options
14 [and then parse]...

15 CHAIR PHILLIPS: I think that's why we're all--I think
16 that's where we all have run into some frustration, that we're
17 not sure what that means or what that would look like, and
18 that's not something that necessarily Staff can do on their own,
19 they have to, I would sure--I would think, would talk to DFG and
20 to the Conservation Department and see what--so it--I think
21 that's part of the frustration is that it's adding on another
22 component of unknown to this. So. But in concept I think it was
23 supporting it.

24 COMMISSIONER POPE: I mean, does it--so if the grass area
25 remains, does that automatically invalidate the idea of any sort
26 of restoration?

27 DEPUTY DIRECTOR MCDOWELL: There's possibly other areas on
28 the property.

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1 COMMISSIONER POPE: I mean I would be supportive, of
2 perhaps, a more open ended--you know, it sounds like there's
3 going to be some ongoing dialogue here, maybe find other options
4 for restoration, not necessarily centered on that one area, and
5 if a sufficient restoration can be found elsewhere on the
6 property that that grass area doesn't necessarily need to come
7 out.

8 COMMISSIONER SCOTT: Yeah. I would be supportive of that as
9 well. I think the grassy areas, in my mind, they represent kind
10 of a--the crown jewel of the property and to just throw away
11 crown jewels doesn't seem to me very efficient. I would like to
12 see restoration in other areas, certainly in the creek. But I
13 think we need some more guidelines or guidance from the County--
14 other departments as to how much of that is appropriate or
15 whether or not it would be appropriate in other areas.

16 COMMISSIONER POPE: Would there be any mitigating factor in
17 perhaps preserving that area for visitation, but offsetting--you
18 know, because the one issue with grass, of course these days a
19 lot of people are saying get rid of grass.

20 COMMISSIONER SCOTT: Yeah.

21 COMMISSIONER POPE: You know, can we take some of the turf
22 out and find maybe some semi-permeable surfaces that...

23 CHAIR PHILLIPS: Well, I think it's part of what, you know,
24 the health of the--one reason why you do a restoration is the
25 health of the creek. So I think part of it is getting a, you
26 know, an expert's analysis on what would be the most beneficial
27 to the creek, and maybe having the grass right there isn't the
28 best thing, or, you know.

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1 COMMISSIONER COTTRELL: Yeah.

2 CHAIR PHILLIPS: So.

3 COMMISSIONER COTTRELL: Yeah. Chair Phillips, I would
4 agree. And I think it's important to reiterate that the point
5 here is what kind of restoration project could give the most
6 positive impact to the creek, not the one that causes the most
7 heartache. So, I think with that focus in my mind we will hear
8 from, you know, streambed restoration professionals who will be
9 able to assess the parcel and the creeks in the neighborhood.

10 COMMISSIONER BASAYNE: Well, and I just--I think that if we
11 are prohibiting visitation in the caves, which heretofore has
12 occurred, then that would cause the flow of traffic to go that
13 lawn area and perhaps the redwood grove as well. You take away
14 the lawn area, or you create a whole new stream that didn't--
15 hasn't existed there for ten years, or you make an even bigger
16 stream, then you're--you're--then hamstringing the applicant in
17 terms of trying to figure out where they're going to put the
18 visitors.

19 And so to your point, Commissioner Cottrell, I think that
20 we just, again, we need to look at options in favor of the
21 perfect restoration.

22 CHAIR PHILLIPS: Does Staff feel that this is enough
23 direction at this time?

24 DEPUTY DIRECTOR MCDOWELL: Yes.

25 CHAIR PHILLIPS: Do we need to make this an official
26 motion, or I guess it would just be the continuation.

27 MS. ANDERSON: It's the continuance.

28 COMMISSIONER POPE: Then are we continuing this to a date

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1 certain?

2 COMMISSIONER SCOTT: What are you comfortable with, John,
3 in terms of a continuation timeframe?

4 DEPUTY DIRECTOR MCDOWELL: I am not going to be available
5 for the meetings in July.

6 CHAIR PHILLIPS: [Inaudible.]

7 COMMISSIONER COTTRELL: Okay.

8 DEPUTY DIRECTOR MCDOWELL: But Charlene would be available
9 for the meetings in July. The next available meeting is June
10 17th, but the amount of material that we could bring back on June
11 17th is rather limited. I think we could show some options on
12 where restoration work could be performed, and perhaps reach
13 some level of agreement with the applicant. But I don't think
14 we'd have, really, any detail on the scope of that, if that's
15 indeed what you're desirous of seeing. I guess what my
16 recommendation would be is to continue it to June 17th, and then
17 give Staff and the applicant a chance to try to perform, and if
18 we can't, then at that point on the 17th potentially continue it
19 further if we haven't made enough headway.

20 COMMISSIONER SCOTT: Okay. Would it be appropriate to ask
21 the applicant what they--how much time they need?

22 CHAIR PHILLIPS: Well I think--I think this solves, in some
23 ways, June 17th would be the soonest that we could do it.

24 COMMISSIONER SCOTT: Yeah.

25 CHAIR PHILLIPS: So, that would make sense that...

26 COMMISSIONER SCOTT: That would be--I think the sooner the
27 better. Not that we want to get close to a decision, but I would
28 think that June 17th would be the soonest.

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1 CHAIR PHILLIPS: Correct. So I would entertain a motion to
2 continue this item--matter until the June 17th meeting on which--
3 to give the opportunity to--with direction.

4 COMMISSIONER BASAYNE: So moved.

5 COMMISSIONER POPE: Second.

6 CHAIR PHILLIPS: All in favor?

7 COMMISSIONER BASAYNE: Aye.

8 COMMISSIONER SCOTT: Aye.

9 CHAIR PHILLIPS: Aye.

10 COMMISSIONER POPE: Aye.

11 CHAIR PHILLIPS: Opposed? The continuation passes
12 unanimously. I think we'll take a five-minute comfort break.

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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 30th day of July, 2015.

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15 Kathryn F. Johnson
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THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE

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

ATTEST: Karen E. Resnick, Deputy

DATE: 8/31/2015