

ATTACHMENT D

APPELLANTS' GOOD CAUSE REQUEST

June 2, 2017

Via E-Mail

Belia Ramos
Chair, Board of Supervisors
County of Napa
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Napa, CA 94459
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Re: Request for De Novo Review of Raymond-Ticen Ranch Winery
Major Modification to Use Permit Application #P15-00037-MOD

Dear Chair Ramos:

This firm represents Appellant Beckstoffer Vineyards in the appeal of the Planning Commission's approval of Raymond-Ticen Ranch Winery's use permit major modification ("Project"). To ensure the Board of Supervisors reaches a fair and lawful decision on critical local issues raised in this appeal, and because there is good cause to do so, Appellants request that you authorize de novo review of the Project. *See* Napa County Code ("NCC") § 2.88.090(B).

As a legal matter, the California Environmental Quality Act ("CEQA," Pub. Resources Code § 21000 et seq.) *requires* de novo review of the Planning Commission's decision. A CEQA determination by a non-elected decisionmaking body may be appealed to the superior elected body. Pub. Resources Code § 21151(c); 14 Cal. Code Regs. ("CEQA Guidelines") § 15074(f). In hearing the appeal, the elected body must affirmatively review the Project and reach a decision based on its independent judgment. *Vedanta Soc'y of So. Cal. v. Cal. Quartet* (2000) 84 Cal.App.4th 517, 529, 531 ("In effect, CEQA requires not only de novo review by a board of supervisors, but de novo fact finding as well.") (emphasis in original); *see also* NCC § 2.88.090(A) (Board must "exercise its independent judgment" in review of appeal).

The purpose of this CEQA requirement is both legal and political: it serves to "expose the elected decision makers to the political heat" of their CEQA decisions.

Vedanta Soc’y of So. Cal., 84 Cal.App.4th at 527. Thus, the Board must complete de novo review of appellants’ claims that the Planning Commission erred in assuming the Project will not attract new visitors and using unpermitted and theoretical conditions as the baseline for environmental review.

Good cause also exists for de novo review because this appeal raises major public policy issues regarding the unfair advantages being gained by a small but significant percentage of wineries that expand their facilities in blatant violation of County laws and regulations. When these violations are discovered years later by concerned residents, or by County staff, these wineries then seek to “legitimize” that unlawful behavior after-the-fact and without any consequences or penalties. This troubling practice creates an incentive for other winery owners to likewise take the law into their own hands and to likewise determine which County rules to comply with, and which to ignore. It also effectively penalizes and places at a competitive disadvantage those law-abiding wineries who play by the rules from the outset.

In fact, in 2015, a Napa County Grand Jury found that a third of Napa wineries were violating their permits. Napa County Grand Jury 2014-2015, Final Report: Are Napa County Wineries Following the Rules? (May 12, 2015) at 4, 11. Raymond Vineyards not only is one of those wineries, but also appears to be one of the more extreme examples of this practice.

Commencing shortly after their purchase of the winery in 2009, the new owners of the Raymond Vineyards completed a series of unlawful expansions and improvements, seeking “after the fact” approval of its permit violations only after the County took enforcement action. The Planning Commission’s decision allows a winery that has blatantly and repeatedly flouted local rules to pursue further violations by transitioning into a hospitality destination, permanently paving over prime agricultural land, and violating the County’s noise ordinance. Such a decision warrants the Board’s careful, de novo scrutiny, not deference.

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We appreciate your consideration of this request.

Sincerely,

SHUTE, MIHALY & WEINBERGER LLP



Robert "Perl" Perlmutter

cc:
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Laura Anderson, Deputy County Counsel
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