

Napa Valley Planning Commission  
Conservation, Development and Planning Department  
1195 Third St., Suite 210  
Napa, CA 94559

December 9, 2008

Re: Pavitt Family Vineyards – Variance Request #P06-01427-VAR,  
and Use Permit Request #P06-01426-UP

Dear Commissioners,

I am again writing to you regarding my neighbor's applications, with new information that directly contradicts the presentations made to you by the Pavitts and their attorney.

At the previous hearing in April 2008, the county staff report recommended denial of the proposed variance. This report acknowledged that the applicants may not have known about the 600 foot setback requirement for a winery when they built their barn, but it reasoned that this did not constitute a hardship, which is a necessary finding in order to grant a variance. It stated:

“A winery could be constructed within a cave, constructed with slope sensitive design outside of the setback, be constructed next to the existing residence, and at a minimum, it could have been located further from the road than the current structure.”

There were lengthy discussions at the hearing, assurances of the applicants' good faith, and an emotional presentation by Mrs. Pavitt. The applicant criticized the alternate building sites, and much was made of the county's, and the Pavitt realtor/developer's apparent failure to inform Pavitts of the 600-foot setback, and the claimed “hardship” this created. Although it wasn't clear that county was legally responsible, it was suggested by John McDowell of county that perhaps county had a moral responsibility. I believe this all impacted the hearing, and ultimately, the commission voted 3-2 in favor of a tentative approval of the variance.

I would like you to consider what your reaction, and your vote, would be if it could be shown that the Pavitt's entire representation of setback ignorance was untrue. And what if this had not simply been negligent misrepresentation?

Please print out and read the attached declaration of Kurt Larrecou (file attachment I; sorry, it was illegible when I tried to insert it here).

Next, please read Mrs. Pavitt's presentation (appendix A.1), which I've transcribed from the recordings of the meetings. It includes references, additional evidence, and my comments (in italics).

Although a map was presented by Suzanne Pavitt at the hearing, as proof that county knew of the Pavitt's intention to convert the barn to a winery, the county could not find support for that claim. In fact, the site map I found to be on file with county was not the map presented at the hearing, which has questionable “winery” additions. I found no winery references on any maps, nor in any texts, pertaining to the Pavitt property, in any county offices.

If you find Mrs. Pavitt's claim of ignorance of the winery setbacks unbelievable, then the only "hardships" in the Pavitt's plight are self-inflicted. **Legally, self-inflicted hardships cannot qualify as the hardship necessary to grant a variance, so no variance can be granted to the Pavitts.**

Even if new information and the previous discussion of misrepresentation were not before you now, there remains a basic obstacle to granting a variance to the Pavitts:

## **BURDEN OF PROOF**

### **Napa County Code Chapter 18.128 VARIANCES**

**18.128.040 Application—Public hearing** states, "The applicant shall bear the burden of proof in establishing facts supporting his eligibility for grant of variance." Legally, this means you must initially assume the Pavitts do not merit a variance, unless they can substantially prove their eligibility to you by a preponderance of the evidence. You must not be predisposed to grant a variance based upon your own general beliefs.

There should now be enormous doubt against the credibility of the Pavitts and their eligibility for a variance.

#### **18.128.050 Conditions.**

**A1. Any variance granted shall be subject to such conditions as shall assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which such property is situated.**

#### **18.128.060 Findings prior to issuance.**

**A 2. Special circumstances exist applicable to the property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.**

The crucial question seems to be: is the Pavitt property *deprived of privileges* by the winery setback requirement, or would a variance *grant the property special privileges*? To compare "properties in the vicinity", please see the attached parcel map (attachment II, page 5). The red line is 600 feet from Silverado Trail.

Parcel #37 is 33 acres, contiguous to Pavitt, and is owned by my family. As it is a very steep site, like the Pavitt's, it only has room for 1-2 acres of vines. It has a 150-year-old barn, (marked in red) which could be converted to a winery, but which might require a variance. It could be argued that the only other site would be in the southeast corner (in red), within the 600-foot setback from Silverado. If the Pavitt parcel merits a variance, my property is in the immediate vicinity, and so similar to Pavitt's that it should get a variance too.



Parcel #33 is 55.5 acres, again contiguous to Pavitt, with steep terrain. The only possible winery site would be within 200 feet of Silverado. If Pavitt and I get variances, it should too, even though it probably couldn't plant vines.

Parcel #32 was split from #33, and is also ~55 acres, with the same steep terrain, but maybe room for a couple of rows of vines. If #32 gets a variance, it's only fair for #33 to also.

Parcel #3 is 10 acres of vineyard, but the furthest boundary line is just over 600 feet from Silverado Trail, so they would need a variance to build inside the 600 foot setback, in order to have a setback from their back boundary... and as long as they are into the 600 feet, they should be able to be as close to Silverado as Pavitts.

Parcel #13 is 9.5 acres, same steep terrain, but they have an existing home and structures, so they would qualify to convert those to a winery, and the commission only needs to concede that 9.5 acres is very close to 10 acres, in order to approve a variance.

As you can see, the Pavitt's property is not unique compared to other property in the vicinity. In fact it's quite similar, and these other properties would also require variances in order to permit a winery. So finding A.2 cannot be made, and no variance can be legally granted. This finding prevents precedents from being set which would undermine the zoning regulations.

If Pavitt's variance were granted, it would result in first eliminating the WDO 600-foot setback, then the WDO 10 acre minimum parcel size, because now all the other steep or small properties for 18 miles along Silverado Trail would deserve the same consideration, and then all properties in Napa County would, and then the Winery Definition Ordinance is no more. Even Mr. Meibeyer acknowledged at the first hearing that the intent of the WDO is to prevent building next to Silverado Trail. Yet to grant his client's request for a variance sets this very precedent. There is nothing materially unique about Pavitt's property to distinguish it from other property in the vicinity, no matter how many times they use the word "unique" in their presentation. As I've shown with neighboring properties, no "special circumstances" (18.128.060 A2.) exist to prevent this variance from becoming precedent setting.

The only thing unique about the Pavitt property is the manner in which they built their "barn".

There was concern, and heavy lobbying to avoid building on the environmentally sensitive site 600 feet from Silverado. This led to the reluctant perception that a variance for the existing building was the lesser of two evils. But is it good planning to preserve one small niche of nature, at the expense of 18 miles of similarly steep properties along Silverado Trail, each with their own natural character to lose, and which together comprise the nature of this valley? Which nature is more important to preserve? Sometimes we can't see the forest for the trees...

Even if they had been honest, the Pavitts deserve no special consideration or privileges for their parcel. In fact the code on variances expressly prohibits that. Their parcel is not unique, and will establish precedent for countless variances. Just as their attorney has cited other variances to support the Pavitt variance, others will point to Pavitt for their variances, should you grant any variance here. **Please uphold the codes.**



## WATER

I want to thank the county staff for recommending that conditions be placed upon the Pavitt variance, such that if it is approved, there will be some measure of county monitoring and available recourse to protect the groundwater levels for the neighbors. As those who live in this area know, water is hard to come by here.

I still have grave concerns about caves and their impact on my well. Unfortunately, even having means in place to monitor a loss of water, and to subsequently revoke the winery variance and permit... once tunneling has breached my "reservoir", it's unlikely it could be restored. I could be permanently without enough water to live on my property. I have no assurance the Pavitts are financially capable of compensating me for that.

File attachment III is my hydrogeologist's report. As he is my brother, he is familiar with the property.

Given the landslides associated with their property (noted in county property records) below my house and well, stability and erosion are additional concerns, which may also impact the water issues. Any work done in this area must be preceded by thorough professional studies. As those may still be no guarantee, **the best solution would be not to disturb this area at all, and I ask that this be a condition of any winery permit for the Pavitt property, and that legal means to ensure this be verified by my attorney (please note that the Pavitts have alternative cave sites which may not impact my water source).**

## SUMMARY

Both Mrs. Pavitt and her attorney assure us the project has been in "good faith". I believe the evidence shows otherwise. The Pavitts bought property in the Napa Valley in 1999, and in 2000 architectural plans were developed featuring winery specific details for a building placed close to Silverado Trail, with no consideration for the setback requirement... **in spite of documentation that they had knowledge of that requirement.**

Rewarding the Pavitts by granting **any** variance for the barn would send the wrong message, and threaten a well-intentioned WDO. Commissioner Jager asked a neighbor at the first hearing, where would you put a winery on the property? Four locations were discussed at the hearing:

Site 1) Beyond 600 feet at the gully – complies with 600' setback; a complicated site involving excavation, potential grading variances, landslides associated with the property, risks to neighboring property including dewatering and geological instability, negative view shed impact, negative native environmental issues; would need extensive studies, which may not prevent negative impacts.

Site 2) Beyond 600 feet near house – complies with 600' setback; may involve relocation of water tanks, outbuilding, and excavation; relevant geological studies may already have been done.



Site 3) Beneath house in cave – may need variance; portal could face ~ north, away from Freed's neighboring home; rock may be of a different type and disassociated from Clark's hill, needs further study.

Site 4) Barn/winery conversion – needs variance; legal and practical issues exist related to owners' misrepresentations - these nullify new staff findings; precedent, neighbor conflicts, proposed caves, water issues, are some of the challenges.

Given what I now believe to be the circumstances of this application, I would answer Commissioner Jager's question as follows:

Site 1) Don't build here; too many potential downsides.

Site 2) Most appropriate site given applicants' history.

Site 3) Study location 3, but only if the applicant voluntarily offered to cap production at 10,000 gallons per year, with no tours or tastings, and include the other staff proposals, as well as visual screening from Silverado Trail.

Site 4) Not appropriate.

Thank you for giving this your attention. I know it's a lot to read, but the matter could have far reaching ramifications for this county. As Commissioner Fiddaman said at the closing of the first hearing, it's a slippery slope.

Respectfully,

David Clark  
4704 Silverado Trail  
Calistoga

**APPENDIX A.1: Commission Hearing 4/2/08 – Suzanne Pavitt/transcribed from recording by Clark**

Good morning. My name is Suzanne Phifer-Pavitt and I live at 4660 Silverado Trail in Calistoga, and I'm really nervous, so I'm going to, um, read my paper that I wrote last night and help me keep on track, and hopefully not get too emotional about this.

I represent the Pavitt family, Shane my husband and partner, and Jackson and Rhett Pavitt, ages 5 and 6, my sons. We are full time residents of Calistoga since 2000. We purchased under 23 acres in 1999 with the hopes of building a life here, raising a family, running a small winery business, and becoming an active part of the Napa Valley community. We do not own any other homes, nor spend half of our time here. Moreover, we are church members, active in local



charities and community activities, and our children attend school here. Our wine business, albeit small, it is not a trophy project or a hobby, but a logical way to allow us to afford us to live here and allow me to be a full-time, actively involved mom.

In 1999 we met with the owners of the property, the Ianziti family, who stated the property had been in their family for over 100 years (*file attachment II, page 1: Ianzitti purchased the property from Rennick Harris in 1979*). It was a strong desire by the owner that the buyers be good stewards of the land and maintain the land to agriculture. We shared with them our plans for vineyard, a winery, olive groves, and old fashioned winemaking, and they not only sold us the property, they actually carried the loan themselves. It was their desire to see a young couple make their home here (*I spoke with Mr. and Mrs. Ianzitti, who claim the property has only been in their family since 1979, and that they have never met with the Pavitts, and were never told of winery plans-D.C.*). In 1999, following the purchase of the property, we were advised by the Ianziti property manage - excuse me - property consultant Kurt Larrecou, that we needed to submit a site plan to the county regarding our intentions for the land. This property was raw land, and needed utilities, water tanks, storage, etcetera. As our continued consultant, Kurt told us he had submitted a rough site plan to the county – I think that’s what they just handed out to you all (*attachment II, pages 2-4., a cover page detailing the project without reference to winery, and two maps*), indicating our desire to build a future winery, plant vineyard and olives, as well as provide electricity and sufficient water for the property. Kurt also told us he had met with Planning, and Resource, and Conservation Departments. It was our desire to build a barn to winery standards for future use, but we did not wish to pursue a winery permit due primarily to the fact that we didn’t need it, ‘cause we didn’t even have a wine or a label, and we weren’t financially in the position to pursue a winery at that time.

After several iterations with the building department requiring floor drains, buried septic tanks, an ADA approved bathroom, and additional engineering upstairs for future barrel storage, we were issued a permit for an agriculture building in 2001. We were advised that since this structure was not a barn in the traditional sense, yet was not a winery either, that agriculture building would be a more appropriate title, thus explaining the fact that in initial communications, the structure was referred to as a barn and then changed to an ag building. These additional requirements were beyond the abilities of a draftsman, or Shane and myself, and necessitated the assistance of a professional architect. We hired Holscher Architecture to work with the county on the necessary requirements and receive a final building permit. On two separate occasions, letters were sent to David Holscher, our architect, indicating the required setbacks. One referred to 90 feet, and the other to 100 feet. No mention either verbally or in writing indicated a 600 foot setback from Silverado Trail for future winery code and standards was needed, and apparently our architect, located outside of Napa County, was not aware of these requirements either.

With regards to the violations mentioned in the staff report, at the time these occurs we did not even live in the Napa Valley. Mr. Larrecou was handling the property in our absence (*violations occurred in 2002 (CV99-026), in 2004, and 2007; details in Planning, and Public Works files*). As such, he was working with both the county on our erosion control and site – necessary site preparation. I was also not aware of any conversations that occurred with our neighbors, the Clarks.

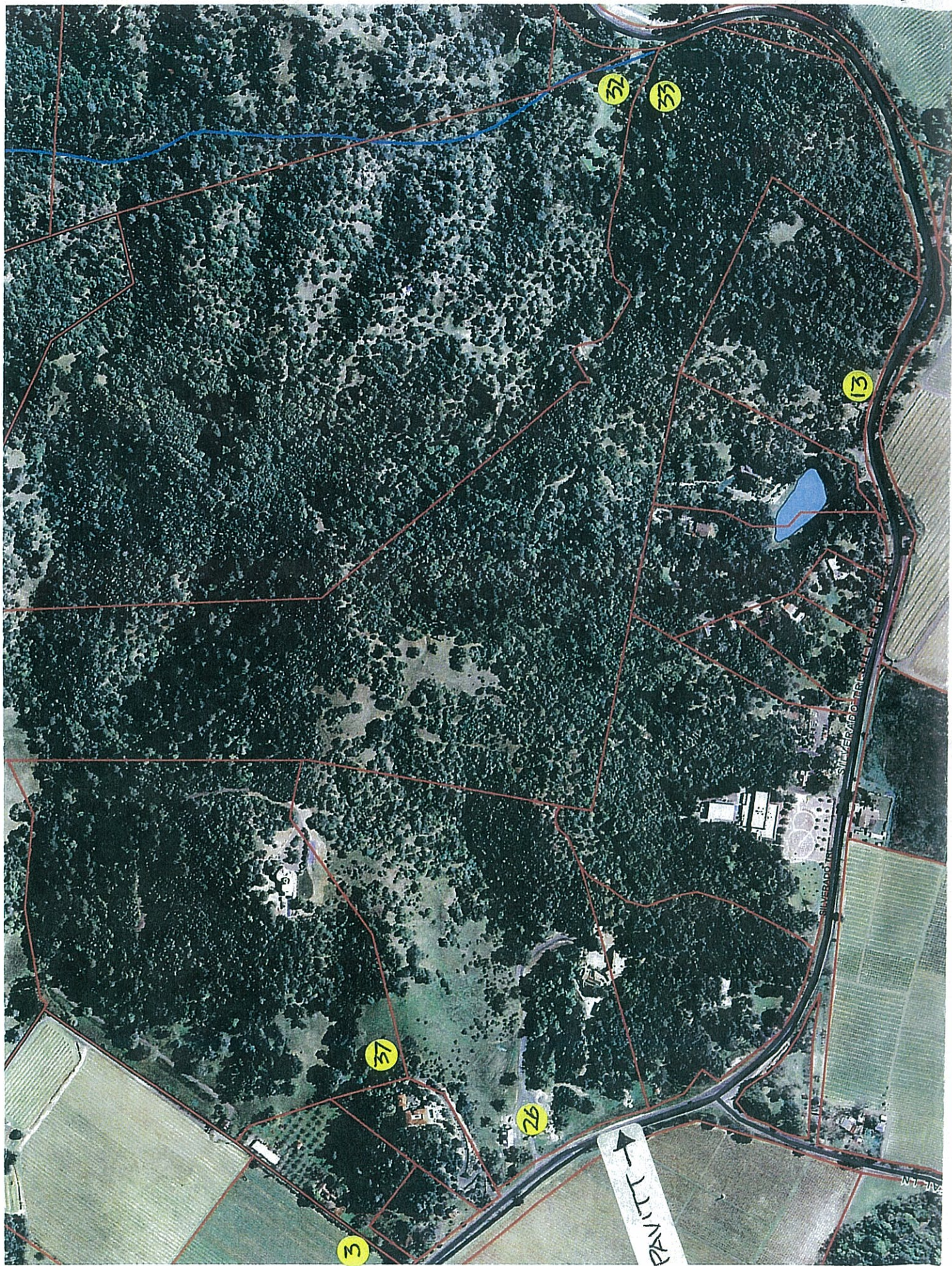


In 2001 we rented a home on 2<sup>nd</sup> Street, in downtown Calistoga, and we began the construction of the ag building on our property at 4660 Silverado Trail. This began following the tip that a 100 year old barn was being torn down on Franz Valley School Road. The barn was built using recycled barn wood, which we tore down ourselves, and then remilled on our property. The barn has served as a staging area for our homebuilding, as well as storage for various pieces of farm equipment.

With Kurt Larrecou's guidance, we applied for our vineyard E.C.P. in 2000, and now, 8 years later, we have just received our permit to plant our small vineyard. Our plan was to be a staged approach, plant a little vineyard, buy a little fruit, and utilize a custom crush facility until we could get our brand up and running. We purchased our first grapes in 2005 in the Napa Valley, and contracted with a custom crush facility with the hope that in the future we would be able to get our own winery up and running and do it ourselves.

And that brings us to 2008, nine years after purchasing our land. I am here to urge you to understand that I acted in good faith regarding our plans for our winery from the beginning. Unfortunately, we didn't know anything about the 600 foot setback, so we didn't know enough to ask the right questions. I've spent countless nights throughout this process trying to figure out how we got ourselves in this situation, where we have accidentally built a building for a winery that requires a variance even having not a chance of being approved. I genuinely believe it was simply a unique situation that fell through the cracks. We built the ag building to winery standards under guidance from the county because it was our intention that it would be a winery in the future. There was no malice or trickery involved; rather it was a situation where the building department focuses on our approval of the facility for an ag building, but did not have a process to automatically bring the planning department into the discussion to address the issues that would arise later when we wanted to convert it. I believe this is where this communication breakdown has occurred. I understand from our many discussions with the staff, and with the commissioners, there is much better communication regarding these issues between the two departments in the several years that have passed, so this situation is very unlikely to ever occur on any other property in the Napa Valley. For that reason, we hope you will see this as a hardship situation where we have no place to build our winery outside the 600 foot setback, due to the property's terrain, and that this location is the most environmentally sensitive, therefore the approval for converting this ag building into a winery is not going to be a precedent for other property owners in the future. In closing, I appreciate the time that each of the commissioners took to come and visit the property and meet with me, and I also genuinely appreciate all the time the planning department has put into this project. I'm also very respectful of my neighbors and their concerns and it remains our desire to work out a mutually agreeable solution, including providing screening between the Freed property and ours, and not constructing the winery in the sensitive ravine which is of concern to the Clarks. As stated, we have tried to offer it in good faith regarding the winery project from the beginning, and it is our hope and desire that we are given the opportunity to continue our family wine business at our property and enjoy the life we have worked so diligently towards for the last nine years.









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33.2 AC. ±  
CLARK

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22.04 AC. ± (C)  
PAVITT

5  
3.53 AC.  
FREED

CUNALSON

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1.54 AC. ±

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7.50 AC. ± (C)

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6  
66 AC. SILVERADO

LANE

DETAIL A

AWAL

RD.

TRAIL

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SFAP

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PAVITT

37  
33.2 AC. ±  
CLARK

(34)



From: pollock &amp; james

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12/08/2008 11:53

#264 P.002/003

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6 IN RE: APPLICATION FOR VARIANCE  
OF SUSAN AND SHANE PAVITT  
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9 I, Kurt Larrecon, do declare:

10 1. That I am a licensed real estate broker in the State of California. I make this  
11 declaration based upon my personal knowledge and if so called, would testify thereto.

12 2. In 1999, I was a licensed real estate broker working for Coldwell Banker Brokers of  
13 the Valley, in Calistoga, California.

14 3. In February or March 1999, I was the listing broker and agent for Adelbert and Doris  
15 Ianziti who were the sellers of a piece of real property, land, located at 4660 Silverado Trail, in  
16 Calistoga, California.

17 4. At that time, in February or March 1999, I walked the property with Mr. and Mrs.  
18 Pavitt, prospective buyers of said real property.

19 5. At that time, in February or March, 1999, I discussed the potential uses of the property  
20 with Mr. and Mrs. Pavitt, and I specifically told them that they could not construct a winery on the  
21 property because of the 600 foot setback which would place any structure up the canyon in a creek  
22 drainage.

23 6. Both Mr. and Mrs. Pavitt were very disappointed about not being able to build a winery  
24 on the site, due to the 600 foot setback, but thereafter, submitted an offer and purchased the real  
25 property, notwithstanding the setback problem.

26 7. After the purchase of said real property, I assisted the Pavitts with the development of  
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Pavitt property 4660 Silverado Trail from west: Clark well in yellow, possible tunnels in red; approximate road in gray.



From: pollock &amp; james

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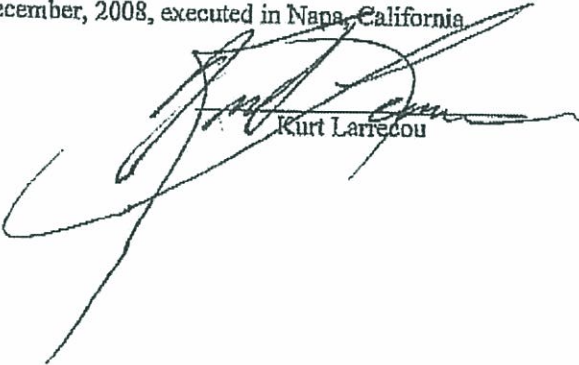
1 their parcel and drew a site map showing vineyards, and presented this map to the Napa County  
2 Resource Conservation District for assistance with vineyard planning. On that map, I drew a reference  
3 line showing a 500 foot distance from Silverado Trail.

4 8. At the Pavitt's request, I designed and drew plans for a barn. The barn was described  
5 for me as an agricultural building, and at no time was I ever informed that it was to be a winery.

6 9. Mr. and Mrs. Pavitt took my plans to Tiberon architect, David J. Holsher (Architect  
7 No. CD19465). Mr. Holsher drafted formal plans for the barn labeled "Black Oak Ranch Agricultural  
8 Building". On the site plan for the agricultural building, prepared by Mr. Holsher, the back of the  
9 building is shown as 90 feet from the centerline of Silverado Trail.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing  
11 is true and correct.

12 Dated this 9<sup>th</sup> day of December, 2008, executed in Napa, California

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15 Kurt Larrecou  
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**Hydrogeologic Evaluation of the Proposed Winery Caves at Pavitt Family Vineyards and  
Potential Impacts to the Clark Water Supply Well**

**Prepared for David Clark  
4704 Silverado Trail, Calistoga,  
California**

**Prepared by Theodore M. Clark  
Certified Hydrogeologist #89  
24520 Lorikeet Lane, Valencia, California 91355**

**December 14, 2008**

**Introduction and Project Description**

As requested, I have completed an initial hydrogeologic evaluation of the potential impact to your domestic water supply well of the proposed Pavitt Family Vineyards winery caves in the hillside below your property. It is your understanding that the proposed caves will be excavated horizontally into the hillside adjacent to the Clark well, and you have expressed concern over potential impacts to the localized water-bearing zone that supplies water to your household.

As part of the hydrogeologic evaluation, I reviewed the following materials:

- "Geology & Ground Water Potential of the Clark Property" prepared by E.H. Boudreau, Registered Geologist #3000 in 2001 for the purpose of recommending a drilling site on your property for a domestic water supply well. The report includes a geologic map and geologic cross section of your parcel, and the mapping includes observations of a portion of the Pavitt parcel in the vicinity of your well. The report also summarizes local groundwater conditions based on several wells and exploratory borings on your property and neighboring areas. Following Mr. Boudreau's recommendations, you subsequently drilled and installed your current water supply well approximately 35 feet north of the property line at an approximate top-of-well elevation of 660 feet above mean sea level (MSL).
- Mr. Boudreau's geologic boring log of the rock types penetrated during drilling of the Clark well, and observations on where water was encountered.
- Your records of seasonal water levels and water production rates from the Clark well.



- Aerial photographs and topographic maps contained in Exhibit N – Graphics (the supporting documents on the Napa County Planning Commission website agenda for the upcoming December 17, 2008 meeting on the Pavitt Family Vineyards). Note that the topography contour elevations on the Winery Site Plan appear to be mislabeled and do not provide accurate information across the Pavitt parcel.
- Photographs you provided that illustrate the location of the Clark well and the potential cave excavations into the rocky slope below your well.

Additionally, during visits to your property over past years, I have walked the site and am familiar with the surficial geologic conditions.

I was not able to review a project description or plans that identify the location, size, number, elevations, or construction methods for the Pavitt Family Vineyards winery caves. Also, no Pavitt site geologic or hydrogeologic reports were available that detail the depth, nature and distribution of water-bearing geologic materials beneath their property. However, it is your understanding that the proposed caves will be excavated horizontally into the hillside south of the Clark well at approximate elevations between 450 to 550 feet above MSL.

#### **Site Geology and Groundwater Conditions**

The Clark property and the hillside area of the proposed caves are underlain by volcanic rocks of the Sonoma Volcanics, primarily tuff (volcanic ash) with lesser amounts of rhyolite lava. Groundwater production from these rocks is limited to zones of harder, fractured rock material capable of yielding usable quantities of water. The majority of the tuff is soft, clayey material of very low permeability that does not produce usable quantities of groundwater and is considered an aquiclude. Where wells are drilled entirely through these clayey tuffs, the driller typically abandons the boring as dry. A small percentage of the tuff beds are hard and fractured, and if these zones are thick enough they are capable of producing usable water quantities. However, these hard tuff beds tend to be thin and discontinuous, resulting in declining well yields with pumping. The rhyolite, a thicker geologic unit that forms the resistant rock outcrops along the hilltop, is very hard and fractured, and is also capable of yielding usable quantities of groundwater.

The available geologic and groundwater data indicate that the Clark well is in a complex hydrogeologic setting, where groundwater production is limited to discontinuous zones of fractured rocks surrounded by relatively impermeable clayey tuff. The majority of water produced from the Clark well appears to be perched groundwater derived from an isolated, discontinuous, fractured rock zone that is underlain by a thicker zone of clayey tuff. This clayey tuff acts as a barrier to the downward flow of groundwater, and the perched groundwater accumulates in the overlying fractured rock.

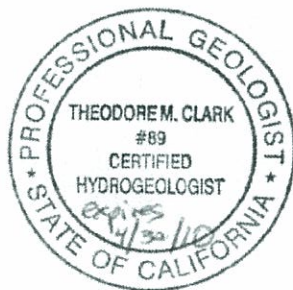


## Conclusions

Given the expected proximity of the cave excavations to the Clark well and the limited extent and perched nature of the primary water-bearing zone, large scale excavation of caves into the hillside below the well could possibly adversely impact the quantity of water available to your home. Caves are essentially large diameter, horizontal drains capable of disrupting the existing groundwater conditions that supply water to your well, resulting in declining groundwater levels. A worst case scenario would be if the tunnels breach the clayey tuff, drain the perched aquifer above it, causing your well to lose its major source of water production.

## Recommendations

Further data and investigation are required to fully assess the potential negative impacts to the Clark well from the proposed Pavitt Family Vineyards winery caves. An adequate project description for the Pavitt Family Vineyards winery caves is needed that fully identifies the location, size, number, elevations, and construction methods. Based on these project data, a geologic and groundwater investigation is likely required to completely evaluate potential negative impacts to the Clark well.



Theodore M. Clark, CHG 89



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# THE BLACK OAK RANCH

## LANDS OF SHANE & SUZANNE PAVITT

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CDPC  
MEETING  
APR 2 2008  
AGENDA ITEM  
NO. 8A



### A NAPA VALLEY ESTATE SITUATED AT 4660 SILVERADO TRAIL IN CALISTOGA

THE RANCH CONSISTS OF OVER 22 ACRES OF DIVERSE TOPOGRAPHY  
NATIVE OAKS, DOUGLAS-FIR, BUCKEYES, & MADRONES FORM THE TREE CANOPY  
THE UNDERSTORY OF NATIVE GRASS, OATS, & WILD IRIS SHARE THE SOIL WITH MANZANITA & CEONOTHUS  
THE BLACKTAIL DEER AND THE COYOTES SHARE HIDDEN LIARS AS QUAIL & TURKEYS VIEW HAWKS SOARING IN  
CONCERT WITH NATURE, THE SITE WILL BE ENHANCED IN AGRICULTURAL THEME BY VINEYARD, OLIVE TREES &  
DWARF FRUIT TREES AN RAINWATER IMPOUNDED IN FUNCTIONAL PONDS.  
THE MEDITERRANEAN HOME, CARRIAGE HOUSE, QUEST HOME, BARN ARE PLANNED DISCREETLY BELOW THE RIDGE



Hand-drawn preliminary footprint map for Black Oak Ranch vineyard development. The map shows a winding "PROPOSED DIW" (ditch or waterway) flowing through the center. To the left is a "PROPOSED HOME" and a "WATER SHED". To the right is a "PROPOSED BARN" and a "WATER SHED". The map includes various labels for "PROPOSED" areas, "WATER SHED", "DIW", "BARN", "HOME", and "WATER". It also shows "CONTROL" lines and "NEW GATE" locations. The map is titled "BLACK OAK RANCH" and "PRELIMINARY FOOTPRINT".

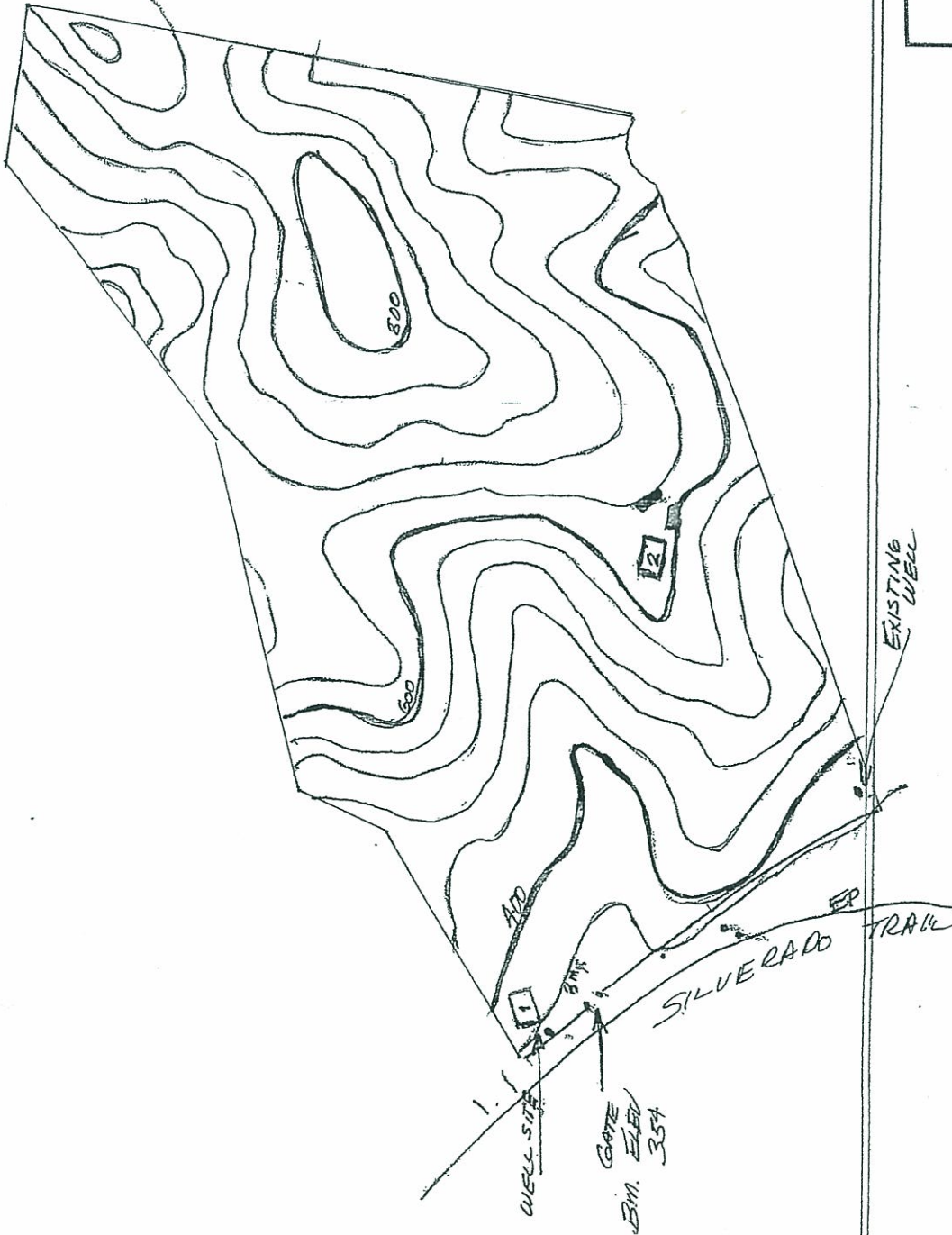
1848

516 VER 12.18.00 Topic

2'x2 OUT-FIELD



47 NORTH



- 1 = BARN (PROPOSED)
- 2 = HOMESITE (PROPOSED) POOL & GARAGE

"BLACK OAK"

PRELIM CONTOUR & PLOT PLAN

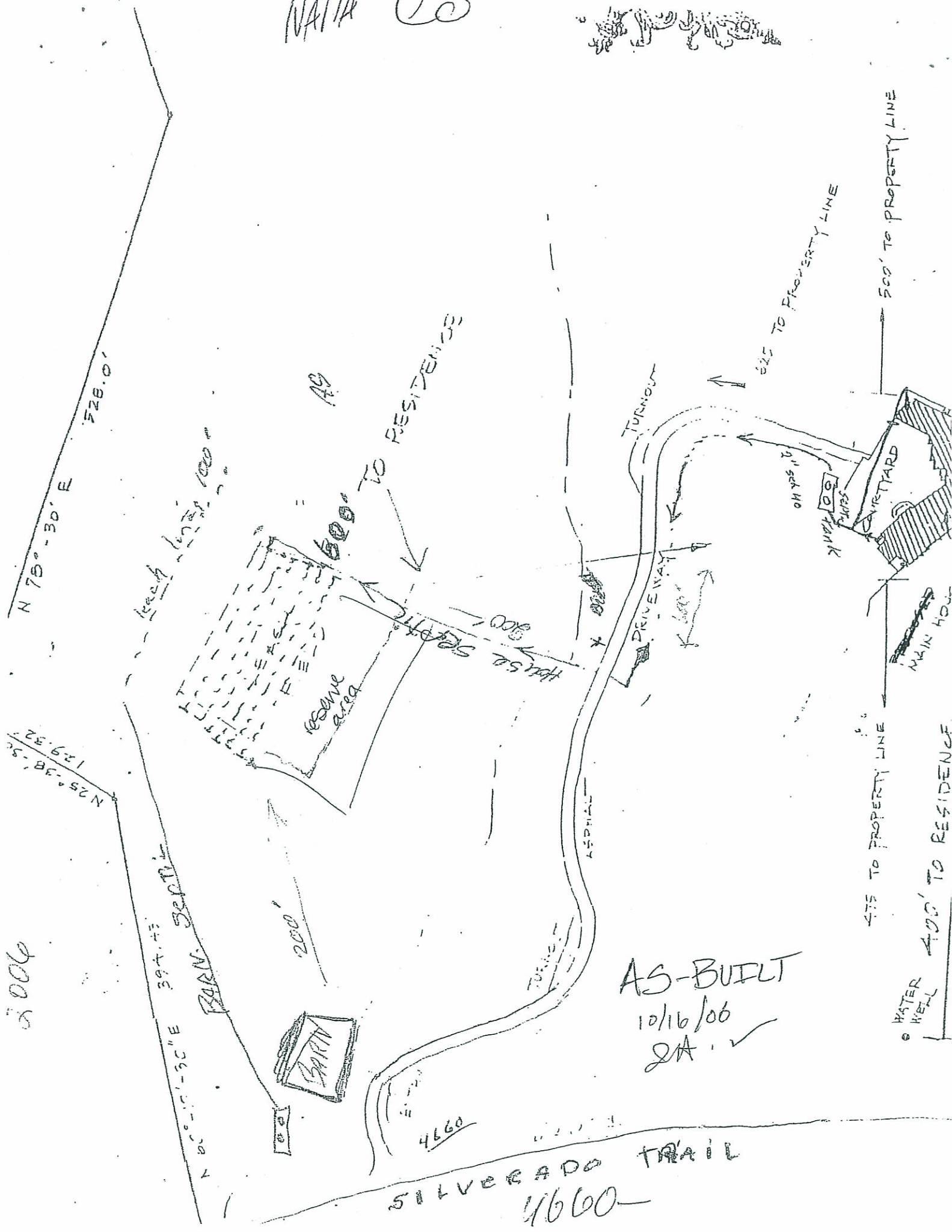
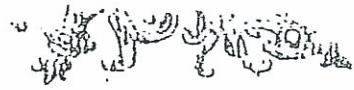
SCALE: 1"=200'	APPROVED BY:	DRAWN BY: <i>AK</i>
DATE: 12/1/95		REVISED:

40' CONTOUR INTERVAL

DRAWING NUMBER: 00199



NATIA LO



2006

AS-BUILT  
10/16/06  
2A ✓

SILVERADO TRAIL  
4660-





DICKENSON, PEATMAN & FOGARTY  
A Professional Law Corporation

JAMES W. TERRY  
jwterry@dpfnapa.com

FROM 12 Clark

April 29, 2002

CDPC  
MEETING

APR 2 2008

AGENDA ITEM  
NO. 84

809 Coombs Street  
Napa, CA 94559-2977  
Tel: 707 252 7122  
Fax: 707 255 6876  
www.dpfnapa.com

Shane and Suzanne Pavitt  
24 Woodside Way  
Ross, CA 94957-0573

Re: David and Bobbe Clark  
Silverado Trail Property

Dear Mr. and Mrs. Pavitt:

We represent David and Bobbe Clark who own real property on Silverado Trail adjoining your parcel located at 4660 Silverado Trail, Calistoga, California. We are aware that Mr. and Mrs. Clark previously corresponded to you by letter dated April 5, 2002, and that David Clark has spoken to Kurt Larrecou concerning the content of the April 5, 2002 letter. The purpose of this letter is to clarify Mr. and Mrs. Clark's understanding of the situation.

From his conversation with Kurt, David understands that the purpose of recent grading upon your property has been to clear previously existing fire roads. Other contouring and clearing that has occurred was simply for the purpose of completing ongoing geological studies. Kurt confirmed to David that there were not immediate plans to construct caves, and that if caves are constructed in the future, they would not be put into the common hill to the north of your ravine, but into the hill to the south, if at all. He also represented that some stone quarrying may occur on your property on the south side of the ravine.

Assuming that David's understanding of the conversation with Kurt is accurate, many of the concerns stated in David's letter of April 5, 2002 appear to have been resolved. David has made it clear that his primary concern is the protection of water sources on his property, the integrity of which could be threatened by the construction of

Walter J. Fogarty, Jr.  
David W. Meyers  
C. Richard Lemon  
Francis J. Collin, Jr.  
Charles H. Dickenson  
Paul G. Carey  
Richard P. Mendelson  
Cathy A. Roche  
James W. Terry  
Katherine Ohlandt  
Stan D. Blyth  
Linda Emerson  
Herbert M. Rowland, Jr.  
Amy L. Keyser  
Thomas F. Carey  
Matthew J. Eisenberg  
Danielle M. Houck  
Michael J. Holman  
Karen C. Kruse  
Gabriel J. Schnitzler  
  
Of Counsel  
Joseph G. Peatman  
  
Retired  
Howard G. Dickenson

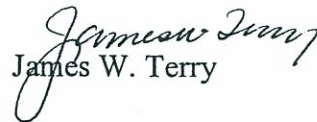


Shane and Suzanne Pavitt  
April 29, 2002  
Page 2

caves on the common hill between the two properties. If David's understanding in any way differs from your actual plans or intentions, I would appreciate your clarifying your plans and intentions so that we may fully understand the possible effects and ramifications of your project upon the property of Mr. and Mrs. Clark.

Thank you for your continuing cooperation.

Very truly yours,

  
James W. Terry

JWT:lm

cc: David and Bobbe Clark



17 December 2008

Honorable Chairman Terry Scott, Napa County Planning Commission  
Commissioner Bob Fiddaman  
Commissioner Rich Jager  
Commissioner Jim King  
Commissioner Heather Philips

CDPC  
MEETING

DEC 17 2008

1195 Third Street, Suite 210  
Napa, California 94559

AGENDA ITEM  
NO. 9A

re: Pavitt Family Vineyards - Variance Request #P06-01427 VAR  
and Use Permit Request #P06-01426 UP

My family has been growing grapes in Calistoga since my grandfather, Sebastian DiGiulio, purchased our property at 1001 Dunaweal Lane in 1929. We are a farming family - one of the few left in the valley who actually farms our own land. My 84-year-old mother is in the vineyard every day - weather permitting. My brother is the vineyard manager and I assist in the field as well as office. We do not oppose wineries - our livelihood depends on their profitable existence.

We do, however, oppose the Pavitt Variance, Use Permit and Staff Report prepared for today's meeting. We support the Staff Report that was prepared for the April 2, 2008 meeting before this commission which recommended rejection of the variance and therefore, no action on the use permit.

On April 2 evidence was presented by Suzanne Pavitt and attorney Chuck Meibeyer, representing the Pavitt family, that caused this Commission to override staff, grant a tentative approval and to instruct staff to prepare positive findings that would allow the variance and the use permit to proceed. The record indicates that this commission acted more from guilt than on the merits of the project, itself.

Mrs. Pavitt made a very emotional presentation, in which she claimed to have proceeded in good faith from the start of the application due to her lack of knowledge of the requirements of the Winery Definition Ordinance, her disclosure to staff of the intent to convert the barn to a winery at some future date and staff's subsequent failure to disclose to her any information regarding the 600' setback. In light of Mrs. Pavitt's claims of good faith and the possibility of staff's inadequacy, the Commission felt the county may bear some moral



responsibility for the difficult situation the Pavitts find themselves in and struggled to find some way to approve this variance.

So staff had to overturn itself and stretch to find a way to recommend approval - so we are here today.

I believe David Clark's presentation, and surely the affidavit from Kurt Larrecou, have removed any feeling of possible moral responsibility that prompted your direction to staff to override itself.

The record of this project is one of a pattern of misrepresentation that calls into question all evidence provided by the applicant.

Mrs. Pavitt, who spent 14 years in sales and marketing ([http://news.mywebpal.com/news\\_tool\\_v2.cfm?npid=724&show=archivedetails&ArchiveID=1355854&om=1%20](http://news.mywebpal.com/news_tool_v2.cfm?npid=724&show=archivedetails&ArchiveID=1355854&om=1%20)), has attempted to paint a very romantic picture: a young family seeking a simple agricultural life who so impressed the former owners of the property that they sold to them land that had been in their family for over 100 years. She claims to have been naive of county requirements and to have been misled by Mr. Larrecou, the broker who handled the property sale and initial permit presentations to the county.

**I. Testimony of Suzanne-Phifer Pavitt, April 2, 2008:**

1) *"In 1999 we met with the owners of the property, the Ianziti family, who stated the property had been in their family for over 100 years. It was a strong desire by the owner that the buyers be good stewards of the land and maintain the land to agriculture. We shared with them our plans for vineyard, a winery, olive groves, and old fashioned winemaking, and they not only sold us the property, they actually carried the loan themselves. It was their desire to see a young couple make their home here."*

The St. Helena Star of 7 February 2008, in a story based on an interview with Mrs. Pavitt, reinforces this quaint legend: *"...they met with a real estate agent and looked at 23 acres that had been in the same family since 1890. The property was used as a cattle pasture."*

**Fact:**



- The property was NOT owned by the lanziti family for over 100 years. The property was owned by the Tucker family for almost 100 years - from approximately 1895 to 1974.

The Official Map of Napa County of 1876 shows the property owned by J. A. Brown; the Official Map of Napa County of 1895 shows the property was then owned by J. W. Tucker. The Official Map of Napa County of 1915 lists the property as owned by W. Dean Tucker, who still owned it when my family came to the area and who continued to own it until his death. According to Napa County records, the final distribution of the estate of W. Dean Tucker, recorded in 1968, passed the property to his two daughters, Thelma Tucker-Tamagni and Gladys Tucker-Tamagni.

In 1974, the property was purchased by Mr. Rennick Harris who sold it to Mr. and Mrs. Adelbert J. lanziti. The lanzitis sold the property to the Pavitts in 1999. The lanziti family owned the property for only 25 years, not over 100.

**Fact:**

- The lanzitis have stated to David Clark and to Kurt Larrecou that they have never met the Pavitts so no such romantic conversation ever took place.

**Fact:**

- The property was not used to pasture cattle. In the 80 years that my family has been in this area, we have never seen any cattle on the property. The exception was our cow Taffy who was pastured there in the 1950's, when my grandfather rented the hill piece from Dean Tucker. Mr. Tucker never owned a cow. When Taffy would not come down for milking in the evening, my aunt and I had to climb way up the hillside to chase her down to my grandmother, waiting at the fence.

2) *"With regards to the violations mentioned in the staff report, at the time these occurred we did not even live in the Napa Valley. Mr. Larrecou was handling the property in our absence...In 2001 we rented a home on Second Street, in downtown Calistoga..."*

**Fact:**

- The referred-to violations occurred in 2002, 2004 and 2007 after the Pavitts had moved here and after Kurt Larrecou was no longer working for them.



3) *"With Kurt Larrecou's guidance, we applied for our vineyard E.C.P. in 2000, and now, 8 years later, we have just received our permit to plant our small vineyard."*

Fact:

- According to County records, verified by Mary Doyle on 16 December, the Pavitts applied for and received their Erosion Control Permit in 2004 - NOT 2008.

(Why has no vineyard yet been planted - 4 years after receiving approval?)

4) *"I am here to urge you to understand that I acted in good faith regarding our plans for our winery from the beginning. Unfortunately, we didn't know anything about the 600 foot setback, so we didn't know enough to ask the right questions."*

Fact:

- According to the affidavit of Kurt Larrecou, dated 9 December 2008 which you have before you, he advised the Pavitts specifically about the 600' setback requirement for a winery BEFORE they even made an offer on the property...

5) *"We built the ag building to winery standards under guidance from the county because it was our intention that it would be a winery in the future. There was no malice or trickery involved; rather it was a situation where the building department focuses on our approval of the facility for an ag building, but did not have a process to automatically bring the planning department into the discussion to address the issues that would arise later when we wanted to convert it."*

Fact:

- Mrs. Pavitt maintains that the map dated 12/9/99 which indicates "Future Winery" is proof that County Building staff knew the building was intended for future conversion to winery use.

Problem is that Mrs. Pavitt is the only person who has a copy of that map with "Future Winery" written on it. There is no such notation on any copy of that map which is held by the County or the Resource Conservation District. Who wrote that and when?

6) *"I've spent countless nights throughout this process trying to figure out how we*



*got ourselves in this situation, where we have accidentally built a building for a winery that requires a variance even having not a chance of being approved. I genuinely believe it was simply a unique situation that fell through the cracks."*

Fact:

- About a week after the Pavitts' first "Harvest Party" upon completion of their barn/winery, I was approached by a friend who attended that event. He stated to me that Suzanne asked him how he liked their new winery. He was aghast and said he warned her she would never get county approval because of the setback requirement. She dismissed his concerns, stating that the county would have no choice but to approve it now that it was built. Her position was: the winery is built and the county will be forced to approve it.

Unfortunately, he works in the wine industry and will not give permission to use his name.

## II. Testimony of Chuck Meibeyer, April 2, 2008:

Mr. Meibeyer tried to convince you to override staff and grant the variance because buildings that existed before the Winery Definition Ordinance was passed in 1990 are exempt from the 600' setback requirement if "environmentally favorable". He claimed that there was an existing barn in the same location as this new building and so could have been "grandfathered", therefore, there should be no problem with a new building in the same location.

1) " *Umm, in our situation, we have an existing building. We have a relatively new ordinance that allows any pre-1990 building to be reused as a winery as long as it's uh, environmentally favorable. We don't have a pre-1990 winery, er building. We had a pole barn that was located there that had been there for maybe a hundred years, fairly close to where it's located; um, it was trying to be, this ag building was actually located about the same place because it's the only level piece of the property. So, there had been a structure there, but it doesn't meet the requirements because it was dismantled during the time when they bought the property. But they located this barn where that had been.* "

Fact:

- There was no pole barn or any other structure on the property anytime in at least the last 80 years - let alone one that had been there for "maybe a hundred years..." as alleged by Mr. Meibeyer. There have been no structures on that



property since at least 1929 when my family moved here. I spoke with the former owner, Rennick Harris, last evening and he confirmed that there were no structures anywhere on the property when he owned it...Mr. Larrecou confirms there was no barn there when he sold the property to the Pavitts. My mother, Pauline DiGiulio Tofanelli, and my brother, Vince Tofanelli, will provide additional eye-witness testimony to the fact that there was no barn there.

I will allow Mr. Meibeyer benefit of the doubt and assume that his statement that there was an existing barn in the same location as the new one is not meant as a statement of his direct knowledge. I assume he relied on statements made to him by the Pavitts that the barn existed and could, therefore, have been "grandfathered" and granted a variance.

I assure you, there was no barn existing there when the Pavitts bought the property - nor at anytime in the last at least 80 years.

I must ask: does any of this sound like "good faith" to you? Or does it sound like "good spin"? "Good marketing"?

### **III. Kurt Larrecou**

The impression in the record is that Kurt Larrecou was negligent by not advising the Pavitts of the 600' setback requirement even though he knew they intended to convert the "agricultural building" to a winery in the future. The impression is also that he was negligent in not advising the county that they intended to convert to a winery. Yet, Mrs. Pavitt also maintains that Building Department staff were privy to her plans, but were also negligent.

The impression left by this record is potentially slanderous to Mr. Larrecou's reputation in this valley as a competent real estate broker who can provide reliable disclosure and counsel to his clients.

I have known Mr. Larrecou for at least 10 years. His resumé is lengthy: he was Engineering Inspector for the City of Cupertino; he designed and built parks for the City of Cupertino using Federal Funds; he was Mayor of San Juan Battista; according to the San Francisco Chronicle, he initiated an investigation with State Attorney General VandeKamp's office that resulted in discovery of 60 actual violations of building codes, zoning and administrative procedures in the City of San Juan Battista; he initiated the process by which the City of Calistoga permits small wineries within its city limits; he is a licensed real estate broker and land use consultant. He is also the founder of Calistoga Citizens for Ethical Government.

He cannot be here today as he is meeting this morning with Bay Area Air Quality



Management on a Sonoma County project. However, his signed statement, submitted by David Clark should suffice.

#### **III. Pavitts' Hardship**

Any hardship that the Pavitts' might suffer is self-imposed. The record now indicates that they were aware of the 600' set back before they even made an offer on the property. They should have taken that into consideration when they planned the siting of their home, accessory buildings, swimming pool, roads and storage tanks. The county has no obligation to ease a self-induced hardship.

This will indeed set a dangerous precedent that will allow other applicants to ignore legal requirements and then expect approval - once the project is built.

#### **IV. Freed's and Clark's Hardship**

County regulations were followed in the construction of the buildings on the Freed and Clark properties. They relied upon Napa County ordinances that assured them that a winery could not be built in the location of the Pavitts' "agricultural/winery" building.

The Clarks could lose their limited supply of water due to the Pavitts' activities.

The Freeds will lose the peaceful enjoyment of their home and private property. Their house was sited in accordance with regulations that assured them that no winery could be built directly below that home. They have invested a great deal of money based on that assurance.

I can assure you that if you allow a winery in this location, the Freeds will never enjoy another quiet moment in their own home. There is no amount of buffering that can mitigate the noise from an operating winery, no matter how the consultant spins it. A hill separates my house from Clos Pegase Winery. I can every fork lift grinding, every pallet that is dropped, every load that is pressed from within the concrete walls of my house - even tho the noise in on the other side of the hill.

Noise travels upwards and the Freeds' home is directly above this building. Not only will they not be able to enjoy their home, the market value of that property will be greatly reduced. How much would you pay to live directly above an active winery? It appears that the approval of this variance will constitute a "taking" and the Freeds could successfully sue for compensation.

I believe the record provided to you today relieves you from any "moral responsibility" to grant this variance and therefore the use permit cannot



proceed. It is moot today.

However, if you do proceed I wish to enter other concerns into the record.

**V. Water**

This area is documented as being an area of water shortage. Well records were submitted to the County in 1987 that document the lack of water in our area. I submit the following water date for the record.

Sincerely,

A handwritten signature in cursive script that reads "Norma J. Tofanelli". The signature is written in dark ink and is positioned above the printed name.

Norma J. Tofanelli

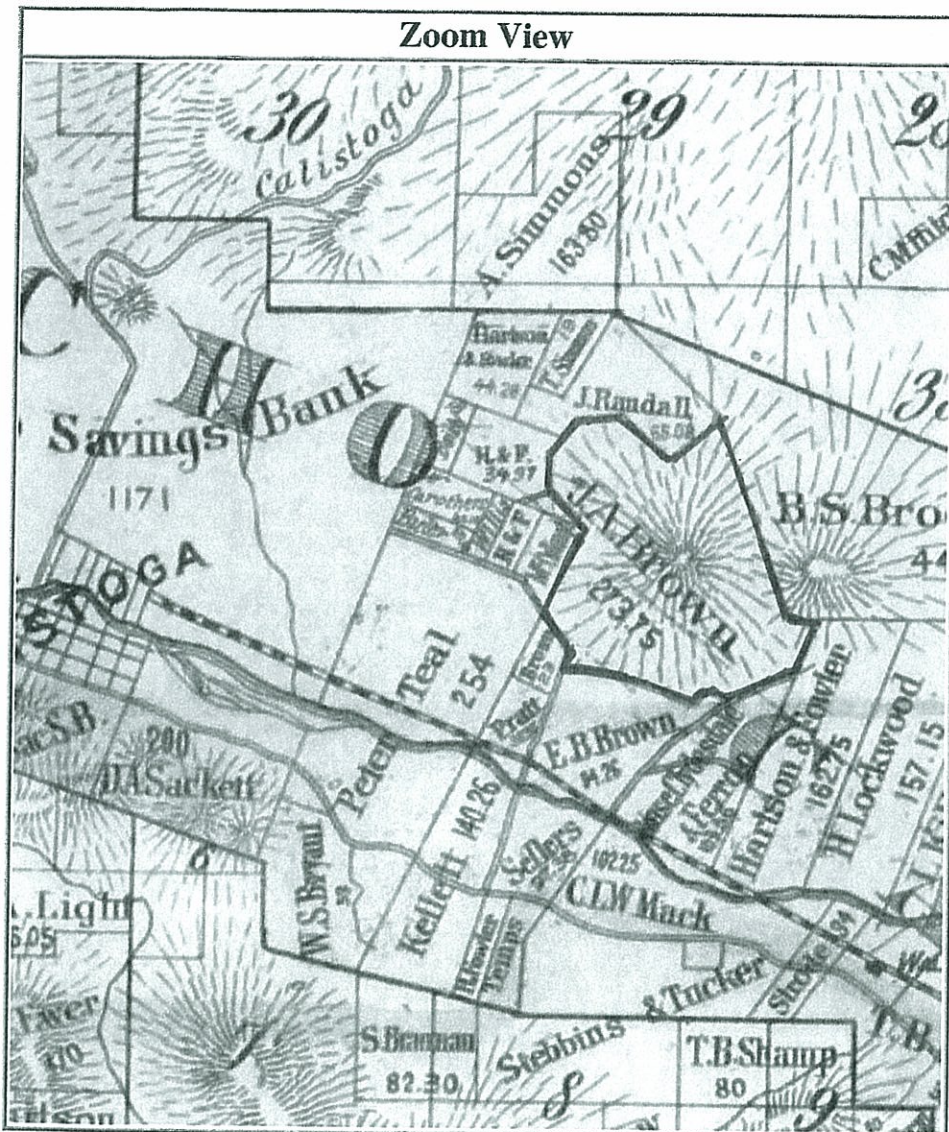
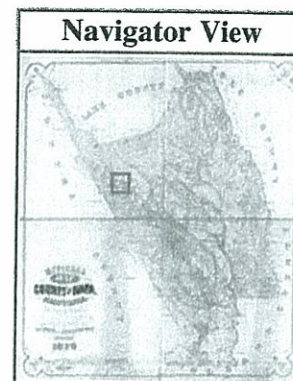
1001 Dunaweal Lane  
Calistoga, CA 94515



**OFFICIAL MAP OF 1876**

**Official map of the County of Napa, California ... / by Geo. G. Lyman and S.R. Throckmorton Jr.**

To change view, select desired zoom level and window size from the options below the Zoom View window and then click on the image. The display will be centered where you click. To move up, down, left, or right within a zoom level, click near the edge of the image in the Zoom View or select an area in the Navigator View. The red box on the Navigator View indicates the area of the image being viewed in the Zoom View.

**Zoom View****Navigator View**

Zoom In ☐ ☒ ☐ ☐ ☐ ☐ Zoom Out [Full Image](#)

Window size ☐ 256 x 256 ☐ 400 x 400 ☐ 600 x 400 ☐ 640 x 480 ☒ Initial (420 x 484)

This image was compressed using JPEG2000 technology. View [more information about JPEG2000 compression technology](#).

[Download JPEG2000 image \(30729 kilobytes\)](#) | [Bibliographic Information](#) | [Map Collections Home Page](#)



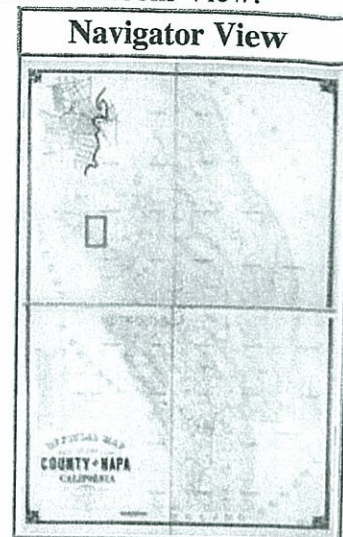
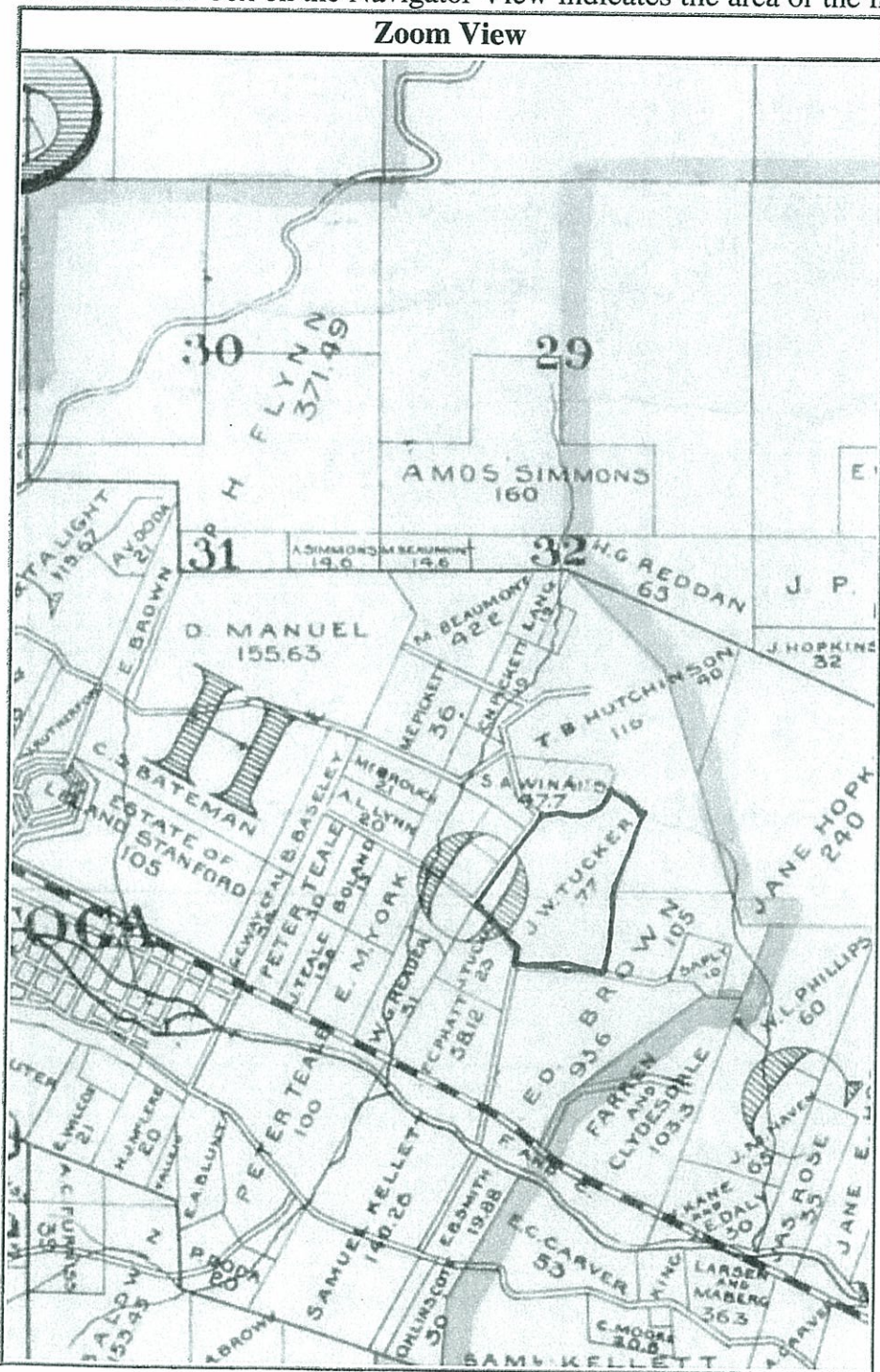




**OFFICIAL MAP OF 1895**

**Official map of the County of Napa, California : compiled from the official records and latest surveys / by O.H. Buckman.**

To change view, select desired zoom level and window size from the options below the Zoom View window and then click on the image. The display will be centered where you click. To move up, down, left, or right within a zoom level, click near the edge of the image in the Zoom View or select an area in the Navigator View. The red box on the Navigator View indicates the area of the image being viewed in the Zoom View.





Updated 2008:

○ Dry since 1987

○ Dry drill

Piped under  
Silverado Trail  
to #13

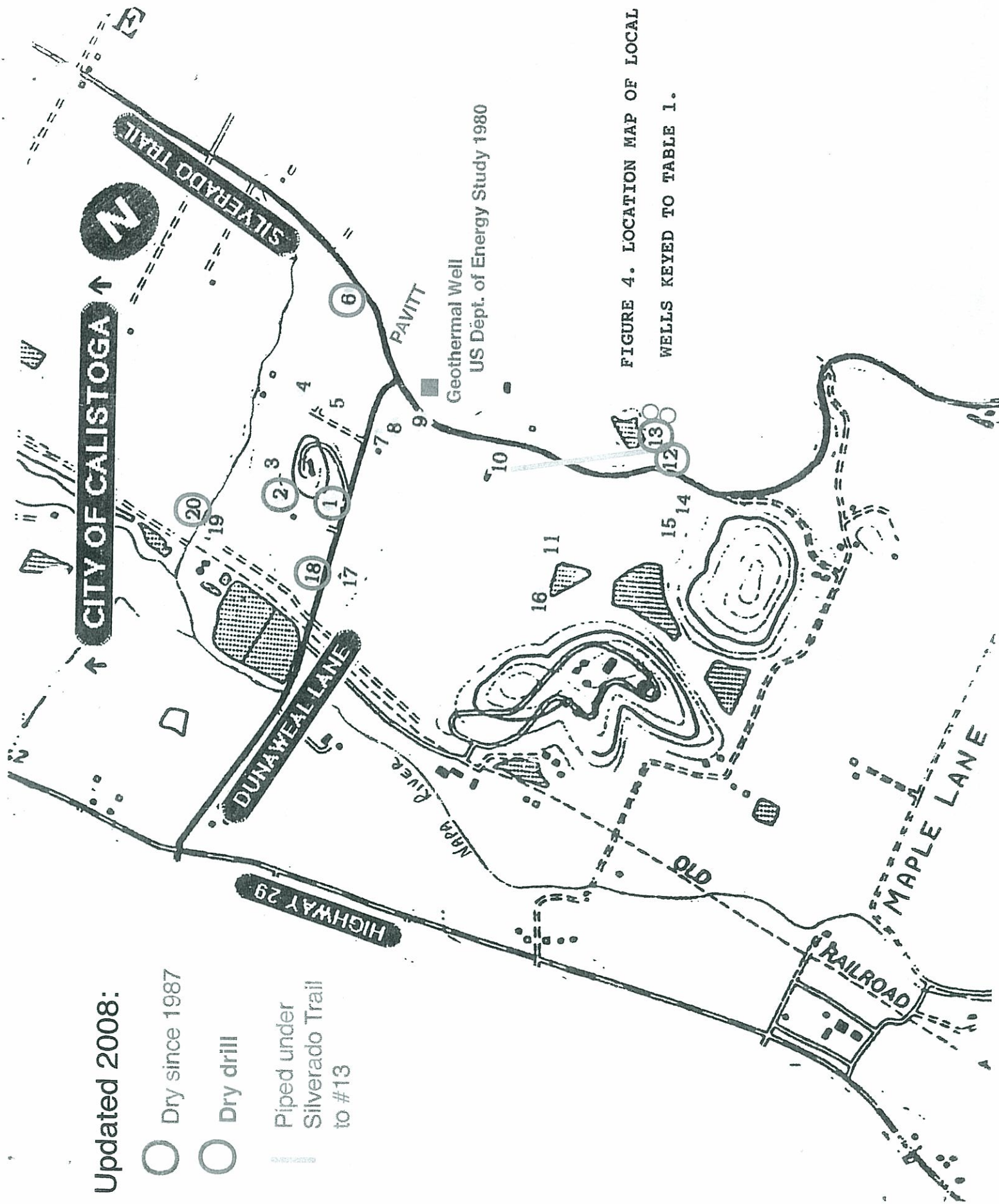


FIGURE 4. LOCATION MAP OF LOCAL  
WELLS KEYED TO TABLE 1.



The following information was drawn from a series of interviews with property owners, winery employees, well drillers, Napa County Department of Environmental Health employees, and from personal information gathered over the 60 years that my family has been farming this area.

**1. Clos Pegase: 75', 30 gpm**

This well was drilled in July, 1985 after an unsuccessful attempt to drill (well #18) on the same parcel, southeast of this well. The well drilling rig was mounted atop the pile of debris from cave excavations and grading at the top of the hill and drilled down through the rubble. The previous vineyard manager/caretaker stated that the area drilled in had traditionally been an area of seepage from the hill.

**2. Clos Pegase: no records - depth unknown, 7 gpm?**

This is the property's historic well and hasn't been a good source according to previous owners and caretakers. It had to serve two single-family residences. *(Projected as 7 gpm because use permit claims 37 gpm total for winery site and well #1 is 30 gpm.)*

**3. Czapleski: depth unknown, 1-2 gpm.**

This was drilled about 15-20 years ago by the former owner. According to the former owner and tenants this well historically has dried up in late September. According to the former tenants they had to use bottled water for drinking in late summer and fall.

**4. Czapleski: depth unknown, hand-dug, 1-2 gpm**

This is the property's historic well dating back at least 60 years. According to conversations with former owners, (dating back to as early as 1929), this well was sufficient for domestic usage but in the last 20 years has had to be supplemented by other sources.

**5. Czapleski: 370', 1-2 gpm**

This well was drilled in May 1987. Water from wells #3, #4, and #5 is being pumped into a recently constructed concrete water storage tank in an effort to provide water for domestic as well as vineyard usage. Water was trucked in to fill the tank after construction presumably because the flow from the wells was insufficient to fill the tank within the time necessary to insure the proper curing of the concrete.

**6. Czapleski: dry, depth unknown**

This was drilled by the former owner and was abandoned before completion.

**7. Tofanelli (DiGiulio): 17', gpm unknown.**

This was the property's historic well already in existence when the property was purchased in 1929. It has served as the only source for domestic use until 1977 when it went dry. In approximately 1960, the water level began dropping seriously during summer and fall months. In 1977 the well dried up and water had to be tanked in. The



well currently has water in winter months, but is an insufficient source in summer - fall. The water from this well was noted as being very cold.

**8. Tofanelli (DiGiulio): 195', 10 gpm**

This well was drilled in the fall of 1977 after well #7 went dry; the water is noticeably warmer than the water in well #7. This well is one of the 206 test wells being tracked in the study of the Calistoga area's geothermal resource being conducted by the US Department of Energy in conjunction with the California Division of Mines and Geology (CDMG).

This well was tested at 20°C in the most recent test and the report notes that "For the purpose of preparing Geothermal Resources Map of California, CDMG has chosen 20°C as the starting temperature for warm water." However, as it is common practice in Calistoga to store water in metal pressure tanks which can affect the temperature, so "...25°C has arbitrarily been chosen as the cutoff point for a geothermal well for the purpose of this investigation only." As no metal pressure tank is used at this well, it can be seen that this well qualifies as geothermal under the standard CDMG definition. This indicates just how close to the surface the geothermal is in this area, particularly since another well (well #22) just across the Silverado Trail from this one is also being monitored and has been tested at 41°C at 275'.

**9. Tofanelli (DiGiulio): 19-20', hand dug - livestock only.**

Since about 1960 this well dries up in late summer-fall. It has been noted throughout the years that when neighbors across the Silverado Trail from this well are watering their lawns and runoff is seen, the well subsequently dries up and takes several days to recover.

**10. Corry (Perry): 45', gpm unknown**

This is the property's historic well. When the property was purchased by the current owners it was 15' hand-dug, but in 1959 it no longer provided sufficient water for domestic use and had to be drilled to 45'. It has been a sufficient domestic source since that time.

**11. Tofanelli (DiGiulio): 18', gpm unknown - livestock only**

This is one of the property's historic wells, already in existence in 1929. It has traditionally been used for livestock and was the source for the animals (horses and cows) that were pastured in this area when the vineyards were still being worked by horse (as recently as 30 years ago). It is currently used for livestock (horse) watering. In the last 20 years this source normally goes dry in late summer - fall.

As this well is currently used for livestock, and is located approximately 20-25' from the property line adjacent to the proposed wastewater ponds there is concern that it could be contaminated. Stored near the property line in this area is an old, abandoned out-house that has not been in use for about 25 years and is in unuseable condition. It has been filled with soda and beer cans and various garbage items by field workers over the years.

**12. Angell: 325', dry - drilled in December 1985**



This was an attempt to replace well #13, which was dry. The property owner was buying water from an adjacent property owner as there was no other source of water on this property.

**13. Angell: 125', 9 gpm**

This is the property's historic well and was 35' deep. For last 20 years it has been dry in summer-fall. In about 1982 it dried up totally. When the attempt to find water at well #12 failed, the driller tried to clean out this well, and somehow the bottom dropped down another 90' where water was found. It tested in January 1986 at 9 gpm.

**14. Rosenberger: 135', 1.5 gpm**

This well was drilled about 30 years ago. The owner indicated that it has been an increasingly poor summer-fall source.

**15. Rosenberger: 250', 1.5 gpm**

This was drilled about 8-9 years ago as #14 was not sufficient for domestic use even though the property owners are in residence normally only about three days per week.

**16. Clos Pegase: not a well, but a sump hole**

This was excavated by Blakeley construction company in about 1975.

**17. D'Anneo: no information**

Historically has not been a good well. The former owner was required, as a condition to serving as a foster parent family, to bring in bottled water for drinking.

**18. Clos Pegase: depth unknown, dry**

This was drilled in May or June 1985, during the winery permit appeal period. It was noted during the appeal hearings that the actual attempt to drill was made prior to obtaining a well permit to allow such drilling.

**19. Tofanelli: 80', 1-2 gpm**

This well was drilled in 1953 and has been sufficient for domestic use only; however, its recovery rate is very slow and water conservation measures have always been used by the owners. Over the last 15 years recovery rate has been increasingly slower.

**20. Fisher: 600', dry; drilled approximately 1984.**

The approximate depth of this well was learned in conversation with the drillers as work progressed. Its drilling was of particular concern to the Tofanelli family as its location is only a short distance from well #19. The drillers said that after drilling all of that depth only "a trickle of water" was found and the well was abandoned.



# Napa County Winery Definition Ordinance

Final  
Environmental  
Impact Report  
FEIR 60





# NAPA COUNTY

## DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RECEIVED  
NOV 13 1989  
NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT

TRENT CAVE, R.S.  
Director

1195 THIRD STREET, ROOM 205 • NAPA, CALIFORNIA 94559  
AREA CODE 707/253-4471

### MEMORANDUM

TO: Jeffrey Redding, Director Conservation, Development and Planning Department

FROM: Jill Pahl, Senior Environmental Health Specialist *JP*

RE: Draft Environmental Impact Report for the Winery Definition Ordinance

DATE: November 13, 1989

We have reviewed the above proposal and require the assessment of the following items to be included in the Environmental Impact Report:

67 This department has serious concerns about the staffing needs which would arise from the implementation of the Winery Ordinance. Many environmental programs will require significant increased review, approval, construction, implementation and monitoring time. The following are a few of those programs:

1. Food operation at each Special Event will need to be individually reviewed and inspected.
2. A subsurface on-site sewage disposal monitoring program may be implemented at all sites.
3. The review process for Planning Department referrals will be greatly increased to cover the existing wineries without use permits.
4. A water usage monitoring program may be needed in water restrictive areas.
5. Increased Farm Labor Housing permitted sites.
6. Additional water systems will be permitted.
7. Hazardous materials, wastes and underground storage tanks inspections increased.
8. Increased solid waste compliance inspections.
9. Increased noise monitoring.
10. Increased odor control monitoring.

### Land Use

- 68
1. Legalization of existing uses and abatement of activities without a bona fide use permit will create a large increase in the workload for this department. The amount of use permit applications for these legalizations would cause a limited increase on the review of planning projects, and would negatively impact the other programs this department is responsible to implement. Additional requirements



- 83 9. Presently this department permits annually and monitors all of the above ground winery waste water systems. However, there is no monitoring program or fee structure in place for the subsurface special design or standard winery waste water systems. The Planning Commission has required monitoring of a few subsurface systems by this department recently. The increased workload from a subsurface winery waste water monitoring program must be complimented with additional staff to implement such a program.
- 84 10. Field crush is being done. We are unaware of the extent, the amount of waste water generated, who is doing it, etc. This should be addressed as a potential source of contamination of waters.
- 85 11. Custom crush is also being conducted at many wineries. The impact on the waste water generation must be addressed. Total production must be considered.

#### Water Resources

- 86 1. What is "adequate" water supplies? Standard requirements must be determined considering the potential effects on existing and proposed neighbors using the same aquifer/water supply. This mitigation measure must address a safe yield. Presently the county's well ordinance does not have a minimum yield for commercial, industrial or agricultural operations. The Department of Forestry may have minimum storage requirements for fire safety but that is not associated to the water consumption needs. The type and amount of additional promotional events may affect the water consumed. The effect on the community and existing water users is very important and must be more thoroughly addressed. Adjoining wells using the same aquifer could be significantly affected. This must be mitigated.
- 87
2. All wineries with 20,000 gallon or more per year production with public tours and tastings must comply with the California Safe Drinking Water Act (California Health and Safety Code and the California Water Code). They are permitted and inspected by this department as noncommunity water systems (see enclosed codes). This number would increase with the removal of the small winery exemption. All water sources and "supplemental water sources" must meet the state standards if they are used to for drinking water sources.
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- 89 3. There are some existing problem yield areas which have either had a watershed study completed (Milliken-Tulocay may have areas of overdraft) or according to testimony of the



area residents the water is in short supply (Carneros, Dry Creek/Redwood Road, Dunawell Lane, Pope Valley). These areas should be addressed. The Planning Commission has required monitoring and limitations on the type and quantity of water usage at a winery. This type of monitoring will put an added stress on the workload of this office.

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4. Water is being trucked for residential use from a potable water supply tap provided by the Napa City Public Works Department. The areas which are using this desperate measure to provide their water supply should be recognized.

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5. Who is the "County's Water Agency" which is referred to in relation to water conservation practices? What are the areas which need to be addressed in respect to water conservation?

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6. Who should approve and monitor the water reclamation/reuse programs in the wineries and vineyards?

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7. What type of groundwater study is needed to review the decline of the overall groundwater levels and who will review and monitor this program?

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8. What impact would large municipal wells have on the groundwater supplies? Calistoga and St. Helena are presently actively researching groundwater sources for their municipal water supplies. The other cities have considered using groundwater supplies in the past and may need to explore them further in the future.

#### Noise

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1. Some noise problems exist with existing densities, whether those problems are real or conceptual by the neighbors. The layout of the winery in relation to the neighbors and property lines should be addressed to minimize noise disturbances.

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2. Picking at night and crush operations which require 24 hour work schedules can continue for many weeks, especially at wineries which produce red and white wines. Due to the differences in the picking and crushing times of the red and white grapes, the potential for noise disturbance is greater.



MEETING

DEC 17 2008

AGENDA ITEM  
NO. 2A

Re: Pavitt

Dec 16-2008

Napa County Planning Commission:

I am Pauline Di Giulio Iofanelli  
1001 Dunaweal Lane Calistoga, Calif. I have lived  
there since 1929 when my father S. Di Giulio  
bought the property at 1001 Dunaweal Lane,  
Calistoga across the road from W. D. Tucker.

My father leased hill property on the east  
side of Silverado Trail from W. D. Tucker that  
the Pavitts now own.

We pastured a milk cow and a horse. We  
had to bring water for the animals since there  
was no well on this property.

There was no pole barn or any structures on  
the property at any time.

I've never seen any other keep stock on this property.

On April 2-2008 Mrs Pavitt said the  
Ianziti family owned it for over 100 years.

In 1974 Ren Harris bought this property from  
the Tucker estate which has owned it since 1895  
according to Napa Co. records. Ren Harris then  
sold it to Ianziti family in 1979.

The Pavitt lawyer claims they built the so called  
barn on the original site of the old which has  
never existed in my lifetime of 84 years.

It seems that some facts are not stated correctly.

Pauline Di Giulio Iofanelli 1001 Dunaweal Lane  
Calistoga, Calif 94515



DEC 17 2008

AGENDA ITEM  
NO. 9A

12/16/08

Honorable members of the Planning Commission,

I have recently been made aware of this winery application in my neighborhood. Having grown up near the property, and subsequently caring for the vineyard and property on 1001 Dunaweal Lane all my adult life, I feel the need to comment on this proposed project.

After reading the minutes of the Commission Hearing of 4/2/08 I have to make note of the comment of Chuck Meibeyer in regards to a pole barn located fairly close to the present proposed winery building. To my knowledge, there has not been any structure in the vicinity during my lifetime. In my youth, My Grandfather, Father, and I would deer hunt on the property (with permission of the owner, Dean Tucker). No structure was there.

In regards to the present building up for consideration, I always assumed it was built with the express goal to be a winery. Passing the site 6 days a week during construction left me with little doubt.

My wishes in the writing of this letter is that all parties be forthcoming and truthful.

I trust you will be dutiful in your consideration of a winery in this area of limited water resource.

Sincerely,



Vince Tofanelli

1001 Dunaweal Lane  
Calistoga, CA 94515