



ATTACHMENT 2

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

April 17, 2015

Alec Webster
8787 Vineyard Drive
Paso Robles, CA 95060

Kirk Consulting
Attn: Mandi Pickens
8830 Morro Road
Atascadero, CA 93422

Willow Creek Newco, LLC
940 S. Coast Dr. #260
Costa Mesa, CA 92626

**SUBJECT: APPEAL OF WILLOW CREEK
COUNTY FILE NUMBER: DRC2013-00028
HEARING DATE: APRIL 17, 2015_PLANNING DEPARTMENT HEARINGS**

We have received your request on the above referenced matter. In accordance with County Real Property Division Ordinance Section 21.04.020, Land Use Ordinance Section 22.70.050, and the County Coastal Zone Land Use Ordinance 23.01.043, the matter will be scheduled for public hearing before the Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, San Luis Obispo. As soon as we get a firm hearing date and the public notice goes out you will receive a copy of the notice.

Please feel free to telephone me at 781-5718 if you have any questions.

Sincerely,

Nicole Retana

Nicole Retana, Secretary
County Planning Department

CC: [REDACTED]
Bill Robeson, Supervisor
Whitney McDonald, County Counsel

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805)781-5600
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#896



INLAND APPEAL FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: Wilton + Helen Webster File Number: DRC 2003-00028

Type of permit being appealed:

- Plot Plan
- Site Plan
- Minor Use Permit
- Development Plan/Conditional Use Permit
- Variance
- Land Division
- Lot Line Adjustment
- Other: _____

The decision was made by:

- Planning Director (Staff)
- Building Official
- Planning Department Hearing Officer
- Subdivision Review Board
- Planning Commission
- Other _____

Date the application was acted on: 4/17/15

The decision is appealed to:

- Board of Construction Appeals
- Board of Handicapped Access
- Planning Commission
- Board of Supervisors

2015 APR 17 AM 11:12
SLO COUNTY
PLANNING/BUILDING
DEPT

BASIS FOR APPEAL

State the basis of the appeal. Clearly state the reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed). (Attach additional sheets if necessary)

Please see attached

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number All Reason for appeal (attach additional sheets if necessary)
Please see attached

APPELLANT INFORMATION

Print name: Alison Norton (on behalf of Wilton + Helen Webster)
 Address: 147 S. River Street, Suite 221, Santa Cruz CA 95060
 Phone Number (daytime): 831-429-4055

We have completed this form accurately and declare all statements made here are true.

Alison Norton Signature 4/19/15 Date

OFFICE USE ONLY

Date Received: 4/19/15 By: R. Hedges
 Amount Paid: Fee waived per P&B officer Receipt No. (if applicable): N/A

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April 15, 2015

VIA EMAIL AND OVERNIGHT DELIVERY

Matt Janssen
Hearing Officer, Office of Planning Department, County of San Luis Obispo
976 Osos Street, Room 200
San Luis Obispo, CA, 93408

Re: Planning Department Hearing to Consider Approval of Willow Creek Minor Use
Permit DRC2013-00028

Dear Mr. Janssen:

This office represents Wilton Webster and Helen Webster (hereinafter Webster), with respect to the above referenced project. Webster is concerned with the impact the proposed project under this permit will have on the surrounding area, the preservation of the community, and the failure of the County and Willow Creek NewCo. LLC (“Willow Creek”) to comply with San Luis Obispo County planning and zoning laws, and the California Environmental Quality Act (“CEQA” – Public Resources Code §2100 et seq.). We request that you **deny** the above Minor Use Permit (“MUP”).

The above MUP was approved on January 2, 2015. Webster appealed that approval based on a myriad of reasons, including, but limited to:

- Failure to provide adequate notice and supporting documents to the public;
- The Ordinance Modifications and Setbacks proposed, in conjunction with the entire project, violate zoning laws;
- The Mitigated Negative Declaration (“MND”) is insufficient and fails to comply with CEQA for, including but not limited to, the following reasons:
 - Failure to sufficiently analyze Septic issues;
 - Failure to sufficiently analyze Public Services and Utilities;
 - Failure to sufficiently analyze Transportation/Circulation;
 - Failure to sufficiently analyze Water issues;
 - Failure to sufficiently analyze Noise;
 - Failure to sufficiently analyze the effect on biological resources;
 - Failure to sufficiently analyze the impact of importing olives.

WITTWER PARKIN LLP / 147 S. RIVER ST., STE. 221 / SANTA CRUZ, CA / 95060 / 831.429.4055

WWW.WITTWERPARKIN.COM / LAWOFFICE@WITTWERPARKIN.COM

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This office submitted a Public Records Act request on February 20, 2015. On March 20, 2015, we received some of the requested documents. In review of those documents it was discovered that the County approved a building permit for a remodel that we believe, and herein allege, will be made into a bed and breakfast/motel. Internal emails indicate that the County *knew* the remodel was for a bed and breakfast/motel. By failing to incorporate the building permit for the remodel in the review of the MUP, the County is engaging in piecemeal environmental review in violation of CEQA. (Webster filed a Complaint and Petition for Writ of Mandamus on April 9, 2015 (Ex. A.)) For this reason alone, this MUP request should be denied.

The MND fails to analyze the full scope of the project (including the remodel) and an Environmental Impact Report should be completed pursuant to CEQA.

A) The Notice Provided to the Public was Insufficient on this Matter and Violates Due Process

Section 22.30.070.B.1.b of the San Luis Obispo Land Use Ordinance states, “[p]ublic notice shall be provided to owners of property within a minimum of 1,000 feet of the exterior boundaries of the proposed agricultural processing site.” The County initially only provided public notice of the above permit to four (4) individuals in violation of their Ordinance. More than four individuals live within “1,000 feet of the exterior boundaries of the proposed agricultural processing site.” The Notice of Tentative Action (“Notice”) postcard was barely legible. The Notice was postmarked November 24, 2014 and stated that a Mitigated Negative Declaration was issued on November 26, 2014 – 2 days after the postmark date. Thus, the MND was approved in the future. Webster appealed the Planning Department decision shortly thereafter. The Notice for the January 2, 2015 hearing was insufficient and violated due process because it did not go out to all those as required by the Land Use Ordinance and was extremely difficult to read. In addition, the documents upon which the Hearing Officer relied on for the January 2, 2015 hearing (and also for which will be relied upon for the April 17, 2015 hearing) – the MND and all accompanying documents relied upon by the County – were not on the County website. This office made multiple requests to place the documents on the website in emails to the County on: January 5, 2015, January 6, 2015, January 7, 2015, January 13, 2015, February 6, 2015, February 23, 2015, and also by phone on February 25, 2015. The fact that these documents are still not on the website continues to deprive any citizens of San Luis Obispo of proper notice.

B) The Approval of this Permit Changes the Entire Neighborhood

The Agricultural zoned area of Adelaida is a quiet neighborhood, filled with sloping hills, beautiful vistas and agricultural farming. Authorizing the above MUP would change the entire nature and scope of the neighborhood. The MUP allows for twenty five (25) temporary events, such as wedding and corporate events, with 200 guests and amplified music until 10 p.m. The

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MND does not elaborate on what “temporary events” means as it applies to this project. Temporary events are described in the County’s Land Use Ordinance Section 22.30.610.B as an event held, “in a single location for no longer than twelve consecutive days.” Thus, under the MUP, events can be held for up to 300 days.

The MND does not clarify with regard to the scope of the event or what an actual event entails. Also, the fifteen (15) year duration of the permit is excessive given this is the first event center of its kind in the Agricultural zoned area. Also, it is dubious to believe that 25 events with 200 guests can be considered a “secondary use” to promote the sale of olive oil.

Arbitrary parameters in the MND and MUP are not founded in thorough environmental analysis and are therefore legally inadequate. Instead of “Playing with Project Conditions” (Email October 28, 2014, Ex. B), mitigation measures and alternatives would have been “fully explored” had an Environmental Impact Report been done. “One function of an EIR is to address the adequacy of proposed mitigation measures. (Guidelines, § 15126.4.) Another function is to consider alternatives to the project. (Guidelines § 15126.4.)” *Architectural Heritage Association v. County of Monterey* (2001) 122 Cal.App.4th 1095, 1122. Exhibit B shows lined out provisions that are derived from the County’s definition of “Special Events” under Land Use Ordinance Code Section 22.30.70.D.i.1-6, which applies to wineries. The lined out provisions are far more limited in scope, i.e. fewer events, fewer guests, and limited hours of music from 10 a.m. to 5 p.m. The MUP also requests approval of a wine tasting room.

This neighborhood does not presently have weddings and big events. The MUP is contrary to County land use laws and calls for a **serious change in the nature of the neighborhood and should not be permitted.**

C) The MUP Violates the Williamson Act and Zoning Laws

The County Land Use Ordinance expressly states that if a use is not listed as being allowed within the zoned area, then it is not allowed. Section 22.06.030.C of the Land Use Ordinance states, “[a] land use not listed...or is not shown in a particular land use category is not allowed.” The uses proposed in the MUP and building permit 2013-02460 (remodel) are in clear violation of the County zoning laws.

This MUP, in conjunction with the building permit for the remodel, is squarely in violation of the Agricultural zoning laws. The building permit for the remodel allows seven (7) bedrooms and six and a half (6.5) bathrooms. An email dated June 3, 2014, from a County Plan Checker to a County Planner, referred to a discussion between the two, “[a]s you said, they will need to revise their land use permit to include the motel use (Bed & Breakfast).” (Email June 3, 2014, Ex. C.). The email called for a resubmittal of plans. “As you are aware the Building official is responsible to classify the structure per 2013 CBC 104, the plans were submitted as a residential remodel and addition but the plans actually meet the definition & occupancy

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classification for a motel, R-1, per 2013 CBC 310, 310.3 & 310.5.” *Id.* The MUP was not modified and remains silent on the remodel which we assert will be a bed and breakfast/motel. Also, there was no notice to the public regarding the remodel permit (a violation of due process). The remodel was only discovered through a Public Records Act request. Furthermore, the scope of the MUP allowing for 200 guests at each of the twenty five (25) events removes the use of the Pasolivo property from Agricultural to commercial in nature. The MUP and the remodel are not permitted within the area zoned Agricultural and is a clear violation of the County’s zoning laws.

This project further violates the Williamson Act. In the Landowners’ Statement of Compliance with the Williamson Act, signed and dated November 19, 2013, the applicants erroneously state that the “[p]roject will utilize existing access and structures. Expansion will be condensed to existing developed area.” (Landowners’ Statement, Ex. D.) This is false. The MUP seeks to tear down the existing barn, which dates back to the early 1900’s, as well as expand on the buildings presently on site. Furthermore, the whole purpose of the Williamson Act is to preserve agricultural and open space lands and abate pressures from population growth and new commercial enterprises. Willow Creek plans to convert an Agricultural zoned property into a commercial property with an event center and a bed and breakfast/motel in violation of the Williamson Act.

D) The Mitigated Negative Declaration Fails to Sufficiently Address Traffic and Safety Issues

The MND does not sufficiently address traffic issues and in fact blatantly avoids the requirements established under County Resolution 2008-152: Revising Policies Regarding Land Development Improvements on County Maintained Streets and Roads (Resolution, Ex. E.) The County found that “the rate of vehicle collisions in the rural areas of San Luis Obispo County have had an increasing trend for several years, indicating a need to revise development policies.” *Id.* The Resolution requires:

Land development projects in rural areas which are not subdivisions, and which will attract general public traffic (e.g., wine tasting, ag tourism, events, etc.) on County-maintained roads, shall be approved with a condition to widen to complete the project side of an A-1 (rural) standard according to the criteria in Table 2 below, prior to occupancy of any new structure, or initiation of the use, if no structure is proposed.

The Resolution further states, “to limit exposure of increasing the number of collisions on the road, all developments in rural areas which attract the general public (e.g., wine tasting, ag tourism, events, etc.) **shall be required** to perform a Roadway Safety Analysis (RSA).” *Id.*

The increase in traffic as a result of an approval of the MUP will come from two primary sources: guests attending the 25 events and trucks bringing offsite olives onsite for processing. The MND states that the “proposed project is estimated to generate about 80 peak hour trips.”

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(MND, p. 20.). The MND then provides a convoluted and legally inadequate discussion of vehicle trips associated with olive processing and calculates peak hour trips to be at 80 hours. The MND discusses Phase I, but fails to discuss the 25 events with 200 guests each. Even if you assume these events are limited to one day, the events add a potential of up to 5,000 (25 events multiplied by 200 guests) additional vehicles per year on a small, windy rural road. Clearly this will affect the number of peak hour trips. This was acknowledged by Development Services in a memo to County Planner, “[t]he proposed project may trigger road improvements per Resolution 2008-152. Events that attract the general public and generate between 101 and 200 PEAK hour trips, will trigger upgrading a ¼ mile of Vineyard Drive to current standard.” (Memo, November 8, 2013, Ex. F.) No condition was added to require such upgrading or a Road Safety Analysis (RSA).

In addition, the MND states that “[t]he County has established the acceptable Level of Service (LOS) on roads in rural area as ‘C’ or better. The existing road network in the area Vineyard Drive (a collector road) **is operating at acceptable levels.**” (MND, p. 20.) The MND only discusses the present level, not the level that will be impacted by the proposed projects. The MND does **not** discuss the tremendous increase in traffic from 25 events with 200 guests.. The MND does not comply with Resolution 2008-152 because no Roadway Safety Analysis was completed.

The San Luis Obispo Bike plan and County’s Traffic Code (Section 15.92.149 of the Traffic Code) encourage the use of bicycles and bike lanes on Vineyard Drive. The MND does not analyze how the proposed MUP would comply with the San Luis Obispo Bike plan, which must be considered in any environmental review.

The MUP and bed and breakfast/motel also create serious issues with respect to fire and police response, schools and roads. Cal Fire San Luis Obispo states in their letter (attached to the MND), “[t]he cumulative effects of large scale special events and increased commercial operations within areas such as this continue to place challenges upon CAL Fire/County Fire’s ability to provide efficient and effective emergency services within rural areas.” This cannot be mitigated through fees. Any proposed mitigation through fees is **not** an attempt to garner greater safety for guests of Pasolivo. “A commitment to pay fees without any evidence that mitigation will actually occur is inadequate.” *Save Our Peninsula Committee v. Monterey County Bd. Of Supervisors* (2001) 87 Cal. App. 4th 99, 140.

Vineyard Drive is a windy, two way, narrow rural road. The MUP proposes to put the potential of 5,000 cars on the road each year and drivers which may have been drinking. The MND looks at olive trucks and derives a number of 80 peak hours. There is no study to support this estimate. Furthermore, there is no analysis on the traffic impacts from the 25 events (note, not including the non-profit events), visitors to the tasting room, or the bed and breakfast.

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Therefore the MND is legally inadequate because the County failed to perform a traffic environmental analysis.

E) The Noise Study Relied Upon by the Negative Declaration Fails to Properly Evaluate Noise Impacts

Willow Creek hired a Noise Expert from David Dubbink Associates. The report is titled, "Topic: Acoustical Analysis for the Pasolivo Events/Olive Oil Expansion," dated July 5, 2013. (Acoustical Analysis, Ex. G). The Acoustical Analysis is legally inadequate and cannot lawfully be relied upon by the County. The first sentence of the noise study states, "[w]e have completed the acoustic survey for an acoustical analysis in support of a temporary events permit for the Pasolivo Events/Olive Oil Production Expansion on Vineyard Drive. The noise study declared that the event activities 'will not exceed any of the county's standards'." *Id.* The study makes sweeping and conclusory statements such as, "[b]ecause of the distance from the events area to the northern and eastern property lines, there is no likelihood that noise limits will be exceeded." *Id.* at p. 2. However, the noise study conducted no analysis of the northern or eastern property lines. Furthermore, the testing equipment used in the Acoustical Analysis is outside of the suggested calibration. (Briel & Kjaer "Why and When to Calibrate", Ex. H). The Acoustical Analysis states, "any analysis of impact first requires an estimation of the sound levels associated with the individual events. We have made measurements of noise levels produced during outdoor events held in SLO and will use these numbers in evaluating proposed activities." (Ex. G, p. 3.) The report provides no data or information as to what those numbers are, the types of events they were based on, the time of year, the weather, etc. The Webster's requested any raw data from Acoustical Analysis, for which there is none to be located, and so it can not truly be known what data was **actually** collected.

Jeffrey Pack of Edward L. Pack Associates, conducted a Peer Review of the Dubbink Acoustical Analysis. (Peer Review and CV of Jeffrey Pack, Ex. I.) Jeffrey Pack's peer review indicates, *inter alia*, the following reasons the Dubbink Acoustical Analysis is flawed (and therefore legally inadequate):

- "Acoustical consultants are not supposed to support the project on which they are working. The ethical standards of the consulting community require completely unbiased analyses." *Id.* a p. 1;
- "Descriptions of surrounding properties should be provided...the surrounding properties, especially to the south, west and north are noise sensitive." *Id.* at p. 2;
- "Has a traffic analysis been prepared? Project traffic could cause a significant impact in relation to CEQA guidelines." *Id.* at p. 2;
- "The assertion that there is no likelihood of noise excesses at the north or east property lines due to the distance is not valid. No data are presented to back up this claim." *Id.*;

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- “The description of the performance set up is vague. A detailed description should be provided, such as the number of speakers, their size and make and amplification power ratings.” *Id.* at p. 3;
- “[T]here should be some discussion regarding live music, particularly drums, brass instruments and vocals....The sound levels of drums, trumpets and vocals tend to carry more over large distances. Electric guitar sound also tends to carry more.” *Id.*;
- “A boisterous DJ or MC can generate high vocal sound levels during wedding events such as announcing the bridal party and the garter and bouquet tosses. These sources are realistic and should be accounted for.” *Id.*;
- “[D]ue to the topography of the area, distances to the receptors and the proximity to the Pacific Ocean, atmospheric effects need to be taken into consideration. Temperature inversions, prevailing winds and shielding and reflections from hillsides can greatly affect the standard sound attenuation rate.” *Id.* at p. 4;
- “The reference sound levels in Table 2 appear to be low and seem to represent more of a “background” music level rather than entertainment/dance music levels.” *Id.*;
- “Events on the South Terrace would result in non-compliance with the standards and significant noise impacts. Without demonstrating precise mitigation measures and quantifying the results that show a less than significant impact, an EIR may be required.” *Id.* at p. 5;
- “The CEQA thresholds are based on the ambient conditions at the receptor locations. Given that the ambient noise levels are low, as stated previously, compliance with CEQA may be more restrictive than complying with the County Noise Element/Code standards.” *Id.* at p. 6;
- “[T]he noise study should be more comprehensive to adequately represent realistic noise impacts to the surrounding neighbors under various scenarios. The analysis of noise increases over the ambient noise environment, per the requirements of CEQA, need to be quantified for each of the receptors in the area.” *Id.* at p. 7.

The Minor Use Permit calls for weddings attended by up to 200 people. The permit is not clear as to what type of amplified music is permitted, but it is safe to assume that music will be played – either by a live band or through a DJ. The Acoustical Analysis does not evaluate all potential scenarios and therefore more analysis is required. It is abundantly clear that the Acoustical Analysis relied upon for this Minor Use Permit is legally inadequate, insufficient and incomplete.

F) The Negative Declaration Fails to Properly Identify the Significance of the Agricultural Barn

The MUP proposes to tear down a barn that was constructed in the early 1900’s. The MUP proposes the “demolition of an existing ag barn.” (Tentative Notice of Action). The MND states that LSA Associates conducted an Archeological Survey and Historical Assessment in

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September of 2013. (MND, p. 12.) The study identified the ag barn as a “livestock barn, built circa 1925.” *Id.* at p. 12.

County records show that the agricultural barn was built around the 1900’s and was originally located on the King Vidor property. (County Records of King Vidor Barn, Ex. J.) William Hurley of Dos Osos Timberworks, Inc. and member of the California-Nevada Barn Alliance had the opportunity to review the County records, as well as photos of the barn taken February, 2015. (Photos of Barn, Ex. K.) Mr. Hurley graduated from California Polytechnic State University, San Luis Obispo, from the College of Architecture and Environmental Design, with a BS in City and Regional Planning. His review of the records indicating the agricultural barn was built in the early 1900’s, in conjunction with the photos, led him to conclude that, “[c]ertain structural features tell me [the date] this is probably correct.” (Email March 16, 2015, Ex. L.) In reference to the agricultural barn, Dr. Daniel E. Krieger, professor of History Emeritus at California Poly Polytechnic State University, stated, “[t]he King Vidor association makes the barn a significant cultural resource for the County of San Luis Obispo. You may quote me on that in your communications with county government.” (Email, February 28, 2015, Ex. M.)

Willow Creek and its representatives have tried to portray the barn as unsafe. “The current barn is not structurally sound for employees and public and is not efficient for ag equipment storage.” (Pasolivo Document, “Extra Copy – Revised Date 7/17/14”, Ex. N, at p. 19.) Willow Creek and its representatives also stated to County Planner in a letter dated April 1, 2014, “[n]othing can be stored and or secured in the current barn given its condition so the owners are using the houses and general property to store things currently uncovered.” (Pasolivo DRC2013-00028 – Response to Information Hold Letter, dated April 1, 2014, Ex. O.) This is untrue.

“The barn is in good condition.” according to the Phase I Archaeological Survey and Historical Assessment for the Pasolivo Project done by LSA Associates and dated September, 2013 (Archaeological Survey, Ex. P., at p. 20.) William Hurley says the barn “appears to be in decent shape” based on the photographs and his expertise. Additional evidence that the barn is in good shape and suitable for use is seen on the Pasolivo Facebook page. The Pasolivo Facebook page hosted a party held inside the barn on February 27, 2014 (Facebook photos, Ex. Q.), indicating the barn is in fact safe and suitable for use. The photographs taken a year later in February, 2015, clearly show that the barn is currently being used for storage. Lastly, Jack Hanauer of Jack Hanauer Construction, Inc. worked on the barn in 2005. Mr. Hanauer states that this barn is only “one of two barns in the area that have been preserved by their owners.” (March 2, 2015 letter with photo, Ex. R.) The barn is unique for two reasons: the interior posts are made of solid oak trees that were forested off the property when the barn was originally built, and have been left in their natural state, and the barn follows that natural sloping grade of the land at the foundation, but has a constructed level roof line. In 2005, Mr. Hanauer’s construction company

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was hired to do a “preservation project,” by which they reinforced the concrete footings, rebuilt the roof at the south end of the barn, converted a portion of the barn to a tool and equipment room, repaired damage to the roof, and much more. *Id.* Mr. Hanauer hopes “the new owners of this barn would consider the historical and unique qualities of this barn and use them to their advantage to attract tourists to their ranch.” *Id.*

Willow Creek and its representatives have been untruthful about the condition of the barn. The barn is unique in its construction, it is unique because it was once part of King Vidor’s property and it is unique because it is one of two barns left of its kind in the Adelaida area. LSA Associates did not correctly date the barn and the County records and barn experts clearly indicate the barn was circa 1900’s. The evaluation of the barn is legally inadequate and a full Environmental Impact Report is required.

G) The Negative Declaration Fails to Properly Evaluate Water Impacts of Proposed Projects

The MND also discusses the issue of water consumption. The agriculture water used for existing production is at an average of 109 gpd (39,785 gallons annually). (MND, p. 23.) Expanding the tasting room would generate 250 gallons per day (gpd), or 91,250 gallons annually. *Id.* Twenty five (25) events with 200 guests will generate about 46,200 gallons annually (which averages to about 127 gpd). *Id.* At Phase III of the project, there will be a 218 gpd (79,570 gallons annually) increase. *Id.* at p. 24. 109 gpd (present agricultural use) plus 250 gpd (expansion of tasting room) plus 127 gpd (average for the events) plus 218 (from Phase III) equals 704 gallons per day or 256, 960 gallons of water per year. This is an increase of 217,175 gallons annually. The water is set to come from a single well on the property. The MND states, “there is preliminary evidence that there will be sufficient water available to serve the proposed project.” (MND at p. 22.) The public has no information as to what that preliminary information relied upon in the MND is, what the evidence is based on, what data was collected and what the results are. More information is needed.

There is a remarkable and real concern with water consumption in California at this time. As the legislature is passing water bills and Governor Brown is issuing mandatory cutbacks on consumer consumption of water, this project is proposing to increase water consumption by enormous amounts. The County is failing to fully address the extraordinary consumption of water that the MUP, as well as the bed and breakfast/motel, proposes to consume. The MND is legally inadequate.

H) Modifications / Setbacks

The MUP requests, and the MND authorizes, ordinance modifications regarding agricultural retail sales space and winery tasting room setbacks. Land Use Ordinance Section 22.30.075.B.1 allows for modifications to the amount of floor area that is devoted to agricultural

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retail sales. The Ordinance allows for a floor space of up to 500 square feet unless otherwise authorized by a MUP. The MUP asks to expand the retail sales area to 1,900 square feet – almost three times larger than that authorized by the Land Use Ordinance. In addition, the MUP requests a modification to the setbacks required under Land Use Ordinance Section 22.30.075.B.4, from a required set back of 400 feet to 307 feet from existing residences.

In addition, Land Use Ordinance Section 22.30.075.D.3 requires, “[a] fire plan that sets forth adequate fire safety measures for the proposed Agricultural Retail Sales facility.” Apart from a letter from Cal Fire indicating that, “[t]he cumulative effects of large scale special events and increased commercial operations within areas such as this continue to place challenges upon CAL Fire/County Fire’s ability to provide efficient and effective emergency services within rural areas, the MND does not discuss a fire plan. This is a violation of Section 22.30.075.D.3.

The MUP also requests setback modifications of Land Use Ordinance Section 22.30.070.D.2.d.1, which states, “[w]here a winery has public tours, tasting, retail sales, or special event (in compliance with D.2.i.), the setback shall be increased from 200 feet from each property line and no closer than 400 feet to any existing residence outside the ownership of the applicant.” This can be modified by a MUP if the property fronts an arterial or collector street. The MUP seeks to modify the setbacks from 200 feet to 159 feet at the side, and from 400 feet to 300 feet to the nearby residence.

While such modifications to the Ordinance are permitted through Minor Use Permit, when addressing the modifications and setbacks in light of the entire project (MUP and bed and breakfast/motel), the setbacks and ordinance modifications are an attempt to alter zoning, in violation of the San Luis Obispo County Land Use Ordinance.

I) Other Concerns

Other concerns regarding this project are as follows:

- What is the full impact of the projects (the MUP and bed and breakfast/motel) on the septic system, which is known to have “potential septic constraints due to: steep slopes, shallow depth to bedrock, slow percolation.” MND at p. 6.;
- What is the full impact of the projects (the MUP and bed and breakfast/motel) on biological resources?;
- What is the environmental impact of the importing of olives from off-site to onsite?

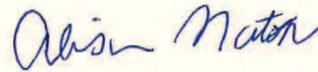
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J) The Project Violates CEQA

For all the reasons stated above, this Project violates CEQA. The County is chopping up this project into smaller projects in a piecemeal fashion in violation of CEQA. The Minor Use Permit should be denied and a full Environmental Impact Report ("EIR") should be completed pursuant to CEQA. The EIR should also include the bed and breakfast/motel.

Thank you for your consideration of these comments. For all of the above reasons, we respectfully request you **deny** Minor Use Permit DRC2013-00028

Very Truly Yours,
WITTWER PARKIN LLP

A handwritten signature in blue ink that reads "Alison Norton". The signature is written in a cursive, flowing style.

Alison Norton

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EXHIBIT A

FILED

4/9/2015

SAN LUIS OBISPO SUPERIOR COURT

BY L. Snyder
L. Snyder, Deputy Clerk

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7 Attorneys for Petitioners
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO
PASO ROBLES BRANCH

WILTON WEBSTER AND HELEN
WEBSTER,

Case No. 15CVP-0093

Petitioners,

COMPLAINT AND PETITION FOR
WRIT OF MANDAMUS

vs.

[CEQA CASE]

COUNTY OF SAN LUIS OBISPO,
and DOES 1 THROUGH 15,

Respondents,

WILLOW CREEK NEWCO LLC,
and DOES 16 THROUGH 30,

Real Parties in Interest.

_____)

I

INTRODUCTION

1
2
3 1. On December 18, 2014, the County of San Luis Obispo (hereinafter “Respondent” or
4 “County”) issued a building permit to Willow Creek NewCo LLC (hereinafter “Real Party”) for
5 the remodel of a single family home on property located at 8530 Vineyard Drive, County of San
6 Luis Obispo (hereinafter “Property”). Per the San Luis Obispo County Planning website, the
7 project calls for a “remodel (5,960 Sq. Ft.) & Convert Existing Garage to Habitable Space (805
8 Sq. Ft.) & Enclose Porch Area (178 Sq. Ft.), included modifications including new walls,
9 headers, beams & footings, adding (??) Bedrooms, adding (??) Bathrooms, altering the support
10 systems (??), no modifying roofing materials proposed and patching of existing siding (??).” (

11 “(??)” are part of the quote on the County Website indicating that the County is uncertain as to
12 the specifications of the project.) (*See*,
13 <http://www.sloplanning.org/PermitView/PermitLookup/Permit/PMT2013-02460>). Petitioners
14 have discovered that the approved construction permit calls for seven (7) bedrooms and six and
15 one half (6.5) bathrooms. The remodel calls for the demolition of approximately ninety percent
16 (90%) of the exterior and interior walls.

17 2. Petitioners are informed and believe, and on that basis allege, that the Real Party is
18 intending to run a bed and breakfast/motel once the remodel is complete without requisite land
19 use approvals. Moreover, Petitioners are informed and believe, and on that basis allege, that the
20 County will not require the Real Party to apply for the requisite land use approvals even though it
21 is aware of the ultimate purpose of the remodel.

22 3. On June 3, 2014, San Luis Obispo County Plan Checker Elizabeth Szwabowski
23 emailed County Planner Holly Phipps that the plans submitted constituted a reclassification of a
24 residence (R-1) to a motel (R-3). Ms. Szwabowski’s email referred to a discussion she and Ms.
25 Phipps had, stating, “[a]s you said, they will need to revise their land use permit to include the
26 motel use (Bed & Breakfast).” The plan checker’s email indicated that the plan included an
27 attached guest house with separate entry and included seven (7) bedrooms and seven (7)
28 bathrooms each serving a bedroom. There was no notice to the public that the remodel was

ATTACHMENT 2

1 intended to ultimately be used as bed & breakfast/motel. Indeed, the Petitioners did not even
2 discover the internal emails regarding the remodel's intended use until *after* they were received
3 by Petitioners' counsel on March 20, 2015 as part of a larger Public Records Act request. The
4 Petitioners could not have known, and had no reason to know, that a simple remodel would be
5 turned into an unauthorized use. There was no environmental review conducted for the remodel.
6 None of the application materials requested the approval of a bed & breakfast/motel, and none of
7 the approvals were for a bed & breakfast/motel. If the Real Party proceeds as it intends, the
8 operation of the bed & breakfast/motel will proceed without required land use approvals, General
9 Plan amendments and rezonings.

10 4. A subsequent email sent on June 17, 2014 from Cheryl Journey, Chief Building
11 Official for the County, directed Ms. Szwabowski to review the project as a SFR (Single Family
12 Residence).

13 5. On January 2, 2015, Respondent's Hearing Officer approved Minor Use Permit
14 DRC2013-00028 based on a Mitigated Negative Declaration. The Minor Use Permit allowed for
15 25 events with up to 200 guests, including weddings and corporate meetings with amplified
16 music. The Mitigated Negative Declaration, and all documents relied upon for the Mitigated
17 Negative Declaration, are silent regarding the bed and breakfast/motel. (The Minor Use Permit,
18 Remodel and bed and breakfast/motel are collectively referred to herein as the "Project" or the
19 approval of the action). The Minor Use Permit allows for:

- 20 • the demolition of an agricultural barn and the construction of a replacement barn to
21 include olive processing, a tasting room, a commercial kitchen and restrooms;
- 22 • the addition of an outdoor terrace;
- 23 • setback modifications from those established by San Luis Obispo County Code Section
24 22.30.075;
- 25 • set back modifications to exceed the floor area allotted under Agricultural Retail Sales
26 from 500 square feet to 1,900 square feet and to reduce the setback required from the
27 nearest residence from 400 feet to 307 feet; and

ATTACHMENT 2

- modifications of San Luis Obispo County Code Section 22.30.070 so as to allow Real Party to reduce the setback from neighboring properties for a winery tasting room from 200 feet to 159 feet, even though Real Party does not grow grapes or produce wine on their property.

Without considering the approval of the bed and breakfast/motel together with the Minor Use Permit, the County has failed to conduct any environmental review for the bed and breakfast/motel.

6. Petitioners appealed the Hearing Officer's approval of the Minor Use Permit, including on the grounds of failure to give proper Notice to Petitioner. Petitioners are concerned with the impact the Project will have on the surrounding area, the preservation of the community, and the failure of the County and Real Party to comply with San Luis Obispo planning and zoning laws, and the California Environmental Quality Act ("CEQA" - Public Resource Code § 2100 et seq.). Respondent has returned the Minor Use Permit to the Hearing Officer for reconsideration after giving new notice.

7. Petitioners challenge Respondent's and Real Party's actions regarding the approval of the remodel that will serve as a bed and breakfast/motel. The Petitioners seek relief to prevent the use of the remodel as a bed & breakfast/motel without requisite land use approvals, General Plan amendments and rezoning. The proposed use of the remodel as a bed & breakfast/remodel also violates CEQA because the County is segmenting environmental review by separately approving Minor Use Permit DRC2013-00028 without consideration of the bed and breakfast/motel. Petitioners further allege that a bed and breakfast/motel is not permitted on the Property and is illegal pursuant to the San Luis Obispo County Land Use regulations. The San Luis Obispo County Land Use regulations expressly states that if a use is not listed as being allowed within the zoned area, then it is not allowed. A motel is not listed as being allowed in an Agricultural zoned district and therefore is not authorized on the property which is zoned for Agriculture.

8. By this Petition, Petitioners allege that the effect of the Real Party's actions is to create a bed and breakfast/motel as part of their overall scheme to illegally convert property zoned

ATTACHMENT 2

1 agricultural to commercial use. Such a use has not been evaluated under CEQA, has not been
2 duly applied for, noticed or processed, and would violate the County General Plan, the County
3 Code, and State planning and zoning laws.

4 9. Irreparable harm will occur if the County fails to comply with CEQA, the County
5 General Plan, and State planning and zoning laws as to the project and its impacts on the
6 surrounding area that is zoned AR, for agriculture.

7 **II**
8 **PARTIES**

9 10. Petitioners hereby incorporate by reference paragraphs 1 through 9 herein as if fully set
10 forth herein.

11 11. Petitioners, Wilton Webster and Helen Webster (“Petitioners”), are concerned citizens
12 and/or residents and taxpayers of the County of San Luis Obispo.

13 12. Respondent County of San Luis Obispo has land use regulatory authority over the
14 unincorporated area and has approved various grading permits and construction permits for Real
15 Party in Interest Willow Creek NewCo. LLC.

16 13. Real Party’s in Interest Willow Creek NewCo. LLC is owner and/or developer of the
17 Property and the applicant for the remodel permit and Minor Use Permit.

18 14. Petitioners are informed and believe, and on that basis allege, that Respondents and each
19 of them were the agents and employees of each of the remaining Respondents and while doing the
20 things herein alleged, were acting within the course and scope of such agency and employment.

21 15. The true names and capacities, whether individual, corporate or otherwise, of Does 1
22 through 15, are unknown to Petitioners who therefore sue said Respondents by such fictitious names
23 and will seek leave to amend this Complaint and Petition for Writ of Mandamus when they have
24 been ascertained.

25 16. Petitioners are informed and believe, and on that basis allege, that Real Parties in Interest
26 and each of them were the agents and employees of each of the remaining Real Parties and while
27

ATTACHMENT 2

1 doing the things herein alleged, were acting within the course and scope of such agency and
2 employment.

3 17. The true names and capacities, whether individual, corporate or otherwise, of Does 16
4 through 30, are unknown to Petitioners who therefore sue said Real Parties in Interest by such
5 fictitious names and will seek leave to amend this Complaint and Petition for Writ of Mandamus
6 when they have been ascertained.

7
8 **III**
9 **STANDING**

10 18. Petitioners hereby incorporate by reference paragraphs 1 through 17 herein as if fully
11 set forth herein.

12 19. Petitioners are citizens, taxpayers and landowners in the unincorporated area of the
13 County of San Luis Obispo.

14 20. The unlawful approval of permits for grading and construction has adversely affected,
15 and will in the future, adversely affect, the interests of Petitioners, and each of them. Petitioners,
16 and each of them, are dedicated to preserving the Agricultural environment of the County of San
17 Luis Obispo, area of Adelaida, as set forth herein, and are concerned about the environmental and
18 agricultural integrity of the County of San Luis Obispo.

19 21. Notice of the filing of this action, as required by Public Resources Code Section
20 21167.5 was mailed to the Respondent on December 23, 2008. (See attached Letters and Proof
21 of Service attached hereto as Exhibit "A").

22 22. Jurisdiction of this court is invoked pursuant to California Code of Civil Procedure
23 Sections 1085 and 1094.5; Government Code Section 54960; California Public Resources Code
24 Section 21167; California CEQA Guidelines Section 15112; the State planning and zoning Laws
25 (commencing at Government Code Section 65000); the Constitution of the State of California;
26 the Constitution of the United States; and other applicable laws and regulations.

27 **IV**

ATTACHMENT 2

FIRST CAUSE OF ACTION
Violation of the California Environmental Quality Act

23. Petitioners hereby incorporate by reference paragraphs 1 through 22 herein as if fully set forth herein.

Failure to Perform Environmental Review and Improper Environmental Review Through Segmentation of Project

24. CEQA requires that an agency conduct environmental review for a project. A project is “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, that involves the issuance to a person of a lease, **permit**, license, certificate, or other entitlement for use by one or more public agencies.” Public Resources Code § 21065. A “project” means the **whole of an action**, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. 14 CCR § 15378(a).

25. Respondents have failed to perform environmental review of the whole action comprising the actual Project, namely, to convert a property zoned AR - Agriculture - into a commercial use property, including, but not limited to, a bed and breakfast/motel and sales and an event center for weddings and corporate events, in direct violation of CEQA. Respondents approval of the Mitigated Negative Declaration, with knowledge of the separate but essentially concurrent building permit with the intention to convert the residence to a bed and breakfast/motel, is the antithesis of CEQA. Respondents failed to evaluate the “**whole of the action**” for development on the Property which constitutes a “project” under CEQA. The permits and/or approvals granted, and the allowance of work regarding the Property have resulted in segmentation of pieces of the entire Project applied for by Real Party by excluding the bed and breakfast/motel project from the Minor Use Permit. Environmental impacts of a project cannot be submerged by chopping a larger project into smaller pieces. This concept is referred to as “segmentation” or “piecemealing environmental review” and is impermissible under CEQA.

ATTACHMENT 2

1 Moreover, the concept of improper segmentation applies to each approval that is part of a
2 Project. The definition of a Project encompasses the entire activity, and not each separate
3 approval. 14 CCR § 15378.1. Respondents must consider “[a]ll phases of project planning,
4 implementation, and operation.” 14 CCR § 15063(a)(1). The analysis must embrace future
5 development that will foreseeably occur if Respondents approve any portion of the project.
6 Accordingly, Respondents failed to proceed in a manner required by law and committed a
7 prejudicial abuse of discretion.

8 26. The County further violated CEQA when it failed to conduct environmental review
9 for the remodel that is intended to convert a residence to a bed and breakfast/motel. Accordingly,
10 Respondents failed to proceed in a manner required by law and committed a prejudicial abuse of
11 discretion.

12
13 **V**
14 **SECOND CAUSE OF ACTION**
Violation of County Planning and Land Use Regulations

15 27. Petitioners hereby incorporate by reference paragraphs 1 through 26 herein as if fully
16 set forth herein.

17 28. Title 22 of the San Luis Obispo County Code states that, “[a] land use that is not
18 listed in Table 2-2 or is not shown in a particular land use category is not allowed.” (§ 22.06.030
19 (C)). A motel in an area zoned for Agriculture is in violation of the County Code.

20 29. Petitioners are informed, believe, and on that basis allege, that the remodel is
21 designed to create seven (7) separate rooms, each with its own bathroom and is configured as a
22 bed and breakfast/motel. Petitioners allege that this will not be used as a residential property,
23 rather it will be used in conjunction with wedding and corporate events as a bed and
breakfast/motel.

24 30. Respondent is aware that the Real Party will use the property as a bed and
25 breakfast/motel and is not requiring the requisite rezoning and General Plan amendment for such
26 use. Thus, the Respondents have failed to proceed in a manner required by law.

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VI
THIRD CAUSE OF ACTION
Violation of Due Process

31. Petitioners hereby incorporate by reference paragraphs 1 through 30 herein as if fully set forth herein.

32. The Federal and State Constitutions require due process for affected landowners and other affected parties and in particular that they be provided adequate notice and opportunity to be heard prior to any governmental action that may affect significant rights. These principles are codified in Government Code §§ 65090 and 65091, a part of the State planning and zoning laws.

33. Because the Respondent proceeds with its bed and breakfast/motel without including it in Real Party's Minor Use Permit application in violation of the County code and without requisite General Plan amendments and rezoning, the public was not provided with any notice or a public hearing regarding the bed and breakfast/motel in violation of Due Process.

IX
ATTORNEYS FEES

34. Petitioners hereby incorporate by reference paragraphs 1 through 33 herein as if fully set forth herein.

35. In pursuing this action, Petitioners will enforce important rights affecting the public interest and (a) a significant benefit will be conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement are such as to make an award of attorneys fees appropriate, and (c) such attorneys fees should not in the interest of justice be paid out of the recovery, if any. Petitioners are therefore entitled to recover from Respondent and Real Party reasonable attorneys' fees and costs pursuant to Section 1021.5 of the Code of Civil Procedure and other applicable provisions of law.

ATTACHMENT 2

**X
INJUNCTION**

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3 36. Petitioners hereby incorporate by reference paragraphs 1 through 35 herein as if fully
4 set forth herein.

5 37. An actual controversy has arisen concerning Respondent's failure to comply with
6 CEQA, and County of San Luis Obispo Land Use regulations, as set forth above.

7 38. As a result of the above alleged violations of CEQA and County of San Luis Obispo
8 Land Use regulations, Respondents have failed to conduct adequate environmental review as
9 required by law, have failed to provide the public with information concerning environmental
10 impacts and have failed to require compliance with state and local land use regulations.

11 39. At all times mentioned herein, Respondent has been able to perform the duties
12 specified in this Petition. Notwithstanding such ability, Respondent has failed and continues to
13 fail to perform said duties to require and perform sufficient environmental review and comply
14 with applicable land use regulations. Said actions will irreparably harm the environment, and
15 will result in significant impacts on the Property and surrounding areas.

16 40. Petitioners possess no speedy, adequate remedy at law, in that implementation and
17 development in connection with the Property will permanently and forever harm, injure, degrade
18 and impact the environmental values of the County of San Luis Obispo and the Adelaida area.
19 Petitioners as citizens, residents, property owners, and taxpayers of the County of San Luis
20 Obispo and the Adelaida area will suffer irreparable and permanent injuries if Respondent's
21 actions herein are not set aside and compliance with CEQA and local land use regulations not
22 required.

23 41. A stay and/or restraining order and preliminary and permanent injunction should
24 issue restraining Respondents from allowing and Real Party from proceeding with using the
25 remodel structures as a bed and breakfast/motel absent compliance with CEQA and applicable
26 land use regulations, General Plan amendments and rezoning laws.

PRAYER

27 WHEREFORE, Petitioners pray for judgment as follows:

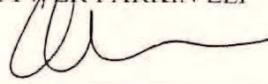
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1. For a Peremptory Writ of Mandate ordering Respondents to require requisite land use approvals for a bed and breakfast/motel and to otherwise comply with CEQA by requiring environmental review for the *bed and breakfast/motel*;
2. For an order staying the Real Party from using any structure on the Property as a bed and breakfast/motel;
3. For costs of suit and reasonable attorneys' fees under California Code of Civil Procedure Section 1021.5, and any other applicable provisions of law; and
4. For such other and further relief as the Court deems just and proper.

Dated: April 8, 2015

Respectfully submitted,
WITTMER PARKIN LLP

By 

William P. Parkin
Attorneys for Petitioners
WILTON WEBSTER
HELEN WEBSTER

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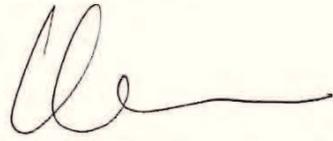
VERIFICATION

I, WILLIAM P. PARKIN, say:

I am Attorney of Record for WILTON WEBSTER and HELEN WEBSTER, parties to this action.

I have read the Complaint and Petition for a Writ of Mandamus and know the contents thereof. I am informed and believe that the matters therein are true and on that ground allege that the matters stated therein are true. This verification was not signed by a party to this action because Wilton Webster and Helen Webster are absent from the county where I have my office at the time this Complaint and Petition for Writ of Mandamus was drafted and ready for filing.

This verification was executed on April 8, 2015, at Santa Cruz, California.



William P. Parkin

ATTACHMENT 2

Exhibit A

ATTACHMENT 2

wittwer / parkin

April 8, 2015

Board of Supervisors
County of San Luis Obispo
1055 Monterey St., Suite D430
San Luis Obispo, CA 93408

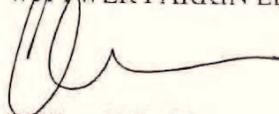
RE: Notice of Intent to Commence Litigation

Pursuant to the requirements of Public Resources Code Section 21167.5, this letter will serve as notice that Wilton Webster and Helen Webster will commence litigation against the County of San Luis Obispo.

The litigation challenges approvals related to property located at 8530 Vineyard Drive, County of San Luis Obispo. The Websters challenge the County's and Willow Creek NewCo LLC actions regarding the approval of the remodel that will serve as a bed and breakfast/motel without requisite land use approvals, General Plan amendments and rezoning. The proposed use of the remodel as a bed & breakfast/remodel also violates CEQA because the County is segmenting environmental review by separately approving Minor Use Permit DRC2013-00028 without consideration of the bed and breakfast/motel. Petitioners further allege that a bed and breakfast/motel is not permitted on the Property and is illegal pursuant to the San Luis Obispo County Land Use regulations.

The litigation has been commenced because the actions listed in the preceding paragraph do not comply with the requirements of the California Environmental Quality Act, California planning & zoning laws and requirements for due process.

Very truly yours,
WITTWER PARKIN LLP



William P. Parkin

WITTWER PARKIN LLP / 147 S. RIVER ST., STE. 221 / SANTA CRUZ, CA / 95060 / 831.429.4055

WWW.WITTWERPARKIN.COM / LAWOFFICE@WITTWERPARKIN.COM

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PROOF OF SERVICE BY MAIL

I certify and declare as follows:

I am over the age of 18, and not a party to this action. My business address is 147 S. River Street, Suite 221, Santa Cruz, CA, which is located in Santa Cruz County where the mailing described below took place.

I am familiar with the business practice at my place of business for the collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 8, 2015, the following document(s):

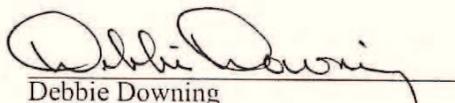
1. **NOTICE OF INTENT TO COMMENCE LITIGATION**

was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully paid to:

Board of Supervisors
County of San Luis Obispo
1055 Monterey Street, Suite D430
San Luis Obispo, CA 93408

I certify and declare under penalty of perjury that the forgoing is true and correct.

Dated: April 8, 2015


Debbie Downing

ATTACHMENT 2

EXHIBIT B

ATTACHMENT 2

From: Holly Phipps/Planning/COSLO
To: mandy@kirk-consulting.net
Date: 10/28/2014 09:55 AM
Subject: Playing with Project conditions

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes
- a. A wine processing and storage facility and a wine and olive oil tasting room to be located in an existing 2,471 square foot olive oil processing and storage facility (3,775 square feet total including a 1,304 square foot outdoor use area).
 - b. ~~Special Events consisting of 6 annual events with up to 80 guests.~~
 - c. ~~Special events are limited to 40 days per year.~~
 - d. ~~Amplified music shall only be allowed from 10 a.m. to 5 p.m. No amplified music shall occur before 10 a.m. or after 5 p.m.~~

Approved

The old winery processing was limited to 5,000 cases so I will add that. For olive processing, I will limit to 200 ton production yield.

New Project Description:

A request by Willow Creek NewCo. LLC for a Minor Use Permit to allow for the phased construction and expansion of an existing agricultural processing facility (olive oil and wine) to include the following: demolition of an existing barn and replacement with new construction of a 6,946 square foot (sf); construction of two new buildings (2,600 sf and 3,000 sf) to include processing, tasting room, commercial kitchen, office, and storage; construction of an outdoor terrace, parking area and access improvements; establishment of temporary events; and eventual processing of off-site olives.

Holly Phipps, MCRP
North County & Winery Planner



976 Osos Street, Room 300
San Luis Obispo, CA, 93408
805-781-1162
<http://www.sloplanning.org>

----- Forwarded by Holly Phipps/Planning/COSLO on 03/09/2015 12:16 PM -----

From: Holly Phipps/Planning/COSLO
To: Mandy Pickens <mandy@kirk-consulting.net>
Date: 10/28/2014 11:36 AM
Subject: Re: FW: Willow Creek Developer's Statement, BR-13

Here you go:

ATTACHMENT 2

EXHIBIT C

ATTACHMENT 2

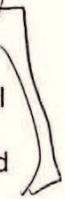
----- Forwarded by Holly Phipps/Planning/COSLO on 03/09/2015 12:16 PM -----

From: Elizabeth Szwabowski/Planning/COSLO
To: Holly Phipps/Planning/COSLO@Wings
Cc: Stephen Hicks/Planning/COSLO@Wings, Bill Robeson/Planning/COSLO@Wings, Laurie Donnelly/CDFCountyFire/COSLO@Wings
Date: 06/03/2014 02:45 PM
Subject: DRC 2013-00028 & PMT2013-02460 - Willow Creek - Change of Use from R-3 (residence) to R-1 (motel)

Holly, Thank you for your time today.

Here are the key issues I have discovered while plan checking the house/motel. As you said, they will need to revise their Land Use permit to include the motel use (Bed & Breakfast). 

1) RESUBMITTAL REQUIRED

As you are aware the Building Official is responsible to classify the structure per 2013 CBC 104, the plans were submitted as a residential remodel ~~and addition but the plans~~ actually meet the definition & occupancy classification for a motel, R-1 per 2013 CBC 310, 310.3 & 310.5. To be classified as a house you will need to have 16 or fewer occupants. The occupant load factor is 200 sq. ft. per occupant (Table 1004.1.2) and therefore your occupant load for this structure is 35 occupants. The plan shows a motel (bed and breakfast) with an attached guest house of 805 sq ft with separate entry and includes 7 bedrooms with 7 bathrooms serving each bedroom. The building is classified as a R-1 (motel) not a R-3 (residence). 

You will need to resubmit a revised application for CHANGE OF USE from R-3 (residence) to R-1 (motel) and include 4 sets of commercial plans and construction

ATTACHMENT 2

documents, include the required components. Please set up a permit intake meeting with Steve Hicks, Supervising Plans Examiner, 805-781-5709 or Elizabeth Szwabowski, 781-5725. IMPORTANT! Make an appointment to resubmit the motel application. The working drawings and supporting documents shall be prepared & coordinated by a licensed Architect in the State of California.

Additional revised fees will be calculated for the new commercial/motel submittal. Be prepared to pay the 1st installment. At the intake meeting we will calculate the fees.

2) SCOPE OF WORK: CHANGE OF USE from R-3 (residence) to R-1(motel)

Your scope of work is as follows; Residential remodel (5,960 sq. ft.) & convert existing garage to habitable space (805 sq. ft.) & enclose porch area (178 sq. ft.), includes new windows & doors, demolition of ~90 % of the ext. & int. walls, structural modifications including new walls, headers, beams, & footings, adding (??) bedrooms, adding (??) bath rooms, altering the support systems (??), no modifying roofing material is proposed and patching of existing siding (??).

Please clarify the following questions:

- a) How do you patch exterior when you are removing most ext. walls?
- b) How does the roof not get modified when the exterior walls are demolished?
- c) How will you support the roof system when you are demolishing ~ 90 % of the interior and exterior walls? Shoring?

The scope of work is actually as follows;

Change of use permit from R-3 to R-1, the existing residence is (5,960 sq. ft.) & convert existing garage to habitable space (805 sq. ft.) & enclose porch area (178 sq. ft.) into habitable space, also includes new windows & doors, demolition of ~90 % of the ext. & int. walls, structural modifications including new walls, headers, beams, & footings, totaling (7) bedrooms with attached (7) bath rooms, altering the support systems (??), no modifying roofing material is proposed and patching of existing siding (??).

3) REQUIRED SUBMITTAL COMPONENTS

The resubmittal shall include the following;

- a) Complete working drawings for a motel (R-1) use including a code analysis, verify compliance w/ details of fire & smoke resistance, clearly label required fire partitions & barriers for walls and floor systems. Provide approved fire-resistance-rated assemblies, member and through penetrations details include F-rating & T-ratings, cross sections identifying fire resistive components and details. Provide the approved details (UL approved devices, or other approved devices) for fire dampers, fire alarm, protection of fire & smoke resistance penetrations, key and reference all details. Evaluate & identify fire and smoke fire protective elements. Address sound transmission controls & flame spread ratings.
- b) Supporting Construction documents for motel.
- c) Provide structural cross sections through each unique Fire resistance condition from the foundation to the underside of the roof sheathing.
- d) Show compliance with Wild Urban land Interface, Chp 7A, 2013 CBC.

ATTACHMENT 2

- e) Include Fire Sprinkler plans and supporting calculations.
- f) Grading & drainage plans including all site utilities, drainage, & low impact design features.
- g) Plans shall address disabled access compliance including path of travel, parking, egress, restrooms, etc.
- h) Septic & leach design and supporting calculations for a motel, include percolation testing.
- i) Working drawings for electrical, mechanical, and plumbing plans, stamped and signed by a licensed professional.
- j) Energy compliance documents for non-residential.
- k) Duct sizing calculations per ACCA manual standards.
- l) Green Build Ordinance and Code.
- m) Revise structural calculations for a motel.
- n) Provide shoring plans and supporting calculations to support the roof.

4) REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE

The entire scope of work for this project must be designed by a California registered Architect. All plan sheets to be signed and stamped by the licensed professional.

5) EXISTING FLOOR PLAN

- a) Provide an existing floor plan for the residence show the number of existing bedrooms and baths.
- b) How many new bedrooms and baths are you proposing?
- c) What is the permit number for the existing residence? Note the permit number in the scope of work and note on the plans.

6) SITE PLAN/PERMIT HISTORY

- a) Label each structure and note the use of the structure include the building permit number.
- b) Verify all structures have proper permits. The applicant must ID all residences and show permits with farm support agreements.

Label each structure on the site plan and note the use and size of the structure include the building permit number. Verify all structures have proper permits excluding structures under 120 sq ft.

7) PLANNING APPROVAL - DRC 2013-00028

Obtain Planning approval for the motel (R-1) use. Modify the currently Land use permit that is in process to allow for the motel use, DRC 2013-00028.

Incorporate "the project conditions of approval" on the plans. If you need assistance in locating these conditions please contact the case planner, Holly Phipps, 781-1162.

Thanks, we'll be in touch, please return the plans when you are done.

With Regards,
Elizabeth Szwabowski
(805) 781-5725

ATTACHMENT 2

EXHIBIT D

LANDOWNER STATEMENT

LANDOWNERS' STATEMENT OF COMPLIANCE WITH THE WILLIAMSON ACT

A. Statement of Intent

San Luis Obispo County Department of Planning and Building cannot take action on any building permit or land use permit application involving a new structure or use on a parcel restricted by a Land Conservation Contract until such time as sufficient evidence is presented to the County and/or the California State Department of Conservation that the proposed new use is in compliance with and is compatible with the Land Conservation Contract.

The purpose of this form is to provide sufficient information to make a determination of compliance and to document that the landowner/applicant is aware of the provisions of Government Code Section 51250 (also known as the Laird Bill, AB 1492) regarding material breaches of land conservation contracts and associated financial penalties.

B. Applicant Information

Landowner:

Name Willow Creek NewCO LLC
Address 940 South Coast Dr. Ste 260 Costa Mesa, CA 92626
Telephone Number _____

Applicant (if different from landowner):

Name Pasolivo
Address same as above
Telephone Number _____

Assessors Parcel Number(s) of all land under land conservation contract affected by the application for a land use permit or building permit:

014-331-073

ATTACHMENT 2

C. Project Description

Building Permit Application No. none

Land Use Permit Application No. DRC2013-00028

Describe in detail what the project consists of: Minor Use Permit- Expansion of Olive Oil Processing and Visitor Serving uses

Explain how you intend to place the proposed structure or establish the use to minimize impacts on the property and to not compromise long-term agricultural operations: _____

Project will utilize existing access and structures. Expansion will be condensed to existing developed area and will not impact surrounding olive orchards.

D. Existing Contract Information

Original Contract Name: Geringer

Contract Recording Information: AGP2012-00004

Contract Resolution Number: _____

Assessor's Parcel Number(s) subject to the contract: 014-331-071 & 014-101-004 (ptn)

Minimum Parcel Size for Conveyance: 160 acres

E. Existing Buildings and Non-Agricultural Land Uses

Describe all existing buildings on the property, including their size, location and use and identify the assessors parcel number if there are multiple parcel numbers:

Olive Oil Processing Facility with Tasting Room-3,100sf

Residence (Foreman's) Slated for Removal- +/-1,500sf

Barn- slated for a replacement barn= +/-5,400sf

SFR

SFR-1979sf-2nd primary

* All structures are located on the same APN- 014-331-073

ATTACHMENT 2

Describe all existing non-agricultural land uses on the property (if any), including their scope and duration, location and the assessor's parcel number, if there are multiple parcel numbers:

All uses on the site are related to on-site agriculture, single family residences provide for onsite family management of farming operations.

F. Existing Agricultural Use

Describe in detail all current agricultural crops and activities (or the last crop grown and the approximate date planted, if fields are currently fallow):

+/- 45 acres olive orchards

G. Proposed Measures to Ensure Continued Compliance

What is your long-term intent for the property? The intent is to continue the agricultural use of the site. Onsite Ag Processing will provide for ongoing success of the existing onsite agriculture.

Explain how you are maintaining the agricultural viability of the land and how agriculture will remain the primary use of the property:

Existing agriculture will not be compromised by proposed development. Development will be clustered near existing development which is centralized into one location, away from the olive orchards.

Olive processing expansion and visitor serving uses will aid in ag viability by providing onsite.

ATTACHMENT 2

Explain how new structures or operations on the parcel will neither restrict nor impede any existing agricultural operations on the existing parcel or on adjoining contracted land:

The small expansion proposed will be clustered with existing development away from the existing olive orchards.

Explain how your agricultural operations will not result in any lands being proposed for withdrawal from the Williamson Act:

There are not plans to withdraw the contracts from Williamson Act. The proposed project will not interfere with the existing agricultural operation, as it will aid in overseeing the the ag operation's success. This proposal is consistent with the Williamson Act Contract and the adopted Rules of Procedure.

H. Acknowledgement

The Landowner makes the following representations:

- 1) I acknowledge that the activity, use or structures as proposed will be conducted in such a way as to maintain the agricultural viability of the parcel and ensure that agriculture is the primary use of the property.
- 2) I am aware of the provisions of the Williamson Act (Section 51250 of the California Government Code) and of the allowable uses on Williamson Act properties, as defined by San Luis Obispo County Code and the San Luis Obispo County Rules of Procedure To Implement The California Land Conservation Act of 1965.
- 3) I understand that AB1492 (Government Code Section 51250) defines specific and substantial penalties if structures on the parcel are found by the County of San Luis Obispo or the State of California to result in a material breach of the contract provisions.
- 4) I acknowledge that the Department of Conservation has indicated that: "Residences not incidental to an agricultural use are prohibited, and may trigger AB1492 penalties. These may include residences for family members not involved with the agricultural use, or residences constructed on contracted parcels with no commercial-agricultural use."
- 5) I acknowledge that the activity, use or structures as proposed are of a size and type that would not adversely affect the on-site or adjacent farming operations and would be incidental to or in support of the primary agricultural use of the property. I understand that the County has a "right to farm" policy.
- 6) I understand that it is my sole responsibility as the Landowner to ensure that all activities, uses and structures on this parcel are in compliance with the provisions of the Williamson Act and San Luis Obispo County Code, and that those activities will not result in a material breach of the Land Conservation Contract.

ATTACHMENT 2

- 7) The evidence I have provided in this application or in an attached written statement supports the following findings:
- a) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the Agricultural Preserve.
 - b) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the vicinity. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing or shipping.
 - c) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.
- 8) In consideration of the County's processing and consideration of this application for approval of the land use project, development, grading or building permit being applied for (the "Project"), and any related discretionary or ministerial actions, or any related California Environmental Quality Act (CEQA) consideration by the County, the Owner and Applicant, jointly and severally, agree to indemnify the County of San Luis Obispo ("County") from liability or loss connected with the Project approvals as follows:
- a) The Owner and Applicant shall defend, indemnify and hold harmless the County and its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul the Project or any prior or subsequent development approvals regarding the Project or Project condition imposed by the County or any of its agencies, departments, commissions, agents, officers or employees concerning the said Project, or to impose liability against the County and its agents, officers or employees resulting directly or indirectly from approval of the project, including any claim for attorney fees claimed by or awarded to any party from the County. The obligations of the Owner and Applicant under this Indemnification shall apply regardless of whether any permits or entitlements are issued.
 - b) The County will promptly notify Owner and Applicant of any such claim, action or proceeding that is or may be subject to this indemnification and will cooperate fully in the defense.
 - c) The County may, within its unlimited discretion, participate in the defense of any such claim, action or proceeding. To the extent that County uses any of its resources responding to such claim, action or proceeding, Owner and Applicant will reimburse County upon demand. Such resources include, but are not limited to, staff time, court costs, County Counsel's time at their regular rate for external or non-County agencies, and any other direct or indirect costs associated with responding to the claim, action or proceedings, including expert consultant and witness costs.

ATTACHMENT 2

LAND CONSERVATION CONTRACT

THIS LAND CONSERVATION CONTRACT is made and entered into this ___ day of _____, 20___, by and between WILLOW CREEK NEWCO LLC, a Delaware Limited Liability Company, hereinafter referred to as "Owner", and the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California, hereinafter referred to as "County".

WITNESSETH

WHEREAS, Owner possesses certain real property situated in the County of San Luis Obispo, State of California, hereinafter described as "the subject property", and more particularly described in Exhibit A attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, the subject property is devoted to agricultural uses and uses compatible thereto, and is located within an agricultural preserve heretofore established by the County; and

WHEREAS, both Owner and County desire to limit the use of the subject property to agricultural, related and compatible uses in order to preserve a maximum amount of agricultural land, to conserve the State's economic resources, to maintain the agricultural economy, to assure a food supply for future residents, and to discourage premature and unnecessary conversion of agricultural land to urban uses, recognizing that such land has public value as open-space and constitutes an important physical, social, aesthetic, and economic asset to the County; and

WHEREAS, the placement of the subject property in an agricultural preserve and the execution and approval of this contract is deemed to be a determination that the

ATTACHMENT 2

2. During the term of this contract, the subject property shall not be used for any purpose other than "agricultural or compatible uses" as defined in this paragraph. "Agricultural or compatible uses" as used in this contract are described in the County's Rules of Procedure to Implement the California Land Conservation Act of 1965. Table 2 of the Rules of Procedure provides a list of all land uses which are defined in the Land Use Element for the Inland Portion and Coastal Zone of the County and denotes whether these uses are allowable, conditional per Table 2 footnotes, or prohibited. "Agricultural or compatible uses" are subject to all applicable standards and requirements of the Land Use Element and the Land Use Ordinance/Coastal Zone Land Use Ordinance for the Agriculture land use category. If the subject property is not already in the Agriculture land use category, the County will initiate a general plan amendment to change the land use category to Agriculture within one year after the agricultural preserve is established.

The parties further recognize that the Land Use Element, Land Use Ordinance/Coastal Zone Land Use Ordinance, and Rules of Procedure to Implement the California Land Conservation Act of 1965 may be amended in accordance with State law and the County Code. The parties further recognize that the uses allowed pursuant to this contract may be expanded or restricted from time to time by reason of such amendments. The subject property is currently designated by the Land Use Element and Land Use Ordinance/Coastal Zone Land Use Ordinance as Agriculture.

3. This contract shall be effective as of the day and year first above written and shall remain in effect for the period of 20 years there from; provided, however, that beginning with the first day of January of the year in which the contract will have an unexpired term of nine years, and on each first day of January thereafter, a year shall

ATTACHMENT 2

8. The minimum lot size for the purposes of this contract shall be 160 acres. Any act by Owner which results in creation of a parcel or parcels of land, within the above-described premises, smaller than the minimum lot size prescribed in this paragraph for said premises shall constitute a violation of this contract and shall be subject to all the provisions of paragraph 6 hereof.

9. Any transfer by Owner of any portion of the property which is the subject of this contract shall be a violation of this contract, if the portion transferred is smaller in size than the minimum lot size prescribed in the provisions of paragraph 8 above. Such a violation shall be subject to all of the provisions of paragraph 6 hereof. Provided, however, if the subject property is smaller in size than the minimum lot size prescribed in the provisions of paragraph 8 above, the subject property may be transferred in its entirety. Provided further, however, if the subject property is located in whole or in part within one mile of an urban reserve line or adjacent to a village reserve line as designated by the Land Use Element, an existing parcel or a group of contiguous existing parcels may be transferred if the property transferred and the property retained each satisfies the minimum acreage required to qualify according to Table 1 of the Rules of Procedure.

10. The trust deed beneficiaries and mortgagees, if any, listed on the lot book guarantee or preliminary title report referred to above, and whose signatures are affixed hereto, do hereby assent to this contract, and, further, do hereby subordinate their respective interests to the contractual restrictions imposed by this contract, specifically to the agricultural and compatible uses and minimum lot sizes imposed on the subject property by reason of this contract.

ATTACHMENT 2

OWNER

WILLOW CREEK NEWCO LLC,
a Delaware Limited Liability Company

By: 
[Name]: Brian Dirk
Its [Title]: President

[NOTE: This contract will be recorded. All signatures to this contract must be acknowledged by a notary on an all purpose acknowledgement form.]

ATTACHMENT 2

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On _____, before me, _____, Deputy County Clerk-Recorder, County of San Luis Obispo, State of California, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JULIE L. RODEWALD, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors

By: _____
Deputy County Clerk-Recorder

[SEAL]

ATTACHMENT 2

EXHIBIT "A"
Legal Description

Parcel 5 of Parcel Map COAL 84-154, located within the south one-half of Section 36, Township 26 South, Range 10 East, Mount Diablo Base and Meridian, in the County of San Luis Obispo, State of California according to Parcel Map filed September 25, 1985 in Book 38 of Parcel Maps, Page 13, and amended per Parcel Map filed May 9, 1986 in Book 39 of Parcel Maps, Page 34, in the office of the County Recorder of said County,

TOGETHER WITH that portion of the northeast quarter of Section 1, Township 27 South, Range 10 East, Mount Diablo Base and Meridian, in the County of San Luis Obispo, State of California as described in a grant deed recorded September 21, 2004 as Document 2004-082996 in the office of said County Recorder of said County, described as follows:

COMMENCING at a 2" iron pipe with brass cap stamped "RCE 20244" marking the South Quarter Corner of Section 36, Township 26 South, Range 10 East, Mount Diablo Base and Meridian, said brass cap is described and shown on Record of Survey filed March 9, 2005 in Book 91 of Licensed Surveys, Page 14, in said office of County Recorder, and from which point of commencement a 1/2" rebar with plastic cap stamped "LS 5145" situated on the line common to said Sections 1 and 36, and marking the southeast corner of said Parcel 5 of Parcel Map COAL 84-154 as shown on said Record of Survey, bears South 89° 34' 27" East, 2351.12 feet; said 2" iron pipe with brass cap stamped "RCE 20244" being also the North Quarter Corner of Section 1, Township 27 South, Range 10 East, Mount Diablo Base and Meridian;

thence easterly from said point of commencement along the line common to said Sections 1 and 36, South 89° 34' 27" East, 18.00 feet to the centerline of Vineyard Drive as shown per said Record of Survey:

thence continuing along said line common to said Sections 1 and 36, South 89° 34' 27" East, 30.00 feet, to a point on the easterly right of way line of Vineyard Drive (sixty feet wide) as shown per said Record of Survey, said point being the **true point of beginning**;

thence continuing along said line common to said Sections 1 and 36, South 89° 34' 27" East, 162.00 feet:

thence leaving said common line, South 82° 00' 04" West, 163.81 feet, more or less, to a point on the easterly right of way line of said Vineyard Drive, said point bears South 00° 31' 12" West, 24.00 feet along said easterly right of way line from said true point of beginning;

thence along said easterly right of way line, North 00° 31' 12" East, 24.00 feet to the true point of beginning.

ATTACHMENT 2

REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT. (THIS NOTICE REQUIRED BY CALIFORNIA CIVIL CODE SECTION 2953.3.)

The undersigned, beneficiary under that certain Deed of Trust dated October 29, 2012, recorded November 2, 2012, as Document No. 2012-063790, of the Official Records in the office of the County Recorder of the County of San Luis Obispo, State of California, hereby consents to the Land Conservation Contract entered into between WILLOW CREEK NEWCO LLC, a Delaware Limited Liability Company, and the County of San Luis Obispo, recorded concurrently herewith, and does hereby subordinate the interests of its Deed of Trust to the entire effect of the Land Conservation Contract.

SIGNED AND EXECUTED this 14th day of Feb., 2013.

BENEFICIARY

FARM CREDIT WEST, FLCA

By: Thomas McGuire
[Name]: Thomas McGuire
Its [Title]: VICE PRESIDENT

[NOTE: This Subordination Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

12009ktagr.doc

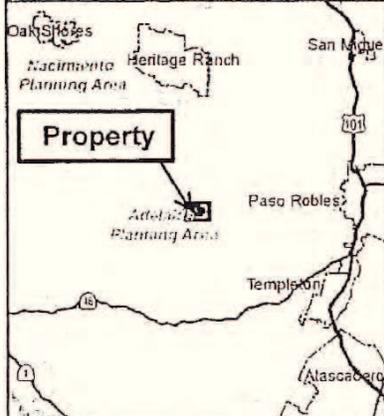
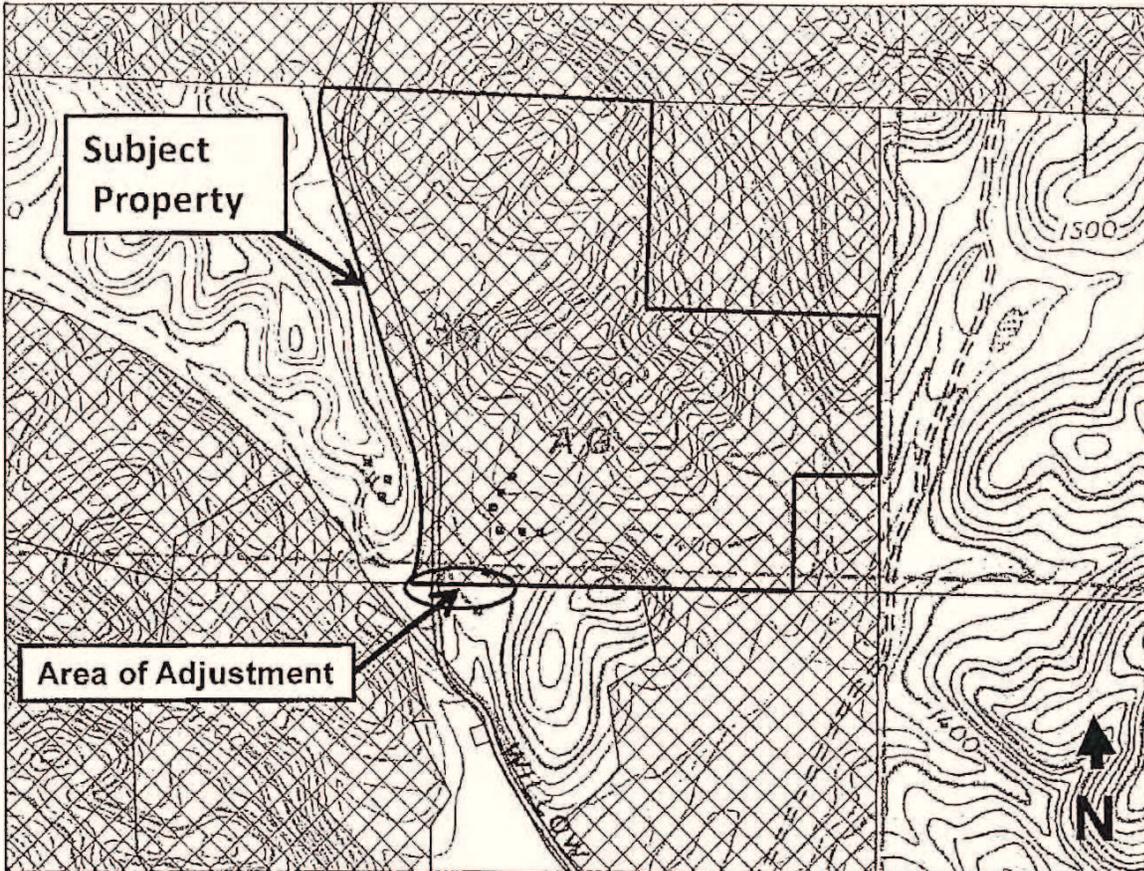


Exhibit A: Adelaida Agricultural Preserve No. 16, Amendment No. 1

-  Subject Property APNs: 014-331-071 & 014-101-004 (PTN)
-  Land in Agricultural Preserve & Contract

EXHIBIT A: Alter the Boundaries of an Agricultural Preserve to Reflect a Lot Line Adjustment

File No. AGP2012-00004	Geringer
Minimum Parcel Size:	160 Acres
Minimum Term of Contract:	20 years
Resolution No:	Date:

ATTACHMENT 2

The above described parcel of land contains approximately 134.06 acres.

END DESCRIPTION

SURVEYOR'S STATEMENT

This legal description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

Wm. E. Touchon January 28, 2013
Wm, E. Touchon, L.S. 4845 Date

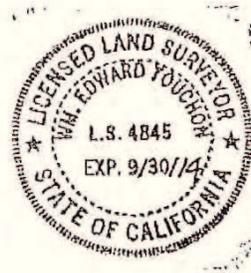


EXHIBIT E

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

Tuesday May 6, 2008

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, Jerry Lenthall,
K.H. 'Katcho' Achadjian, and Chairperson James R. Patterson

ABSENT: None

RESOLUTION NO. 2008-152

**RESOLUTION REVISING POLICIES REGARDING LAND DEVELOPMENT
IMPROVEMENTS ON COUNTY MAINTAINED STREETS AND ROADS**

The following Resolution is now offered and read:

WHEREAS, on July 2, 1991, the Board of Supervisors adopted Resolution No. 91-367, establishing requirements for subdivision street and road improvements on County-Maintained Roads; and

WHEREAS, since that time there has been increased interest in a type of development known as Agricultural Cluster subdivisions; and

WHEREAS, there have been other types of intensification of land use in rural areas which need to have appropriate levels of road improvements required as conditions of approval in order to provide safe conditions for the public using the County-maintained road system; and

WHEREAS, the rate of vehicle collisions in the rural areas of San Luis Obispo County have had an increasing trend for several years, indicating a need to revise development policies.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

A. Road Improvement Requirements

1. Improvements required with subdivisions. County-maintained streets or roads fronting subdivisions shall be improved to current County Public Improvement Standards, including bikeways where designated in the latest adopted edition of the County Bikeways Plan, when the subdivision is within:
 - a. Industrial, Commercial Retail, Commercial Service, Office/Professional, Residential Suburban, Residential Single Family or Residential Multi Family land use categories or,
 - b. Residential Rural land use category, where that roadway has a projected Average Daily Traffic (ADT) greater than 100.

ATTACHMENT 2

In cases (a) and (b), the County-maintained street or road shall be improved fronting the property, and continuing to the nearest paved publicly-maintained road which meets or exceeds the standard improvements required. The level of improvement (e.g., A-1 rural, A-1j gravel, A-2 urban or A-3 commercial/industrial) shall be required as defined in the Public Improvement Standards and as further defined by this Resolution.

c. Agriculture or Rural Lands land use categories, where the subdivision is a cluster.

In case (c), the County-maintained road shall be improved to widen to complete the project side of an A-1 (rural) standard according to the criteria in Table 1:

Table 1. Criteria for road improvements for Ag/RL cluster subdivisions

Number of residential lots per entrance*	Improve this length of road**
1-7	300 feet each side of entrance
8-20	1/4 mile, centered on entrance
21-40	1/2 mile, centered on entrance
41+	1 mile, centered on entrance

* For projects which propose a "loop" configuration, half of the lots along the loop shall be assumed to be served by each entrance.

** Where the subdivision adjoins two or more County-maintained roads, the length shall be measured along the road with the highest traffic volume, measured from the intersection with the road with the second-highest traffic volume, as determined by the Department of Public Works.

2. Improvements required for developments which attract public traffic. Land development projects in rural areas which are not subdivisions, and which will attract general public traffic (e.g., wine tasting, ag tourism, events, etc.) on County-maintained roads, shall be approved with a condition to widen to complete the project side of an A-1 (rural) standard according to the criteria in Table 2 below, prior to occupancy of any new structure, or initiation of the use, if no structure is proposed. In addition, all land development projects shall be subject to the requirements of the County Public Improvement Standards for requirements of any driveway connections to the County-maintained road system. This may involve paving, grading or vegetation clearance as necessary to provide proper sight distance and handling of drainage.

Table 2. Criteria for road improvements for non-subdivision developments

Development regular ops. General public peak hour trips	Development event General public peak hour trips	Improve this length of road*
1-10	1-100	RSA** only
11-20	101-200	1/4 mile from entrance toward nearest intersection + RSA**
21-40	201-400	1/2 mile from entrance toward nearest intersection + RSA**
41+	400+	1 mile from entrance toward nearest intersection + RSA**

* Where the development adjoins two or more County-maintained roads, the length shall be measured along the road with the highest traffic volume, measured from the intersection with the road with the second-highest traffic volume, as determined by the Department of Public Works.

** RSA: Roadway Safety Analysis, defined in Section B (below).

ATTACHMENT 2

3. **Public traffic on privately-maintained roads.** No proposed land development project in rural areas which will attract general public traffic (e.g., wine tasting, ag tourism, events, etc.), shall be permitted on roads which are privately maintained, without submission of a road maintenance agreement, signed by the owners of all property on which the access roads are located and binding upon their heirs and assigns. The agreement shall be required to establish an organized and perpetual mechanism to ensure adequate maintenance of the roads, acceptable to the Department of Public Works. Required improvements for the privately-maintained roads shall be based upon recommendations from the applicable fire protection agency.
4. **Cross-section required.** When subdivisions or other land development projects are required to construct improvements on streets or roads which are, or will become, County-maintained, they shall contain the following cross-sectional elements:
 - a. Streets or roads which are entirely within a subdivision or development shall be improved to the full width of the appropriate standard section.
 - b. When the subdivision or development fronts a part-width street or road previously constructed through the activities of others, whether publicly-maintained or private, the subdivision or development shall be required to widen to complete the project side of the appropriate standard section from the Public Improvement Standards, fronting the property or for length determined by Tables 1 and 2 above.
 - c. When the subdivision or development fronts a street or road which is to be newly constructed, the initial part-width improvement shall be to construct the full improvement on the project side plus a full travel lane on the opposite side, according to the appropriate standard section from the Public Improvement Standards, fronting the property or for length determined by Tables 1 and 2 above. Any offsite extension to connect with existing streets or roads shall be constructed to the same standards.
5. **Additional safety improvements.** When a development project is required to perform a Roadway Safety Analysis, as defined in Section B below, the analysis shall consider all the improvements required by Section A to be in place, and then shall determine whether additional improvements are warranted to mitigate potential safety impacts of the traffic generated by the proposed development.

B. Roadway Safety Analysis

1. **When required.** To limit the exposure of increasing the number of collisions on the road, all developments in rural areas which will attract general public traffic (e.g., wine tasting, ag tourism, events, etc.) shall be required to perform a Roadway Safety Analysis (RSA).
2. **Improvements to reduce expected collision rate.** The Department of Public Works shall provide the existing collision rate for the road. In cases where the collision rate is greater than one standard deviation above the average collision rate for rural roads, the RSA shall proceed with an analysis of potential road improvements which would reduce the expected collision rate to acceptable limits. The improvements may include, but are not limited to, the following:
 - Superelevation revisions on existing curves
 - Widening of shoulders at curves to create a roadside recovery area
 - Removal of roadside obstacles
 - Improvement of shoulder width (minimum two feet) for recovery area
 - Reduction of vertical curves to improve sight distance
 - Enhance existing access points to improve safety
 - Turn movement channelization
3. **Limits of analysis.** The RSA shall evaluate the following length of road shown in Table 3:

ATTACHMENT 2

Table 3. Roadway Safety Analysis requirements

Development regular ops. General public peak hour trips	Development event General public peak hour trips	Study/Improve this length of road
1-10	1-100	½ mile from entrance toward nearest intersection
11-20	101-200	1 mile from entrance toward nearest intersection
21-40	201-400	2 miles from entrance toward nearest intersection
41+	400+	3 miles from entrance toward nearest intersection

4. **Preparation requirements.** The analysis shall be performed by a Registered Civil Engineer or Registered Traffic Engineer, utilizing accident reduction factors as provided in Caltrans Local Programs Guidelines Manual, Chapter 9, "Hazard Elimination Systems," and models from Transportation Research Board Special Report 214 "Designing Safer Roads," which will quantify collision reduction based on curve and shoulder improvements.
5. **Coordination with project environmental determination.** The RSA shall be performed as part of the environmental determination for the proposed development project. Its recommendations shall then be incorporated into the Developer's Statement and conditions of approval for the project.

C. General Provisions

1. The determination of the necessary requirements to provide for the safety of the public using County roads will be based upon the maximum amount of general public traffic which will be generated by the proposed land use project. The Department of Public Works shall use the factors in Table 4 to estimate general public trip generation and determine what level of requirements in Tables 2 and 3 above shall apply.

For land development projects which include both regular operations and events, the amount of general public traffic generated by each shall be calculated by the Department of Public Works. The amount of traffic for regular operations and for events shall be considered separately. The amount of general public traffic (regular operations or events) which results in the greater improvement requirement in Tables 2 and 3 above shall determine the conditions for the project.

Table 4. General public trip generation factors

Type of land use	Trip generation factor
Single-family residential	Assume no <u>general public</u> trip generation
Farm support quarters	Assume no <u>general public</u> trip generation
Agricultural processing	Assume no <u>general public</u> trip generation
Retail, other visitor-serving areas	2.71 peak hour trips (pht) per 1,000 square feet
Events	0.4 pht per max. permitted attendance

Other land uses not shown in this table shall be estimated by Public Works staff based on information provided by the applicant and the Institute of Transportation Engineers Trip Generation Manual, most recent edition.

2. The requirements established by this Resolution shall apply to all street or road improvements constructed as a requirement of subdivision or land use permit applications which are deemed complete on or after the date of approval of this Resolution.
4. Nothing in this resolution shall be construed to preempt requirements of the California Environmental Quality Act or other applicable rules as adopted by appropriate authorities. Those other rules may require even greater mitigation measures which involve constructing greater levels of improvement.
3. This resolution superseded ~~Page 56 of 92~~ Resolution 91-367.

ATTACHMENT 2

Upon motion of Supervisor Achadjian, seconded by Supervisor Gibson, and on the following roll call vote, to wit:

AYES: Supervisors Achadjian, Gibson, Ovitt, Lenthall, and Chairperson Patterson

NOES: None

ABSENT: None

ABSTAINING: None

The foregoing Resolution is hereby adopted.

JAMES R. PATTERSON
Chairperson of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors

[SEAL] By: SANDY CURRENS
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

R. WYATT CASH
County Counsel

By: [Signature]
Deputy County Counsel

Dated: April 18, 2008

L:\Trans\May08\BOS\Road Improvements rsl.doc.rem.taw

<p>STATE OF CALIFORNIA) COUNTY OF SAN LUIS OBISPO) **</p> <p>I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Super-visors, and now remain- ing of record in my office.</p> <p>Witness, my hand and seal of said Board of Super- visors this <u>may 15, 2008</u></p> <p>JULIE L. RODEWALD County Clerk and Ex-Officio Clerk of the Board of Supervisors</p> <p>By <u>Sandy Currens</u> Deputy Clerk</p>
--

ATTACHMENT 2

EXHIBIT F



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS

Paavo Ogren, Director

County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252
Fax (805) 781-1229 email address: pwd@co.slo.ca.us

MEMORANDUM

Date: November 8, 2013
To: Holly Phipps, Project Planner
From: Frank Honeycutt, Development Services
Subject: **Public Works Comments on DRC2013-00028, Willow Creek MUP, Vineyard Drive, Templeton, APN 014-331-073**

Thank you for the opportunity to provide information on the proposed subject project. It has been reviewed by several divisions of Public Works, and this represents our consolidated response.

Public Works Comments:

- A. The proposed project may trigger road improvements per Resolution 2008-152. Events that attract the general public and generate between 101 and 200 PEAK hour trips, will trigger upgrading a ¼ mile of Vineyard Drive to current standard. An alternative will be to limit the event hours to non-peak times such as not on week days between 4 PM and 6 PM.
- B. The proposed project is requires a drainage plan to be prepared by a registered civil engineer and it will be reviewed at the time of Building Permit submittal by Public Works. The applicant should review Chapter 22.52 of the Land Use Ordinance prior to future submittal of development permits.

Recommended Project Conditions of Approval:

Access

- 1. **At the time of application for construction permits**, public improvement plans shall be prepared in compliance with the Land Use Ordinance and San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of Public Works. The plan/s is/are to include, as applicable:
 - a. Street plan and profile for widening **Vineyard Drive** to complete an A-1g rural street section for a ¼ mile from the main entrance toward the nearest intersection.

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2. **Prior to occupancy or final inspection**, the **Vineyard Drive** primary driveway approach shall be constructed in accordance with County Public Improvement Standard B-1e. The secondary access driveway is to be constructed to a B-1 Standard. All driveway approaches constructed on County roads shall require an encroachment permit.
3. **At the time of application for construction permits**, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway.
4. **Prior to occupancy or final inspection**, all public improvements have been constructed or reconstructed in accordance with County Public Improvement Standards and to the satisfaction of the County Public Works Inspector.
5. **On-going condition of approval (valid for the life of the project)**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage; tree planting; fences; etc without a valid Encroachment Permit issued by the Department of Public Works.

Drainage

6. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 22.52.110 (Drainage) of the Land Use Ordinance.
7. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with 22.52.120.
8. **On-going condition of approval (valid for the life of the project)**, the project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and / or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance, Title 8, Section 8.68 et sec.

Recycling

9. **On-going condition of approval (valid for the life of the project)**, the applicants shall provide recycling opportunities to all facility users at all events in accordance with Ordinance 2008-3 of the San Luis Obispo County Integrated Waste Management Authority (mandatory recycling for residential, commercial and special events).

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EXHIBIT G

July 5, 2013

Andrew G. Wood
 Stratus Development Partners, LLC
 17 Corporate Plaza, Suite 200
 Newport Beach, CA 92660

Topic: Acoustical Analysis for the Pasolivo Events/Olive Oil Production Expansion

Dear Mr Wood:

We have completed the acoustic survey for an acoustical analysis in support of a temporary events permit for the Pasolivo Events/Olive Oil Production Expansion on Vineyard Drive. The analysis concludes that, with the recommended guidelines, sound from event activities will not exceed any of the county's standards.

The Project

The larger project involves construction of a new tasting room and additional olive processing facilities. This report addresses only the components of the project that involve the sponsorship of "events". The central focal point for such activities is a barn style building that will replace an existing barn. It may also be that in the future, events will also be held in the vicinity of the new tasting room.

The area outlined in blue in Figure 1, delineates the Pasolivo property. Figure 2 shows an enlargement

of the portion of the property proposed for events. Future structures are shown in tan. The events barn is at the location of a present barn but is oriented on a different alignment. Events will be held within the barn and may extend to outdoor terraces at either side.

Events are not presently proposed at the location of the new tasting room but this report includes a consideration of noise management concerns should this be used for events in the future.



Figure 1: Property Outline



Figure 2: Tasting Room and Event Barn

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The Acoustic Setting

The old barn, tasting room and production facilities sit in a small valley at the side of Vineyard Drive. The low lying areas are dotted with large oak trees as are the north facing sides of the surrounding hills. Scant traffic on Vineyard Drive is the only regular noise source. The buildings are set back from the road which forms the site's west property boundary. The events area is located in the southwest corner of the Pasolivo property. Because of the distance from the events area to the northern and eastern property lines, there is no likelihood that noise limits will be exceeded. The most significant noise management concerns are at the southern property boundary.

Sound level readings were taken at the project site on July 3, 2013, starting at 3 PM. The red dot on Figure 1 shows the location of the equipment. There was a light breeze from the south but not at levels that would significantly affect measurements. A Brüel & Kjær Precision Integrating Sound Level Meter, Type 2230 was used in making the measurements. The meter was calibrated before and after the survey using a B&K Acoustic Calibrator Model 4231. The readings were determined to be accurate¹.

The ambient noise levels at the site were around 33 decibels with the level rising by a few decibels when a vehicle goes by on Vineyard Drive. This is a low ambient sound level, typical for rural areas.

The County's Regulatory Structure

"Temporary Special Events" are governed by Section 22.10.210 of the County's Land Use Ordinance. The section does not include explicit standards limiting the noise produced during events that are not winery sponsored events. This means that noise from non winery events is governed by the County's general standards for noise production.

The County's general standards limiting noise that can be produced by projects are expressed in both an hourly energy average (Leq) and a not-to-be-exceeded peak level (Lmax)². The daytime and nighttime standards for exterior noise are shown in Table 1. The first numeric value is the standard and the second, to the right of the slash mark, is the level permitted for sounds consisting primarily of speech or music. Sound levels are to be measured at the property line of noise impacted neighbors.

Table 1: Exterior Noise Standards

	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
Maximum level, decibels	70/65	65/60
Hourly Leq, decibels	50/45	45/40

¹ Both the Sound Level and the Calibrator were themselves laboratory calibrated in September of 2011.

² Appendix A provides a reference to acoustic terminology.

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The “Performance”

The site plan shown in Figure 3 shows the position of the future events barn and the new tasting room. The letters show the possible event settings that are discussed in this report.

To determine if sound from activities at the events sites would meet County standards, a test was conducted where a “performance” was simulated using recorded sounds. A high performance speaker was mounted on a stand at a location approximating the location of the terrace that will be constructed on the southwest side of the new barn structure (location “B”). The speaker was oriented toward the south, toward the closest neighboring property which is 135 feet away. Apart from the trunks of some oak trees, there is nothing blocking the line of site toward the south property line. The test sound was a loop of a performance by Smashing Pumpkins with a musical style the leader describes as “Goth Rock” It has plenty of bass as well as strident electronic tones.

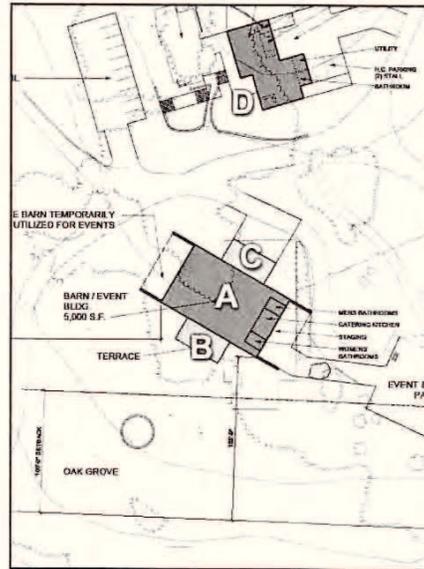


Figure 3: Possible Event Locations

Several tests were made. In order to evaluate distance attenuation at the location, sounds were evaluated at 50 and 135 feet from the speaker source. At 50 feet the level was in the range of 73 to 75 decibels measured by Leq, the acoustic energy average. At this distance, the peak levels were at 78 decibels. At 135 feet, which corresponds to the position of the closest property, the averages were around 57 Leq with peaks at 60 decibels Lmax.

Analysis

Any analysis of impact first requires an estimation of the sound levels associated with the individual events. We have made measurements of noise levels produced during outdoor events held in San Luis Obispo County and will use these numbers in evaluating proposed activities. Table 2 shows values for two types of events involving amplified music. The values in the table have been normalized to a 50 foot source-to-listener distance.

Table 2: Sound from Outdoor Events

		Lmax	Leq
Event 1	Amplified Music DJ outdoors	74-80	73-76
Event 2	Amplified Live Band (inside tent)	76	64-67

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At the DJ event with amplified music, the sound level was in the 73-78 decibel range at 50 feet. This is similar to the level set in the test “performance”. With sound amplified to such a level it is necessary for a person within 50 feet of the source to raise their voice to be understood by someone next to them. While sound levels set to the level used in the test performance might be the norm, some DJs and musical groups may elect to exceed these amplification levels.

The general rule is that sound drops by 6 decibels with a doubling of distance. The measured attenuation during the test “performance” was greater than this; around 12 decibels. Ground cover and shielding would play a role in reducing the sound that would be heard coming from an event on the terrace. Also, the measurement site was within an oak grove and the ground was leaf covered. The underlying surface had been tilled so there was considerable ground absorption. The elevation falls off toward the property line so, while the speaker was visible from the measurement position, the line of site was close to ground level, which would also increase surface absorption. In this study we will assume the more conservative 6 decibel, distance doubling effect, noting that the actual attenuation effect might be greater in this physical setting.

At the levels used in the test situation the maximum sound level measured at the property line was 60 decibels and does not exceed the County’s daytime standard of 65 Lmax; the maximum level for amplified music. The Leq, the energy average, at the property line was 57 decibels. This is 12 decibels in excess of the County’s 45 decibel Leq standard. After 10 PM, the measured sound level meets the County’s Lmax standard but is 17 decibels over the Leq limit.

Table 2 shows the sound level calculations for each of the possible event sites assuming the event volume levels used in the test and applying the attenuation rate of six decibels with each distance doubling. The subtractions in the table show the original estimate and the lessening that would be expected through enclosing or blocking the sound source.

Table 2: Estimated Sound Levels at Event Sites

Source Location	Distance to property line	Day/Night Lmax Standard	Day/Night Leq Standard	Predicted Lmax	Predicted Leq
A. Barn interior, doors closed	160	65/60	45/40	68-25=43	64-25=39
A. Barn interior: doors open	160	65/60	45/40	68-15=53	64-15=49
B. South Terrace	135	65/60	45/40	69	65
C. North Terrace	205	65/60	45/40	66-14=52	62-14=48
D. Tasting Room Area	340	65/60	45/40	61	57

The areas tinted in green are locations where sound levels meet the County’s standards with no special mitigations. Other locations can meet the standards with mitigations described below.

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Events within the New Barn, Doors Closed

New construction typically has a outdoor to indoor noise reduction on the order of 25 decibels. With the doors closed, events within the barn meet county standards for both day and night.

Events within the New Barn, Doors Open

With the barn doors opened to the north and south the indoor to outdoor sound reduction is reduced by around 15 decibels. The estimated Lmax level is 53 decibels and the Leq level is 49 decibels. This reduction meets the County's standard for the maximum level (65 decibels day and 60 decibels night). But the predicted Leq of 49 exceeds the County's standard of 45 decibels day and 40 night. It would be possible to mitigate this to meet standards if the doors to the south terrace remain closed and only north facing doors are opened. While sound projected to the north would increase when doors are opened in this direction the bulk of the barn structure would reduce noise experienced at the south property line to levels that meet standards.

Events on the South Side Terrace

Events on the south terrace with amplified music are unlikely to meet County standards. The potential problem could be diminished on an order of 5 to 7 decibels if speakers are pointed away from the south property line. The daytime Lmax standard could be achieved but not the County's Leq limit.

Events on the North Side Terrace

Events on the north terrace would meet the County's day and night standards for maximum noise levels. At a Leq forecast level of 48, an event would be 3 decibels above the daytime standard and eight decibels above the night standard. A three decibel reduction of levels could be achieved in several ways. The permitted source amplification could be reduced by this magnitude and still produce sufficient sound for events that don't involve rock performance levels of amplification. Also, there is a dense line of shrubs along the wall of the existing barn and, if some of this is regained as landscaping it could provide the needed reduction. The sound system on the terrace should have the speakers located low and tight against the building façade, directed away from the building. This would maximize the building's shielding effect and the directionality of the speakers would further reduce sound levels at the nearest property line. It is also likely the location would benefit by the same additional distance attenuation factors that lowered the property line sound levels in our test "performance".

Events Held at the New Tasting Room

Events held near the new tasting room would meet the County's daytime standard for maximum levels but are 12 decibels above the Leq standard (57 Leq predicted with 45 Leq permitted). As with events on the north terrace, the sound at the closest property line

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could be reduced by orienting speakers to the north, limiting performance levels and/or siting events in location sheltered by the tasting room structure.

Conclusions and Recommendations

Events enclosed within the new barn structure will not exceed County standards. This does not pose potential problems. Daytime events can also expand onto the north terrace with the addition of mitigation actions described above. Daytime events near the new tasting room are possible, but require application of some combination of the mitigation actions enumerated above. Events on the south terrace pose the most significant issues. The terrace is appropriate for events that don't involve amplified voice or music. But there are also potential problems if there are doors opening to events being held within the barn structure.

A permit condition saying that outdoor amplified music cannot exceed Lmax levels of 78 decibels, measured fifty feet from the source, would insure that events do not exceed the County's standards for either Lmax or Leq at the closest neighboring property line. Sound at this level would provide a good listener experience at events. This condition should be made part of any rental agreement for groups making use of the event site. The Pasolivo events manager should have a simple sound level meter to verify the standards.

The project's neighbors should be provided with a phone number for reporting problems to Epoch Winery management. An on-site manager should be present to correct problem conditions and there should be a reporting procedure to record problems.

CEQA Concerns

The CEQA Guidelines include several questions related to the noise impact of projects. The following paragraphs address each of these issues. In all cases the impacts will be less than significant.

- 1) As conditioned, the project will not result in significant exposure of persons to or generation of noise levels in excess of standards established in the county's general plan, noise ordinance, or land use ordinance. Exposure levels are below limits suggested by state and federal agencies.
- 2) A second CEQA concern involves ground born vibrations. Events will not produce vibrations that would be detectable beyond the property.
- 3) The project will not create a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- 4) The fourth CEQA concern is for construction activities. Construction would create a temporary increase in ambient noise levels in the project vicinity above levels existing without the project. However the County Land Use Ordinance permits the noise from construction activities as long as it is limited to the hours of 7 AM to 9 PM weekdays and

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8 AM to 5 PM weekends. With this condition met, the project had a less than significant noise impact.

The other noise related questions in the checklist relate to projects in the vicinity of airports. They do not relate to the Pasolivo events proposal.

Summary

Based on the studies we have conducted and a review of the County's general noise regulations we conclude that with recommended mitigations and approval conditions, will be consistent with County standards.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Dubbink', with a long horizontal flourish extending to the right.

David Dubbink, Ph.D., AICP

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Appendix of Technical Information

Measurement Equipment

ANSI guidelines for noise reporting include a requirement that information be given on model serial numbers and recency of factory calibration.

A Brüel & Kjær Precision Integrating Sound Level Meter, Type 2230 was used for the site measurements (SN 1033493). The meter was calibrated before and after the survey using a B&K Acoustic Calibrator Model 4231 (SN 2052124). Both the noise meter and the calibrator were themselves calibrated in September of 2010.

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EXHIBIT H



Why and when to calibrate

Why calibrate?

Regular calibration provides you with:

- Knowledge and evidence of how your instrument measures – now and over time
- Reliability – the confidence that you know your instrument works correctly

According to the International Laboratory Accreditation Cooperation (ILAC), the purpose of calibration is:

- To know the uncertainty that can be achieved with the measuring instrument
- To confirm whether or not there has been any alteration of the measuring instrument that could create doubt about the results
- To improve the estimation of the deviation between a reference value and the value obtained using a measurement instrument, as well as the uncertainty in this deviation, at the time the instrument is actually used

When to start calibration

We recommend calibrating your instrument prior to use. The easiest way is to order initial calibration with every new instrument.

In this way you begin a measurement history from day one, which can be required by your customers or quality procedures.

How often?

How often you calibrate your instrument is a balance between risk and cost. The shorter the period between calibrations, the lower the risk of questionable measurements. We consequently recommend annual calibration for electrical instruments.

Equipment used on a daily basis will have a shorter calibration cycle than equipment used, for example, once a month. However, you should take into consideration:

Cost:

- The cost of necessary correction measures if you discover that the instrument has not been reliable over a long period of time

Instrument:

- The required uncertainty in measurements
- Extent and severity of use
- Trend data obtained from previous calibration records and tendency to wear and drift*

Environmental conditions, transportation and personnel:

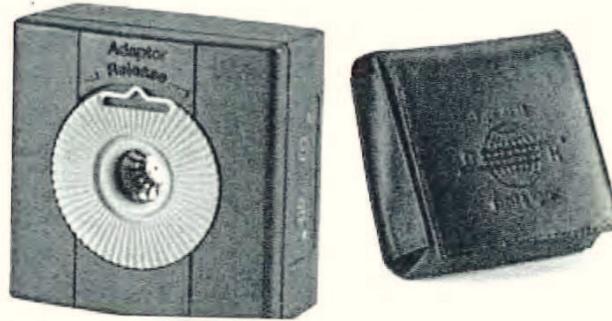
- Climatic conditions, vibration, ionizing radiation, etc.
- Transportation arrangement
- Degree to which the personnel are trained

Warning: As an instrument or equipment undergoes changes in temperature or mechanical stress, critical performance gradually degrades. This is called 'drift'. When this happens, test results become unreliable and both design and production quality suffer. While drift cannot be eliminated, it can be detected and contained through the process of calibration.

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Sound Calibrator Type 4231



A handy, portable sound source for calibration of sound level meters and other sound measurement equipment. The calibrator is very robust and stable, and conforms to EN/IEC 60942 Class LS and Class 1, and ANSI S1.40-1984.

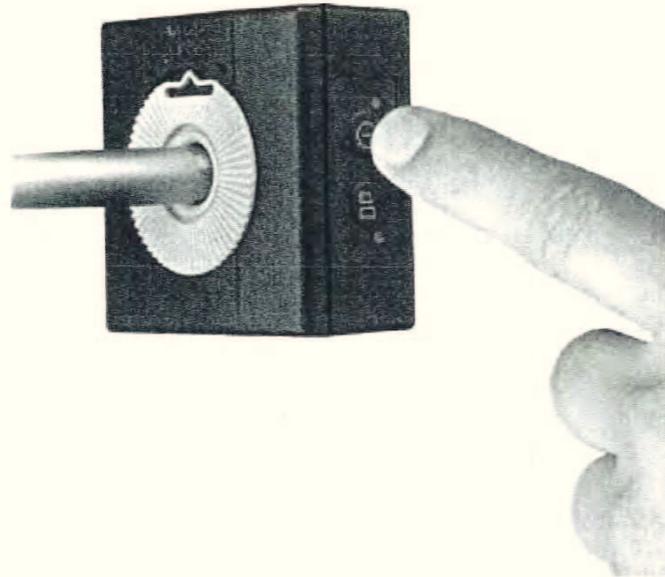
For maximum confidence in your measurement results you can quickly compensate for local measurement conditions by calibrating before every measurement. Twin sound pressure levels guarantee definitive checks even in noisy environments, and ensure linearity in your microphones.

Uses

- Calibration of sound level meters and other sound measurement equipment

Features

- Conforms to EN/IEC 60942 (2003) Class LS and Class 1, and ANSI S1.40 – 1984
- Robust, pocket-sized design with highly stable level and frequency
- Calibration accuracy ± 0.2 dB
- 94 dB SPL, or 114 dB SPL for calibration in noisy environments
- Extremely small influence of static pressure and temperature
- Sound pressure independent of microphone equivalent volume
- 1 kHz calibration frequency for correct calibration level independent of weighting networks
- Fits Brüel & Kjær 1" and 1/2" microphones (1/4" and 1/8" microphones with adaptor)
- Switches off automatically when removed from the microphone



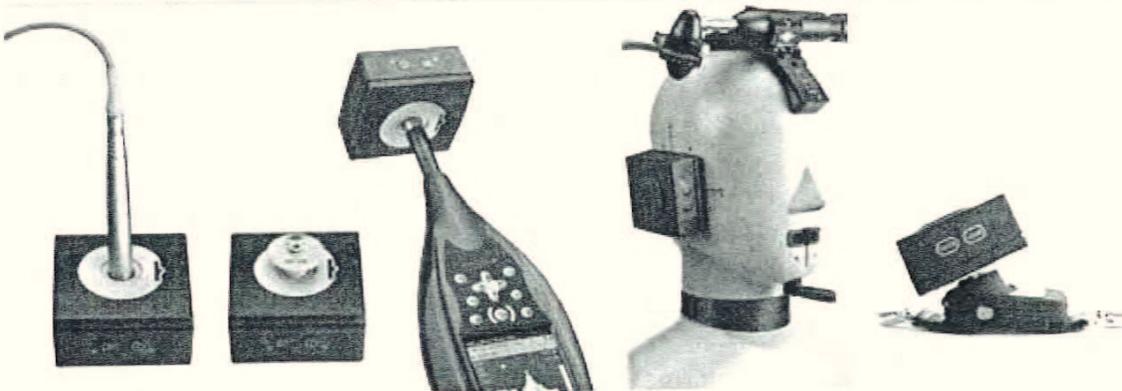
Quick and easy

In five seconds you can have a definitive calibration check. There are few options – simply click a microphone into place, press the button and it is done.

There is no need to remove the protective leather case to use it, and you don't have to spend time ensuring the fit is exact. Because of the 1000 kHz calibration frequency, there is no need to use filters for different weighting networks.

Pocket-sized

This compact unit gives you a battery-operated sound source wherever you need it.



One calibrator for all microphones

It can be used with various microphones as adaptors easily click into place. It also automatically adjusts to give the same sound pressure level for each different type of microphone you use, ensuring easy operation.

Built for years to come

Tough plastic encases the all-electronic components, which guarantee that long-term stability is not affected by external influences like barometric pressure.

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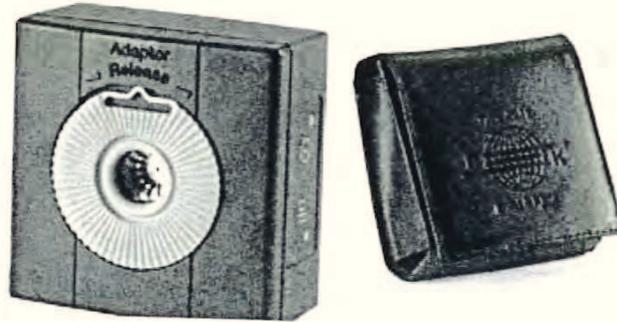


Calibration is what we do

Our dedicated calibration centres around the world directly trace their own calibration to all relevant national standards. As standards often change, we always follow them closely - in fact we have a long history of helping to create them.



Sound Calibrator Type 4231



Sound Calibrator Type 4231

Sound Calibrator Type 4231 is a pocket-sized, battery operated sound source for quick and direct calibration of sound level meters and other sound measuring systems. It fits Brüel & Kjær 1" microphones and using the removable adaptor, 1/2" microphones. With optional adaptors, it can be used for 1/4" and 1/8" microphones as well.

The calibration frequency is 1000 Hz (the reference frequency for the standardised international weighting networks), so the same calibration value is obtained for all weighting networks (A, B, C, D and Linear). The calibration pressure of 94 ± 0.2 dB re 20 mPa is equal to 1 Pa or 1 N/m². The + 20 dB level step gives 114 dB SPL, which is convenient for calibration in noisy environments, or for checking linearity.

The design of Type 4231 is based on a feed-back arrangement to ensure a highly stable sound pressure level and ease of use. The feed-back loop uses a condenser microphone (see Fig. 1), which is specially developed for this purpose.

This microphone is optimised to have extremely high stability and independence of variations in static pressure and temperature around the 1 kHz calibration frequency. The result of this is a user-friendly calibrator where exact fitting of the microphone is non critical and the effects of changes in temperature and static pressure are negligible.

The calibrator gives a continuous sound pressure level when fitted on a microphone (see Fig. 2) and activated.

The sensitivity of the sound measuring equipment can then be adjusted until it indicates the correct sound pressure level.

The calibrator is automatically switched off when removed from the microphone.

A leather protecting case, which does not need to be removed to use the calibrator, is supplied.

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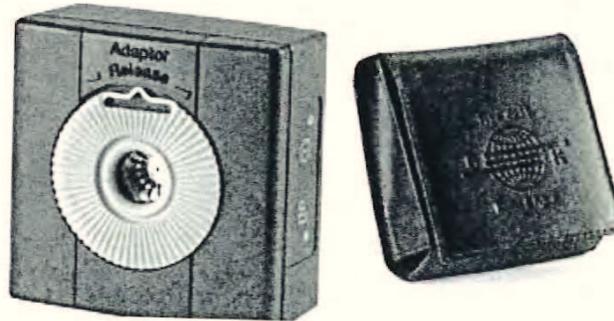
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Sound Calibrator Type 4231



Service Options

4231 Accredited Calibration of Sound Calibrator, 1 kHz, 94 dB & 114 dB, IEC60942:2003 Annex B Class 1	-4231--CAF-
4231 Accredited Initial Calibration of Sound Calibrator, 1 kHz, 94 dB & 114 dB, IEC60942:2003 Annex B Class 1	-4231--CAI-
Traceable Calibration	-4231--CTF-
Conformance Test with measurements report - Only performed in FR/JP	-4231--CVN-
4231 Sound Level Calibrator, 1 kHz, 94 dB & 114 dB, Class 1 BS7189. Extended Warranty, one year extension	-4231--EW1-
Conformance Test with Certificate	-4231--TCF-
Sound level calibrator, 1 kHz, 94 dB & 114 dB, class 1 bs7189, Accredited Calibration for Würth Norway	-4231-W-CAF-

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BEYOND MEASURE

Calibration of calibrators

For sound calibrators, pistonphones and vibration calibrators, Brüel & Kjær can provide accredited calibration, traceable calibration, verification for selected countries and instrument verification.

Accredited calibration

On a calibrator or pistonphone it's important that you have accredited calibration and that the instrument is calibrated regularly. The usual recommendation is for annual calibration.

Brüel & Kjær can provide these types of accreditation for Brüel & Kjær calibrators:

- DANAK (English certificate)
- A2LA (English certificate)
- DKD (German certificate)
- ENAC (Spanish certificate)
- NATA (English certificate)
- Inmetro, Brazil (Portugese certificate)

Initial calibration

To start your calibration history from day one, we recommend that you order accredited calibration together with your new calibrator or pistonphone.

Regular re-calibration

The shorter the period between calibrations, the lower the risk of measurements being questioned. Since calibrators and pistonphones are used to measure other instruments, it's important to calibrate them regularly. Brüel & Kjær recommends annual calibration.

Measurements

- Measurements of sound calibrators and pistonphones are performed according to the standard IEC 60942
- The sound calibrators are measured at specified frequencies
- Pistonphones are measured at 250 Hz
- Vibration calibrators are measured at 159.2 Hz. Vibration level, frequency and distortion are measured

Measurements are traceable to institutions such as DPLA, NIST, NPL and PTB.

Certificate

With the accredited certificate you get:

- Proof that calibration has been performed according to the quality requirements in ISO 17025
- Measured uncertainty
- Internationally accepted certificate
- Calibration conditions: air temperature, air pressure and relative humidity
- The logo of the accreditation body

Traceable calibration

Measurements

- Measurements of sound calibrators and pistonphones are conducted according to the standard IEC 60942
- Sound calibrators are measured at specified frequencies
- Pistonphones are measured at 250 Hz
- Vibration calibrators are measured at 159.2 Hz. Vibration level, frequency and distortion are measured

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Certificate

Includes measurement results.

Legal verification

Brüel & Kjær can provide legal verification for:

- Customers in Spain: Primitiva
- Customers in Austria: Eichung

Please be aware that legal verification does not contain measurement results.

Verification/conformance testing

Brüel & Kjær can provide instrument verification:

- A conformance test certifies that the instrument has been tested, has passed all production tests, and complies with the manufacturer's published specifications
- You will receive a Certificate of Conformance

Please be aware that instrument verification does not contain measurement results.

Ordering information

Initial calibration: Please order with your new instrument

Re-calibration: Please fill in the service request form before you ship your instrument

Legal verification, Primitiva: Please order with your new instrument

Legal verification, Eichung (Austria): Please order with your new instrument. For re-calibration please fill in the service request form before you ship your instrument.

Instrument-specific verification: Please order conformance test

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EXHIBIT I



EDWARD L. PACK ASSOCIATES. INC.

1975 HAMILTON AVENUE
SUITE 26
SAN JOSE, CA 95125

Acoustical Consultants

TEL: 408-371-1195
FAX: 408-371-1196
www.packassociates.com

March 11, 2015
Project No. 47-020

Jonathan Wittwer, Esq.
Wittwer Parkin, LP
147 South River Street
Suite 221
Santa Cruz, CA 95060

Subject: Peer Review of the Acoustical Analysis for the Pasolivo Events/Olive Oil Production Expansion, Vineyard Drive, San Luis Obispo County, by David Dubbink Associates

Dear Mr. Wittwer:

This report is a peer review of the acoustical analysis for the Pasolivo Events and Olive Oil Production Expansion along Vineyard Drive in San Luis Obispo County prepared by Dr. David Dubbink of David Dubbink Associates. The purpose of the acoustical analysis (noise study) was to determine the noise impacts to adjacent and nearby noise sensitive land uses from events at the remodeled facility. A main concern not addressed in the noise study are the noise impacts to the Webster residence located at 8787 Vineyard Drive, which is just north of the subject project site.

For the sake of brevity, text of the noise study on which we are commenting will not be reiterated. Our comments are made in general order in which they appear in the noise study.

Page 1:

Acoustical consultants are not supposed to support the project on which they are working. The ethical standards of the consulting community require completely unbiased analyses.

It would be helpful if the maps were shown larger. It is difficult to see detail at such a small scale.

A list of the types of events should be provided, what time of day they would occur, what, if any, limitations are placed on entertainers or other noise generating sources, how many activities would occur weekly, monthly or annually.

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Page 2:

Descriptions of the surrounding properties should be provided as they are mostly residential or agricultural lands with residences. Either way, the surrounding properties, especially to the south, west and north are noise sensitive.

If traffic on Vineyard Drive is "scant", will the project generate significant increases in traffic volume in relation to the existing volume? Has a traffic impact analysis been prepared? Project traffic could cause a significant impact in relation to CEQA guidelines.

The assertion that there is no likelihood of noise excesses at the north or east property lines due to the distance is not valid. No data are presented to back up this claim. The residence to the west of the site across Vineyard Drive is not mentioned. Because of the close proximity of the western boundary to the noise source locations, an evaluation for the western boundary is warranted.

The red dot on Figure 1 is not visible.

The ambient sound levels should be made during the entire period of when noise generating events could occur. Even with rural areas with low background noise environments, the ambient levels will change. The ambient sound levels should be better quantified at receptor properties or at least at the Pasolivo property lines, whichever best represents the existing conditions in relation to the County noise standards and CEQA.

There is no Section 22.10.210 of the County Land Use Ordinance. Is this supposed to be 22.10.120?

Section 22.10.120 of the County Land Use Ordinance would be applicable to the project as it limits noise from stationary sources. Noise limits are imposed on stationary noise sources, such as music and machinery. The noise limits of the County Code are the same as the noise limits of the Noise Element of the General Plan, which are shown on Table I of the noise study. A copy of this section of the Code is attached to this report.

ATTACHMENT 2

- 3 -

Section 22.30.070 – Agricultural Processing Uses contain limitations for special events at wineries but not at olive oil processing facilities. Because of the similarities of the events planned for the olive oil production facility to those of a winery, the County may elect to apply the winery special event limitations to the olive oil production facility. The special event limitations state:

“Special events are limited to 40 days a year. Any special event proposing outdoor amplified music shall only be allowed from 10:00 a.m. to 5:00 p.m. No outside amplified sound shall occur before 10 a.m. or after 5 p.m. The standard relating to amplified music may only be waived or modified where a finding can be made by the Review Authority that the noise at the property line will not exceed 65 dB.”

We are assuming that this statement means 65 dBA L_{max} to fall in line with the General Plan and Ordinance Section 22.10.120.

Page 3:

The description of the performance set up is vague. A detailed description should be provided, such as the number of speakers, their size and make and amplification power ratings. Although Smashing Pumpkins would sometimes be played at a wedding (probably more by request than as a “standard” – and is not really “Goth Rock”), there are other choices of program material that better represent the louder portion of a wedding reception or large party. In addition, there should be some discussion regarding live music, particularly drums, brass instruments and vocals. Drums are not as directional as other instruments (the sound spreads out in many directions) and brass instruments, especially trumpets, are very directional. The sound levels of drums, trumpets and vocals tend to carry more over large distances. Electric guitar sound also tends to carry more. Our experience with outdoor music and wedding receptions is that the highest sound levels are created by the DJ/MC, band leader/vocalist or attendees shouting or screaming into the microphone. Vocal inflections can vary by 20-30 dB. A boisterous DJ or MC can generate high vocal sound levels during wedding events such as announcing the bridal party and the garter and bouquet tosses. These sources are realistic and should be accounted for.

ATTACHMENT 2

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For each DJ or band set up, sound measurements should have been made at the property boundaries in each direction along with the close up measurements.

The reference sound levels in Table 2 appear to be low and seem to represent more of a “background” music level rather than entertainment/dance music levels. Actual L_{eq} 's of dance music during a wedding reception are in the 78-80 dBA range at 50 ft. from the front of the stage/speakers. Maximum sound levels have been measured consistently up to 92 dBA at 50 ft. Sound levels over 100 dBA have also been recorded on rare occasion.

Page 4:

The 6 dB per doubling of the distance factor is a good conservative approach. However, due to the topography of the area, distances to the receptors and the proximity to the Pacific Ocean, atmospheric effects need to be taken into consideration. Temperature inversions, prevailing winds and shielding and reflections from hillsides can greatly affect the standard sound attenuation rate.

In the 3rd paragraph on page 4 it is not clear which test scenario is being described. A 3 dB difference between a maximum level and an L_{eq} is too small to represent realistic music playing whether recorded or live.

“Peak” sound level has a specific technical definition and is not the maximum level, described as “ L_{max} ”. L_{pk} is typically used to describe the peak level (the peak or crest of a waveform) and it should never be used in environmental acoustics.

Table 2 (the second Table 2 – this should be changed to Table 3) on page 4 should report the measured/predicted sound levels at all of the noise sensitive property lines in the area taking into account topography, atmospheric effects and various source styles (DJ, band) for each set up scenario, but without mitigation included. Then the evaluation against the County standards and CEQA should be made so that the reader can get a grasp on the noise environments under planned conditions. For areas of noise excesses, specific noise mitigation measures must be presented.

ATTACHMENT 2

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Indoor to outdoor sound reduction varies greatly, depending on the acoustic environment of the space, the angle of view from the outdoor receptor location to the indoor source and the distance to the receptor. A de facto -15 dB noise reduction is an oversimplification.

Events on the South Terrace would result in non-compliance with the standards and significant noise impacts. Without demonstrating precise mitigation measures and quantifying the results that show a less than significant impact, an EIR may be required.

Events on the North Terrace would exceed the daytime and nighttime standards. Mitigation for the 3 dB daytime excess is proposed, but there is no mention of mitigation for the nighttime excess. Will events be limited to daytime only?

Reducing the source levels (playing softer) may be difficult as the reported sound levels are already on the low side. A sound level limit should be determined and specified with a requirement for periodic on-site monitoring. Shrubbery will not effectively reduce sound transmission.

Utilizing speaker direction, placement and building shielding are the most feasible methods to reduce noise in this type of environment. The limitations on outdoor music specified for wineries in Section 22.30.070 are also good methods to reduce noise annoyance.

Events at the New Tasting Room would also cause noise excesses. The analysis of this scenario needs to be presented in greater detail and specific mitigation measures developed.

Conclusions and Recommendations:

The west property line has not been addressed. The noise levels at the neighboring properties need to be addressed.

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The CEQA thresholds are based on the ambient conditions at the receptor locations. Given that the ambient noise levels are low, as stated previously, compliance with CEQA may be more restrictive than complying with the County Noise Element/Code standards. The limits suggested by state and federal agencies are not provided in the noise study. Actually, there are no federal limits as CEQA is applicable only to California. The noise increase limits are determined by the local agency.

The 4th CEQA concern is not just for construction. It is for any temporary or periodic noise source. CEQA does not mention construction.

In terms of the noise impacts to the Webster residence, there is potential for noise excess at their property boundary. The Webster property is approximately 2,600 ft. from the Event Barn. At an attenuation rate of 6 dB per doubling of the distance, the noise reduction from 50 ft. to 2,600 ft. is 34 dB. However, there is a series of parallel hillsides on each side of Vineyard Drive between the Event Barn and the Webster property. Sound reflections between these hillsides reduce the attenuation rate resulting in the sound levels at the Webster property up to 6 dB higher than what would be expected over flat terrain. Because of the distance between the source and this receptor and that breezes during summer afternoons/evenings can blow from south to north, as they did on the test day, wind and temperature inversions can also increase the sound levels at the Webster property by up to an additional 6 dB. Note that temperature inversions can increase sound levels by up to 20 dB in some cases. This would be rare and our extensive testing of outdoor music on the inland side of the coastal ranges indicates a typical increase of 4-6 dB.

For example, a maximum sound level of 100 dBA (loud voice into the microphone) at 50 ft. would reduce to 66 dBA at 2,600 ft. Then, topography and the atmosphere could increase that level by up to 12 dB, up to 78 dBA at the Webster property. To comply with the 65 dBA L_{max} limit, maximum sound levels would need to stay below 87 dBA at 50 ft.

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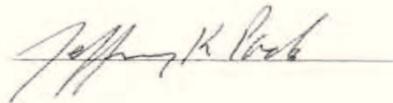
Likewise, to comply with the daytime L_{eq} limit of 45 dBA at the Webster property, the L_{eq} at 50 ft. would need to stay below 67 dBA. The reference outdoor DJ was measured to be 73-76 dBA $L_{eq(h)}$ at 50 ft. Therefore, there is a strong possibility that noise excesses could occur at the Webster property.

In conclusion, the noise study should be more comprehensive to adequately represent realistic noise impacts to the surrounding neighbors under various scenarios. The analysis of noise increases over the ambient noise environment, per the requirements of CEQA, needs to be quantified for each of the receptors in the area. Noise mitigation measures, where necessary, should be designed in detail for each scenario and recommended in the noise study along with a mitigation monitoring program.

If you have any questions or would like additional information, please call me.

Sincerely,

EDWARD L. PACK ASSOC., INC.

A handwritten signature in black ink, appearing to read "Jeffrey K. Pack", written over a horizontal line.

Jeffrey K. Pack
President

Attachment: San Luis Obispo County Code, Title 22, Land Use Ordinance, Section 22.10.120

ATTACHMENT 2

22.10.120 - Noise Standards

This Section establishes standards for acceptable exterior and interior noise levels and describe how noise shall be measured. These standards are intended to protect persons from excessive noise levels, which are detrimental to the public, health, welfare and safety and contrary to the public interest because they can: interfere with sleep, communication, relaxation and full enjoyment of one's property; contribute to hearing impairment and a wide range of adverse physiological stress conditions; and adversely affect the value of real property.

A. Exceptions to noise standards. The standards of this Section are not applicable to noise from the following sources.

1. Activities conducted in public parks, public playgrounds and public or private school grounds, including but not limited to school athletic and school entertainment events;
2. The use of any mechanical device, apparatus or equipment related to or connected with emergency activities or emergency work to protect life or property;
3. Safety signals, warning devices, and emergency pressure relief valves;
4. Noise sources associated with construction, provided such activities do not take place before 7 a.m. or after 9 p.m. on any day except Saturday or Sunday, or before 8 a.m. or after 5 p.m. on Saturday or Sunday;
5. Noise sources associated with the maintenance of a residential use as listed in Section 22.06.030 (Allowable Land Uses and Permit Requirements), provided that the activities take place between the hours of 7 a.m. and 9 p.m.;
6. Noise sources associated with agricultural land uses as listed in Section 22.06.030 (Allowable Land Uses and Permit Requirements), including but not limited to wind machines used for direct climate control, water well pumps and pest-repelling devices, provided that the pest-repelling devices are used in accordance with accepted standards and practices.
7. Noise sources associated with work performed by private or public utilities in the maintenance or modification of its facilities;
8. Noise sources associated with the collection of waste or garbage from property devoted to other than residential uses listed in Section 22.06.030 (Allowable Land Uses and Permit Requirements).
9. Traffic on public roadways, railroad line operations, aircraft in flight, and any other activity to the extent regulation thereof has been preempted by state or federal law.

ATTACHMENT 2

B. Exterior noise level standards. The exterior noise level standards of this Section are applicable when a land use affected by noise is one of the following noise-sensitive uses: residential uses listed in Section 22.06.050 (Allowable Land Uses and Permit Requirements), except for residential accessory uses and temporary dwellings; health care services (hospitals and similar establishments only); hotels and motels; bed and breakfast facilities; schools (pre-school to secondary, college and university, specialized education and training); churches; libraries and museums; public assembly and entertainment; offices, and outdoor sports and recreation.

1. No person shall create any noise or allow the creation of any noise at any location within the unincorporated areas of the county on property owned, leased, occupied or otherwise controlled by the person which causes the exterior noise level when measured at any of the preceding noise-sensitive land uses situated in either the incorporated or unincorporated areas to exceed the noise level standards in the following table. When the receiving noise-sensitive land use is outdoor sports and recreation, the following noise level standards shall be increased by 10 dB.

Maximum Allowed Exterior Noise Level Standards		
Sound levels	Daytime 7 a.m. to 10 p.m.	Nighttime (1) 10 p.m. to 7 a.m.
Hourly Equivalent Sound Level (L _{eq} , dB)	50	45
Maximum level, dB	70	65

Notes:

1. Applies only to uses that operate or are occupied during nighttime hours
2. In the event the measured ambient noise level exceeds the applicable exterior noise level standard in Subsection B.1, the applicable standard shall be adjusted so as to equal the ambient noise level plus one dB.
3. Each of the exterior noise level standards specified in Subsection B.1 shall be reduced by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.
4. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be measured, the noise level measured while the source is in operation shall be compared directly to the exterior noise level standards.

ATTACHMENT 2

C. Interior noise level standards. The interior noise level standards of this Section are applicable when the land use which is the source of noise and the land use which is affected by noise are both residential uses as listed in Section 22.06.030 (Allowable Land Uses and Permit Requirements), except for residential accessory uses and temporary dwellings.

1. No person shall operate or cause to be operated a source of noise within a residential use in any location in the unincorporated areas of the county or allow the creation of any noise which causes the noise level when measured inside a residential use located in either the incorporated or unincorporated area to exceed the interior noise level standards in the following table.

Maximum Allowed Interior Noise Levels		
Sound Levels	Daytime	Nighttime
	7 a.m. to 10 p.m.	10 p.m. to 7 a.m.
Hourly Equivalent Sound Level (L_{eq} , dB)	40	35
Maximum level, dB	60	55

2. In the event the measured ambient noise level exceeds the applicable interior noise level standard in Subsection C.1, the applicable standard shall be adjusted so as to equal the ambient noise level plus one dB.
3. Each of the interior noise level standards specified in Subsection C.1 shall be reduced by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.
4. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be measured, the noise level measured while the source is in operation shall be compared directly to the interior noise level standards.

D. Other noise sources. The noise level standards in this Section apply to the following.

1. **Air conditioning and refrigeration.** Notwithstanding the provisions of Subsection B.1, when the intruding noise source is an air conditioning or refrigeration system or associated equipment installed prior to June 4, 1992, the exterior noise level as measured as provided in Subsection E, shall not exceed 55 dB, except where the equipment is exempt from the provisions of this Chapter. The exterior noise level shall not exceed 50 dB for equipment installed or in use after June 4, 1993.

ATTACHMENT 2

SAN LUIS OBISPO COUNTY CODE - TITLE 22, LAND USE ORDINANCE

General Property Development and Operating Standards

22.10.120

2. **Waste and garbage collection equipment.** Notwithstanding the provisions of Subsection B.1, noise sources associated with the collection of waste or garbage from a residential use (as listed in Section 22.06.030 (Allowable Land Uses and Permit Requirements) by persons authorized to engage in such activity, and who are operating truck-mounted loading or compacting equipment, shall not take place before 7 a.m. or after 7 p.m., and the noise level created by these activities when measured at a distance of 50 feet in an open area shall not exceed the following standards.
 - a. 85 dB for equipment in use, purchased or leased prior to December 4, 1992.
 - b. 80 dB for the equipment described in Subsection D.1 after June 4, 1997.
 - c. 80 dB for new equipment purchased or leased after December 4, 1992.
 - d. 75 dB for new equipment purchased or leased after June 4, 1995.
 3. **Electrical substations.** Notwithstanding the provisions of Subsection B.1, noise from the following electrical substations shall not exceed an exterior noise level of 50 dB between 10 p.m. and 7 a.m. and 55 dB between 7 a.m. and 10 p.m., as determined at the property line of the receiving land use: Cholame, San Miguel, Templeton, Cambria, Perry, Cayucos, Baywood, Highway 1 between Morro Bay and the California Men's Colony, Goldtree, Foothill, San Luis Obispo, Oceano, Mesa, Union Oil, Callendar, and Mustang. If any of these substations undergo modifications that increase noise levels, they shall be mitigated in compliance with the policies of the Noise Element Policy Document.
- E. **Noise level measurement.** For the purpose of evaluating conformance with the standards of this Chapter, noise levels shall be measured as follows.
1. **Use of meter.** Any noise measurement in compliance with this Section shall be made with a sound level meter using the A-weighted network (scale). Calibration of the measurement equipment utilizing an acoustical calibrator shall be performed immediately prior to recording any noise data.
 2. **Measuring exterior noise levels.** Except as otherwise provided in this Section, exterior noise levels shall be measured at the property line of the affected noise-sensitive land use listed in Subsection B. Where practical, the microphone shall be positioned five feet above the ground and away from reflective surfaces.
 3. **Measuring interior noise levels.** Interior noise levels shall be measured within the affected residential use listed in Subsection C., at points at least four feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration. The reported interior noise level shall be determined by taking the arithmetic average of the readings taken at the various microphone locations.

[Amended 1992, Ord. 2545] [22.06.040, 042, 044, 046, 048, 050]

ATTACHMENT 2

JEFFREY K. PACK

ACOUSTICAL CONSULTANT

Curriculum Vitae

EDUCATION

Berklee College of Music, Boston, Massachusetts, 1984
Bachelor of Music; Professional Music

University of Southern California, Los Angeles, 1981
Bachelor of Science; Geological Sciences

West Valley College, Saratoga, California, 1979
Associate in Science; Science and Mathematics

EXPERIENCE

7/81 to Present **President and Principal Consultant**
Edward L. Pack Associates, Inc.
San Jose, California

Mr. Pack has experience in architectural, environmental, and industrial acoustics, including interior design of office buildings, hospitals, medical buildings, hotels, recording studios, auditoriums and residences, HVAC noise control, mechanical equipment enclosures, roadway and railroad noise barriers, transportation noise assessments and industrial facility noise control. Transportation noise assessments involve the analysis of automobile, truck, railroad and aircraft noise as they impact residential, commercial and industrial land uses. His responsibilities are involved with both the administrative and technical aspects of Edward L. Pack Associates and his duties also include presentations at public hearings, expert witness testimony, conducting seminars in acoustics, directing and monitoring construction corrective work in residential and commercial buildings and the design and construction direction of noise enclosures for mechanical equipment. Measurements, analyses, and evaluations are made to develop the specific recommendations required for the correction of noise and vibration problems.

He has extensive experience in the field of interior acoustics associated with auditoriums, multi-purpose rooms, gymnasiums, classrooms, churches, public meeting halls, TV and audio/visual recording studios, hospitals, and other acoustically critical spaces. Mr. Pack is an expert in architectural acoustics designing noise isolating walls, windows and floor/ceilings, particularly in multi-family housing for compliance with State and local building codes.

ATTACHMENT 2

Jeffrey K. Pack, (cont'd)

5/86 to President
5/94

The Techtonics Company
Sunnyvale, California

Mr. Pack designed, developed, and manufactured acoustic and electronic drum triggering devices, acoustic stringed instrument transducers, including piezoelectric pick-ups for guitars, violins, violas, cellos and basses from inception through final shipping. As President, duties included management of production personnel, purchasing, sales, marketing, and advertising. Retail stores and distributors carrying The Techtonics Company products are located worldwide.

2/93 to Adjunct Professor
3/94

Cogswell Polytechnical College
Cupertino, California

Adjunct professor of acoustics, which included teaching noise control engineering, audio engineering, architectural acoustics, and sound reinforcement system design.

7/84 to Owner
12/87

Mirage Music Technologies
San Jose and Hermosa Beach, California

Mr. Pack designed and constructed speaker cabinets, taught music, designed sound reinforcement systems, worked as a DJ for private and public events, worked as a performing musician.

His prior experience includes teaching assistant for Oceanography 210 at USC, 4 years as private drum and percussion instructor, conducting seminars in acoustics and noise control, and in music education as the South Bay Area Alumni Representative for the Berklee College of Music. Other engineering experience included geologic structure mapping, mineralogy, and geologic engineering.

AFFILIATIONS

Acoustical Society of America
American Institute of Physics
Audio Engineering Society
National Council of Acoustical Consultants
Sigma Gamma Epsilon Geological Society