

May 2, 2023

In the matter of 3-May-2023 public hearing regarding
P21-00294; Ladera Vineyards Minor Modification
3942 Silverado Trail, Calistoga; APN 021-030-047-000

To: Napa County Planning Commissioners via email to Emily Hedge

Kara Brunzell
Megan Dameron
Andrew Mazotti
Heather Phillips
Dave Whitmer

CC: Lester Hardy

As the immediate neighbors to the above referenced project, we thank you in advance for this opportunity to provide comment on this pending proposal at the upcoming Planning Commission hearing on May 3, 2023.

While we are supportive of development generally and in the improvement of the Ladera facility in particular, we believe there are a number of project-specific and procedural concerns that need to be addressed. We have no doubt that with the active collaboration of the applicant, the proposal could gain our support. However, in the context of a tightly packed neighborhood far short of the setbacks established by the Winery Definition Ordinance (WDO), combined with the applicant's thus-far unwillingness to engage with neighbors, we request a continuance of the application at this time.

I. Procedural Concern and Recommended Remedy

As of the time of this Meeting of the Planning Commission, it will be 9 months since the applicant has sought contact or engagement with the neighbors. Since that initial August 4, 2022 introductory meeting with the applicant, we have provided multiple detailed comment letters as input. Staff has given several explicit written directives to the applicant to meet with the surrounding neighbors and report back. They have not.

Application Status Letter from staff
to applicant August 19, 2022

"It is recommended that you provide the additional information requested by the neighbors. A neighborhood meeting may be a helpful way to discuss project components with the neighbors and reach potential resolutions to their concerns."

Application Status Letter from staff
to applicant September 30, 2022

"Based on the level of public interest in the project and the ongoing comments from the neighbors, AD Brian Bordona... is considering elevating the project to the planning committee. ... it is recommended that the applicant continue to work with the neighbors and provide written documentation that issues have been resolved and/or addressed or how issues will be addressed during construction or winery operation if authorized."

Nonetheless, the applicant represents to the County that they've addressed all of our issues. They have not. Instead, in most cases our issues have either been evaded or answered with restatements of what's already in the plan. We provide many examples herein. And by avoiding direct contact with us, they continue to avoid being held responsible for providing full information or being compelled to offer alternatives. Granting this permit under these conditions sets a poor precedent, suggesting to future applicants that they can safely ignore the community and staff directives and still win approval. We believe such action could undermine public confidence in the Planning process itself.

Compounding our concern is that we have repeatedly discovered material oversights and contradictions in the applicant's *written* representations, especially those essential to neighborhood impact. For example:

- On September 2, 2022, the applicant represented to the County that our concerns about noise from backing trucks were simply unfounded because the configuration of the proposed driveway would allow for trucks to deliver without backing up. This is patently false as pointed out in our October 11, 2022 letter. In the applicant's December 6, 2022 letter to the County, they reveal for the first time that in fact there will be trucks backing up with their audible warnings. Just as we originally observed. And rather than admit to the misrepresentation or offer additional accommodation beyond what was already planned, they simply cite that County Code exempts backup warnings from scrutiny. The message apparently being "live with it. Not our problem."
- We have previously noted flaws and omissions in the noise study submitted with the application. The initial study failed to consider any analysis of equipment noise which we pointed out prompting the County to ask for the study to be revised. There remains a material flaw in the revised study regarding the property line distances over which the sound attenuation calculations were estimated. As best we can surmise, these are off by nearly 40% in one case and ignore a close by residence in another. Each recalculation would mean much higher noise levels at neighboring property lines than claimed by the study resulting in levels likely to exceed permitted thresholds.
- When we were first notified about this project in the spring of 2022, each of the neighbors received a narrative about the project from the applicant. In the letter, the applicant tells us that tastings will be held in the cave. However, in response to a planning staff question on the matter, we see a March 31, 2022 statement "[the] Applicant intends to use the cave for marketing events but not visitation." We have not identified a revised declaration to the County on this point but given that the cave plans clearly show "tasting area", we presume the applicant will nonetheless plan to conduct visitation in the cave. We do not know if such plans would warrant additional requirements from the County. We might prefer tastings in the cave.
- Early on, the applicant represented that the only noise coming from above-ground water filtration equipment would be a "small hum from the control panel." From experience at other wineries, we knew better. Based on information about the precise equipment to be used, we went out and conducted sound measurement tests at another winery which proved that this equipment would be far too loud to meet code given its proximity to the property line. Happily, this is one place where the applicant made a significant change to their plans. Unfortunately, we are unable to identify any other material change to our urgings.

These are only some of the examples that we can provide. Still others are provided in the following sections. Each of these examples have been uncovered based on our own efforts without the applicant's cooperation.

Given the above, we respectfully request as a first step that the Planning Commission issue a continuance on the project and expressly direct the applicant to engage directly with the neighbor group in good faith and with clear understanding that full candor and some flexibility is expected. It should go without saying that it's a fundamental expectation that applicants demonstrate a commitment to integrating with their surrounding community.

II. Expanded privileges are unwarranted at this time.

The proposed expansion will impact the surrounding neighbors in the form of increased water demand, increased noise from visitors and production, increased traffic, more nighttime lighting disturbance and reduced privacy. These are facts; not conjecture. This is a tightly clustered residential area where activity on any of our properties is noticeable to all.

It is also factual to state that the current pre-expansion Ladera facility could not be approved as a new winery. At 7.5 acres (2.5 acres buildable), it does not meet the WDO minimum parcel size of 10 acres. And while WDO setback is 600 feet, this project is set back only 206 feet from the Silverado Trail. The proposed hospitality areas are just 80 feet (13% of WDO) from the neighboring property to the North and from there, only 150 feet further to that neighbor's home. To the South, the distance to the neighboring property is approximately 225 feet. And to the two homes across the Trail, the distance is on the order of 450 feet.

Yet within the current grandfathered permit, the applicant already has five times more visitor capacity than is currently used and has 20,000 gallons of unused production capacity available. At the applicant's discretion, the neighbors must already absorb the impact of significant expansion with less-than-WDO buffers and protections. Under these conditions we do not see how any balanced appraisal of the applicant's current permit vs neighboring impact warrants further increase to an already exceptional, privileged status. We do not and cannot argue the limits of the current permit, but we fail to understand any basis for asking the neighbors to absorb still more. It is very disturbing that within this context, the applicant treats accommodation or negotiation with the neighbors as unnecessary and without merit.

And so, in the absence of any recent effort by the applicant to engage directly with the neighbors to address concerns, it is our recommendation that should the Planning Commission determine that they need to make a decision now, that the applicant should be held to the limits of the current grandfathered permit and no more.

III. Summary of Project-Specific Concerns and Recommended Mitigations

1. **Water Usage.** While 2023 has been a good year for water, it does not make up for the many prior years of extreme drought. Wells in the immediate vicinity of the applicant's property have seen year-over-year declines in production with some of the wells running dry between seasons. And while it is true that Ladera already has rights to water usage for production and hospitality, the current condition is that there is no production today and the forecast is for greatly increased visitation. As there is already strain on the current water supply in the area, Ladera's plans are sure to make this considerably worse. Below are recent water production data from some of the neighboring properties (additional data available):

At 3939 Silverado Trail, we observe:

- 2014 – Well production at 31.5 GPM and static water level 62.2ft.
- 2022 – Well production at 20.6 GPM and static water level 126ft.

At 3940 Silverado Trail, we observe:

- 2021 – Well production falls to 1 GPM prompting cleaning maintenance resulting in improvement to 2 GPM
- 2022 – Well production declines again to 1 GPM and recovery time lengthened. Water level at 130ft and runs out by end of summer

At 3950 Silverado Trail, we highlight these events:

- 2014 – Ongoing reduction in well productivity prompt owners to install 5,000 gallon storage tank
- 2018 – Storage tanks start to run dry with well production down to 4-5 GPM. New well drilled. Old well depth at ~150 feet. New well depth 335 feet. Production of new well tested at nearly 50 GPM. Static @ 144'.
- 2021 – Well test measures productivity down to under 20 GPM. Static @ 159'.

In this concerning context, the applicant has provided multiple versions of current and projected water demands that are radically different making it difficult to see where reality lies. We request that an independent "open book" assessment be made of the projected water demands.

There's also another solution. Since the majority of the 20,000 gallons of production will necessarily come from offsite grapes (there will not be even 2 acres of grapes here), is it unreasonable to suggest that they also bring in the water for this project? There's already ample water storage planned. This would be a significant and welcome accommodation to the neighbors.

2. **Noise.** We have many remaining¹ concerns about noise from three sources: Visitation, service trucks and production. Each of these could well generate noise at property lines in excess of county limits. As we noted in our letter of January 13, 2023, multiple of these issues remain open. We have suggested to the applicant to propose additional noise mitigation measures. We imagine that these could not only be inexpensive but could be a low-impact means to demonstrate a willingness to accommodate the neighbor's concerns. Instead, the applicant states "no additional noise mitigation measures are necessary." Again, the stiff arm.

¹ Applicant has addressed the water filtration equipment issue by altering the design to encase the equipment in a concrete vault.

Visitation Noise: Currently, the applicant does not have permit for outdoor hospitality. The proposed plan includes two outdoor areas (North and East Terraces) deemed as AB2004 areas which means that visitors will be free to picnic, relax and drink wine in those areas during all visitation hours. This means that the North and East terrace are likely to be regularly attended by visitors generating noise likely to be loud throughout the day (drinking with friends does that), 7 days per week. Given how close these areas are to neighboring properties and the flaws in the revised noise study, we do not see how County noise ordinances are likely to be met or why the applicant resists mitigation measures.

There also seems to be some ambiguity as to the extent to which outdoor tastings are intended. The October 28, 2021 narrative seeks the removal on restrictions for outdoor tastings yet these do not seem to be called out or studied in other parts of the application. Our assumption would be that the applicant is intending to do outdoor tastings and therefore, the impacts of this should be documented and evaluated.

One other related item is that the October 28, 2021 narrative refers to wine pairing *dinners*. As members of the Ladera wine club, some of us have attended past dinners. The discrepancy here is that the February 1, 2023 letter from the applicant states that marketing event hours will end at 4:30PM. We suspect that this is an oversight.

Irrespective of the applicant's current intent, given the short distances involved, our request here is for outdoor hospitality to be limited to marketing events and not for tastings, picnicking or lounging. In addition, if the cave is indeed to be for visitation, we ask that travel between the tasting room and the cave be kept within an enclosed space as this would greatly reduce the potential for visitor noise. Proximity to neighbors warrants this measure.

Service Trucks: Here is one of the cases where the applicant suggests that a question has been answered while evading providing a complete answer to the question raised. In their February 1, 2023 letter, the applicant provides a truck-trips-per-day analysis but limits the scope to "production related truck trips" which of course will be seasonal and hence low on average throughout the year. Our question was with respect to all trucks coming to the cave including garbage trucks, delivery trucks (of all types), service/maintenance trucks and so on. Here, the ideal would be that the facility truly be designed so that trucks need not back up. There has been no response to this suggestion.

Production: The February 1, 2023 letter also claims that production activities are limited to within the proposed cave and yet on December 6, 2022 they state that they will have "mobile truck-based production activity, such as bottling..." Truck-based production in the driveway is not "within the proposed cave." The applicant was told in a December 1, 2021 letter from the County that if the area in front of the cave is used for winery functions, then the pad will need to meet setback requirements. The pad does not meet the setback requirements. This is yet another area where the applicant seems to misdirect from the obvious.

3. **Lighting.** The current Ladera facility has a minimum of outdoor lighting. The proposed plan expands the amount of outdoor lighting dramatically (growing from 6 to 60 fixtures) with lights located throughout the property including high-lumen units located along property lines. We don't argue that lighting is not needed. Rather we have asked that the lighting be scheduled so that if there are no personnel on property that the lighting is turned off except for perhaps the entry sign and select motion activated fixtures. Here the applicant evades the question by redirecting us to review the plans, making it appear as if we have simply overlooked what already exists. As the applicant surely knows, the plans do not address our points.
4. **Privacy.** The main driveway of the subject property exits in a direction *squarely aimed towards the bedroom* of the neighbor directly across the street. Whether it be visitors exiting the property or garbage trucks with headlights on in early morning hours, we think that some accommodation should be made to mitigate the impact on this neighboring property. This could include changing the location or exit direction of the driveway or certain screening measures. But here again, the applicant evades the question by reminding us of the berm to be constructed. The berms do not alter the direction of the driveway nor are they positioned in a way to block the direct view to the neighbor by way of the driveway.

5. **Left turn lane.** We observe that it is the increase in proposed visitation that triggers the County direction to install a left turn lane. We expect that if visitor allowances were kept at the current level, this would not be a necessary change.

And here again we have a case where the applicant continues to evade a direct question which we presume means the news is not good. The Transportation Memorandum dated March 15, 2022 clearly indicates on pages 6 and 7 that each of the neighbor's driveway entrances are to be rebuilt. We have asked what this means and have been told that "no work on neighboring properties" are planned. So, first off we have another contradiction between a document submitted to the County and what is said to the neighbors. The applicant has declined to state that the Transportation Memorandum is either in error or out of date.

But more importantly to the neighbors, we have been specific that our question concerns not only changes within our property lines but also to improvements (such as trees, landscaping, walls, pavement, signage, gates, etc.) that exist within the County Right of Way (as such improvements are common practice). In response, the applicant simply repeats that work "will be entirely within the County right of way and not occur on neighboring properties". So what changes are planned relative to our improvements that live within the County right of way? The applicant does not answer. We can think of no reason to avoid answering our question other than to avoid alerting us to planned changes that we will probably not like.

IV. Summary Recommendation. It is of great personal concern for all of us that this project make accommodation for the continued enjoyment of all of our properties including Ladera's.

The applicant has adopted an aggressive strategy. They've clearly carefully evaluated the Minor Modification statute and have apparently concluded *"well, as long as we're not being held to WDO we're going to push every possible dimension to the limit."* This is like saying, because we already have a grandfathered height exception let's propose the biggest skyscraper we can get away with. How is it that because a property is grandfathered into having a winery at all, they can now gain permit for an 8000 sq ft cave just feet from the neighboring property line and outdoor hospitality less than 100 feet away? It makes no sense.

And yet we accept that times change. We don't look to stop all development. After all, we're not just homeowners, we're all part of the wine industry. At the same time, we believe that respect for the views and concerns of the neighbors is not something that the community can allow an applicant to simply steamroll over with evasion and unsupported claims. The time for approving this project has lengthened because this applicant appears to believe that muscling through is a preferred substitute for transparency and collaboration. And while the neighbors are by default a voice with lesser power than the project principals and the County, we believe we've demonstrated that we've done the homework to earn more than a courtesy listen. We're practical, well-informed and creative business people who believe common ground exists for this project.

We have offered solutions to most of our issues. Other options are certainly possible. At this point, we ask the Commissioners to support the neighbors sincere desire to work things through with a willing applicant and thereby continue this matter. If the Committee must make a decision on May 3, then we advocate that Ladera be granted permit only at current levels of production, visitation, water usage and square footage for operations.

Respectfully submitted,

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