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April 21, 2008

To: Melanie Heckel, Assistant Planning Director
From: Fred Barber
Subject: Wine Ordinance, Negative Declaration

Message: The latest draft of the proposed wine ordinance apparently reflects changes suggested by the planning commission. Review of this proposal discloses that protections for land owners on private roads, previously recommended by the planning and public works departments in earlier versions, were removed. As a result, the use of a negative declaration as the appropriate CEQA document may be questionable

Specifically, as now proposed, Section 17.56.330 D2 Access Standards, a project must still meet access standards set by the local fire agency, but the language goes on to say that those standards may be modified and alternative designs selected. The people who can modify and approve said alternative access designs, however, are not identified. Modifications of access standards by non-professionals (not desirable) can affect public safety and lead to serious environmental impacts.

The current zoning ordinance already has a lawful procedure for modifying standards. It's called an Administrative Review Permit (ARP). While public road access usually doesn't involve other owners; access over a private road definitely does. Your earlier wine ordinance drafts proposed the ARP as the method of choice for approving wineries on private roads. The ARP does not necessitate a public hearing, but it does require notice by mail to surrounding owners. It also mandates review by "appropriate" county staff members. When access is over a private road professionals in the public works department have been, and should be, called upon to give their comments.

Our home, which lies in a Rural Residential Area set forth in the Placer County General Plan (it's in a "Farm" zone) abuts a winery operated by neighbor Charlie Green. Our place, Charlie's winery, and three other homes are all served from Mount Vernon Road by a one-lane, 10 foot wide private road approximately 760 feet long through a fairly heavily wooded area. If a 20' wide road were required for wineries, as earlier suggested by a fire official, an environmental impact would occur and an EIR might be required because somewhere between 40 and 50 trees over 6" in diameter would have to be removed just so Charlie could have on-site sales and wine tasting at his operation. If, however, an ARP were required it could be used to lawfully modify road requirements, allow wine tasting and sales, without widening the existing road. Public works department recommendations concerning safety, roadway capacity and traffic generation could be used make widening unnecessary.

Alternatively, and in closer conformity with the County General Plan, you might amend the heading of the second table in proposed Section 17.56.330 C to read: "Residential Districts (Rural Residential Districts of the County General Plan or Residential Agricultural and Residential Forest only)"

Fred Barber
Fred Barber

Cc Jim Holmes, Supervisor

Charlie Green

Rick Firi



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ATTACHMENT B

Roger & Irene Smith

6755 Wells Avenue
Loomis, CA 95650
(916)652-5685

April 22, 2008

Placer County
Community Development Resource Agency
3091 County Center Rive, Suite 190
Auburn, CA 95603

Subject: Winery Ordinance Environmental Impacts

In reviewing the Negative Declaration (ND) for the new Winery Ordinance we noticed the following deficiencies:

1. AIR QUALITY

Dust generated by additional traffic (if access road is unpaved) is not addressed in the ND.

Mitigation: require a dust-free road surface (chip seal may suffice)

2. BIOLOGICAL RESOURCES

A secondary, but major impact of a permissive winery ordinance is the likely construction of more vineyards, with extensive impact on wildlife habitat, water quality (both surface water and well water due to pesticide use), soil erosion and the "natural" aesthetics of our rural areas. The ND should address this.

Mitigation: Ensure that all new vineyards are subject to full environmental review as part of County approval. This should include the assessment of impacts on neighbors' wells. Closely control and monitor pesticide use on all vineyards.

3. NOISE

Noise impacts are understated in the ND - especially if there are nearby neighbors (say within 1000') of a winery.

Mitigation: Limit the days and hours of operation of the machinery.
Also limit the operation of the tasting room, and the types of activities allowed (e.g. no amplified music; limits on crowd size).

We hope these deficiencies will be addressed and that proper mitigation measures will be included in the new Ordinance.

Thank you.

Sincerely,

Roger Smith *Irene D. Smith*

Roger & Irene Smith

From: Ernie Jay
To: Placer County Environmental Coordination Services:
Subject: Winery Ordinance Comments
Date: Monday, April 21, 2008 3:21:20 PM

To: Placer County Planning:

Please accept these comments. A signed copy will be sent via USPS, but we want to make certain they are received by Wednesday's deadline.

Thank you,
Ernie Jay

(sent via email) April 18, 2008
Community Development Resource Agency
Planning Department
3091 County Center Dr.
Auburn, CA 95603

RE: Negative Declaration--Winery Ordinance

In making our comments on this proposal, we respectfully submit that (1) the zoning amendment is ill advised for many reasons, environmental and otherwise; (2) an Environmental Impact Report (EIR) must be prepared; (3) the current ordinances and General Plan regarding "Agricultural Processing" and "Roadside Stands" are being misconstrued and/or actually violated with this zoning amendment. We submit that the zoning amendment creates a de facto restaurant/bar use which should be unacceptable in residential or agricultural (ag) zones.

EIR is Required

The threshold for requiring an EIR for any discretionary action is only that any aspect of the project "may" have a significant effect on the environment. Court decisions have declared several Negative Declarations (Neg Dec) to be invalid, due to the remaining potential for the project to have a significant adverse effect on the environment.

The Placer County General Plan EIR states that an EIR is required when necessary to examine project-specific effects which are peculiar to the project. Clearly, this zoning amendment is inconsistent with the existing zoning, and the effects or impacts from this zoning amendment meet the criteria for requiring the preparation of an EIR.

In addition, CEQA states: "Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts." Since it can be fairly argued that this zoning amendment project could result in potentially significant environmental impacts, an EIR must be prepared [CEQA Guidelines, Section 15064].

Inadequacy of the Mitigated Neg Dec

A major premise of the push to approve this zoning amendment is anchored in streamlining the process. However, expediency at the expense of environmental degradation or public health and safety is a poor bargain. Obviously, to enforce the ordinance change, audits will have to be performed. From what public taxpayer funding source will the auditing expenses be taken from? Or is this to be a “self regulating” or self-auditing process, akin to “trust me” enforcement? Without proper auditing, the potential for abuse and resulting environmental impacts on residential neighborhoods are significant (or may be significant).

It is admitted that the streamlining of the process will probably result in more wineries and more wine tasting facilities. This is a cumulative impact with far reaching significance that is not addressed. “Mom and Pop” or “boutique” operations must be sustainable within currently zoning designations. Otherwise, they weaken the intent of ordinances and encourage operations that provide tax write offs, losses, and other negative economic impacts to the community. This Neg Dec should analyze the economic impacts on the county of such a liberal streamlining of the county’s ordinance.

Item I—Aesthetics: Light sources will indeed be a potential problem. It is irrelevant (as well as incorrect) to predict that the scale of the wine industry in Placer county is anticipated to remain relatively small. (If it’s so small, then how is the proposed ordinance change justified?). This amendment would allow the smallest of wineries without any, or minimal, vineyard acreage to create tasting rooms. Thus the anticipated light source from many more wineries is significant. The premise that a lack of vineyard acreage will curtail winery growth and new light sources is false. It is much more likely to anticipate that every winery will (not just “may”) have security lighting, which has very severe and significant impacts on night lighting. To cite daytime public use as the criteria for lack of lighting impacts misses the entire point of new light source impacts. We request that an EIR be prepared.

Item II—Agricultural Resource: No one is opposed to legitimate agricultural operations. However, it is erroneous to conclude that the zoning amendment will result in an expansion of agricultural production in Placer County when, indeed, the opposite may be true. To be beneficial to agriculture, the grapes must be grown in Placer County; however, this amendment allows grapes from outside the county to be used. Thus, it may NOT have either a beneficial effect OR expansion effect on Placer County agriculture production. In fact, it may be detrimental to the existing vineyards should grape “dumping” from another regions occur. To claim that the Winery Ordinance will implement several General Plan policies that encourage agricultural production is to hide behind General Plan policies that

are not rigorously followed in the county. The County may play lip service to supporting agriculture and right-to-farm activities, but it strongly supports conversion of ag lands to development. The ag community is remarkably silent when this occurs. Thus, the actions of the County do not support a dedication to ag operation, and cannot be used to justify wine tasting as a legitimate ag activity.

III—Air Quality: We respectfully disagree with the conclusion in this Mitigated Neg Dec that emissions would not impact air quality. Whether it is a fire place in a wine tasting room, a diesel tourist bus, or auto emissions from customers on private residential lanes, there WILL be increased air pollution. Anyone who grows organic produce knows full well the potential hazards of pollution of crops from auto emissions near roadways. This impact must be analyzed and mitigated; please do so in an EIR.

We also disagree with the statement that vineyards that provide grapes for the wineries do not produce substantial pollutants. With chemical spraying, fertilizers, herbicides, pesticides, etc., vineyards are widely recognized as one of the most ecologically damaging ag activities. To rely in part on the state and federal regulations and enforcement with their reduced staff and increasing budgetary cuts, is to provide no guarantees or even likelihood of compliance. To rely on the county (even before its upcoming cutbacks) to enforce any regulations is unrealistic; the county cannot fulfill its obligations now. The health of neighbors should not be subjected to such a gamble. Please prepare a full EIR to cover this potentially severe impact.

To rely on the Regional Water Quality Control Board to monitor waste disposal is not a reasonable position or satisfactory mitigation. That agency is notoriously overwhelmed and understaffed and cannot begin to adjudicate the thousands of complaints it receives, let alone its backlog. It simply cannot "address any improper waste disposal methods." Also, CEQA does not allow mitigation in the form of "Let them (another agency) do it." Please prepare a full EIR to cover this potentially severe impact.

IV—Biological Resources: We respectfully disagree that the proposed Winery Ordinance in and of itself would not impact oak woodlands. By making it easier to conduct tastings and promotional events, one can reasonably conclude that more wineries will be created, along with vineyards, either on the property or off. Thus, as has been observed in the past, oaks will most likely be removed as they have in numerous instances where wineries have been created in the past. To put the onus of enforcement on the Placer County Tree Ordinance (which is the laughing stock of most tree ordinance specialists, and, except for a few local ineffective ordinances, tops the list as useless and meaningless) or on enforcement of Fish and Game regulations is unacceptable. Neither of these can/will provide adequate protection, mitigation, or avoidance of significant impacts. Mitigation IS

necessary and must be specifically spelled out, as is an EIR.

To conclude that because wineries are dispersed in the landscape that they would have no potential for blocking wildlife migration corridors is erroneous. One only has to see vineyards with netting (devastating to birds), wire fencing, and other measures that have been utilized to stop wildlife. More vineyards will bring additional impacts to important wildlife corridors and to predators, especially as their increasingly narrowed and segmented corridors force them into proximity of unnatural habitat (i.e., neighborhoods, school yards, playgrounds, etc.). Please do an in-depth analysis of the impacts this ordinance amendment will have on wildlife corridors.

Until the Placer County Conservation Plan is either adopted or abandoned, no zoning amendments should be considered. To do so would be to jeopardize and/or undermine potential options that might be needed in the future. The PCCP is the true test of the County's dedication to ag operations; let's see just how dedicated the county is before we allow retail operations in residential neighborhoods.

VII—Hazards and Hazardous Materials: It is a given that the zoning amendment will result in more wineries. This will result in more vineyards (even if grapes and/or bottled wines are brought in from outside Placer County). With the additional vineyards will come additional exposure to hazardous materials—air, soil, or water born. To our knowledge, there is no enforcement of the incorrect (or illegal) use of hazardous materials until or unless there is an unfortunate incident. To date, inappropriate use of hazardous materials is a self-regulating activity which means enforcement is practically non-existent. For example, no one has studied the impacts to ground water of chemical residue seepage, but we do know Placer County creeks and air are becoming more polluted. More analyses, as well as stricter, not looser, ordinances are called for. Please conduct a thorough analysis of wineries and concomitant vineyard impacts and prepare an EIR.

VII—Hydrology & Water Quality: Please see above.

To address water quality standards with the provision for potable water is problematic on many levels. First, it isn't just the well on the winery property that may be impacted; neighboring wells may be using the same groundwater table. Second, who is going to keep count of the on-site population in a 60-day period? The owners? Again, self-regulating is unacceptable when economic resources are at stake. Third, bottled water is now known to have health consequences that were unknown even last year. New disclosures are resulting in many citizens abandoning their bottled water. Bottled water is not an acceptable provision for potable water for a winery.

Another concern is with the contamination of the groundwater that will be a direct result from increased chemicals from increased winery activities. In many rural areas with septic systems, contamination of groundwater is, or may be, a reality,

as it has been in other areas. By the time the damage is recognized, it is too late. We submit that the Placer County Environmental Health Division, facing cutbacks along with other County agencies, is in no position to be inspecting and reviewing sewage flows. This is a critical issue that can literally mean life or death for citizens. This potentially severe impact must be analyzed more in an EIR.

IX—Land Use & Planning: It is disingenuous to claim that the Winery Ordinance will have no impact on land uses or divide existing communities. If one winery is successful, the next step will be expansion, followed by a bed and breakfast, then a full scale restaurant, and on to a hotel. The growth-inducing activities associated with a winery belong in commercial or industrial zoned districts, and not in residential/ag zoned districts. This Winery Ordinance merely exacerbates an already intolerable impact.

A 4.6 acre minimum for a winery is hardly a viable size and should not qualify as an ag operation. It could qualify as an ag operation for the growing of some grapes, but not with the creeping additions of winery, wine tasting, and whatever is coming next. The statement, "Wineries and accessory uses like wine tasting are elements of commercial agricultural operations and are therefore appropriate and compatible uses" is an insult to legitimate ag operations. Is there a point at which the expansion of "accessory uses" is defined? Is it ever curtailed? Or will it be an ever increasing nuisance to communities and neighbors who have the misfortune of having one of these in their neighborhood? Will these wineries stop at wine tasting? What about crackers and cheese? Will they then make their own cheese complete with confined animal feeding operations for dairy cows? How about another building to make the crackers. Commercial ag is working with the land; these accessory or value added operations make a mockery of, and a disservice to, legitimate commercial ag operations. Please do not foist this egregious amended ordinance on any Placer County neighborhoods. Analyze all impacts for full public review.

It is a gross understatement to claim that "The Winery Ordinance may encourage the establishment of additional wineries and vineyards..." It will become an ag tax shelter for some and a nuisance for others. To imply that neighborhood compatibility issues will not impact adjacent residences is pure speculation.

Deterioration of property values WILL be the norm. People live on private, one-lane driveways for privacy. In most rural areas, on private roads, there are no public roadway services. Neighbors move to the rural areas in part for the privacy. To open a winery is bad enough; but to open a wine tasting facility is abominable to anyone living on a private road. Contrary to what is stated in the Mitigated Neg Dec, property values WILL deteriorate.

XI—Noise: To claim that the Winery Ordinance will not result in exposure to excess noise levels is indicative of the lack of analysis in this proposal. There may

be all of the noise factors associated with public traffic: horn honking, strangers “peeling” out, mufflers, etc. To imply that County’s Noise Ordinance will suffice as regulation is a joke. Just research the degree of satisfaction from County residents who have complained about noise ordinance violations (neighborhood) and see the level of non-compliance and NON-resolution. It is almost impossible to define and enforce the County’s noise ordinance unless one has tens of thousands of dollars to pursue the matter in court. This type of impact will force neighbors into litigation, where the burden does not belong. It should be the County’s responsibility to NOT create this nightmare in the first place.

To couch excessive noise levels as somehow excusable due to their being “temporary” and no more than six per year is unacceptable. Can I run a red light as long as it’s on an infrequent basis? The existing rules have been created for the benefit of everyone—the common good. This ordinance unravels that concept and is being created for the benefit of a few at the expense of neighbors.

Although we may have missed it, we see no discussion or analysis of the noise emanating from the wine tasting public/potential customers. Please explain the omission of this potentially severe impact. Many wine tasters in Napa and Sonoma Counties do not stop at one winery for one or two tastes. Instead, they start at one and “make the rounds.” As cars drive into private lanes, residents will not know if the occupants are just starting out, or have been steadily imbibing for hours. Even slightly intoxicated adults can be oblivious to their own vociferous speech levels. As recently reported, some Napa and Sonoma County wine tasting facilities are banning large groups due to unruliness; we can only assume this includes a noise element as well. Please address in an EIR.

XIII—Public Services: Common sense dictates that the General Plan did not address public service impacts of wine tasting. Is it assumed or anticipated that the sheriff will never be called to a wine tasting establishment (rowdiness, altercation, etc.)? How will the ABC limit of the number and size of the wine samples provided to the public be enforced? (Assuming someone has been to four or five tasting rooms, will the limits be cumulative? At the fifth stop, how will the tasting limits be relative?) Because the roads are private, how will violations be enforced (law enforcement normally must witness violations)? Because the county does not own/maintain the private roadways, how can the county pass an ordinance allowing the public full use of the private drives? Please analyze the public services impacts in an EIR and circulate for full public review.

XV—Transportation and Traffic: The Winery Ordinance requires that the primary purpose of each winery is to process wine grapes grown on the winery property or on other local agricultural lands. As vague as the words “primary purpose” are, the activity should be limited to processing wine grapes because of the potential impacts created by the amended zoning ordinance. It is irrelevant that there is

currently only limited vineyard acreage; it is reasonable to assume (with the stated County's "encouragement") that more wineries and/or wine tasting facilities will be created. Thus, County roadway levels of service may be affected, but more importantly, pedestrian, bicyclist, and residents in the neighborhoods will have their safety compromised. CEQA requires full disclosure, but we see no roadway standards for wine tasting facilities as described in the Winery Ordinance. What will be the road widths, pavement requirements, setbacks, etc.? If paved roads are not required, how will dust be mitigated? Please incorporate roadway requirements and address and discuss them in an EIR.

For the Winery Ordinance to NOT address parking is unacceptable. When a facility becomes full on a private drive, the impacts to the neighbors is severely significant. Property damage, blocked roadways and driveways become a nuisance and may result in calls to the sheriff for "tow aways," accident, hit-and-run reports, etc. (which places more response time burdens on already overtaxed law enforcement agencies). Please provide an enforceable parking lot requirement and analysis in an EIR.

Many neighborhoods have "Neighborhood Watch" groups—neighbors who have agreed to watch out for each other's safety. The effectiveness, if not the entire concept of the Neighborhood Watch program, will be rendered useless with this winery ordinance amendment. Otherwise, strangers, slowly creeping along the private drive (or racing along) will simply go unreported since it could be someone headed for, or leaving, the winery. Neighborhood safety will be impacted and a sense of community will be lost. Please address in an EIR.

Other Considerations for NOT Adopting a Wine Ordinance Zone

Amendment

The Right to Farm. This concept brings with it responsibility. Everyone supports farming and ag operations as long as they are legitimate, not a tax sham, nor pose an unacceptable nuisance to a community. Right to Farm was never intended to allow retail establishments to set up shop in residential or res/ag neighborhoods, let alone put on six promotional events per year. Ag proponents complain about development infringing on Right to Farm. This wine ordinance amendment creates the problem in reverse: The Right to Live in Peace in established rural/ag areas being infringed upon by nuisance wine tasting facilities. This winery ordinance amendment is nothing more than a shield for hobby vintners and "boutiques" to circumvent the intention of laws and/or to take unfair advantage in the marketplace.

"Farming" and/or "agriculture" are words that imply working on the land, in the dirt, and are embraced by the public. Phony ag activities that become either nuisance activities, or "holding patterns until development arrives" (Williamson Act), are turning the public against traditional agricultural operations. Ag should

mean growing the grapes. It's a stretch to take it to the level of processing (winery), but the barn door was left open on that one. Now we have the "farm loaders" moving in, trying to capitalize on an ordinance and laws that were not meant for them at all.

Selling Placer County produce is allowed on the property or on the frontage public road if it is at the site of the production. This wine ordinance throws all stipulations out the window by (1) allowing grapes grown elsewhere to be processed and (2) allowing wine from other sources to be sold. This creates a deplorable situation not only in unsuspecting res/ag zoned areas but also in turning the public against ag operations.

Nuisance Complaints. The county should plan on increased calls for services and/or complaints from neighbors. A recent LA TIMES article tells the truth about the "booze hounds" who show up at these tasting counters, "throwing up in the shrubbery, shouting, singing, flinging off garments..." Some wineries in Napa have put out signs, "No limos."

California's vehicle codes (speeding, driving without license, drunk driving, etc.) are not enforceable on private drives; yet Placer vintners want to turn their private one-lane shared easement driveways into commercial roadways, open to the public under a right-to-farm smokescreen. Neighbors and pets will never know what hit them when the "had been drinking" (HBD) crowd appears; it won't be pretty.

Disingenuous Cause and Effect Claim. The ag activity is in the growing of the grapes. For vineyard owners to claim they need to process the grapes, and now need to allow tasting on the premises to sell the bottles is using the same logic that an automobile body shop must encourage accidents to stay in business. **No public agency should be encouraging the economic advantage of one segment of the population over another** (vintners over homeowners in this case). The grape growers know what they are getting into. The demise of a 5 acre vineyard and winery is a blip on the economic ag screen; if they are not making a good product, no amount of tasting is going to take them out of the red.

No ordinance should be amended to accommodate an operation that is unsustainable in the first place. When will cattle, sheep, or hog operations demand ordinance changes to create shops to sell leather jackets; to create restaurants to sell veal scaloppini, filet mignon, or medallions of lamb? Will the county change its noise ordinance to promote ear plug sales? Will the County pass an ordinance next to allow people whose homes are being foreclosed to start half-way houses for (fill in the blank) in order to make money to maybe head off the foreclosure? It is NOT, and never should be, a government's role to favor one commercial industry over another. Where does the madness end?

Alternatives:

As some wineries have already discovered, many retail establishments now have a "Local Wine" section in their grocery aisles. This is where serious and legitimate local vintners who have a worthwhile product can/will sell their wines. In addition, a number of very large wine retailers ("wine superstores") are opening their doors in Placer County, thus providing another venue for wine sales.

Wine tasting can/should be held either in cooperative venues, such as the current Farmers' Markets. If, in the wildest stretch of the ordinance, wine tasting was to be allowed, it should be from public-road-accessible venues ONLY. If a vintner wants to have tasting and not impact any neighbors on a private drive, then it must be from public road access or public venues. This ordinance creates an unreasonable situation where the vintner on the rural private drive will always know when their privacy will/will not be violated; they will simply keep the gates shut. However, neighbors will have to guess constantly as to who the passersby are.

With a little capitalistic ingenuity, there should be plenty of reasonable opportunities for wine tasting activities that will NOT impact neighborhoods and residential areas. Otherwise, the neighbors (and the County) are subsidizing unsustainable operations (that should stick to grape growing and get out of the winery business) at a great cost—the loss of their rural ambiance.

The Winery Ordinance zoning amendment is an unacceptable project that must not be implemented. If anything, ag regulations, ordinances and rulings need to be stiffened to stop the wholesale denigration of what once were respectable ag operations.

Cordially,

Ernie Jay
P.O. Box 7167
Auburn, CA 95604

Going green? [See the top 12 foods to eat organic.](#)

CHARITY KENYON
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R E C E I V E D
JUN 30 2008

June 27, 2008

Honorable Jim Holmes, Chair
and Members of the Placer County Board of Supervisors
175 Fulweiler Ave.
Auburn, CA 95603

PLANNING DEPT.

Re: *Negative Declaration and Approval of Placer County's Proposed Winery Ordinance*

Dear Chairman Holmes and Members of the Placer County Board of Supervisors:

On behalf of our client, Neighborhood Rescue Group, we submit the following comments on the Placer County Wine Ordinance and the proposed Negative Declaration for this project.

The Negative Declaration does not meet the standards of the California Environmental Quality Act (CEQA) because it fails to sufficiently investigate and identify potentially significant environmental effects and improperly defers mitigation of impacts. Under CEQA, the mitigation of impacts cannot be left for future formulation without a binding commitment to mitigate a project's identified significant adverse effects on the existing environment, or to assure that a project's significant adverse impacts on the existing environment will not occur. The Negative Declaration improperly delegates decision-making to other agencies and relies on uncertain and unsupported determinations in reaching its conclusions of less than significant or no impacts.

I. THE NEGATIVE DECLARATION FAILS TO CONSIDER THE CUMULATIVE EFFECTS OF THE WINERY ORDINANCE

Despite the Winery Ordinance's express intent to encourage the growth of Placer County's wine industry, the Negative Declaration fails to thoroughly evaluate the cumulative considerable impacts this growth may have on the existing rural environment. The Negative Declaration acknowledges that "the adoption of the Winery Ordinance may encourage the establishment of wineries and the planting of additional vineyards due to provisions that simplify the regulatory process and address accessory uses." (Neg Dec., Section V, at p. 10.) Given the potential growth-inducing effects of the ordinance and associated Zoning Clearances, any discussion of impacts is incomplete without looking at the collective impacts of such growth in Placer County. The potential cumulatively considerable impacts of the activities the ordinance authorizes must be investigated and evaluated before the County can adopt a Negative Declaration and approve the ordinance.

II. FINDINGS OF LESS THAN SIGNIFICANT OR NO IMPACT ARE PREMISED ON AN UNSUPPORTED ASSUMPTION OF MINOR GROWTH

Although the ordinance actively encourages growth, the Negative Declaration repeatedly relies on the assumption that there will be little actual growth in the wine industry, contradicting the ordinance's stated purpose. The Negative Declaration relies on this contradictory assumption in reaching many of its findings. The assumption that the wine industry will remain on a small scale is based on the County's limited vineyard acreage. However, the ordinance seeks to expand not only vineyards but also wine-tasting and processing facilities. In certain zoning districts only one acre of planted vineyard is required or the "functional equivalent" as determined by the Agricultural Commissioner (Draft Winery Ordinance, Section D(1)A, at p.3.) for the development of a wine-processing facility. Moreover, the grapes used at these facilities are not even required to be grown in Placer County. Therefore, any assumption about the scale of future growth based on vineyard acreage is an unreliable criterion considering the fact these facilities can be developed on very small parcels of land. Instead of placing real and tangible limits on the growth of wineries, to ensure the elimination of certain impacts, the Negative Declaration relies on an uncorroborated belief that limited acreage is a sufficient barrier to growth.

III. AESTHETICS AND LIGHT SOURCES

The potential significant adverse impacts of additional artificial light sources are determined to be less than significant based on the assumption of small growth and on the belief that winery facilities would be "generally oriented towards daytime public uses." (Neg. Dec., Section I, at p. 6.) Despite this unsupported assumption, there is substantial contradictory evidence demonstrating that nighttime visitor-serving activities at existing wineries disturb neighboring properties. (See from 3/1/07 letter from Neighborhood Rescue Group at pp. 4-5, attached as Exhibit 1 to this letter; see Police Call report, attached as Exhibit 2 to this letter; see 9/13/07 letter from Laurence A. Graves at p.1, attached as Exhibit 3 to this letter.) Moreover, there are no actual limitations restricting these visitor-serving activities to daytime hours. Rather than setting standards in the ordinance that would limit visitor-serving activities at winery facilities to primarily daytime use, thereby reducing potentially significant nighttime impacts to less than significant levels, the Negative Declaration inappropriately relies on the unsupported assumption that these visitor-serving activities are oriented towards the daytime.

IV. AGRICULTURAL RESOURCE

Although it is claimed that the wine-tasting and processing facilities will benefit agriculture, the Winery Ordinance will also increase commercial and visitor-serving uses that may significantly interfere with other existing agricultural uses. The construction of processing and tasting facilities, with as little as one-acre or the "functional equivalent" of planted vineyards, may not preserve agricultural land. Instead rural farm lands may be further subdivided to support commercial and visitor-serving operations benefiting the wine industry. (Draft Winery Ordinance, Section D(1)A, at p.3.) Furthermore, allowing the import of grapes not grown within Placer County goes beyond a policy to support local agriculture to encouraging commercial

markets that sell wine and related products throughout the otherwise rural agricultural and rural residential areas.

V. AIR QUALITY

The Negative Declaration concludes that there will be less than significant or no impacts on air quality. Instead of examining the cumulative effects of the ordinance on air quality in Placer County, which already exceeds U.S. Environmental Protection Agency standards for PM-10 and ozone (Neg. Dec., Section III, at p. 8.), the Negative Declaration only goes so far as to require compliance with Air Pollution Control District standards. The Negative Declaration improperly mitigates the observed consequences of chemical spraying and pesticides by relying on enforcement of pesticide regulations by state and federal agencies, and the Placer County Agricultural Commissioner, without explaining how these entities will be notified of the need for follow-up enforcement.

The Negative Declaration fails to properly consider the increased emissions and dust generated on the County's dirt roads from an increase in traffic from visiting cars, busses, and other vehicles, which residents have expressed concerns over. (See 4/22/08 letter from Roger and Irene Smith at p.1, attached as Exhibit 4 to this letter; see 4/18/08 letter from Ernie Jay at p.2, attached as Exhibit 5 to this letter.) The Negative Declaration additionally fails to consider the potentially significant adverse effects of chemical and pesticide usage on the visitors who are being encouraged to visit this agricultural area.

VI. BIOLOGICAL RESOURCES

The assumption of small growth truncates a complete evaluation of the increased pressure for the removal of oak woodlands to accommodate more vineyards and commercial operations like wineries, tasting rooms, and associated commercial activities. The ordinance expressly encourages the development of new vineyards, tasting rooms, and processing facilities, but fails to discuss where these vineyards and new commercial facilities will be located and sited. The Negative Declaration relies on the Placer County Tree Ordinance to mitigate the ordinance's impact on oak trees, while admitting that the Tree Ordinance "does not apply to agricultural uses." (Neg. Dec., Section IV, at p. 9.) Therefore, any mitigation relying on the enforcement of the County's Tree Ordinance is not feasible.

Although the Tree Ordinance does apply to riparian areas, the Negative Declaration defers any mitigation for the loss of riparian areas to regulations that may be enforced by the California Department of Fish and Game ("CDFG"). However, the Negative Declaration does not provide any information on CDFG's ability to monitor the County's ordinance. No additional funds are made available to assist CDFG's enforcement of any mitigation strategy.

Full analyses of the impacts of fish and wildlife corridors are similarly missing from the Negative Declaration. Instead, the County defers to CDFG stream bed alteration permits and County watercourse setback requirements. Impacts to wildlife corridors are dismissed because "wineries are dispersed in the landscape and thus have no potential for blocking the migration of fauna." (Neg. Dec., Section IV, at p. 9.) This conclusion is not supported by any facts in the

ordinance or any information discussed in the Negative Declaration. There are no requirements that vineyards and facilities be "dispersed." Furthermore, vineyards with netting, wire fencing to exclude wildlife, and other equipment may pose a significant adverse impact on native wildlife. (Exh. 5, p. 3.) These potentially significant impacts deserve further investigation and analysis.

VII. HAZARDOUS MATERIALS

While the Negative Declaration admits that wineries "routinely handle hazardous materials" (Neg. Dec., Section VII, at p. 12.), the potentially significant impacts of handling, dispersing, and disposing of these materials is left to the permitting requirements and handling and storage regulations of Placer County Environmental Health Services (EHS) and the Agricultural Commissioner. It is unclear from the information in the Negative Declaration that the County has even consulted with EHS or the Agricultural Commissioner about the handling of hazardous materials within facilities that encourage public use and visitation. Since the County is the lead agency for the ordinance, the lead agency is required to consult with the departments within the County and other responsible agencies to address this potentially significant impact.

Furthermore, public comment has raised doubts about the proper enforcement of existing hazardous material regulations, throwing into question the assumption that the inherent conflict between increasing visitor-serving uses and handling and disposing of hazardous materials will be reduced or avoided by the existence of agency regulations. (Exh. 5, p. 3.) Concerns have also been expressed as to the possible degradation of Placer County creeks from inadequately disposed of chemical residue seeping into groundwater used for domestic water supplies. (Exh. 5, p. 3.) A more thorough analysis of the existing use of pesticides, chemicals, and other hazardous materials based on the existing environmental conditions is necessary. This would allow the public and County decision-makers to understand the increased risk of exposure created when vineyards and visitor-serving uses within these areas are encouraged and expanded. An EIR is the logical document to compare the existing baseline conditions to future scenarios that increase the opportunity for handling and disposing hazardous materials adjacent to existing rural residences and expanding visitor-serving uses.

VIII. HYDROLOGY AND WATER QUALITY

In addressing the ordinance's impacts on hydrology and water quality, the Negative Declaration fails to analyze the cumulative impacts of increased water use for vineyards, wine-processing, and wine-tasting facilities. The ordinance's attempt to address impacts on water quality through the provision for potable water is insufficient. A self-regulating requirement for bottled water use is unlikely to be complied with and fails to address the use of water other than for consumption. The possibility of groundwater depletion is avoided by specifying compliance with the Placer County Code and the Land Development Manual. Discussion of surface and groundwater quality defers mitigation of potential impacts by requiring the Regional Water Quality Control Board to set, "where applicable," standards for waste disposal. (Neg. Dec., Section VIII, at p. 14.) This does not satisfy CEQA's requirements that changes to the project must be included in the project and made available for public review and comment before project approval. Here, the mitigation is illegally deferred to a future time when another public agency might adopt future water quality standards for waste disposal.

The Negative Declaration fails to provide any meaningful analysis of water use by the wineries. There is no discussion of baseline water conditions in Placer County. Moreover, the Negative Declaration makes no attempt to quantify the water use of existing wineries or to forecast water use by prospective future wineries. The conclusion that the Winery Ordinance "will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge" is not supported with any factual basis. (Neg. Dec., Section VIII, at p. 16.) Requiring construction of new wells to comply with the permitting and production requirements of the Placer County Code and Land Development Manual does not sufficiently mitigate the potentially significant adverse impacts of groundwater depletion. Avoiding a complete evaluation of the impacts and mitigation of water use is impermissible, especially in light of persistent statewide drought conditions.

In addition, there is no discussion about concerns raised regarding potentially serious impacts to water quality from chemical and pesticide run-off. (Exh. 4, p. 1; Exh. 5 at p. 3; see 1/23/07 letter from Mike Giles at p.2, attached as Exhibit 6 to this letter.) The contamination of the area's water supply from a potential increase in vineyard pesticide use is a serious concern and deserves further consideration of methods to avoid or reduce this potentially significant impact on domestic water supplies.

IX. LAND USE AND PLANNING

The statement that "no impacts to communities or anticipated land uses are anticipated" openly and inexcusably discounts the repeated and numerous problems that existing residents have already experienced from the few existing wineries. (Neg. Dec., Section IX, at p. 15.) Residents have already experienced repeat disturbances from commercial wineries and have expressed concerns regarding safety, noise, and other issues stemming from conflicting rural residential and commercial uses. (Exh. 1.; Exh. 2; Exh. 3, p. 1; Exh. 6, p. 2.) An increase in these existing problems is anticipated if the Winery Ordinance is adopted, since it encourages the expansion of these commercial and visitor-serving uses. The small 4.6-acre minimum parcel size for Residential, Resource and Agricultural Zoning Districts is insufficient to eliminate impacts by creating a "buffer" for the neighboring landowners adjacent to these wineries. (Neg. Dec., Section IX, at p. 15.)

The opportunity for public input that would be allowed for Administrative Review Permits and Minor Use Permits for events and large wineries does not meet CEQA's feasibility test for reducing or avoiding these identified significant environmental impacts, since the County agency's discretion to modify the events or projects is rather limited. Although the Administrative Review Permit gives an opportunity for public input, there are no guarantees that the public's concerns or wishes will be acted upon, especially given the precedent that appears to have been established which dismisses these concerns.

Neighbors of wineries have also expressed concerns about property values, which the Negative Declaration dismisses. The Negative Declaration's bare conclusion dismissing this impact as merely an uncorroborated concern simply ignores the documented opinion of an experienced Northern California real estate appraiser that adjacent property values would in fact decrease.

(See 7/15/03 letter from Daniel G. Cripe; attached as Exhibit 7 to this letter.) The decrease in property values, while having a direct economic effect on rural communities, may also have an indirect physical impact on the existing environment if adjacent properties become run down and may result in pressure for even more commercial development within rural County areas.

X. NOISE

The Negative Declaration inadequately analyzes potential noise impacts by assuming there will be compliance with the Placer County Noise Ordinance. The determination of less than significant or no impacts also relies on a belief that limiting promotional events to six or less per year along, with compliance with the Noise Ordinance, somehow eliminates significant impacts. The Negative Declaration dismisses impacts claiming that winery and tasting facilities are historically "not high noise generators." Limiting events to six or less per year will not ensure compliance with the Noise Ordinance for each event. Furthermore, the hours and succession of Promotional Events and Temporary Outdoor Events are not defined or restricted so as to assure a reduction in potential noise impacts. The Negative Declaration's bare conclusions conflict with the well-reported history of non-compliance with the Noise Ordinance by the few existing wineries. Residents adjacent to these few existing wineries have reported numerous complaints of disturbances from loud music and events, with little or no enforcement of the Noise Ordinance. (Exh. 1, pp. 4-5; Exh. 2; Exh. 3; Exh. 6, p. 2.) Many complaints have been made regarding repeated late-night events. Besides creating a disturbance to residential communities, there have also been reports of noise from wineries disturbing livestock. (Exh. 1, p. 2; Exh. 6, p. 2.)

The Negative Declaration fails to provide any quantitative analysis of noise. There is no discussion of the existing background noise during any particular time of the day or night. There is no discussion of the anticipated noise generated by the operation of a winery, expansion of vineyard operations, or visitor-serving uses within the area. The County fails to provide any information about the increased noise associated with the allowed promotional and commercial events. Finally, there is no information about the additional noise generated by traffic visiting the wineries and tasting rooms, or traffic going to and coming from allowed promotional and commercial events.

XI. TRANSPORTATION AND TRAFFIC

The Negative Declaration's conclusions about transportation and traffic impacts again impermissibly rely on the assumption that the County's wineries will remain small. Not only may the level of service on County roads be affected by the increased traffic generated by visitor-serving uses, but there are potential safety impacts for pedestrians, cyclists, and residents. (Exh. 1, p. 2.) Neighbors of existing wineries have already reported incidents of winery visitors driving up private driveways, sometimes shining headlights into private homes at night, and are concerned about the safety of children and pets. (Exh. 3, p. 1.) Many of the roads that are currently used for wineries, or might be in the future, are private roads designed for residential use and cannot support commercial businesses. Heavy tourist traffic on narrow, winding private roads creates a nuisance and safety hazard for residents. (Exh. 1, p. 2; Exh. 3, p. 1; Exh. 6, p. 3.) While concerns about drunk drivers may seem speculative, there have been reports of existing

wineries offering tastings that exceed the amount permitted by Department of Alcoholic Beverage Control regulations. (Exh. 1, p. 6; Exh. 3.)

There is no baseline information on the traffic volumes on the to-be-affected County roads. There is no discussion of competing commercial and recreational uses on these existing rural, lightly travelled roads. For example, there could be conflicts at certain times of the year with other agricultural operations. Weekend visitor traffic to wineries and wine tasting rooms may conflict with existing local bicycle use on these roads for recreational use. This information needs to be included and evaluated in the initial study before concluding that the ordinance will not have a significant adverse impact on traffic and existing recreational use of these rural roads.

The Winery Ordinance requires compliance with Placer County Code Section 17.54.060 to meet parking needs. Perhaps better and more specific requirements should be considered, especially given that parking from the few existing wineries has already resulted in nuisances for neighboring landowners. (See 6/21/07 comments from Larry Graves, attached as Exhibit 8 to this letter.)

The environmental impacts of generating dust from dirt roads caused by increased visitor traffic should be further examined. In addition, public comments have been expressed regarding the effects of parking and crude grading of roads bordering riparian areas on watersheds and salmon habitats. (Exh. 6, pp. 1-2.) The proposed ordinance does not address this potentially significant adverse impact on sensitive habitats.

XII. SOCIAL AND COMMUNITY IMPACTS

Many residents of Placer County purchased property based on the value of the area's quiet, agricultural setting. (Exh. 1, p. 1; Exh. 5, p. 6.) The existing environmental setting is not adequately discussed and evaluated in the Initial Study. Therefore, neither the public nor the public's decision-makers can adequately evaluate how the expansion of wineries, tasting rooms, and other associated visitor-serving facilities may affect the existing rural environmental setting.

There is a lack of quantitative information in the Negative Declaration despite residents having repeatedly commented about the potentially significant impacts of noise, safety, dust and pollutants, and the decrease of their overall quality of life. (See 7/03 Petition to Placer County Zoning Administrator, attached as Exhibit 9 to this letter.) The Negative Declaration states that "[t]he purpose of the RA zoning district is to stabilize and protect the rural residential characteris[t]ics of the area and to promote and encourage a suitable environment for family life, including agricultural uses." (Neg. Dec., Section IX, at p. 15.) Facilitating the expansion of wineries and wine-tasting and processing facilities may frustrate the purpose for RA zoning districts.

XIII. CEQA REQUIRES THE ADDITION OF FURTHER MITIGATION MEASURES OR AN EIR

Section 15064(g) of the CEQA Guidelines requires lead agencies, when presented with a fair argument that a project may have a significant effect on the environment, to prepare an EIR. Furthermore, the County, acting as the lead agency in this matter, has a duty to fully investigate

the environmental consequences of its proposed winery and wine tasting ordinance, which will expand commercial and visitor-serving uses within the existing rural setting. The County's failure to fully investigate the substantial evidence provided by existing residents of the potentially significant adverse impacts of expanding commercial and visitor serving operations expands the scope of a fair argument that the ordinance as proposed may have significant adverse impacts, indirectly or directly, on the existing rural environment.

Before the Winery Ordinance and Zoning Clearances are approved by the Board of Supervisors, these potentially significant adverse impacts should be adequately evaluated and mitigated prior to approving the ordinance; or, in the alternative as required by CEQA, the County should prepare an environmental impact report to evaluate and seek to resolve any of the disputes that may exist regarding the effect of the expansion of commercial and visitor-serving, which the County's proposed ordinance encourages within the existing rural environment.

CONCLUSION

Because the Negative Declaration fails to meet CEQA's environmental review and mitigation requirements by failing to investigate and identify potentially significant environmental effects raised in public comment, and where mitigation is suggested, improperly defers the mitigation until after the ordinance is approved, on behalf of our client we urge the Board to take the ordinance off its agenda and direct County staff to conduct the proper environmental investigation and evaluation required by CEQA.

Thank you for your consideration of our client's position.

Sincerely,



Bill Yeates

Attachments: Exhibits 1 through 9.

cc: Neighborhood Rescue Group
John Marin, Director Community Development Resource Agency
Melanie Heckel, Deputy Director Planning Department
Anthony La Bouff, County Counsel

EXHIBIT 1

March 1, 2007

To: Placer County Planning Department Zoning Administrator

From: Neighborhood Rescue Group Association

Re: PMPMT20060909, PESCATORE WINERY/DAVE WEGNER - MINOR USE PERMIT MODIFICATION - TO MODIFY USE PERMIT TO ALLOW WINE TASTING ON A BY APPOINTMENT BASIS.

We believe this "modified use permit to allow wine tasting" as it is now written should be denied for a number of reasons; some of them to be presented at this hearing, but a number of documents with considerable detail are submitted today with this letter for the Administrative Record.

The Neighborhood Rescue Group Association (the Association) is a coalition of home owners in Placer County that have a vested interest in this application because the granting of this permit will have a deleterious impact on our quality of life. This proposed use denies us our individual rights.

These rights, for the purpose of this filing, are found in the accepted definition of how one individual may interact with another in society. Individual rights are distinct from human rights as the possession of these rights does not depend on *humanness* as the source of authority, but rather the actions of the individual who does things, albeit on their own property that disturbs the normal peace and quiet of a very rural neighborhood, and thus violates the individual rights of others.

Our concerns are several and the years of exposure to the activities at the Dave Wegner Pescatore Winery have abundantly shown us that those activities very often violated our individual rights. Since the formal complaints to the County last year, at least the loud music has stopped.

We believe that we should have a right to peace and quiet in our own yards, especially on balmy summer evenings. After all, we moved to this very area for that special quality of life!

The search for information has at times been very frustrating because documents were not available in a timely manner or the NRG was denied access to records that should have been provided under the law. We will document this thoroughly.

SPECIFIC COMPLAINTS (1) - The NRG's first pieces on record, that only a portion of the County Staff report for this meeting was available just two days or 2-27-07 before the hearing. The all important engineering and environmental staff reports were not ready when we called at the

*Neighborhood Rescue Group Association – Comments – Call for Denial or Continuation
PMPMT20060909, Pescatore Winery/Dave Wegner - Minor Use Permit Modification to
Modify Use Permit to Allow Wine Tasting on "By Appointment Basis" - 3-1-07 - 22 of 24*

It is, however, the function of staff to provide equal consideration to the petitioners of the request and adjacent property owners who may be adversely impacted as a result of the petitioner's requests

Where in all of this are any of the comments listed below from the Giles 1-23-07 filing with the Planning Department on the Wegner Questionnaire? The complete Giles response document already in this record is Exhibit 5

Here are very pertinent paragraphs in direct answer to the Staff Report to be considered today where Mr. Fisch describes the project as – consistent with the rural residential character of the surrounding neighborhood

XV. Social Impact

This project will increase, noise, traffic and dust in this quiet neighborhood. There were 4 noise complaints filed against this facility in 2006. Noise from this facility has already disrupted livestock and residents located adjacent to the facility.

XVI. Transportation/Circulation

Ridge Rd. serves countless bicyclists on weekends while Welcome Rd. is a small, private, chip and seal road which already serves 13 residents.

Located at the juncture of Ridge Rd and Welcome is a bus stop that serves Newcastle Elementary and mailboxes that serve all the local residents. Any vehicle driving to the winery has to pass directly past the bus stop as well as the mailboxes.

The entrance to Ridge Rd from Welcome Rd has poor visibility and a steep embankment on the west side. Residents driving out Welcome Rd have already had close encounters with vehicles turning from Ridge Rd onto Welcome Rd.

The increased traffic from this project poses a threat to both local residents and the public. Headlights from vehicles leaving the winery pose a nuisance as they shine directly into the windows of the Jordan family located across from the winery.

Vehicles headed to the winery often pass the facility and drive up the driveway of local resident Larry Graves.

Applicant wants to sell 40 cases/480 bottles of wine per month year round. This represents a very large increase in traffic and a correspondingly large negative impact on this neighborhood.

The number of bottles of wine sold could be much greater and so can the impact on our neighborhood

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PMPMT20060909, Pescatore Winery/Dave Wegner - Minor Use Permit Modification to
Modify Use Permit to Allow Wine Tasting on "By Appointment Basis" - 3-1-07 - 16 of 24*

their lives. Complaints have already been filed by several individuals on this issue and the point is well taken when they say the actions of the individual who does things, albeit on their own property that disturbs the normal peace and quiet of a very rural neighborhood, and thus violate the individual rights of others are wrong and when Placer County approves conditions that make it OK to violate our individual rights, it is more than wrong, it is inexcusable.

If Placer County is so interested in enlarging the agricultural base, then it ought to be more careful about the thousands of acres they have already given to development and not try to force these commercial enterprises into our rural community. To try to force these wineries into these rural areas is wrong any way you look at it.

SPECIFIC COMPLAINT (11) On this project there are two other very important elements, that we believe the County has totally ignored. Refer back to *NRG Exhibit (2)*, second page to the map of the area used in the lot split operation and look at the three way junction of Ridge Road, Welcome Road and the driveway to the Pescatore.

The intersection of Welcome Road and Ridge Road is a bus stop for the bus that transports children from the area, and we do not believe that this is either a healthy or morally right thing to have a wine tasting facility at that location.

Why should children be exposed to this threat and questionable influence? We have not had the time to check the legality, but that ought not be our job anyway, it should be the job of the County to take care of this properly.

The Larry Graves comments sent to Alexander Fisch were not mentioned in the Staff Report and should have been because they were very on point, accurate and included pictures. For Mr. Fisch to make the following comment indicates his disdain for the provisions of CEQA which calls for careful consideration of public input. He writes:

It is neither appropriate nor the function of staff to make a judgment as to whose version of past events is most accurate when providing the Zoning Administrator with a written analysis and recommendation on the requested modifications to this Minor Use Permit.

It is however, the function of staff to provide equal consideration to the petitioners of the request and adjacent property owners who may be adversely impacted as a result of the petitioner's requests

This flowery language might satisfy the Zoning Administrator, but we doubt that it will satisfy the requirements of CEQA on public participation. For instance:

15131. Economic and Social Effects

Despite the implication of these sections, CEQA does not focus exclusively on physical changes, and it is not exclusively physical in concern. For example, in Section 21083(c), CEQA requires an agency to determine that a project may have a significant effect on the environment if it will cause

10-18-05

one wedding in 2002

(First written complaint) Complaint addresses illegal signs, wine tasting, and solicitation on their website for weddings, special events etc.

A chronology of events of Pescatore Winery
July 19, 2006

Date of original complaint 10-18-05 (written complaint) to Planning Div / Code Enforcement

2+ in 05

In 2005 Pescatore Winery had numerous events that sounded like Wedding receptions. We did not bother documenting them.

4 units, etc

not inc banquets.

Unknown date. I recorded "Brick House" and other music from our deck in what sounded like a wedding reception at Pescatore Winery.

March 9, 2006 Letter and photo sent to Bill Schultz and Mike Johnson complaining of public wine tasting by Pescatore Winery. Included with the letter was a photo advertising public wine tasting.

March 9, 2006 Letter sent to Mike Harris complaining of public wine tasting, wedding receptions, loud music and solicitation for public events (on their website). Included with the letter were photos advertising wine tasting and a copy of their website advertising weddings and banquets.

March 27, 2006 We receive a letter saying Code Enforcement has been requested to suspend any action on our complaint

May 20, 2006 RECORDED from our deck what sounded like a wedding reception. Loud music until 2330. We filed noise complaint w Sheriffs #P060504232

June 6, 2006 Mike Johnson says he is going to issue a cease and desist order to Pescatore Winery. I ask for a copy

June 20, 2006 I leave another message for Mike Johnson to call me back. I have not received cease and desist order.

June 24, 2006 Photograph signs showing wedding reception at Pescatore Winery. Loud music from reception until after 2250 hours. We file noise complaint with Sheriffs #P060605249

June 26, 2006 Letter with photo, website advertisements and wine tasting dates sent to Christine Turner (Placer Co. Ag. Commission)

July 5, 2006 Mike Johnson leaves message on our machine explaining that he cant issue cease and desist order because Pescatore Winery says their events are private, non compensated events. County Counsel has been advised.

July 8, 2006 I email Mike Johnson for an update on Pescatore Winery. No reply

July 13, 2006 I email Mike Johnson for an update. No reply

July 17, 2006 Called Johnson for an update. No reply

July 19, 2006 I email Mike Johnson for an update.

Dates they had sign out advertising Public Wine Tasting at their facility

Feb 19, March 26, April 20, May 1, May 10, May 13, May 17, May 20, May 24.

Aug 6

7-19 Mike left msg for me to call Melanie Herbst for update

7-21 I called Brian. She doesn't know anything about Melanie
; says I should call back sometime

7-24 called Paula Parks @ AOL (227-2002) for updates on investigation
opened on 10-29-06. Her voice mail left msg requesting
call back.

8-7 Talked w/ Melanie. send an email to Mike Johnson & Mike
Harris based on his information

8-18 Mike Harris not returning emails so I called him today & left a msg
to call me back

9-17 OT & work done at 2:03pm. Gas on street (Terry) (Royal Rd)
I called SC who reportedly talked w/ responsible @ 7:45. Mike phone
redialled drastically @ 8pm. Mike off @ 8:30pm

10-16 wedding Kenny & Kimball
5:00pm Simona injury in Riverside. Very loud, no music at this
time but Simona talking to guests. Intermittent wedding party.
etc. Called Simona despite the noise to try & get her and ask
them to leave. Mike stopped for ~ 1 hr when car
was loud when it returned until ~ 8pm

Oct 4 station moved to Riverside building

11-13 Called Dan Wiggins and asked for page 2-6 of 2001 Berkeley Police Report
11-15 Dan called & told me there is a missing document at Berkeley. He thinks
planning right address would be a "check" sign that will be an
important part of the case. He's looking for page 2-6 of 2001 Berkeley

To whom it may concern-

I've attended wine tasting at
December usually and recall
tasting every variety of wine they
offered (at least half varieties) and
went back to ~~select~~ release the
wine (such) that I preferred to
buy. So I recall receiving at least
five tastes of wine that definitely
exceeded one ounce per glass as each
tasting was approximately one quarter
of a glass.

[REDACTED]

5-8-07

EXHIBIT 2

Detailed History for Police Call #P060504232 As of 12/07/2006 11:24:17

Priority: 4 Type: NOISE - NOISE DISTURBANC
Location: 7055 RIDGE RD, NC
LocCross: btwn GOLD CREST CT and WELCOME RD
Info: INTERSECTION OF RIDGE RD/WELCOME LN

Created:	05/20/2006 22:19:13	[REDACTED]
Entered:	05/20/2006 22:22:37	[REDACTED]
Dispatch:	05/20/2006 22:52:52	[REDACTED]
Enroute:	05/20/2006 22:53:35	[REDACTED]
Onscene:	05/20/2006 23:04:08	[REDACTED]
Control:	05/20/2006 23:28:18	[REDACTED]
Closed:	05/20/2006 23:45:33	[REDACTED]

Prime Unit: 131K Dispatch: AS Type: NOISE - NOISE DISTURBANC

Name: [REDACTED]

Agency: 50 Darea: SAI Beat: UNION Block: 131 Detail

- 22:19:13 CREATE Location: 7055 RIDGE RD, NC Type: NOISE Info: INTERSECTION OF RIDGE RD/WELCOME LN Name: [REDACTED] Darea: SAI Area: 131 Type Desc: NOISE DISTURBANC Loc Cross: btwn GOLD CREST CT and WELCOME RD Priority: 4 Response: IPAT Agency: 50 Map: E5B3 Loc Type: S
- 22:22:37 ENTRY Comment: ANON RP STATES PESCATORE WINERY AT LISTED ADDRESS IS HAVING A WEDDING RECEPTION IN A BUILDING AT THE BOTTOM OF THE PROPERTY. RP COMPLAINGIN OF THE NOISE AND THE LACK OF PERMIT FOR THE BUSINESS TO HOLD SUCH AN EVENT.
- 22:22:39 NOMORE
- 22:22:37 -PREMIS Comment: FPR
- 22:23:58 SELECT
- 22:24:16 VIEWED
- 22:52:52 DISP 131K [REDACTED]
- 22:52:52 -PRIU 131K
- 22:53:35 *ENRTE 131K
- 22:56:07 *BACKER 131K [REDACTED]
- 23:04:08 *ONSCN 131K
- 23:05:56 *ONSCN 131K
- 23:22:28 MISC 131K Comment: RAINBOW VALLEY RD: 193-GOLD HILL
- 23:25:29 ULA 131K Location: 160 RAINBOW VALLEY LN, NC
- 23:35:40 ULA 131K Location: 160 RAINBOW VALLEY LN, NC
- 23:28:18 C4 131K 131P
- 23:45:23 *CLEAR 131P
- 23:45:33 *CLEAR 131K Dispatch: AS Comment: MUSIC TURNED AND STOPPING SOON
- 23:45:33 -CLEAR
- 23:45:33 *CLOSE

Detailed History for Police Call #P060605249 As of 12/19/2006 14:29:16

Priority: 4 Type: NOISE - NOISE DISTURBANC
Location: 7955 RIDGE RD, NC
LocCross: btwn GOLD CREST CT and WELCOME RD

Created:	06/24/2006 22:13:31	[REDACTED]
Entered:	06/24/2006 22:14:20	[REDACTED]
Dispatch:	06/24/2006 22:28:29	[REDACTED]
Enroute:	06/24/2006 23:33:15	[REDACTED]
Onscene:	06/24/2006 23:43:54	[REDACTED]
Closed:	06/24/2006 23:47:27	[REDACTED]

Handwritten notes:
7955 RIDGE RD, NC
GOLD CREST CT
WELCOME RD

PrinUnit: 130 Dispo: CC Type: NOISE - NOISE DISTURBANC
Name: [REDACTED]

Agency: SO Darea: SAI Beat: UNION Block: 131 Detail

- 22:13:31 CREATE Location: 7955 RIDGE RD, NC Type: NOISE Name: [REDACTED]
Darea: SAI Area: 131 Type Desc: NOISE DISTURBANC LocCross: btwn GOLD CREST CT and WELCOME RD Priority: 4 Response: 1PAT Agency: SO Map: 65B3 LocType: S
- 22:14:20 ENTRY Comment: LOUD WEDDING RECEPTION WITH LOUD MUSIC.
RP WANTS TO REMAIN ANONYMOUS.
- 22:14:32 NOMORE
- 22:14:30 PREMIS Comment: FPR, PPR
- 22:15:06 SELECT
- 22:15:06 MISC Comment: RP REQUESTING A 10-21 WHEN THE DEPUTY CLEARS.
- 22:15:15 VIEWED
- 22:28:29 DISP 130 Operator: [REDACTED] OperName: [REDACTED]
- 22:28:29 -PRIC 131
- 22:47:06 PRMPT 131
- 22:47:06 -VIEWED 131
- 22:48:34 VIEWED
- 23:31:23 DISP 130 Operator: [REDACTED] OperName: [REDACTED]
- 23:31:23 -PRIC 131
- 23:33:15 ENRTE 131
- 23:43:54 -ONSCN 131
- 23:47:27 *CLEAR 131 Dispo: CC Comment: PARTY CLEARED AND ENDED AT 2300 HRS
- 23:47:27 *CLEAR
- 23:47:27 *CLOSE

Detailed History for Police Call #P060903822 As of 12/07/2006 11:30:44

Priority:4 Type:NOISE - NOISE DISTURBANC
Location:7055 RIDGE RD,NC
LocCross:btwn GOLD CREST CT and WELCOME RD

Created:	09/17/2006 13:13:54	[REDACTED]
Entered:	09/17/2006 13:19:17	[REDACTED]
Dispatch:	09/17/2006 13:19:47	[REDACTED]
Enroute:	09/17/2006 13:20:05	[REDACTED]
Onscene:	09/17/2006 19:38:14	[REDACTED]
Closed:	09/17/2006 19:56:13	[REDACTED]

PrmUnit:131 Dispo:CC Type:NOISE - NOISE DISTURBANC
Name:[REDACTED] Phone:916-663-4108 Address:265 WELCOME RD,NC
Agency:SO Darea:SAI Beat:UNION Block:131 Detail

- 13:16:54 CREATE Location:7055 RIDGE RD,NC Type:NOISE Name:[REDACTED]
[REDACTED] Darea:SAI Area:131 TypeDesc:NOISE DISTURBANC
LocCross:btwn GOLD CREST CT and WELCOME RD Priority:4 Response:IPAT Agency:SO
Map:ESB3 LocType:S
- 13:19:17 ENTRY Comment:RP RPTD RESIDENCE AT LISTED 10-20 ARE PLAYING THEIR MUSIC
EXTREMELY LOUD AND HE IS REQUESTING PCSO RESPOND AND ASK THEM TO
QUIET DOWN. RP IS WILLING TO SIGN A COMPLAINT IF NEED BY. RP WOULD
ALSO LIKE TO REMAIN ANON.
- 13:19:17 *PREMIS Comment:PPR
- 13:19:27 *NOMORE
- 13:19:37 *SELECT
- 13:19:47 *DISP 131 [REDACTED]
- 13:19:47 *PRIU 131
- 13:20:05 *ENRTE 131
- 13:21:26 *PRMPT 131 Comment:[REDACTED] PEND FOR A WHILE.
- 13:21:26 *VIEWED 131
- 13:58:24 *DISP 131 Operator:[REDACTED] OperName:[REDACTED]
- 13:58:24 *PRIU 131
- 13:58:39 *ENRTE 131
- 13:59:09 *RFT 131 Comment:INQUIRY QV,5MCN308 A,JC,.....
- 19:03:56 *MISC 131 Comment:PEND REQUEST LDE TO CODE7. AT THE SAME TIME OF
DISPATCH
- 19:38:14 *ONSCN 131
- 19:56:13 *CLEAR 131 Dispo:CC Comment:SPOKE WITH RP SAID ALREADY HAS CODE ENFORCEMENT
WORKING ON THE NOISE PROBLEM. HE HAS NOT TRY TO TALK TO THE
NEIGHBOR. I MADE CONTACT WITH THE IP. COULD OT HEAR THE MUSIC AWAY
FROM THE IMMEDIATE AREA. DJ TURNED MUSIC DOWN, OFF IN 5 MINUTES
- 19:56:13 *CLEAR
- 19:56:13 *CLOSE

Detailed History for Police Call #P061000133 As of 12/07/2006 11:29:37

Priority:4 Type:NOISE - NOISE DISTURBANC
Location:7055 RIDGE RD,NC
LocCross:btwn GOLD CREST CT and WELCOME RD

Created:	10/01/2006 17:02:10	[REDACTED]
Entered:	10/01/2006 17:03:10	[REDACTED]
Closed:	10/01/2006 17:33:27	[REDACTED]

PrimeUnit:Disp: Type:NOISE - NOISE DISTURBANC

Name: [REDACTED]

Agency:SO Daren:SAI Beat:UNION Block:131 [REDACTED] Detail

- 17:03:10 CREATE Location:7055 RIDGE RD,NC Name: [REDACTED]
Address:ADJACENT PROPERTY [REDACTED] LocCross:btwn GOLD CREST CT and WELCOME RD Map:ESB3
- 17:03:10 ENTRY Type:None-->NOISE Name: [REDACTED] *** CONFIDENTIAL R--> [REDACTED]
[REDACTED] ** Daren:None-->SAI Area:None-->131 TypeUser:None-->NOISE DISTURBANC Priority:None-->4 Response:None-->IPAT Agency:None-->SO
Comment:LOUD DJ ANNOUCING A WEDDING AND THE MUSIC WILL START ANYTIME - RP'S CONCERNED AS THE DJ IS SO LOUD
- 17:05:10 -PREMIS Comment:PPR
- 17:04:19 SELECT
- 17:04:25 VIEWED
- 17:05:41 CHANGE Type:NOISE ->NOISE Address:ADJACENT PROPERTY-->265 WELCOME RD
Comment:RP IS AVAILABLE IF NEEDED
- 17:33:27 CAN Comment:NO MORE NOISE

EXHIBIT 3

LAURENCE A. GRAVES

6995 Ridge Road
Newcastle, CA 95658

September 13, 2007

Department of Alcoholic Beverage Control
Sacramento District Office
1121 Fowler Ln Road, Suite 231
Sacramento, CA 95826

Via facsimile and U. S. Mail
Fax No. 916-227-2745

Attention: MaryAnne Gilchrist
Licensing Representative

Re: Licensee: David and Patricia Wagner
Location: 7055 Ridge Road, Newcastle, CA 95658
Your File No: 02-373346
Type of business: Winery - Pescatore Vineyard & Winery

Dear Ms. Gilchrist,

In response to your telephone call to me on September 7, 2007, that your office would require further reasons for the protest for the present application of the Pescatore Winery for wine tasting, I am submitting the following two further conditions as well as the original protest conditions of my November 7, 2006, letter to you as well as that by David Mackenroth in his letter of November 7, 2006.

Specifically, we protest Section 23789 in Rule 61.4 that "ABC will not license a new retail location within 100 feet of a residence unless the applicant can establish that the operation and the proposed premises will not interfere with the quiet enjoyment of the property by residents." In this specific case, the winery premises and entrance driveway from the adjoining 50 foot road easement is within approximately 40 feet of the James and Kim Jordan residence, and Mr. Jordan was one of the protestants at one of the hearings by Placer County in which he voiced his problems with vehicles entering and leaving the winery entrance premises with noise and their lights in the evening and the dangers to his own children and dogs.

Secondly, the protestants feel that the past conditions that have prevailed over the last two or three years have, in effect, constituted a public nuisance to the surrounding sixteen residential neighbors when there have been public wine tastings, a violation of the prior ABC license, and primarily when there have been the Placer County wine tours of 100 to 150 cars per day being on the winery premises and on the adjacent 50 foot road easement with its attendant effects on the adjoining sixteen residential neighbor owners.

In support of both the protestants' position and in fairness to Pescatore winery, we wish to submit for the ABC's careful review in consideration of past information submitted to the County of Placer which are in the following three documents submitted with this additional protest.

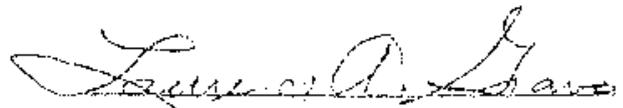
1. The entire County of Placer Planning Department Memorandum and Backup Information of August 7, 2007, to the Board of Supervisors;
2. Applicant's Supplemental Request to the Placer County Board of Supervisors by Laurence A. Graves as to the hearing date of August 7, 2007, and;
3. Background information of the Redwood Person Group Association.

After your careful review of all the documentation submitted, it is requested that if the ABC allows Redwood Winery its wine tasting permit that in accordance with ABC rules that the conditions be placed on this permit that there will be no more than one day of private appointment wine tasting limited to 15 cars and 24 people on any one specified date. Further, a condition should be placed that there will be no outside related activities allowing more vehicles and wine tasting on any other occasions than the one limited time related to one day of wine tasting, 15 vehicles and 24 persons.

This letter is being faxed to you on Thursday, September 13, 2007, to comply with your September 7 advice that a reply would be needed by September 14, 2007. This particular letter, and since the documentation is too cumbersome to fax, is being mailed to you as of Thursday, September 13, 2007.

We will await your further advice in this regard.

Very truly yours,


Laurence A. Graves

LAC:klj

EXHIBIT 4

April 22, 2008
Placer County
Community Development Resource Agency
3091 County Center Blvd. Suite 190
Auburn, CA 95603

Subject: Winery Ordinance Environmental Impacts

In reviewing the Negative Declaration (ND) for the new Winery Ordinance we noticed the following deficiencies:

1. AIR QUALITY

Dust generated by additional traffic (if access road is unpaved) is not addressed in the ND.

Mitigation: require a dust-free road surface (chip seal may suffice)

2. BIOLOGICAL RESOURCES

A secondary, but major impact of a permissive winery ordinance is the likely construction of more vineyards, with extensive impact on wildlife habitat, water quality (both surface water and well water due to pesticide use), soil erosion and the "natural" aesthetics of our rural areas. The ND should address this.

Mitigation: Ensure that all new vineyards are subject to full environmental review as part of County approval. This should include the assessment of impacts on neighbors' wells. Closely control and monitor pesticide use on all vineyards.

3. NOISE

Noise impacts are understated in the ND – especially if there are nearby neighbors (say within 1000') of a winery.

Mitigation: Limit the days and hours of operation of the machinery. Also limit the operation of the tasting room, and the types of activities allowed (e.g. no amplified music; limits on crowd size).

We hope these deficiencies will be addressed and that proper mitigation measures will be included in the new Ordinance.

Thank you

Sincerely,

Roger & Irene Smith

EXHIBIT 5

Item I—Aesthetics: Light sources will indeed be a potential problem. It is important (as well as incorrect) to predict that the scale of the wine industry in Placer county is anticipated to remain relatively small. (If it's so small, then how is the proposed ordinance change justified?) This amendment would allow the smallest of wineries without any, or minimal, vineyard acreage to create tasting rooms. Thus the anticipated light source from many more wineries is significant.

The premise that a lack of vineyard acreage will curtail winery growth and new light sources is false. It is much more likely to anticipate that every winery will (not just "may") have security lighting, which has very severe and significant impacts on night lighting. To cite daytime public use as the criteria for lack of lighting impacts misses the entire point of new light source impacts. We request that an EIR be prepared.

Item II—Agricultural Resource: No one is opposed to legitimate agricultural operations. However, it is erroneous to conclude that the zoning amendment will result in an expansion of agricultural production in Placer County when, indeed, the opposite may be true. To be beneficial to agriculture, the grapes must be grown in Placer County; however, this amendment allows grapes from outside the county to be used. Thus, it may NOT have either a beneficial effect OR expansion effect on Placer County agriculture production. In fact, it may be detrimental to the existing vineyards should grape "dumping" from another regions occur.

To claim that the Winery Ordinance will implement several General Plan policies that encourage agricultural production is to hide behind General Plan policies that are not rigorously followed in the county. The County may play lip service to supporting agriculture and right-to-farm activities, but it strongly supports conversion of ag lands to development. The ag community is remarkably silent when this occurs. Thus, the actions of the County do not support a dedication to ag operation, and cannot be used to justify wine tasting as a legitimate ag activity.

III—Air Quality: We respectfully disagree with the conclusion in this Mitigated Neg Dec that emissions would not impact air quality. Whether it is a fire place in a wine tasting room, a diesel tourist bus, or auto emissions from customers on private residential lanes, there WILL be increased air pollution. Anyone who grows organic produce knows full well the potential hazards of pollution of crops from auto emissions near roadways. This impact must be analyzed and mitigated, please do so in an EIR.

We also disagree with the statement that vineyards that provide grapes for the wineries do not produce substantial pollutants. With chemical spraying, fertilizers, herbicides, pesticides, etc., vineyards are widely recognized as one of the most ecologically damaging ag activities. To rely in part on the state and federal regulations and enforcement with their reduced staff and increasing budgetary cuts, is to provide no guarantees or even likelihood of compliance. To rely on the county (even before its upcoming cutbacks) to enforce any regulations is unrealistic; the county cannot fulfill its obligations now. The health of neighbors should not be subjected to such a gamble. Please prepare a full EIR to cover this potentially severe impact.

To rely on the Regional Water Quality Control Board to monitor waste disposal is not a reasonable position or satisfactory mitigation. That agency is notoriously overwhelmed and understaffed and cannot begin to adjudicate the thousands of complaints it receives, let alone its backlog. It simply cannot address any improper waste disposal methods. Also, CEQA does not allow mitigation in the form of "let them (another agency) do it." Please prepare a full EIR to cover this potentially severe impact.

IV—Biological Resources: We respectfully disagree that the proposed Winery Ordinance in and of itself would not impact oak woodlands. By making it easier to conduct tastings and promotional events, one can reasonably conclude that more wineries will be created, along with vineyards, either on the property or off. Thus, as has been observed in the past, oaks will most likely be removed as they have in numerous instances where wineries have been created in the past. To put the onus of enforcement on the Placer County Tree Ordinance (which is the laughing stock of most tree ordinance specialists, and, except for a few local ineffective ordinances, tops the list as useless and meaningless) or on enforcement of Fish and Game regulations is unacceptable. Neither of these can will provide adequate protection, mitigation, or avoidance of significant impacts. Mitigation IS necessary and must be specifically spelled out, as is an EIR.

To conclude that because wineries are dispersed in the landscape that they would have no potential for blocking wildlife migration corridors is erroneous. One only has to see vineyards with netting (devastating to birds), wire fencing, and other measures that have been utilized to stop wildlife. More vineyards will bring additional impacts to important wildlife corridors and to predators, especially as their increasingly narrowed and segmented corridors force them into proximity of unnatural habitat (i.e., neighborhoods, school yards, playgrounds, etc.). Please do an in-depth analysis of the impacts this ordinance amendment will have on wildlife corridors.

Until the Placer County Conservation Plan is either adopted or abandoned, no zoning amendments should be considered. To do so would be to jeopardize and/or undermine potential options that might be needed in the future. The PCCP is the true test of the County's dedication to ag operations; let's see just how dedicated the county is before we allow retail operations in residential neighborhoods.

VII—Hazardous and Hazardous Materials: It is a given that the zoning amendment will result in more wineries. This will result in more vineyards (even if grapes and/or bottled wines are brought in from outside Placer County). With the additional vineyards will come additional exposure to hazardous materials—air, soil, or water born. To our knowledge, there is no enforcement of the incorrect (or illegal) use of hazardous materials until or unless there is an unfortunate incident. To date, inappropriate use of hazardous materials is a self-regulating activity which means enforcement is practically non-existent. For example, no one has studied the impacts to ground water of chemical residue seepage, but we do know Placer County creeks and air are becoming more polluted. More analyses, as well as stricter, not looser, ordinances are called for. Please conduct a thorough analysis of wineries and concomitant vineyard impacts and prepare an EIR.

VIII—Hydrology & Water Quality: Please see above.

To address water quality standards with the provision for potable water is problematic on many levels. First, it isn't just the well on the winery property that may be impacted; neighboring wells may be using the same groundwater table. Second, who is going to keep count of the on-site population in a 60-day period? The owners? Again, self-regulating is unacceptable when economic resources are at stake. Third, bottled water is now known to have health consequences that were unknown even last year. Now, if seclusions are resulting in many citizens abandoning their bottled water. Bottled water is not an acceptable provision for potable water for a winery.

Another concern is with the contamination of the groundwater that will be a direct result from increased chemicals from increased winery activities. In many rural areas with septic systems, contamination of groundwater is, or may be, a reality, as it has been in other areas. By the time the damage is recognized, it is too late. We submit that the Placer County Environmental Health Division, facing cutbacks along with other County agencies, is in no position to be inspecting and reviewing sewage flows. This is a critical issue that can literally mean life or death for citizens. This potentially severe impact must be analyzed more in an EIR.

IX—Land Use & Planning: It is disingenuous to claim that the Winery Ordinance will have no impact on land uses or divide existing communities. If one winery is successful, the next step will be expansion, followed by a bed and breakfast, then a full scale restaurant, and on to a hotel. The growth-inducing activities associated with a winery belong in commercial or industrial zoned districts, and not in residential ag zoned districts. This Winery Ordinance merely exacerbates an already intolerable impact.

A 4.6 acre minimum for a winery is hardly a viable size and should not qualify as an ag operation. It could qualify as an ag operation for the growing of some grapes, but not with the creeping additions of winery, wine tasting, and whatever is coming next. The statement, "Wineries and accessory uses like wine tasting are elements of commercial agricultural operations and are therefore appropriate and compatible uses" is an insult to legitimate ag operations. Is there a point at which the expansion of "accessory uses" is defined? Is it ever curtailed? Or will it be an ever increasing nuisance to communities and neighbors who have the misfortune of having one of these in their neighborhood? Will these wineries stop at wine tasting? What about crackers and cheese? Will they then make their own cheese complete with confined animal feeding operations for dairy cows? How about another building to make the crackers. Commercial ag is working with the land; these accessory or value added operations make a mockery of, and a disservice to, legitimate commercial ag operations. Please do not foist this egregious amended ordinance on any Placer County neighborhoods. Analyze all impacts for full public review.

It is a gross understatement to claim that "The Winery Ordinance may encourage the establishment of additional wineries and vineyards..." It will become an ag tax shelter for some and a nuisance for others. To imply that neighborhood compatibility issues will not impact adjacent residences is pure speculation. Deterioration of property values WILL be the norm. People live on private, one-lane driveways for privacy. In most rural areas, on private roads, there are no public roadway services. Neighbors move to the rural areas in part for the privacy. To open a winery is bad enough; but to open a wine tasting facility is abominable to anyone living on a private road. Contrary to what is stated in the Mitigated Neg Dec, property values WILL deteriorate.

X—Noise: To claim that the Winery Ordinance will not result in exposure to excess noise levels is indicative of the lack of analysis in this proposal. There may be all of the noise factors associated with public traffic: horn honking, strangers "peeling" out, mufflers, etc. To imply that County's Noise Ordinance will suffice as regulation is a joke. Just research the degree of satisfaction from County residents who have complained about noise ordinance violations (neighborhood) and see the level of non-compliance and NON resolution. It is almost impossible to define and enforce the County's noise ordinance unless one has tens of thousands of dollars to pursue the matter in court. This type of impact will force neighbors into litigation.

where the burden does not belong. It should be the County's responsibility to NOT create this nightmare in the first place.

To couch excessive noise levels as somehow excusable due to their being "temporary" and no more than six per year is unacceptable. Can I run a red light as long as it's on an infrequent basis? The existing rules have been created for the benefit of everyone—the common good. This ordinance unravels that concept and is being created for the benefit of a few at the expense of neighbors.

Although we may have missed it, we see no discussion or analysis of the noise emanating from the wine tasting public potential customers. Please explain the omission of this potentially severe impact. Many wine tasters in Napa and Sonoma Counties do not stop at one winery for one or two tastes. Instead, they start at one and "make the rounds." As cars drive into private lanes, residents will not know if the occupants are just starting out, or have been steadily imbibing for hours. Even slightly intoxicated adults can be oblivious to their own vociferous speech levels. As recently reported, some Napa and Sonoma County wine tasting facilities are banning large groups due to unruliness; we can only assume this includes a noise element as well. Please address in an EIR.

XIII—Public Services: Common sense dictates that the General Plan did not address public service impacts of wine tasting. Is it assumed or anticipated that the sheriff will never be called to a wine tasting establishment (rowdiness, altercation, etc.)? How will the ABC limit of the number and size of the wine samples provided to the public be enforced? (Assuming someone has been to four or five tasting rooms, will the limits be cumulative? At the fifth stop, how will the tasting limits be relative?) Because the roads are private, how will violations be enforced (law enforcement normally must witness violations)? Because the county does not own/maintain the private roadways, how can the county pass an ordinance allowing the public full use of the private drives? Please analyze the public services impacts in an EIR and circulate for full public review.

XV—Transportation and Traffic: The Winery Ordinance requires that the primary purpose of each winery is to process wine grapes grown on the winery property or on other local agricultural lands. As vague as the words "primary purpose" are, the activity should be limited to processing wine grapes because of the potential impacts created by the amended zoning ordinance. It is irrelevant that there is currently only limited vineyard acreage; it is reasonable to assume (with the stated County's "encouragement") that more wineries and/or wine tasting facilities will be created. Thus, County roadway levels of service may be affected, but more importantly, pedestrian, bicyclist, and residents in the neighborhoods will have their safety compromised. CEQA requires full disclosure, but we see no roadway standards for wine tasting facilities as described in the Winery Ordinance. What will be the road widths, pavement requirements, setbacks, etc.? If paved roads are not required, how will dust be mitigated? Please incorporate roadway requirements and address and discuss them in an EIR.

For the Winery Ordinance to NOT address parking is unacceptable. When a facility becomes full on a private drive, the impacts to the neighbors is severely significant. Property damage, blocked roadways and driveways become a nuisance and may result in calls to the sheriff for "tow aways," accident, hit-and-run reports, etc. (which places more response time burdens on already overtaxed law enforcement agencies). Please provide an enforceable parking lot requirement and analysis in an EIR.

Many neighborhoods have "Neighborhood Watch" groups—neighbors who have agreed to watch out for each other's safety. The effectiveness, if not the entire concept of the Neighborhood Watch program, will be rendered useless with this winery ordinance amendment. Otherwise, strangers, slowly creeping along the private drive (or racing along) will simply go unreported since it could be someone headed for, or leaving, the winery. Neighborhood safety will be impacted and a sense of community will be lost. Please address in an EIR.

Other Considerations for NOT Adopting a Wine Ordinance Zone Amendment

The Right to Farm. This concept brings with it responsibility. Everyone supports farming and ag operations as long as they are legitimate, not a tax sham, nor pose an unacceptable nuisance to a community. Right to Farm was never intended to allow retail establishments to set up shop in residential or res ag neighborhoods, let alone put on six promotional events per year. Ag proponents complain about development infringing on Right to Farm. This wine ordinance amendment creates the problem in reverse: The Right to Live in Peace in established rural ag areas being infringed upon by nuisance wine tasting facilities. This winery ordinance amendment is nothing more than a shield for hobby vintners and "boutiques" to circumvent the intention of laws and/or to take unfair advantage in the marketplace.

"Farming" and/or "agriculture" are words that imply working on the land, in the dirt, and are embraced by the public. Phony ag activities that become either nuisance activities, or "holding patterns until development arrives" (Williamson Act), are turning the public against traditional agricultural operations. Ag should mean growing the grapes. It's a stretch to take it to the level of processing (winery), but the barn door was left open on that one. Now we have the "farm loaders" moving in, trying to capitalize on an ordinance and laws that were not meant for them at all.

Selling Placer County produce is allowed on the property or on the frontage public road if it is at the site of the production. This wine ordinance throws all stipulations out the window by (1) allowing grapes grown elsewhere to be processed and (2) allowing wine from other sources to be sold. This creates a deplorable situation not only in unsuspecting res ag zoned areas but also in turning the public against ag operations.

Nuisance Complaints. The county should plan on increased calls for services and/or complaints from neighbors. A recent L.A. TIMES article tells the truth about the "booze hounds" who show up at these tasting counters, "throwing up in the shrubbery, shouting, singing, flinging off garments, ..." Some wineries in Napa have put out signs, "No limos."

California's vehicle codes (speeding, driving without license, drunk driving, etc.) are not enforceable on private drives; yet Placer vintners want to turn their private one-lane shared easement driveways into commercial roadways, open to the public under a right-to-farm smokescreen. Neighbors and pets will never know what hit them when the "had been drinking" (HBD) crowd appears; it won't be pretty.

Disingenuous Cause and Effect Claim. The ag activity is in the growing of the grapes. For vineyard owners to claim they need to process the grapes, and now need to allow tasting on the premises to sell the bottles is using the same logic that an automobile body shop must encourage accidents to stay in business. No public agency should be encouraging the economic advantage of one segment of the population over another (vintners over

homeowners in this case). The grape growers know what they are getting into. The demise of a 5 acre vineyard and winery is a blip on the economic ag screen. If they are not making a good product, no amount of tasting is going to take them out of the red.

No ordinance should be amended to accommodate an operation that is unsustainable in the first place. When will cattle, sheep, or hog operations demand ordinance changes to create shops to sell leather jackets; to create restaurants to sell veal scaloppini, filet mignon, or medallions of lamb? Will the county change its noise ordinance to promote ear plug sales? Will the County pass an ordinance next to allow people whose homes are being foreclosed to start half-way houses for (fill in the blank) in order to make money to maybe head off the foreclosure? It is NOT, and never should be, a government's role to favor one commercial industry over another. Where does the madness end?

Alternatives:

As some wineries have already discovered, many retail establishments now have a "Local Wine" section in their grocery aisles. This is where serious and legitimate local vintners who have a worthwhile product can/will sell their wines. In addition, a number of very large wine retailers ("wine superstores") are opening their doors in Placer County, thus providing another venue for wine sales.

Wine tasting can should be held either in cooperative venues, such as the current Farmers' Markets. If, in the wildest stretch of the ordinance, wine tasting was to be allowed, it should be from public-road-accessible venues ONLY. If a vintner wants to have tasting and not impact any neighbors on a private drive, then it must be from public road access or public venues. This ordinance creates an unreasonable situation where the vintner on the rural private drive will always know when their privacy will/will not be violated; they will simply keep the gates shut. However, neighbors will have to guess constantly as to who the passersby are.

With a little capitalistic ingenuity, there should be plenty of reasonable opportunities for wine tasting activities that will NOT impact neighborhoods and residential areas. Otherwise, the neighbors (and the County) are subsidizing unsustainable operations (that should stick to grape growing and get out of the winery business) at a great cost—the loss of their rural ambiance.

The Winery Ordinance zoning amendment is an unacceptable project that must not be implemented. If anything, ag regulations, ordinances and rulings need to be stiffened to stop the wholesale denigration of what once were respectable ag operations.

Cordially,

Ernie Jay
P.O. Box 7167
Asburn, CA 95804

EXHIBIT 6

To Whom It May Concern:

I have reviewed the Environmental Questionnaire submitted to your office from Maywa Krach of Placer County for David Wagner (Pescadore Winery). Your comments on the questionnaire are due to the County by February 1, 2007. I live next to Pescadore Winery and I am familiar with the proposed MUP Modification and wish to give you more accurate information about this project. You should be aware that in addition to the project description listed on the questionnaire, the applicant is also requesting to amend the existing MUP to include "additional activities associated with the operation of a tasting room". Such activities were not classified in the application and are therefore unknown. I will address issues as they appear on the Environmental Questionnaire

II. General

No. 7 Yes, the project may result in indirect discharge of sediment into a stream or pond located on the property. Crude grading of roads and parking areas along with compaction of soil has left areas above the stream and riparian habitat devoid of vegetation and vulnerable to runoff.

III. Drainage, Hydrology and Water Quality

No.1 Yes. There is a pond adjacent to the property boundary in addition to a small pond and stream on the property. The stream is a tributary to Georges Ravine (Designated Salmon Habitat)

No.2 Yes. Water may be diverted into this body of water.

No.3 There is a significant amount of concrete and asphalt surface in addition to graded, compacted dirt roads and parking areas that run perpendicular and parallel with the riparian habitat

No.5 Yes. Water from the project can run-off into the watershed drainage. The amount of crude grading and compacted soil devoid of vegetation greatly inhibits the ability of the soil to absorb water.

No.12 Yes. On-site drainage patterns have already been modified and if this project is approved will further compact soil and further modify drainage patterns

IV. Vegetation and Wildlife

A biological survey would be appropriate considering the projects location and potential impact on riparian habitat and consequently Georges Ravine (Salmon habitat)

V. Fire Protection

Project has inadequate access for Fire Equipment from a paved surface (greater than 150 ft)

Project has inadequate access to emergency water sources as pond is not accessible

Project has inadequate access (single lane gravel road) to Commercial Structures

Access or egress through road should be measured for accuracy

VI. Noise

Facility had 4 noise complaints filed with Sheriff's Office in 2006.
Facility is located on hillside across from other residences. The noisiness of the area results in noise and voice easily traveling across to neighbors disrupting livestock and residents. Applicant is proposing a "picnic area" as a "public recreation" area (see XIV No.3) which is not compatible with adjacent land use.

VII. Air Quality

No.5 There has already been clearing of vegetation for the project.

XI. Sewage

The septic field for the Commercial building was to remain undisturbed but has been compromised by vineyard and/or gravel roadway.
The septic field is located uphill and relatively close to 4 domestic wells, riparian habitat and a stream.
The project would significantly increase wastewater due to the impact of members of the public using the facility bathroom, kitchen etc. Applicant hopes to attract enough traffic to sell 40 cases/480 bottles of wine per month year round. Applicant claims to have parking spaces for 25 vehicles.
During the wettest time of year groundwater is only a few feet below the surface of the ground in the riparian habitat.

XII. Hazardous Materials

Facility stores and uses Round Up Herbicide and Sulfur Spray. Light wind can cause Herbicide to drift into ponds and stream.
Gravel parking area (for 25 vehicles) and road is located on border of riparian habitat. These vehicles will undoubtedly leak oils, antifreeze, gasoline etc that will concentrate in the soil. Gravel grading and compacted soil can cause the runoff of these contaminants into the riparian habitat and stream that supply 4 neighborhood domestic wells and flow into Georges Ravine (Salmon habitat).
It is reasonable to believe pesticides will be needed intermittently and poses further threat.

XV. Social Impact

This project will increase noise, traffic and dust in this quiet neighborhood. There were 4 noise complaints filed against this facility in 2006. Noise from this facility has already disrupted livestock and residents located adjacent to the facility.

XVI. Transportation, including

Ridge Rd serves countless bicyclists on weekends while Welcome Rd. is a quiet private city and seal road which already serves 13 residents

Located at the juncture of Ridge Rd and Welcome is a bus stop that serves Newcastle Elementary and the mailboxes that serve all the local residents. Any vehicle driving to the winery has to pass directly past the bus stop as well as the mailboxes.

The entrance to Ridge Rd from Welcome Rd has poor visibility and a steep embankment on the west side. Residents driving out Welcome Rd have already had close encounters with vehicles turning from Ridge Rd onto Welcome Rd.

The increased traffic from this project poses a threat to both local residents and the public

Headlights from vehicles leaving the winery pose a nuisance as they shine directly into the windows of the Jordan family located across from the winery.

Vehicles headed to the winery often pass the facility and drive up the driveway of local resident Larry Graves.

Applicant is not part of a road maintenance agreement although it is required by his use permit.

Applicant wants to sell 40 cases/480 bottles of wine per month year round. This represents a very large increase in traffic and a correspondingly large negative impact on this neighborhood. The number of bottles of wine sold could be much greater and so can the impact on our neighborhood.

If you have any questions you may contact me.

Mike Giles

916 663-4108

doubleduck@lanaset.com

DANIEL G. CRIFE
1144 Nancy Street, Roseville, CA 95747
(916) 781-1200
dgc@crifonline.com

Planning Department
Placer County
Auburn, California

(11/12) 52-5166

July 15, 2003

To: Warren T. Myr Concourse

Re: Proposed winery and tasting room - 5560 Fawnridge Road, Auburn

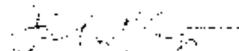
Location: 5560 Fawnridge Road, Auburn, CA 95602 (APR 75-050-53)

My name is Daniel G. Crife, a property owner on Fawnridge Road. I am a Real Estate Appraiser with over twenty years of appraisal experience in Northern California. I strongly disagree and object to the proposed winery and tasting room and retail business proposal for several reasons:

1. The location on Fawnridge Road, which is on a privately maintained dirt and gravel dead end road, is not designed to support a commercial retail business enterprise such as proposed. Access to those properties located on this road will be restricted and presents many safety and potential environmental issues.
2. The design and construction materials type of retail building proposed is a metal industrial type building whose design and construction is not consistent with the quality and materials typically associated with a normal retail winery, tasting room and retail store located in close proximity to existing single family homes.

This proposed winery with tasting room and retail sales would definitely cause a decline in property values and loss in marketability for the properties located off Fawnridge Road.

Sincerely,



Daniel G. Crife

EXHIBIT 8

plan check and inspection fees. Fees for improvement plans (plan check and inspection) are based on a percentage of an engineer's estimate - minimum fees are \$2500

Larry Graves is a neighbor to Mr. Wagner and made the following points:

- Vineyards and wineries are beautiful and a welcome addition to any neighborhood.
- There are concerns about changing the agricultural zoning to allow wine tasting
- Wineries with tastings should have their own private road and not utilize the existing shared residential roads.
- The location of the winery should determine the number of tastings allowed.
- At a neighboring winery he has observed 100 to 150 cars during a winery event and the parking is a nuisance when patrons drive up to his property.
- He is requesting that County Staff have meetings with the neighbors and winery owners to work on this together.
- The Solano County Winery Ordinance should also be studied.
- The CHP statistics for drunk driving in Napa County should be collected and reviewed.

County Response: It is the County's position that the current Zoning Ordinance provisions allowing Agricultural Processing already include opportunities for establishing wine tasting facilities, with the processing of a Minor Use Permit. The Draft Winery Ordinance will more specifically address the permit process and standards that would apply. While not wanting to prevent wine tasting for wineries on private roads, a Minor Use Permit would be required, rather than an Administrative Review Permit, thus recognizing that there are neighborhood compatibility concerns that need to be addressed. County staff has met with both winery owners and concerned neighbors at their request. The workshops provide an opportunity for winery owners and neighbors to meet together and make their recommendations known. The Planning Department will obtain a copy of the Solano County winery regulations for purpose of comparison. The Planning Department does not have access to Napa County CHP drunk driving statistics, but also believe it would be an unfair comparison, given the number and size of Napa County wineries.

Osbe Mendez, a co-owner of Vina Castellano Vineyard, made the following statements:

- As a general engineering contractor he estimates that for a 20-foot wide paved road it will cost approximately \$80,000 to \$100,000 not including culverts. Also wineries could bear additional costs associated with grading and tree removal.
- Pavement does not have a country feel.
- He has had heavy equipment in and out of his road and has never had road closure.
- Where did the 20-foot width road requirement come from?
- The public roadway construction plate referenced on the estimate \$50,000 because of blasting into the road was not necessary.

EXHIBIT 9

PETITION TO BE SUBMITTED TO THE Placer County Zoning Administrator

The citizens of residential properties on Fawnridge Road in North Auburn, Placer County, CA have prepared the following title and summary of the chief purpose and points of this petition.

▶ We the undersigned object to the construction & operation of a commercial project on a private, unpaved road in a residential-agricultural neighborhood. This use is not consistent with the overall neighborhood & will destroy the rural atmosphere, bring unwanted traffic, dust, water runoff, noise pollution & destroy the peaceful enjoyment of our property. Fawnridge Road is in bad repair & difficult to drive because of a decaying NID ditch & only one-way in and out. This presents extremely serious safety concerns for everyone living on that road. A large industrial building, with external lighting and paved parking would be in clear view of our residences.

▶ A road maintenance association is being formed to deal with repairs, maintenance, use and access to Fawnridge Road, a private dirt road. We are considering a secured entrance that will help insure the privacy, serenity & security of our homes. The applicant's pursuit of this new venture on a five-acre parcel on a private road is not in compliance with Placer County policies.

Each of us for himself or herself say: "I have personally signed this petition, and I am a resident of California."

- | | |
|--|--|
| <p>1. <u>Margaret T. Coice</u>
<small>Print your name in ink</small></p> <p><u>Margaret Coice</u>
<small>Your Signature</small></p> | <p>* JARVIS #47 FAWN RIDGE
<u>Elkton Ranch Way Fair Oaks, Ca 99608</u>
<small>Your residence address</small></p> <p><u>Fair Oaks, Ca 95608</u> <u>7/12/03</u>
<small>City, State & Zip Code Date</small></p> |
| <p>2. <u>STEPHEN G. CRIFE</u>
<small>Print your name in ink</small></p> <p><u>Stephen G. Crife</u>
<small>Your Signature</small></p> | <p><u>1789 Gillespie Dr. Fairfield CA 94533</u>
<small>Your residence address</small></p> <p><u>Fairfield CA 94534</u> <u>7/13/03</u>
<small>City, State & Zip Code Date</small></p> |
| <p>3. <u>DAN E. G. CRIFE</u>
<small>Print your name in ink</small></p> <p><u>D E Crife</u>
<small>Your Signature</small></p> | <p><u>615 HALEY COURT</u>
<small>Your residence address</small></p> <p><u>ROSELAND CA 95677</u> <u>7/13/03</u>
<small>City, State & Zip Code Date</small></p> |
| <p>4. <u>KRESSA CRIFE</u>
<small>Print your name in ink</small></p> <p><u>Kressa Crife</u>
<small>Your Signature</small></p> | <p><u>615 HALEY COURT</u>
<small>Your residence address</small></p> <p><u>ROSELAND CA 95677</u> <u>7/13/03</u>
<small>City, State & Zip Code Date</small></p> |
| <p>5. <u>Ross SAYERLY</u>
<small>Print your name in ink</small></p> <p><u>Ross Sayerly</u>
<small>Your Signature</small></p> | <p><u>500 Fawnridge Rd.</u>
<small>Your residence address</small></p> <p><u>Auburn, Ca 95606</u> <u>7/14/03</u>
<small>City, State & Zip Code Date</small></p> |
| <p><u>John F. Sayerly</u>
<small>Print your name in ink</small></p> <p><u>John F. Sayerly</u>
<small>Your Signature</small></p> | <p><u>500 Fawnridge Rd.</u>
<small>Your residence address</small></p> <p><u>Auburn, Ca 95606</u> <u>7/14/03</u>
<small>City, State & Zip Code Date</small></p> |

7. STEPHEN G. CRIPE
Print your name in ink
Stephen G. Cripe
Your Signature

8701 Highway 4, Hwy 200, Waco, TX 76798
Your residence address
Waco, TX 76798 7/15/03
City, State & Zip Code Date

8. STEPHEN G. CRIPE
Print your name in ink
Stephen G. Cripe
Your Signature

1739 Gillespie Dr. Fairbairn, TX 76455
Your residence address
Fairbairn, TX 76455 7/15/03
City, State & Zip Code Date

9. DAVE G. CRIPE
Print your name in ink
Dave G. Cripe
Your Signature

615 HALEY COURT
Your residence address
Roseville, CA 95677 7/15/03
City, State & Zip Code Date

10. WESLEY CRIPE
Print your name in ink
Wesley Cripe
Your Signature

615 HALEY COURT
Your residence address
ROSEVILLE, CA 95677 7/15/03
City, State & Zip Code Date

11. RUSS SAVERY
Print your name in ink
Russ Savery
Your Signature

5500 Fawn Ridge Rd.
Your residence address
AUBURN, CA 95602 7/14/03
City, State & Zip Code Date

12. MURIEL E. LILE
Print your name in ink
Muriel E. Lile
Your Signature

5500 Fawn Ridge Rd.
Your residence address
Auburn, CA 95602 7/14/03
City, State & Zip Code Date

SIGNER. Please fill in all information by hand in ink. Use only ballpoint pen. (Do not use felt tip pen.) No date marks, no abbreviations. All signers must be residents or have a business in Pacer County. If you make a mistake, line it out and sign again in the next signature space.

CIRCULATOR. Complete declaration. All signature spaces do not need to be completed for this petition to be valid. Circulator may sign only once as a signer, but may circulate unlimited number of petitions.

DECLARATION OF CIRCULATOR (To be completed after some signatures have been obtained)

I am a current resident and in business in Pacer County. I declare that the petition and signature of the appended signatures of this petition being written. Each signature of this petition to the best of my information and belief is the personal signature of the person whose name it purports to be. All signatures on this document were obtained between 7/15/03 and 7/15/03. I deny for myself and under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on 7/15/03 by Muriel E. Lile at Waco, TX.

Sheet 1 of 4 Date 7/15/03

Muriel E. Lile
Signature of Circulator