

**Robert B. Field
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Santa Ynez, CA 93460**

Chairman Peter Adam, Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

March 11, 2016

RE: 3/15/16 Agenda Item #9 : Santa Rosa Road Winery Appeal — Appellant's Response to Staff's Responses to Appeal issues raised

Dear Chairman Adam and Supervisors,

The issues raised in this Appeal are important for this Project, and equally important for their larger and broader policy implications.

The Conditions as written by Staff and approved by the Planning Commission fail to give certainty to the Applicant, the neighborhood, or the community. As written, they create the opportunity to "game the system" and wildly exceed the quantity and type of visitation contemplated by the CEQA analysis and expected by the public. As the wine industry grows, continuation of this practice will lead to a materially negative impact on our agricultural lands and the rural character of our County which we all cherish.

Legally, the Conditions as written by Staff and approved by the Planning Commission improperly *expand* the privileges allowed by Codes including the Williamson Act, the Uniform Rules, and the LUDC. Appellant has great respect for the Board's right to any reasonable interpretation of its ordinances but in this case — given the specificity of the Codes — it is not proper for the Board to effectively change the law by adoption of Conditions that defeat clear and unambiguous terms.

As Appellant in the above item, below are my responses to the Staff's responses (which are contained in your Board Letter) to the issues raised in the Appeal.

Issue 1a (project visitation excessive for the site) :

"Appellant is correct" would have been the appropriate response to Appellant's assertion that as approved "the number of wine tasting visitors is unlimited".

While acknowledging that fact, Staff's description of the issue in their response is factually wrong: The LUDC *does not allow* for wine tasting visitors to use the "overflow parking area".

This open field area is explicitly provided by the LUDC for "...special events, group events, or winemaker dinners...". (35.42.280.5.f) In addition, regarding the "25 permanent parking spaces" which have been approved for wine tasting the LUDC states mandatory minimum physical standards requirements that are not met by "overflow" parking areas, farm roads, or driveways. (35.42.280.5.e)

No Condition can be adopted that goes beyond reasonable interpretation of the LUDC and expands what it allows — that is the making of new law, which the administrative branch has no authority to do, and which the BOS lawfully cannot do in this manner.

Issue 1b and 1c (approved events activity is excessive):

First: the material information on the previously approved events at wineries on Santa Rosa Road (Table 1.0, page 6 of the Board Letter) was not presented to the ZA or the PC, and this material omission left them in the dark with regard to what was appropriate.

Staff misrepresents that the Appellant defined foreseeable wineries as “all properties with vineyards” — instead, the record shows that the Appellant used as the basis for the forecast of foreseeable wineries the Staff’s own winery forecast contained in the Winery Ordinance Update DEIR.

Staff makes a major errors in their representation that “the total number of winery special events which could occur per year [on Santa Rosa Road] is 43 special events, not 300 as asserted by the appellant”:

a) Staff’s 43 is the number of events previously approved plus only one future winery. (Table 1.0, page 6)

b) The SRR Winery approval is omitted, and alone it adds 30 events and increases this number to 73

c) the non-rebutted assumption that the existing seven wineries will all demand the same (i.e. fair) treatment brings the number of events to 240

d) if only two new wineries are treated fairly the number of events will be the 300 forecasted by the Appellant

e) Staff’s DEIR for the Winery Ordinance Update forecasts seven new wineries for the area. Based on this P&D forecast, and the County treating past, present, and future wineries fairly, then the number of events on Santa Rosa Road will be 550, or almost twice the conservative estimate made by the Appellant.

Issue 2a (Omission of Material information) :

> *Alcohol impairment and collision rates*

Staff’s response is a continuation of their years-long, willful efforts to evade presenting the facts on alcohol impairment to decision makers. Countless times — in writing — we have made the point that we are not talking about illegal activity, we are talking about the well-documented, irrefutable fact that at legal levels of .04 to .08 BAC people’s ability to drive cars is significantly impaired.

The most recent and technically sound research shows with no doubt that one flight of wine tasting (or one glass of wine) will bring the average person's BAC to .04 and result in a 2x likelihood of a collision; two flights or glasses will bring the average person to .08 and a 4X likelihood of being in a collision.

Staff's continual and willful withholding of these material facts from decision makers who are considering the approval of the functional equivalent of a bar, on sub-standard rural road, with a baseline of significantly higher than average collision rates puts the public safety at risk and creates a monumental potential liability for the County.

> *Collision rates on Santa Rosa Road*

"*Appellant is correct.*" would have been the appropriate response to Appellant's assertion that "no consideration of collision history on Santa Rosa Road was presented by Staff". The fact that a Traffic Addendum was prepared and added is tacit acknowledgement of this material omission.

Staff's rebuttal of the Appellant's assertion of a 2X expected collision rate on Santa Rosa Road is false and misleading: the data and assumptions on the record at the time the Appeal was filed does in fact support Appellant's conclusion.

Since that time, between when the Appeal was filed and now, without any disclosure to decision makers Staff has changed all three key variables in how the expected collision rate is calculated: 1) they deleted collisions from the SWITRS database (but make no disclosure of these deletions) decreasing the calculated rate accordingly, 2) they increased the number of ADT's by 50% decreasing the rate accordingly, and 3) increased the expected collision rate by 17%.

In blunt and common language, in order to achieve their desired outcome (of a lower than expected collision rate) they cooked the books. These willful and materially false representations from Staff create a significant public safety risk and a huge liability risk to the County.

For a technical analysis of this issue, and support for the points made above, please refer to the "Peer Review of the Traffic Analysis for the Sierra Madre Tier II Winery" by Transpogroup submitted by the Law Office of Marc Chytilo.

> *Cumulative Analysis*

"*Appellant is correct.*" would have been the appropriate response to Appellant's assertion that the Hilt Winery was omitted from the presentation to the PC. The fact that it was added to this analysis is tacit acknowledgement of the prior material omission.

Issue 2b (Presentation of false and/or misleading information) :

> *Material Omissions and Errors*

Appellant stands by the complaint made. Please refer to the "Peer Review of the Traffic Analysis for the Sierra Madre Tier II Winery" by Transpogroup submitted by the Law Office of Marc Chytilo.

> *Roadway Width*

Appellant acknowledges that an error might have been made in the Appeal with regard to the width required for the driveway — If I was wrong, I apologize.

Staff's response that the road "is approximately 24 feet wide and meets public roadway standards" is wildly incorrect and materially misleading. Santa Rosa Road has 21 feet of paved lanes for most of its length (narrower for stretches) versus the Standard of 24 feet, shoulders are narrow and barely improved versus the Standard of 6 feet wide and paved, and the road has few of the required Clear Zones along its 16 mile length.

> *Alcohol Impairment and Collision Rates*

Staff's is incorrect and misleading in their statement that "There is a 3.3% higher collision rate involving alcohol in the Santa Ynez Valley than the rest of the County, not 30% as asserted by the appellant". Mathematical fact: a 14.7% rate is a 30% higher rate than an 11.4% rate. Staff is confusing the fact that it is *3.3 percentage points higher* with the mathematical reality that it is *a 30% higher rate*.

The reference to *A Collision Study of Santa Barbara Wine County Roads* (County Public Works -Transportation, May 2012) is also troubling. This highly controversial report (requested and paid for by the vintners), which was discredited at the time of publication, came to their remarkable conclusion that everything was just fine. However, data presented in the report discloses the following:

- > Alcohol involved collisions on wine tasting roads have increased 57%,
- > Alcohol involved collisions on weekend days are three times higher than on weekdays,
- > The accident rate on rural roads with wine tasting activity is up noticeably,
- > Accidents have doubled on Roblar Avenue,
- > The alcohol involved collision rate in the Santa Ynez Valley is 30% higher than the county rate.

> *Wine Tasting Parking*

Staff's response presents materially false statements :

- > See 1a above for Staff's repeated misinterpretation of the LUDC regarding wine tasting parking

> Staff's statement "The Vincent Winery can also be distinguished from the proposed project because the Vincent Winery parking area is visible from the public roadway and the Santa Rosa Winery is not" is materially false and misleading: Only a fleeting glimpse of the Vincent parking lot is available from the public roadway, not nearly enough to make any determination as to the availability of parking spaces.

Issue 2c. Failures to correct false and/or misleading statements by the applicant:

a. "*Appellant is correct.*" would have been the appropriate response to Appellant's assertion that the Applicant's traffic engineer's statements were materially false and were not corrected by Staff. The response provided is a total change of subject by Staff, an evasion of the issue raised, and a tacit acknowledgement the failures.

The essay provided by Staff is just another repeat of the false information provided on the subject of collision rates on Santa Rosa Road. Please refer to the "Peer Review of the Traffic Analysis for the Sierra Madre Tier II Winery" by Transpogroup submitted by the Law Office of Marc Chytilo.

b. "*Appellant is correct.*" would have been the appropriate response to Appellant's assertion that the traffic data presented to the ZA and the PC was materially understated. The fact that the Addendum to the Traffic study increased the traffic count by approximately 50% is tacit acknowledgement of their prior error.

c. "*Appellant is correct*" is the only accurate response to the actual complaint. Staff's response changes the subject entirely by discussing an unrelated topic.

d. "*Appellant is correct*" is the only accurate response regarding the Appellant's assertion that the Applicant's agents falsely told the PC that wine tasting and events are *not allowed* simultaneously under the LUDC, and that Staff failed to correct the misrepresentation. In the response provided by Staff, the correct LUDC language is provided — showing that wine tasting and events *are allowed* simultaneously by the LUDC — tacitly acknowledging that the false information was presented by the Applicant's agent and allowed to stand by Staff.

e. This is a non-responsive response. This over 500-word essay from Staff just repeats the Quality of Life impacts which were studied, and continues to ignore and withhold from decision makers those that were not.

f. "*Appellant is correct.*" would have been the appropriate response to Appellant's assertion that the Applicant's agent misrepresented the nature of the Vincent Winery, and that Staff failed to correct the record at the PC. Staff's wordy response is an evasion of the actual Appeal comments and is tacit acknowledgement that the Appellant is correct.

g. "*Appellant is correct.*" would have been the appropriate response to Appellant's assertion that the Applicant's agent materially misrepresented the LUDC to the PC regarding organized gatherings, and that Staff failed to correct the record.

However, Staff's response at this time does present the correct information (as was stated by the Appellant in the Appeal) thereby tacitly acknowledging that the complaint in the Appeal was correct.

Appellant Appeal Issue #3: The Final Mitigated Negative Declaration should have been rejected, and an Environmental Impact Report required.

Please refer to letters and documents filed on my behalf by the Law Office of Marc Chytilo.

Appellant Appeal Issue #4: The record does not support the findings.

Staff's response that the "required Findings for the approval of the project can be made" is based upon the collection of the false and misleading information they continue to provide to decision makers, and the information they continue to withhold from decision makers.

The Appellant stands by the complaint as stated: the record shows that the Findings cannot be made.

Thank you for consideration of the above responses.

Respectfully,

A handwritten signature in black ink, appearing to read "R. B. Field". The signature is written in a cursive, slightly slanted style.

Robert B. Field

Santa Ynez, CA