DESIGN REVIEW BOARD STAFF REPORT

MEETING DATE: January 12, 2009 REPORT WRITTEN: December 22, 2008

ITEM NUMBER: V.B. – DESIGN REVIEW

FILE NUMBER: **CUP-06-2008 – Christopher Avant (Owner) Avant Canyon Group (Applicant), Moraga Wine Bar, 925 Country Club Drive.** Consideration of a parking modification for the proposed 43 seat Moraga Wine Bar at 925 Country Club Drive in accordance with MMC Section 8 76.130-A and condition number 1 of Planning Commission Resolution 15-08. APN 257-190-048

ZONING: CC (Community Commercial)

CEQA STATUS: The project is categorically exempt under CEQA Guidelines Section 15303, which includes, conversion of small structures, installation of small new equipment and facilities, and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure Examples of this exemption include. (c) a store, office, restaurant or similar structure not exceeding 10,000 square feet in floor area in urbanized areas on sites zoned for such use if not involving the use of significant amounts of hazardous substances and where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

APPLICATION SUMMARY:

The Planning Commission approved the conditional use permit for the Moraga Wine Bar, with cheese tasting and incidental sales of beer, on the first floor of the recently restored "Moraga Barn" building on December 15, 2008. Condition number 1 requires review by the Design Review Board of the findings for approval of an exception to the required on-site parking spaces A total of 22 parking spaces would be required for both the wine bar and office use of the building. There are a total of 8 on-site parking spaces, therefore, the project requires a parking modification to allow 14 parking spaces less than required under the Municipal Code. In accordance with MMC Section 8.76.130-A, the Planning Commission may grant a modification of the off-street parking and loading requirements after "review by the design review board." Except for this requirement, this project does not require design review board approval There are no exterior changes to the building except for the new "Moraga Barn" sign, which is not illuminated.

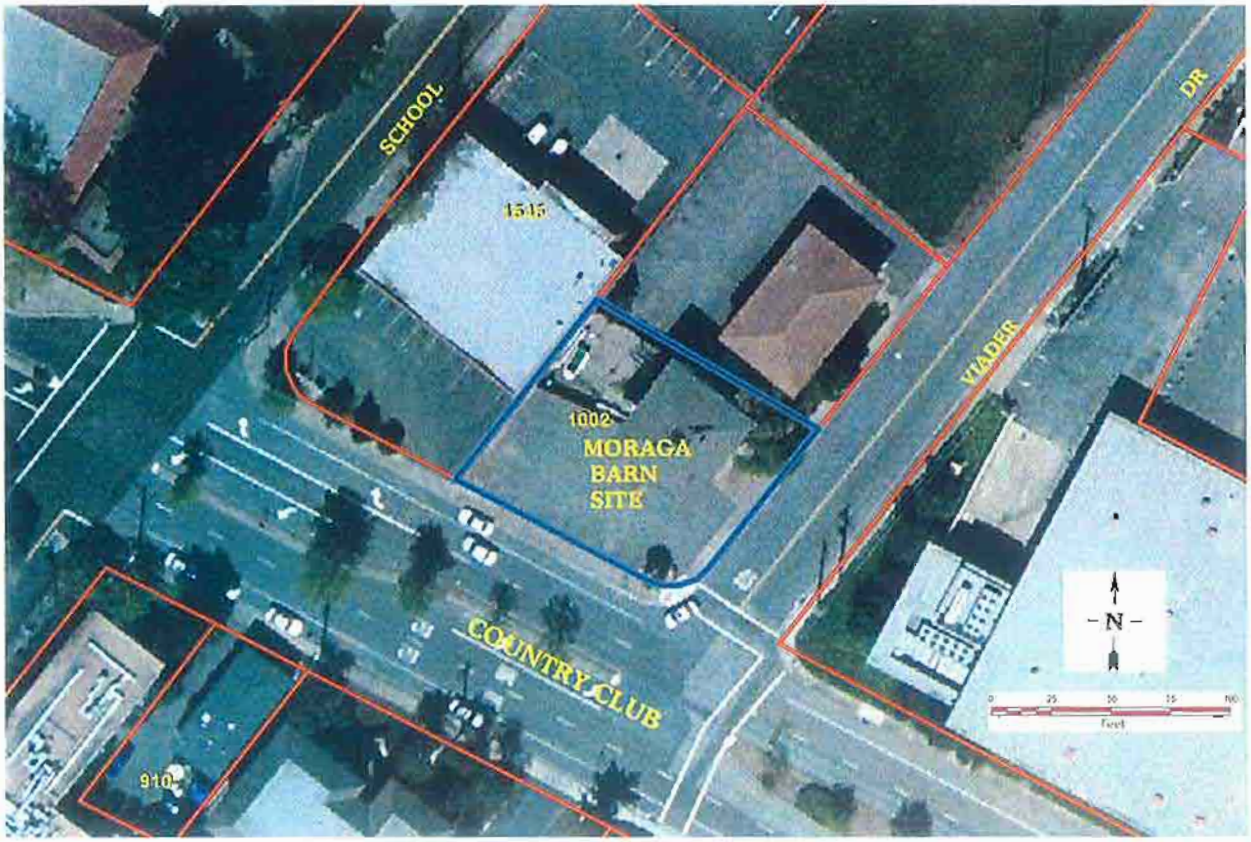
PUBLIC NOTICE AND MAILING LIST:

As required by Moraga Municipal Code Section 8 72.130(A)(1), written notice of the application for design review was mailed to all property owners and residents within

three hundred (300) feet of the subject property on Friday, January 2, 2009. A copy of the public notice address list is attached as **EXHIBIT A**.

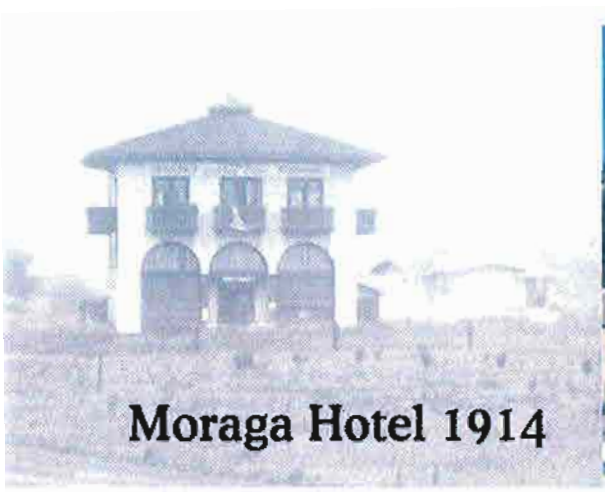
BACKGROUND:

The Canyon Construction Office in the historic "Moraga Barn" building is located on an 8,556 square foot lot at the northwest corner of Viader Drive and Country Club Drive. The general location of the building site is shown on the aerial photograph below.



On November 7, 2005 the Planning Commission adopted Resolution 29-2005, which is attached as **EXHIBIT B**. This resolution approved a use permit and variances to allow restoration of the Moraga Barn building to generally match the appearance of the original Moraga Hotel built in 1914 (see pictures on the next page). The renovated building was approved primarily as an office building for Canyon Construction Company; however, finding number 8 on page 6 of Resolution 29-2005 reads: "The hours of operation will be standard business office hours. Since the building is generally considered a historical landmark, the property owner is considering options to allow rental of the first floor and rear terrace area for special functions, such as a Chamber of Commerce meeting, when the space is not being used by Canyon Construction. Such rental use would be intermittent but could possibly involve use of the building at later hours on a weekday or on a weekend."

Resolution 29-2005 also granted a parking modification to allow 8 on-site parking spaces in lieu of the 13 parking spaces required by MMC Section 8.76.090-K.



Restored "Moraga Barn" Building 2008

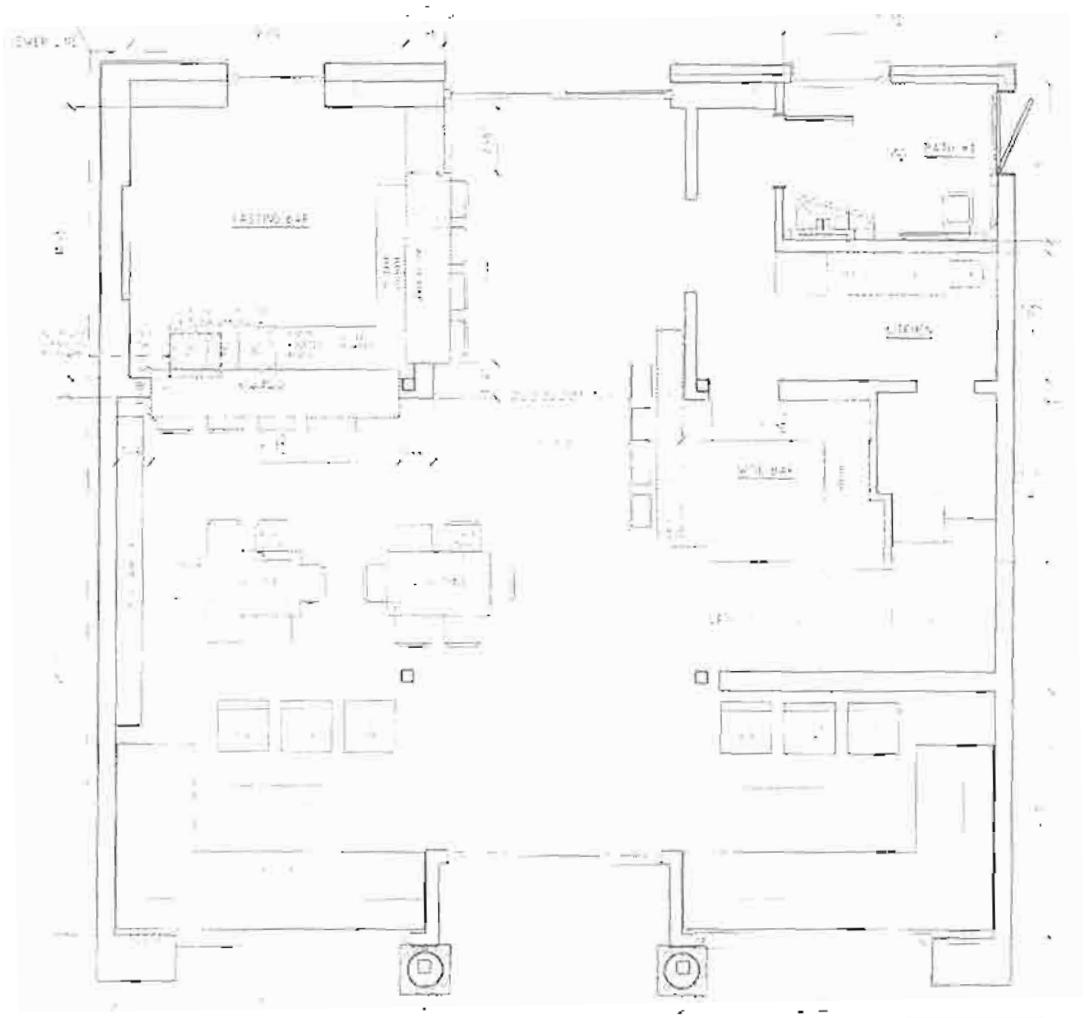
On December 15, 2008, the Planning Commission adopted Resolution 15-2008 approving the applicant's request for the ground floor of the building to be used as an "upscale" Wine Bar, with incidental beer sales. A copy of Planning Commission Resolution 15-2008 is attached as **EXHIBIT C**. The project will require some interior alterations to the first floor for installation of the tasting bar at the southwest rear corner and a second wine bar below the stairs near the center of the building. Additional modifications may be necessary to comply with building code and Contra Costa County Health Department requirements, such as an additional bathroom and a washing machine for glasses with a floor drain.

PARKING MODIFICATION ISSUE:

Condition number 1 of Planning Commission Resolution 15-2008 reads *"The parking modification request shall be submitted to the Design Review Board for review and concurrence with the Planning Commission recommendation in this resolution. If the Design Review Board does not agree with the recommendation, then the request for the parking modification shall be referred back to the Planning Commission for further action."*

The proposed wine bar and lounge areas would provide seating for 43 persons, with 13 seats at the bars, 12 seats around two tables and 18 seats around low tables at either side of the entrance (see the plan view of the first floor on the next page). The applicant hopes to have between 10 and 50 customers at any one time. There could be as many as 125 attendees at special events. There would be 1 full time employee and 2 part time employees. For special events there may be as many as 5 employees.

MMC Section 8.76.090-I requires one parking space for each three seats for night clubs, cocktail lounges and restaurants; therefore, 15 parking spaces would be required for the 43 seats on the ground floor. An additional 7 parking spaces are required based on one parking space for each 250 square feet of office space and 1,750 square feet of floor area on the mezzanine and third floor levels. A total of 22 parking spaces would be required for both the wine bar and office use of the building. There are only 8 on-site parking spaces, including the handicap/van pool parking space.



Floor Plan for proposed Wine Bar at 925 Country Club Drive

The Planning Commission made four findings to allow 14 parking spaces less than required 22 parking spaces, as follows:

Finding 1: The modification is justified based on the existing locations of building, parking areas and other access points. The small size of the project site with the existing building configuration limits the amount of parking that can be built on site. The existing available parking was improved with the 90-degree double loaded parking layout, which achieves the maximum number of parking spaces in the least amount of space. In accordance with MMC Section 8.76.130-B, the Planning Commission has determined that a reduction of the required parking standard is adequately compensated through improved design, special landscaping and other site design features as follows. (1) The parking area has been surfaced with decomposed granite for maximum permeability. (2) All stormwater on the property is contained on-site in three large cisterns under the "courtyard" area, and the stored stormwater is used for landscape irrigation on the property.

Finding 2: Existing facilities on the same parcel are sufficient to provide adequate services. The existing parking facilities on this parcel have never been sufficient to provide adequate parking for the size of the building The building was previously used for about 50 years as a full service bar with only 5 or 6 parking spaces on site depending on whether a dumpster was occupying one of the spaces. In addition to the 8 parking spaces in the on-site parking lot, the Moraga Barn restoration project also improved the available street side parking by eliminating the driveway to Viader Drive.

Finding 3: The design is consistent with the intent of this chapter and is complementary to and compatible with existing development on the same site. The only modification requested is for the required number of parking spaces. In all other respects, the geometry and configuration of the parking complies with the standards in the Municipal Code. The proposed parking area will complement the existing building The elimination of the driveway on Viader Drive has provided additional area for landscaping between the parking lot and the street

Finding 4: The modification will not have an adverse effect on other properties in the vicinity of the project. When the building was used only for office use, the project was deficient by 5 parking spaces. The project will be 14 parking spaces short of the requirement with the addition of the wine tasting bar on the first floor. Therefore, a modification is needed for an additional 9 parking spaces that will be needed on the town's streets There are at least 4 curb-side parking spaces adjacent to the site and a total of 10 additional street side parking spaces would be needed to comply with the parking requirement. At the present time the deficiency of on-site parking is not anticipated to adversely affect other properties in the vicinity because there are many seldom used curb-side parking spaces along the east side of Viader Drive behind the Orchard Supply Hardware (OSH) store and along the north side of Country Club Drive at the south side of the OSH store. The curb-side parking behind OSH is rarely used because the main entrance to the store is on the opposite side of the building from Viader Drive.

DISCUSSION:

If this project involved a vacant site with a new building, then review by the Design Review Board for reduced parking would involve analysis of various design alternatives to possibly reduce the building area and increase the on site parking. However, in this case, the building is a historically significant structure in Moraga, where the design and floor area of the building cannot be changed without compromising the historical design. In addition, the building happens to be on a very small site. There is a limited amount of parking, which was already expanded at the time the renovation of the structure was approved two years ago. There really are no alternatives to increase the amount of on site parking. At the present time and probably for at least the next 10 to 20 years, the amount of available street parking in the vicinity is ample to provide the additional 14 parking spaces required. Most of the new development projected under the Moraga

Center Specific Plan would occur northeast of Moraga Way. If additional street parking is really needed in the future, then the 'traffic calming' plan with diagonal parking along the sides of Country Club Drive could be implemented.

RECOMMENDATION:

Staff believes that the findings for the parking modification made by the Planning Commission in Resolution 15-2008 are adequate to justify the reduced on site parking for the proposed wine bar at 925 Country Club Drive. A draft Memorandum has been attached as **EXHIBIT D**, stating the Design Review Board's concurrence with the findings in accordance with MMC Section 8.76.130-A

Report prepared by: Richard Chamberlain, Senior Planner

EXHIBITS:

A— Area of Notice Map, Notice List and Copy of Public Notice
B— Planning Commission Resolution 29-2005
C— Planning Commission Resolution 15-2008
D— Draft Memorandum of Design Review Recommendation to Planning Commission
E— Project Plans

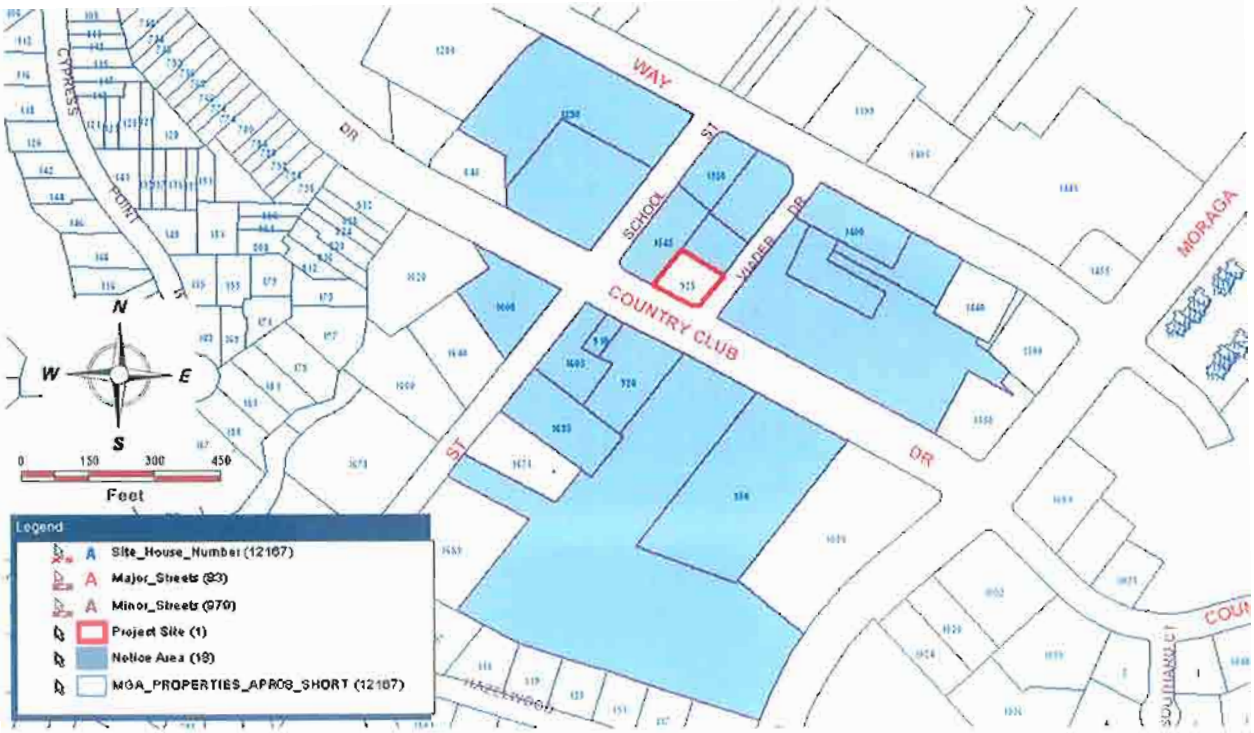
EXHIBIT A

AREA OF NOTICE MAP,
NOTICE LIST AND
COPY OF PUBLIC NOTICE

VICINITY MAP AND AREA OF NOTICE

Avant Canyon Group / Moraga Wine Bar 925 Country Club Drive

File Number: UP 06-2008



UP 06-2008
Mailed Public
Notice

Moraga Barn
925 Country Club Drive
Mailing List

Design Review
Board Public
Meeting

APN	Name	Address	City & Zip
257500005	Glaser Financial Group Inc	2177 YOURGMAN AVE	ST PAULS , MN 56479
257190046	Y & H Soda Foundation	1635 SCHOOL ST	MORAGA, CA 94556 1150
257190034	Kendall W & Karen A Langan	9 THUNE AVE	MORAGA , CA 94556 1827
257190009	Aldo E & Cathy Corsi Trust	4250 KNOLL DR	OAKLAND , CA 94619 3025
257190030	1605 School Street	1605 SCHOOL ST	MORAGA, CA 94556 1151
257190050	1600 School Street Llc	1640 SCHOOL ST	MORAGA , CA 94556 1123
257190053	Kenneth B Wallace	PO BOX 7829	TAHOE CITY , CA 96145 7829
257190054	Joan E Bruzzone	899 HOPE LN	LAFAYETTE , CA 94549
257190025	Song Chae Yun Trust	160 SUNSET DR	SAN RAMON , CA 94583
255620009	Bacorp Rel Est Asmt-nc1001038	101 N TRYON ST	CHARLOTTE , NC 28246 0100
257190048	Avant Canyon Group	925 COUNTRY CLUB DR	MORAGA, CA 94556 1949
	Sheahan + Quandt Architects	2143-c Fifth Avenue	BERKELEY, CA 94710
	Lutsko Associates	2815 Eighteenth Street	SAN FRANCISCO, CA 94110
	Duplicate Owner Parcels		
255620010	Russell J Bruzzone Inc	899 HOPE LN	LAFAYETTE, CA 94549 5131
255620011	Russell J Bruzzone Inc	899 HOPE LN	LAFAYETTE , CA 94549 5131
257190055	Joan E Bruzzone	899 HOPE LN	LAFAYETTE , CA 94549
257190016	Joan E Bruzzone	899 HOPE LN	LAFAYETTE , CA 94549
255620013	Russell J Bruzzone Inc	899 HOPE LN	LAFAYETTE, CA 94549 5131
257500006	Russell J Bruzzone Inc	899 HOPE LN	LAFAYETTE , CA 94549 5131

NOTICE

Town of Moraga

YOU ARE HEREBY NOTIFIED THAT on Monday, January 12, 2009, at 7:30 p.m , in La Sala Building, 2100 Donald Drive, Moraga, California, the Design Review Board of the Town of Moraga will conduct a pubic meeting to consider the following application:

CUP-06-2008 – Christopher Avant (Owner) Avant Canyon Group (Applicant), Moraga Wine Bar, 925 Country Club Drive. Consideration of a parking modification for the proposed 43 seat Moraga Wine Bar at 925 Country Club Drive in accordance with MMC Section 8 76 130-A and condition number 1 of Planning Commission Resolution 15-08. The conditional use permit for the Moraga Wine Bar, with cheese tasting and incidental sales of beer on the first floor of the recently restored "Moraga Barn" building was approved by the Planning Commission on December 15, 2008 with the requirement that the Design Review Board review the findings for approval of an exception to the required on-site parking spaces A total of 22 parking spaces would be required for both the wine bar and office use of the building. There are a total of 8 on-site parking spaces; therefore, the project requires a parking modification to allow 14 parking spaces less than required under the Municipal Code. The property is zoned CC (Community Commercial). APN 257-190-048

Applicant and Property Owner
Avant Canyon Group 925 Country Club Drive Moraga, CA 94556

The plans for this project are available for public review at the Moraga Planning Department, 329 Rheem Blvd, Suite 2 during normal business hours (Monday through Friday from 8 am to noon and 1 to 5 pm) Comments regarding the proposed project can be submitted in writing or orally at the public meeting. Written comments submitted to the Planning Department by January 9, 2009 will be submitted to the Board at their meeting For additional information, contact the Planning Department at (925) 888-7042

Richard Chamberlain
Senior Planner

EXHIBIT B

PLANNING COMMISSION
RESOLUTION 29-2005

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of:
Approval of a use permit to restore the "Moraga Barn" building for use as the administrative offices of Canyon Construction and approval of three variance requests and a request for modification to the parking requirements at 1002 Viader Drive.

Resolution No. 29-2005 PC

File Nos. UP 14-2005
VAR 03-2005
DRB 17-2005

Planning Commission Adoption Date:
November 7, 2005

Effective Date: November 17, 2005

WHEREAS, an application was submitted on September 16, 2005 by Canyon Construction (Applicant) on behalf of Chris Avant (Property Owner) for use permit to restore the "Moraga Barn" building at 1002 Viader Drive for use as an administrative office for Canyon Construction; and

WHEREAS, the proposed project includes restoration of the exterior of the building to its original 1914 appearance; construction of a new foundation for the building; structural repairs; remodeling of the interior for office use, installation of new landscaping and parking; and

WHEREAS, the applicant submitted applications for three variances as follows. (1) Variance to allow the maximum building height to exceed the 35-foot limit by 2-feet 6.5-inches, which will be a net increase of 6-inches above the existing height; (2) Variance to the required 50-foot front yard building setback on Viader Drive to allow a 16-foot front setback; (3) Variance to the 50-foot required exterior side yard building setback on Country Club Drive to allow a 44-foot setback; and

WHEREAS, the applicant requested a modification to the 13 required on-site parking spaces, to allow 8 or 9 parking spaces, depending on whether the required vanpool/handicap accessible parking space is installed on site or on Country Club Drive; and

WHEREAS, the project is categorically exempt under CEQA Guidelines Section 15301(d)(2), for restoration of deteriorated structures to meet current standards of public health and safety and approval of the variances qualifies for a categorical exemption under Section 15305(a), which includes minor alterations of land use limitations; and

WHEREAS, at a regular meeting of the Design Review Board on October 24, 2005, the Board unanimously recommended approval for the three variance requests, the proposed parking modifications and the proposed building modifications with recommended conditions of approval, and

WHEREAS, a Public Hearing Notice for the project was mailed to property owners within 300 feet of the property on October 27, 2005, and

WHEREAS, on November 7, 2005, the Planning Commission held a public hearing where testimony was received from the applicant and interested parties, and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the use permit to restore the "Moraga Barn" building for use as the administrative offices of Canyon Construction in accordance with the findings and conditions listed herein; and

BE IT FURTHER RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the three variance requests and the request for modification to the parking requirements at 1002 Viader Drive in accordance with the findings listed below:

FINDINGS FOR VARIANCE TO ALLOW THE MAXIMUM BUILDING HEIGHT TO EXCEED THE 35-FOOT LIMIT BY 2-FEET 6.5-INCHES:

Finding 1: A variance is necessary because of special circumstances concerning the subject property including size, shape, topography, location or surroundings, where the strict application of the zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same zoning district. The fact that the existing building has been located on the subject property for 91 years and is generally considered a historic landmark is deemed a "special circumstance" for this project. There will be no substantial change in the overall height of the existing building and the additional 6-inches in height will be visually imperceptible. The addition of the 2-foot high copula to match the original 1914 appearance is deemed exempt from the height limits under MMC Section 8.04.070 as a "spire", or "necessary mechanical appurtenance" The size, shape and topography of the property has no relevance to the requested building height variance

Finding 2: The variance will not constitute a grant of special privilege, which is not generally available to other property in the vicinity and in the same zoning district. There are no other buildings in the Community Commercial zoning district that exceed the 35-foot height limit, however, there are other historic buildings in Town, notably at Saint Mary's College that exceed the 35-foot height limit. The historic character of the building warrants a special privilege The existing proportions of the building would have to be changed to lower the height to 35-feet and this would destroy the existing design integrity.

Finding 3: The variance substantially complies with the intent and purpose of the zoning district in which the property is classified. The fact that the renovated building will be only 6-inches higher than the existing structure will not cause any substantial increase in the blockage of light or views from adjacent properties. In addition, the renovated building will be moved 4-feet 6-inches further south, which will provide additional clearance to the existing two-story office building located north of the site at 1550 Viader Drive.

FINDINGS FOR VARIANCE TO THE REQUIRED 50-FOOT FRONT YARD BUILDING SETBACK ON VIADER DRIVE TO ALLOW A 16-FOOT FRONT SETBACK:

Finding 1: A variance is necessary because of special circumstances concerning the subject property including size, shape, topography, location or surroundings, where the strict application of the zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same zoning district. The subject property is relatively small in size and has a rhomboid shape. In order to increase the front setback, the building would have to be moved to the west and also to the south, closer to Country Club Drive, because the northwest corner of the building is on the north property line and the north property line is at an angle with respect to the north wall of the building. Increasing the front setback of the building would reduce the number of parking spaces at the south side of the building If the building was moved west to achieve the 50-foot front setback, then the rear of the building would be only 13-feet from the rear property line and the Post Office building.

Finding 2: The variance will not constitute a grant of special privilege, which is not generally available to other property in the vicinity and in the same zoning district. The 16-foot front setback will not constitute a grant of special privilege because there are several buildings in the vicinity and in the same zoning district that have front setbacks that are significantly less than 50-feet The adjacent two story office building on Viader Drive is located 16 feet from the front property line, which is the same setback as the Moraga Barn building. Other existing buildings in the Community Commercial district that have smaller front setbacks include: the Wells Fargo Bank at 1399 Moraga Way (10-feet) and the Bank of America at 1400 Moraga Way (18-feet).

Finding 3: The variance substantially complies with the intent and purpose of the zoning district in which the property is classified. The Moraga Barn building has been at the present location for 91 years. The intent and purpose of a 50-foot setback is to have "new" buildings located further away from the front property lines Relocation of the Moraga Barn building to achieve a 50-foot front setback would require substantial modification of the site plan, with parking moved to the front of the building in order to fully utilize this small site.

FINDINGS FOR VARIANCE TO THE 50-FOOT REQUIRED EXTERIOR SIDE YARD BUILDING SETBACK ON COUNTRY CLUB DRIVE TO ALLOW A 44-FOOT SETBACK:

Finding 1: A variance is necessary because of special circumstances concerning the subject property including size, shape, topography, location or surroundings, where the strict application of the zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same zoning district. The subject property is relatively small in size and has a rhomboid shape, with angled property lines along the north and south sides. The proposed project would move the building about 4-feet 6-inches from the north property line to comply with the CBC required setbacks for the windows on the north side of the building. It would not be possible to achieve a 50-foot exterior side yard without altering the shape of the building, which would destroy the historical character and design

Finding 2: The variance will not constitute a grant of special privilege, which is not generally available to other property in the vicinity and in the same zoning district. The 44-foot exterior side yard setback will not constitute a grant of special privilege because there are several buildings in the immediate vicinity and in the Community Commercial zoning district that have exterior side yard setbacks that are significantly less than 50-feet and much smaller than the proposed 44-foot setback The buildings that have smaller exterior side yard setbacks include. the Bank of America at 1400 Moraga Way (20-feet); Orchard Supply Hardware at 1550 Canyon Road (2-feet), World Savings at 1558 Canyon Road (Zero Feet)

Finding 3: The variance substantially complies with the intent and purpose of the zoning district in which the property is classified. Although the exterior side yard setback for the Moraga Barn building will be reduced by about 4-feet, the interior side yard setback will be increased by the same amount The increased separation between the two office buildings will provide for more light and less crowded appearance, which is one purpose for building setbacks.

FINDINGS FOR MODIFICATION TO THE REQUIREMENT FOR 13 ON-SITE PARKING SPACES TO ALLOW 8 ON-SITE PARKING SPACES:

Finding 1: The modification is justified based on the existing locations of building, parking areas and other access points. The existing footprint of the building, which is approximately 35-feet by 35-feet, cannot be changed without compromising the historical renovation of the building. The small size of the project site with the existing building configuration limits the amount of parking that can be built on site. The existing available parking will be improved with the 90-degree double loaded parking layout, which achieves the maximum number of parking spaces in the least amount of space.

Finding 2: Existing facilities on the same parcel are sufficient to provide adequate services. The existing parking facilities on this parcel have never been sufficient to provide adequate parking for the size of the building. The proposed project will improve upon the existing situation by. increasing the number of on-site parking spaces, reducing the floor area of the mezzanine level, and increasing the curb-side parking on Viader Drive by eliminating the existing driveway to Viader Drive

Finding 3: The design is consistent with the intent of this chapter and is complementary to and compatible with existing development on the same site. The geometry and configuration of the parking complies with the standards in the Municipal Code in all respects The proposed parking area will complement the existing building The elimination of the driveway on Viader Drive will allow more landscaping between the parking lot and the street.

Finding 4: The modification will not have an adverse effect on other properties in the vicinity of the project. It is unlikely that the deficiency of 5 on-site parking spaces will adversely affect other properties in the vicinity because there are at least 4 curb-side parking spaces adjacent to the site and there is ample curb-side parking on the east side of Viader Drive behind the Orchard Supply Hardware (OSH) store

FINDINGS FOR APPROVAL OF A PERMITTED USE UNDER MMC SECTION 8.36.020-B:

Finding 1: The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets. The proposed use would not be expected to generate significant amounts of pedestrian or vehicular traffic between the Canyon Construction offices and the uses across abutting streets. Potentially 5 employees or customers of Canyon Construction will have to find available on-street parking in the vicinity, but there is an ample supply of curb-side parking spaces adjacent to the project site.

Finding 2: The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use. The proposed office use is more compatible with the adjacent land uses than the previous use of the Moraga Barn building as a bar Most of the buildings on adjacent properties to the north and south of the project site are offices The building located west of the site is a United States Post Office and the building across Viader Drive on the east side is a large retail hardware store.

Finding 3: Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses. The proposed renovation of the existing building will be a substantial improvement to the "neighborhood". There are no significant adverse characteristics of the administrative office use that would be incompatible with the neighboring uses

Finding 4: The use will be within a building or space enclosed by approved fencing, landscaping or other buildings. Canyon Construction stores their construction equipment at another location, so there will be no on-site storage of construction materials or equipment. There will be an enclosed patio terrace at the back of the building. The refuse containers and air conditioning equipment are enclosed behind fencing.

Finding 5: The use will not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours. The office use is not expected to generate noise levels exceeding the limits above. The project has been conditioned to require that the air conditioning equipment meet the noise level standards.

Finding 6: The use will not create an excessive public economic problem. The project is not expected to create any public economic problem. The proposed use revitalizes an existing historic building to the overall economic and aesthetic benefit of the community

Finding 7: The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or have other characteristics that are otherwise offensive to the senses to the extent that there is interference with the development or enjoyment of other property in the vicinity. The proposed use will be within an existing building and will not generate any of the adverse characteristics listed above During the renovation and reconstruction of the parking and terrace areas, there could be

dust or vibration. The existing paved areas will be removed and replaced with permeable paving. The building will also be jacked-up to build a new foundation and shift the building to the south by about 4-feet. The construction impacts will be temporary

Finding 8: The hours of operation will not foster conditions detrimental to the neighborhood or town. The hours of operation will be standard business office hours. Since the building is generally considered a historical landmark, the property owner is considering options to allow rental of the first floor and rear terrace area for special functions, such as a Chamber of Commerce meeting, when the space is not being used by Canyon Construction. Such rental use would be intermittent but could possibly involve use of the building at later hours on a weekday or on a weekend.

FINDINGS FOR DESIGN REVIEW APPROVAL OF PROJECT PLANS IN NON-RESIDENTIAL DISTRICTS:

Finding 1: The structure conforms with good taste, good design and in general contributes to the character and image of the town as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality. The restoration of the existing derelict building to its original 1914 design will enhance the character and image of the town.

Finding 2: The structure will be protected against exterior and interior noise, vibrations and other factors, which may tend to make the environment less desirable. The project applicant intends to upgrade the building to comply with the LEED program of the U.S Green Building Council. A condition of approval for the project shall require that the exterior air conditioning unit on the north side of the building does not create exterior noise or vibrations.

Finding 3: The exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value. The restoration of the original 1914 "Hotel" appearance for the building will be an improvement to the appearance and value of the neighborhood

Finding 4: The structure is in harmony with proposed developments on land in the general area. The structure pre-dates all the developments in the general area The proposed renovation is in harmony with the original design of the building.

CONDITIONS OF APPROVAL

REQUIRED FEES:

1 Prior to the issuance of a building permit, the applicant shall pay the Transportation and Traffic Impact Fees as established by the LFFA. The fee shall be based upon the total number of parking spaces required (13) and not upon the actual number of spaces approved on the site

2. The applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections.

PROCEDURAL CONDITIONS REQUIRED PRIOR TO APPROVAL OF A BUILDING PERMIT:

3. Prior to the issuance of a building permit, the Moraga-Orinda Fire Protection District shall review and approve the plans.

4. When the plans for the building permit are stamped by the Planning Department, the applicant shall complete the first part of the recycling plan form and obtain a copy of the Contra Costa Builder's Guide, which lists all the recycling services. The recycling plan form and recycling receipts for demolition and construction materials generated from the project shall be submitted to the Planning Department prior to final inspection by the building department The applicant shall strive to recycle 50% of the demolition materials

5 Applicant shall submit plans for the exterior lights on the building and in the parking lot and garden terrace area prior to release of the building permit.

6. Final Landscape Plans shall be submitted to the Design Review Board for review. In addition to the planting plan and irrigation plan, the applicant shall include details for the terrace garden wall and gate, the storage shed at the north side of the building and specifications on the noise level for the air conditioning unit to determine whether any sound attenuation wall will be necessary.

BUILDING PLAN REQUIREMENTS:

7. That the plans for renovation and restoration of the building shall be substantially in accordance with the plans date stamped "Official Exhibit", October 24, 2005, except that the proposed diagonal curb-side parking on Country Club Drive is not approved. Any significant architectural changes to the building plans or site development plans shall be subject to further review by the Design Review Board and approval by the Planning Commission.

8. The proposed free-standing sign is not approved as shown on the plans, since the property does not have 165-feet of frontage and the sign is shown within the Country Club Drive right-of-way. Signage on the building or under the trellis on the south side of the building shall be submitted for review by the Design Review Board.

DRAINAGE CONDITION:

9. Since the impervious surfaces on site are being reduced from 99% to 25%, a storm water detention system will not be required. It is expected that the peak storm water run-off from the project will be reduced because of the porous paving for the parking lot and terrace area. The drainage plan for the project shall be reviewed by the Town Engineer.

CONSTRUCTION PARKING AND ROAD MAINTENANCE CONDITIONS:

10 All work to be undertaken within the right-of-ways of Country Club Drive or Viader Drive is to be shown on the construction plans. Prior to undertaking any work within the public right-of-ways, an encroachment permit shall be obtained from the Town, with review by the Town Engineer.

11 The contractor and the applicant shall be responsible for preventing spills of soil, rock or building and parking lot demolition debris on to the Town's streets If any spills occur, the grading contractor and the applicant will be required to immediately cleanup the spill and repair any damage to the streets to the satisfaction of the Town Engineer.

UTILITY CONNECTIONS:

12. All new utility distribution facilities including electric, telephone and cable television systems shall be installed underground from point of connection. If a new transformer is required on site to handle an increase in power to the building, then the plan for the location and screening of the transformer shall be submitted to the Design Review Board for approval.

13. The Applicant shall comply with the requirements of the Central Contra Costa County Sanitary District (CCCSD) for sanitary sewer connections

14. If any relocation of Pacific Gas and Electric facilities becomes necessary, such relocation shall be done at the Applicant's expense.

EROSION AND DUST CONTROL REQUIREMENTS:

15. The Applicant and the contractors shall be responsible to prevent any erosion of soil from their property. If inspection by the Town shows evidence that sediments have been carried off-site, then the Applicant and the contractor shall be held responsible for the immediate cleanup of the deposits attributed to its project and correction of the cause of the off-site sediment deposition.

16. Construction and demolition shall be conducted in such a manner as to minimize the generation of dust The wheels of hauling trucks shall be washed as needed when exiting the site to prevent tracking excessive dirt onto nearby roadways, and roads shall be cleaned as required. Any dust producing material shall be covered while being hauled, and storage piles of dust producing material on site shall be covered.

NOISE AND POLLUTION ABATEMENT REQUIREMENTS:

17. During project construction and grading operations, the hours of operation shall be limited to the hours from 8 a m. to 5 p m. in accordance with the Town's Noise Ordinance.

18. All construction equipment shall be equipped with manufacturer's standard noise control devices (i.e., mufflers, lagging, and/or engine enclosures). Equipment and trucks used for project construction shall utilize the best available noise control techniques to maintain the construction equipment noise limits used on General Services Administration projects. All construction equipment should be inspected at periodic intervals to ensure proper maintenance and hence, lower noise levels.

19 Equipment used for project construction shall have hydraulically or electrically powered impact tools (e.g., jack hammers, pavement breakers, and rock drills) whenever possible to avoid noise associated with compressed air exhaust from

pneumatically powered tools. Where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used. This muffler can lower noise levels from the exhaust up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, thereby achieving a further reduction of 5 dBA. Quieter procedures shall be used such as drilling rather than impact equipment, whenever feasible.

20 Stationary noise sources shall be located as far from any existing on and off site sensitive receptors as possible If they must be located near existing receptors, they shall be adequately muffled, and enclosed within temporary sheds.

MISCELLANEOUS CONDITIONS:

21 The conditions of project approval shall be binding upon the applicant and any transferor, or successor in interest.

22. If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be extended by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on November 7, 2005, by the following vote:

Ayes: Commissioners, Whitley, Kirkpatrick, Brown, Chew, Cummins, Sos and Evans

Noes None

Absent: None

Abstain None

Bruce Whitley, Chairman

ATTEST:

Lori Salamack, Planning Director

EXHIBIT C

PLANNING COMMISSION RESOLUTION 15-2008

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of: Approval of a use permit to allow the first floor of the recently restored "Moraga Barn" building to be used for a wine and cheese tasting bar and approval of a modification to allow 14 parking spaces less than required on site)	Resolution No 15-2008 PC File Nos. UP 06-2008 Planning Commission Adoption Date: December 15, 2008 Effective Date: December 26, 2005

WHEREAS, an application was submitted on December 1, 2008 by Avant Canyon Group (Applicant) on behalf of Christopher Avant (Property Owner) for a use permit to allow the first floor of the recently restored "Moraga Barn" building to be used for a wine and cheese tasting bar, with a total of 43 seats, and a new sign above the entrance reading "The Barn" at 925 Country Club Drive; and

WHEREAS, the application requires a parking modification to allow 8 on-site parking spaces in lieu of the 22 required on-site parking spaces; and

WHEREAS, the project is categorically exempt under CEQA Guidelines Section 15303, which includes; conversion of small structures; installation of small new equipment and facilities; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure, and

WHEREAS, a Public Hearing Notice for the project was mailed to property owners within 300 feet of the property on December 5, 2008, and

WHEREAS, on December 15, 2008, the Planning Commission held a public hearing where testimony was received from the applicant and interested parties, and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the use permit to allow installation of a wine and cheese tasting bar on the ground floor of the Moraga Barn building in accordance with the findings and conditions listed herein; and

BE IT FURTHER RESOLVED, that the Planning Commission of the Town of Moraga hereby recommends approval of the modification to the parking requirements at 925 Country Club Drive subject to review and concurrence by the Design Review Board in accordance with MMC Section 8 76.130-A and the findings listed below:

FINDINGS FOR MODIFICATION TO THE REQUIREMENT FOR 22 ON-SITE PARKING SPACES TO ALLOW 8 ON-SITE PARKING SPACES:

Finding 1: The modification is justified based on the existing locations of building, parking areas and other access points. The small size of the project site with the existing building configuration limits the amount of parking that can be built on site. The existing available parking was improved with the 90-degree double loaded parking layout, which achieves the maximum number of parking spaces in the least amount of space In accordance with MMC Section 8.76.130-B, the Planning Commission has determined that a reduction of the required parking standard is adequately compensated through improved design, special landscaping and other site design features as follows: (1) The parking area has been surfaced with decomposed granite for maximum permeability, (2) All stormwater on the property is contained on-site in three large cisterns under the "courtyard" area; and the stored stormwater is used for landscape irrigation on the property.

Finding 2: Existing facilities on the same parcel are sufficient to provide adequate services. The existing parking facilities on this parcel have never been sufficient to provide adequate parking for the size of the building. The building was previously used for about 50 years as a full service bar with only 5 or 6 parking spaces on site depending on whether a dumpster was occupying one of the spaces. In addition to the 8 parking spaces in the on-site parking lot, the Moraga Barn restoration project also improved the available street side parking by eliminating the driveway to Viader Drive.

Finding 3: The design is consistent with the intent of this chapter and is complementary to and compatible with existing development on the same site. The only modification requested is for the required number of parking spaces. In all other respects, the geometry and configuration of the parking complies with the standards in the Municipal Code. The proposed parking area will complement the existing building. The elimination of the driveway on Viader Drive has provided additional area for landscaping between the parking lot and the street

Finding 4: The modification will not have an adverse effect on other properties in the vicinity of the project. When the building was used only for office use, the project was deficient by 5 parking spaces. The project will be 14 parking spaces short of the requirement with the addition of the wine tasting bar on the first floor. Therefore, a modification is needed for an additional 9 parking spaces that will be needed on the town's streets. There are at least 4 curb-side parking spaces adjacent to the site and a total of 10 additional street side parking spaces would be needed to comply with the parking requirement. At the present time the deficiency of on-site parking is not anticipated to adversely affect other properties in the vicinity because there are many seldom used curb-side parking spaces along the east side of Viader Drive behind the Orchard Supply Hardware (OSH) store and along the north side of Country Club Drive at the south side of the OSH store. The curb-side parking behind OSH is rarely used because the main entrance to the store is on the opposite side of the building from Viader Drive.

FINDINGS FOR APPROVAL OF A USE PERMIT UNDER MMC SECTION 8.12.120:

1. **The use is appropriate to the specific location;**
   The subject property is located within a commercial zoning district which includes other businesses selling food and drink in the Moraga Shopping Center area Historically, the building has previously been used as a bar. The private school, Saklan Valley School, is located 715 feet southwest of the project on School Street and the Joaquin Moraga Intermediate School is located 2,916 feet due south of the Moraga Barn building so that the sale of alcoholic beverages will not be located close to any schools.

2. **Is not detrimental to the health, safety, and general welfare of the town;**
   The Moraga Police Department was consulted and had no significant concerns with the proposed use for sale of fine wine and cheeses. Due to the large number of parking spaces available along Country Club Drive and in the general vicinity, and the generally late hours for peak use of the wine bar, the lack of on-site parking is not expected to adversely impact the health, safety and general welfare of the town

3. **Will not adversely affect the orderly development of property within the town;**
   The renovation of the Moraga Barn building has been a substantial improvement to the "neighborhood" and the applicant has incorporated many features to achieve a platinum rating under the LEED green building program. The refurbished building can be used as an example for future development of property within the town

4. **Will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the town;**
   The restored building will help to improve property values within the vicinity An "upscale" wine and cheese tasting establishment would not be expected to reduce the property values or tax base within the town

5. **Is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;**
   The proposed wine bar would be consistent with the following General Plan land use policies:

   LU2.2 New Commercial Uses. Encourage new business and office uses that enhance existing uses, respond to local resident and business needs, employ local residents, and strengthen the character and attractiveness of the Town's commercial centers

   LU2.3 Location of New Commercial Development. Locate new commercial developments in the vicinity of existing commercial areas (as designated on the General Plan Diagram and in the Moraga Center Area and Rheem Park Area Specific Plans), with appropriate review and evaluation of potential traffic impacts to ensure adequate street capacity.

6. **Will not create a nuisance or enforcement problem within the neighborhood;**
   The proposed use is not expected to create any public nuisance or enforcement problems. The applicant consulted with Chief Mark Ruppenthal of the Moraga Police Department and no enforcement problems were identified other than

standard procedures such as identification checks by the wine bar staff to make sure that under aged individuals are not purchasing wine to drink.

7. **Will not encourage marginal development within the neighborhood;**
   The proposed wine bar use will generally be within the existing building.

8. **Will not create a demand for public services within the town beyond that of the ability of the town to meet in the light of taxation and spending restraints imposed by law;**
   The proposed wine bar is not expected to create an additional demand for police services beyond the town's spending restraints. Any intoxicated patrons of the wine bar that choose to drive a motor vehicle would be subject to a DUI arrest, as is the case with all other bars and restaurants in Town that serve beer and wine.

9. **Is consistent with the town's approved funding priorities.**
   The project would have no impact on the town's approved funding priorities

CONDITIONS OF APPROVAL

1. The parking modification request shall be submitted to the Design Review Board for review and concurrence with the Planning Commission recommendation in this resolution. If the Design Review Board does not agree with the recommendation, then the request for the parking modification shall be referred back to the Planning Commission for further action.

2. The regular hours of operation for the wine and cheese bar, with incidental sales of beer, shall be from 4pm to 12am. Special private and community events may be scheduled to begin as early as 9am and close as late as 2am.

3. Special events may utilize the rear outside "courtyard" area at the northwest side of the building, but not after midnight Regular patrons of the wine and cheese bar shall be restricted to the interior of the ground floor of the building until the walls enclosing the "courtyard" are completed in order to contain any drinking of alcoholic beverages to the interior of the building, where the age limits on drinking may be enforced.

4. That the plans for remodeling of the first floor to accommodate the new wine bars shall be substantially in accordance with the plans date stamped "Official Exhibit", December 15, 2008 The location of the bar areas may be adjusted as necessary for structural considerations

5. The proposed new sign over the front entrance on Viader Drive is approved as a non-illuminated sign The applicant shall consider changing the text of the sign from "The Barn" to "Moraga Barn" in recognition of the historical signage on the building If the sign is illuminated, then it shall require review by the Design Review Board

6. Prior to the issuance of a building permit, the Applicant shall comply with any requirements from the Contra Costa County Health Services Department

pertaining to food services for the proposed wine and cheese tasting establishment.

7. Prior to the issuance of a building permit, the Moraga-Orinda Fire Protection District shall review and approve the plans.

8. The applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections.

9 The project is not required to submit a Construction and Demolition Debris Recycling Waste Management Plan unless the cost of the project exceeds $250,000.00. Nevertheless, the Town encourages all applicants to divert fifty-percent (50%) of all project waste from landfills by reuse and/or recycling. The applicant should review the Contra Costa Builder's Guide for a listing of the materials that can be recycled and the places where they can be recycled.

10. Construction and demolition work for the remodeling shall be conducted in such a manner as to minimize the generation of dust. Any dust producing material shall be covered while being hauled, and storage piles of dust producing material on site shall be covered.

11. The hours of construction for the remodeling work shall be limited to the hours from 8 a.m to 5 p.m. in accordance with the Town's Noise Ordinance

12. The conditions of project approval shall be binding upon the applicant and any transferor, or successor in interest

13 If construction is not commenced within one year from the date of final action, the permit becomes null and void However, this discretionary action may be extended by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on December 15, 2008, by the following vote:

Ayes Commissioners Driver, Daniels, Goglia and Sayles

Noes Commissioner Whitley

Absent: Commissioners Hays and Levenfeld

Abstain None

Margaret Goglia, Chair

ATTEST

Lori Salarnack, Planning Director