

**BEFORE THE BOARD OF SUPERVISORS
OF NAPA COUNTY**

In the Matter of:

An appeal filed by Applicant/Appellant Hayes Drumright concerning the Napa County Planning Commission's decision on May 1, 2024, to deny the Vida Valiente Winery Use Permit No. P20-00079-UP submitted by Hayes Drumright. The Project is located on approximately 16.93-acre and 1.150-acre parcels, at 407 Crystal Springs Road, St. Helena, CA (APN: 021-410-013-000 & 021-372-001-000) within the Agricultural Watershed (AW) zoning district with a General Plan land use designation of Agriculture, Watershed, and Open Space (AWOS).

RESOLUTION NO. 2024-_____

**FINDINGS OF FACT AND
DECISION ON APPEAL**

WHEREAS, on March 4, 2020, Hayes Drumwright (Applicant) submitted a use permit application (Application) to the Napa County Planning, Building and Environmental Services (PBES) Department for a new 30,000 gallon per year winery with a wine cave; tours and tastings by appointment; a marketing program; full-time, part-time and seasonal employees; on-premise consumption of wines produced on-site within outdoor hospitality areas; and winery related infrastructure and improvements (the Project, Winery or Vida Valiente); and

WHEREAS, the Project is proposed on approximately 16.93-acre and 1.15-acre parcels, at 407 Crystal Springs Road, St. Helena, CA (APN: 021-410-013-000 & 021-372-001-000) (the Property) within the AW zoning district with a General Plan land use designation of AWOS; and

WHEREAS, on November 4, 2023, public notice of the Planning Commission hearing and Notice of Intent to adopt a Mitigated Negative Declaration was published in the Napa Valley Register and mailed to all property owners within 1,000 feet of the Property. The County's requirements to notice all property owners within 1,000 feet far exceeds the State mandate of noticing all owners within 300 feet. Notice was also provided to those persons on the general CEQA document notification list; and

WHEREAS, on December 6, 2023, the Planning Commission held a public hearing to consider the Project and after considering public comment continued the matter to a date uncertain for further evaluation; and

WHEREAS, the Project was re-noticed for the May 1, 2024 Planning Commission meeting; and

WHEREAS, on May 1, 2024, the Planning Commission held a continued public hearing on the Project, considered all written and verbal public comment, and ultimately voted to deny the Vida Valiente project (2:1 - AYES: Dameron and Brunzell; NOES: Whitmer; EXCUSED: Phillips and Mazotti); and

WHEREAS, on May 13, 2024, a timely notice of intent to appeal was filed by Applicant/Appellant and a timely appeal packet was submitted on May 23, 2024 (the Appeal); and

WHEREAS, in accordance with Napa County Code (NCC) Section 2.88.080.A, a hearing on the Appeal was scheduled before the Board of Supervisors (the Board) for August 6, 2024, a date at least twenty-five but no more than ninety days from the date of submittal of the Appeal; and

WHEREAS, public notice of the Appeal hearing was mailed, emailed and provided to all parties who received notice of the Planning Commission hearings and within 1,000 feet of the Property and also published in the newspaper on July 11, 2024; and

WHEREAS, on August 6, 2024, at a duly noticed public hearing on the Appeal, the Board heard and considered the Staff presentation, Applicant/Appellant's presentation, all evidence and all written and verbal testimony regarding the Appeal. The Board closed the public hearing and adopted a motion of intent to uphold the Appeal in its entirety, reverse the Planning Commission's decision to deny the Project, and approve the Project subject to revised Conditions of Approval (COA); and

WHEREAS, the Board further directed County Counsel's office to prepare a resolution containing Findings of Fact and Decision on Appeal in support of its proposed decision and to present those findings to the Board for consideration at its meeting on September 10, 2024; and

WHEREAS, on September 10, 2024, a proposed resolution containing the Findings of Fact and Decision on Appeal was presented to the Board for possible adoption; and

WHEREAS, this proposed resolution containing the Findings of Fact and Decision on Appeal having been presented to the Board for possible adoption at a regular meeting of the Board on September 10, 2024, and interested persons having been given an opportunity to address the Board regarding the proposed resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors finds, determines, concludes and decides as follows:

Section 1. **Recitals.**

The Board hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Conduct of Appeal.

A. NCC Section 2.88.090.B. provides that if the appeal pertains to a decision for which a record on appeal exists, the board, in hearing the appeal, shall base its consideration of the appeal on the record on appeal and any extrinsic evidence submitted by the parties and allowed by the chair for good cause shown. "Good cause" means that the proposed evidence, in the exercise of reasonable diligence, could not have been produced to, or was improperly withheld or excluded from, the decision maker. Here, a record on appeal of the Planning Commission's decision exists and was provided to the Board.

B. As part of the Appeal packet that was submitted, Applicant/Appellant stated that it was not requesting augmentation of the Planning Commission record on appeal with extrinsic evidence.

Section 3. Findings of Fact and Conclusions of Law on Appeal.

The Board hereby makes the following findings of fact and conclusions of law in regard to each of the grounds for appeal as stated by Applicant/Appellant in the Appeal¹:

A. First Ground of Appeal.

Appellant's position: Applicant/Appellant contends that the Planning Commission decision is contrary to the Napa County Road and Street Standards (RSS) adopted by the Board because it incorrectly extended the definition of "access" to include public roads used by the general public that are maintained by Napa County. The BOF Minimum Regulations do not define "access" but the RSS define "access" as the connection to the nearest public road.

Findings and Decision: The Board finds and determines as follows:

1) The Planning Commission's decision to interpret "access" under the RSS as requiring that the Project improve Crystal Springs Road (a public road) to commercial road standards is inconsistent with the specific language of the RSS that requires minimum design criteria for commercial access (e.g. roadway width) from the public road to the building site. This has been the adopted standard/requirement of the Board for decades.

2) "Access" is included in Section 4 (Definitions) of the current RSS as "[t]he vehicular route from the nearest publicly maintained Road to Building construction." (See Section 4 of the RSS adopted by Resolution No. 2023-59.) The requirement that property owners widen commercial roads "from the nearest publicly maintained road to the improved structure" has been in the RSS in Section 13 (Commercial, Industrial and Non-Residential Roads) since 1999. This long-standing policy was reiterated by Staff during the Appeal hearing and in the historical summary provided to the Board in the Staff Report regarding the RSS from 1999 to 2023. Section 13 (Commercial Roads) of the RSS has included variations of the requirement that the "property owner shall provide a minimum 22-foot-wide road (20-foot road with two feet

¹ This Resolution summarizes the grounds of appeal. For the complete text of the Appeal, please see the actual Appeal dated May 23, 2024.

of shoulder) from the publicly maintained road to the improved structure” for more than 20 years.

3) Furthermore, on two prior occasions (in 2016 and 2019), the Board of Forestry and Fire Protection (the BOF) reviewed the County’s RSS including the County’s requirement that commercial roads be improved from the publicly maintained road to the building site and in both instances the BOF determined the County’s RSS met or exceeded the State’s minimum standards. The most recent update to the RSS in 2023 did not alter, add, amend or change how the County evaluates commercial roads or the requirement to meet minimum design criteria from the nearest publicly maintained road but instead simply moved the standard/requirement from Section 13 (Commercial Standards) into Section 4 (Definitions) under “access.” Since the County’s RSS were certified as meeting or exceeding the BOF Minimum Regulations and because the County’s standard and definition of “access” is consistent with the BOF’s prior certification, and the BOF specifically removed draft changes to the definition of “access” as part of their adopted 2021 Minimum Regulations, the County’s RSS do not conflict with state law.

4) The Project proposes to use the segment of Crystal Springs Road north of the project driveway. Crystal Springs Road is a publicly maintained road. Contrary to some assertions made at the Appeal hearing, the RSS do not exempt public roads, instead the standards are applied as they pertain to access. The project before the Planning Commission proposed improvements between Crystal Springs Road, which is the nearest publicly maintained road, and the winery site. These improvements were consistent and compliant with the RSS which does not require that the Project improve Crystal Springs Road to commercial road standards.

5) Nevertheless, prior to the Appeal hearing the Applicant/Appellant voluntarily proposed to improve a portion of Crystal Springs Road to meet the private commercial road standards as if it was required. Specifically, the Applicant/Appellant voluntarily agreed in writing to improve Crystal Springs Road from its intersection with the North Fork of Crystal Springs Road to the driveway at 296 Crystal Springs Road such that this section of road would contain 22-feet of travel way (Horizontal Clearance), including a twenty (20) foot wide all weather surfaced travel lane with two (2) feet of drivable shoulder (hereafter Crystal Springs Improvements).

6) The Crystal Springs Improvements would improve an approximately 280-foot stretch of the public road to the same standard as a private road under the RSS as discussed in Findings and Determination No. 5 above. The approximately 275-foot section of Crystal Springs Road south of the driveway at 296 Crystal Springs Road is the only other appreciable segment of Crystal Springs Road that is not at least 20 feet wide. Although this section is between 19 and 17 feet wide, it meets the same overall practical effect as required by the RSS due to its short length and excellent sightlines. As such, Crystal Springs Road from Silverado Trail to the Project’s entrance provides sufficient access for emergency wildland fire equipment, safe civilian evacuation and signage that avoids delays in emergency equipment response and therefore meets the objectives of same overall practical effect.

7) The Board incorporates the Findings and Determinations set forth below as to the Third Ground of Appeal here by reference.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to reverse the Planning Commission's decision. Therefore, the Board upholds the First Ground of Appeal and reverses the Planning Commission's denial of the Project.

B. Second Ground of Appeal.

Appellant's position: Applicant/Appellant asserts that the Planning Commission's decision sets a precedent that private property owners must improve the public road. Applicant/Appellant further asserts that the precedential decision extends beyond this Project and beyond wineries because if upheld by the Board, the decision creates a new definition of "access" and it is unclear where the obligation to improve the public road would end under the Planning Commission's reasoning; presumably, extending throughout the County's public road system.

Findings and Decision: The Board finds and determines as follows:

- 1) The Planning Commission's interpretation of the RSS is inconsistent with the Board's long-standing policy. The definition of access has been consistently applied and remains unchanged. There is no precedent that private property owners must improve the public road. Here, the public road improvements were volunteered by the Applicant/Appellant and accepted by the Board.
- 2) The Board incorporates the Findings and Determinations set forth in the First and Third Grounds of Appeal here by reference.

Conclusion

For the foregoing reasons, the Board finds that substantial evidence exists in the record to reverse the Planning Commission's decision. Therefore, the Board upholds the Second Ground of Appeal and reverses the Planning Commission's denial of the Project.

C. Third Ground of Appeal.

Appellant's position: Applicant/Appellant contends that imposing the cost of improving the public road disproportionately burdens the Applicant/Appellant and does not fairly allocate responsibility for a road that is shared with neighboring property owners who use Crystal Springs Road to drive to their homes, property owners hauling fruit from vineyards, neighbors walking horses, and travel to and from an approved winery. The Commission placed the entire burden of improving that public road on the Project.

Findings and Decision: The Board finds and determines as follows:

- 1) The RSS do not require applicants to improve the public road however General Plan Circulation Element Policy CIR-40 (adopted in 2019) and the California Environmental

Quality Act (CEQA) provide authority for requiring applicants to provide reasonable and proportionate improvements to a public road under certain circumstances.

2) General Plan Circulation Element Policy CIR-40, states (in part): “When a project is proposed in a location such that County roads are needed to access the nearest fully staffed fire station, the County may require the developer to improve the County roads to meet adequate fire protection standards similar to improvements required on the developer’s property.” Public Works Director Steve Lederer informed the Board that Public Works relied on Policy CIR-40 in the past to require an applicant to construct turn outs along Cold Springs Road, a long dead-end public road, located in a heavily residential area to improve safe fire access. Ultimately that project was withdrawn. Likewise, under CEQA, discretionary projects are evaluated by Public Works, the Fire Marshal and the Engineering Division of the PBES Department to determine whether access to the site including both public and private roads provides sufficient emergency evacuation for the proposed use.

3) Crystal Springs Road is 22-feet wide (20 feet wide with two feet of shoulder) in most locations, with the exception of approximately 275 feet south of the driveway to 296 Crystal Spring Road, where the paved width varies between 17 feet and 19 feet and for the 280 foot section north of that same driveway (i.e. to the intersection of Crystal Springs Road and North Fork Crystal Springs Road) where it necks down to 15 feet. Given that the section south of the driveway is wider, and has good sightlines, Public Works Director Lederer informed the Board that widening of the road north of the driveway would provide the most benefit and that the widening could be accomplished within the existing 40-foot right of way (ROW) with only minor disturbance of the existing shoulders if the Board desired to require improvements to the public road.

4) Prior to the Appeal hearing, the Applicant/Appellant voluntarily agreed in writing to improve Crystal Springs Road from its intersection with North Crystal Springs Road to the driveway at 296 Crystal Springs Road such that this section of the public road would be 22-feet wide.

5) During the Appeal hearing, Director Steve Lederer and Fire Marshal Jason Downs testified that the Crystal Springs Improvements would result in an approximately 280-foot portion of the public road being widened and improved to the same standard as if it were treated as a private road under the RSS.

6) As to the remaining approximately 275 feet of Crystal Springs Road that is between 19 and 17 feet wide, Director Lederer and Fire Marshal Downs further testified that this stretch of road meets the same overall practical effect (SOPE) and therefore would be an alternative to the 20-foot wide, with two-feet of shoulder, standard for a private road under the RSS with the capability of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety. Exceptions to the RSS are only allowed where an applicant can demonstrate to the Fire Marshal that the exceptions provide the same overall practical effect as the SRA Fire Safe Regulations. Fire Marshall Downs described the five factors considered by the Fire Marshal when determining whether or not an SOPE alternative is capable of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety, including but not limited to: (a) access for emergency wildland fire equipment; (b) safe civilian

evacuation; (c) signage that avoids delays in emergency equipment response; (d) available and accessible water to effectively attack wildfire or defend a structure from wildfire; and (e) fuel modification sufficient for civilian and fire fighter safety.

7) Fire Marshal Downs and Director Lederer testified that this approximately 275-foot section of Crystal Springs Road meets the SOPE because the road is very flat, straight and has good line of sight. The Project also includes 40,000 gallons of water storage available on-site for fire suppression (residences typically have only 2,000 to 2,500 gallons on-site) and a fire hydrant, will install signage directing all Winery visitors to use the northern segment of Crystal Springs Road (Revised Condition of Approval Nos. 4.19 (b), 6.12 (f), 7.4 (f) and 9.8 (a)) and includes fuel reduction and management techniques. For these reasons, the Board finds that the Project meets or exceeds the RSS standards. The Board further finds that the public road meets or exceeds the BOF 2021 Minimum Standards (or the SOPE as those standards) if they were applied to the Project.

8) Fire Marshal Downs further informed the Board of other projects in the vicinity of the Winery that will increase fire safety and evacuation. These include a vegetation clearing project slated to begin in the first quarter of 2025 that includes 100 feet of vegetation clearing on each side of Crystal Springs Road. This expanded fuel break work is already funded in the Community Wildfire Protection Plan and will remove dead standing trees, fallen trees, ladder fuels, annual grasses and brush and provide future vegetation clearing maintenance on Crystal Springs Road. The City of St. Helena is also the recipient of grant funds that will be used for a large-scale vegetation fuel mitigation project around the Bell Canyon Reservoir area that will further fortify the community of Crystal Springs and protect critical infrastructure. While these projects are unrelated to the Winery, they will improve access and sightlines by removing dense canopy and flammable vegetation which will benefit the entire community.

9) The Crystal Springs Improvements volunteered by the Applicant/Appellant were accepted by the Board. Because the Applicant/Appellant volunteered to construct the Crystal Springs Road Improvements, the issue of proportionality was rendered moot. The Board makes no finding or determination as to whether these improvements to the public road are reasonable and proportionate to the burdens created by the Project.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to reverse the Planning Commission's decision. Therefore, the Board upholds the Third Ground of Appeal and reverses the Planning Commission's denial of the project.

D. Fourth Ground of Appeal.

Appellant's position: Applicant/Appellant asserts that improvement of the existing public road is not a cost that any property owner could reasonably expect to be imposed. Applicant/Appellant asserts that applicants have expectations based on laws, regulations, or other written policies and can expect requirements to improve private roads, but Appellant could not

have anticipated that the Commission would impose a requirement to improve a public road. Applicant/Appellant alleges that the Commission's decision is directly contrary to the RSS, which effectively re-writes the rules during the hearing on the Project.

Findings and Decision: The Board incorporates the Findings and Determinations set forth above as to the Third Ground of Appeal here by reference.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to reverse the Planning Commission's decision. Therefore, the Board upholds the Fourth Ground of Appeal and reverses the Planning Commission's denial of the Project.

E. Fifth Ground of Appeal.

Appellant's position: Applicant/Appellant contends that the Planning Commission's decision is not based on substantial evidence because the denial relied on neighbor fear and speculation. Further, the conflicting testimony at the Planning Commission does not support a finding that the Project poses a safety threat. Applicant/Appellant contends that the opposing testimony ignored safety measures, including added conditions of approval which would prohibit any visitation on red flag days or during a PG&E Public Safety Power Shut Off (PSPS), requiring all large events utilize shuttles, and a significant amount of fire protection water and a truck turnaround staging area for fire crew to aid evacuation that would be made available by the Project.

Findings and Decision: The Board finds and determines as follows:

1) The Planning Commission's decision was made without the benefit of considering the Crystal Springs Improvements and reductions to the Winery visitation and marketing plan volunteered by the Applicant/Appellant and therefore the basis of the decision carries less weight than the evidence before the Board.

2) Napa County Code Section 2.88.090.A (Standard of Review) states in part: The board shall exercise its independent judgment, based on substantial evidence on the record on appeal in determining whether to grant or deny the appeal, or remand the matter, in whole or in part, to the decisionmaker. This means that the Board does not defer to the decisions made by the Planning Commission and instead independently reviews the record on appeal to decide whether to grant or deny an appeal.

3) The Board considered the record on appeal including extensive public comment regarding wildfire concerns, the need for safe evacuation, and the substandard condition of Crystal Springs Road. The Board also considered the evidence and testimony presented at the Appeal hearing including but not limited to the volunteered Crystal Springs Improvements and testimony from Fire Marshal Downs and Director Lederer that the Crystal Springs Improvements

will result in the public road being improved to the same standard as if it were considered a private road. The road widening will improve the substandard condition of the road by adding drivable shoulders and making it safer for emergency ingress and egress for the neighborhood and emergency responders. The Project includes the following safety measures: a fire hydrant, 40,000 gallons of water storage for fire suppression purposes, an Emergency Evacuation Plan approved by the Fire Marshal, and a fire truck turn around and staging area. The Winery will also be closed to visitation on PSPS days.

4) Fire Administrator Dave Shew testified that although the Project is not required to have secondary access there are two means of access and egress: Crystal Springs Road to the North and to the South provide two options to exit the Project. As a secondary access, Crystal Springs Road to the South does not need to meet the 22-foot minimum width. The Board incorporates the Findings and Determinations set forth above as to the Third Ground of Appeal here by reference.

5) The Board acknowledged the long-standing policies of the RSS and the need for the County to provide a level of regulatory certainty and predictability for applicants. While a future Board may desire to change policy or the RSS, any change to regulations should be accomplished separately and independently. Not on an individual project or on a project-by-project basis.

6) For all these reasons, the Board independently reviewed the record and decided, based on substantial evidence, to uphold the appeal.

Conclusion:

For the foregoing reasons, the Board finds that evidence relied on by the Commission carries less weight and the Commission did not have the benefit of the additional evidence and information considered by the Board. Therefore, the Board upholds the Fifth Ground of Appeal and reverses the Planning Commission's denial of the Project.

Section 4. Revised Conditions of Approval.

The Board revised COA to: a) accept the Crystal Spring Improvements volunteered by the Applicant/Appellant; b) accept the reduced visitation and marketing program visitation scope volunteered by the Applicant/Appellant; c) clarify that parking on Crystal Springs Road is prohibited; and d) clarify that TRANS-1 applies to guests, employees, and vendors. The revised COA are attached as Exhibit "A."

Section 5. CEQA Determination.

A. The Board has received and reviewed the Mitigated Negative Declaration pursuant to the provisions of CEQA and of Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Mitigated Negative Declaration is based on independent judgment exercised by the Board of Supervisors.
2. The Mitigated Negative Declaration was prepared and considered in accordance with the requirements of CEQA.
3. There is no substantial evidence in the record as a whole that the Project will have a significant effect on the environment after implementation of mitigation measures. Mitigation measures are proposed for the following areas: Biological Resources, Cultural Resources, Noise, and Transportation.
4. There is no evidence in the record as a whole that the proposed Project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends after implementation of mitigation measures.
5. The site of this proposed Project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
6. The Clerk of the Board is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building, & Environmental Services Department, 1195 Third Street, Second Floor, Napa, California.

B. The Board adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan prepared for the Project and finds that the Project would not have any potentially significant effects.

Section 6. Substantial Evidence.

Substantial evidence supporting each and every finding made herein is contained in the record of proceedings. All of the files and records that comprise the administrative record for the Project are incorporated herein by reference.

Section 7. Summary of Decision.

Based on the foregoing facts, findings, rationales, determinations and conclusions, the Board of Supervisors hereby:

- A. Upholds the Appeal in its entirety;
- B. Reverses the Planning Commission's denial of the Project; and
- C. Approves Use Permit No. P20-00079-UP for the Vida Valiente Winery project subject to the Revised Conditions of Approval attached as Exhibit "A."

Section 8. Effective Date.

This resolution shall take effect in accordance with the provisions of NCC Section 2.88.090.

Section 9. Judicial Challenge.

Unless a shorter period applies, any judicial challenge to this decision is governed by California Code of Civil Procedure Section 1094.6.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED
by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of said Board held on the 10th day of September 2024, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSENT: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

NAPA COUNTY, a political subdivision of
the State of California

JOELLE GALLAGHER, Chair of the
Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: <u>Laura J. Anderson (e-sign)</u> Deputy County Counsel Date: September 4, 2024	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors Date: By:
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Attachment:

- Exhibit “A” – Revised COA