

BEFORE THE BOARD OF SUPERVISORS
OF NAPA COUNTY

In the Matter of:

An appeal filed by Appellant Water Audit California concerning the Napa County Planning Commission's decision on August 21, 2024 to approve Use Permit No. P23-00101-UP, Use Permit No. P23-00239-UP (an Exception to the Conservation Regulations), and an Exception to the Napa County Road and Street Standards. The project is on ±20.46-acre site, located at 1871 Mount Veeder Road, Napa within the Agricultural Watershed (AW) zoning district and Agriculture, Watershed and Open Space (AWOS) general plan designation. (Assessor's Parcel Number 034-110-047; Access to the property is through APNs 034-100-020, 034-100-043, and 034-110-059.)

RESOLUTION NO. 2025-_____

**FINDINGS OF FACT AND
DECISION ON APPEAL-
HILLWALKER VINEYARDS
WINERY PROJECT**

WHEREAS, Applicant Kevin Morrison for Hillwalker Vineyards Winery (the Project, Winery, or Hillwalker) applied for a Winery Use Permit, an Exception to the Conservation Regulations, and an Exception to the Napa County Road and Street Standards (RSS) to authorize a new winery with an annual production capacity of 7,000 gallons, tours and tastings by appointment, a marketing program, full-time and part-time employees, visitation activities in an existing covered patio area and on-site consumption, and winery related infrastructure and improvements. The project includes an Exception to the Conservation Regulations that would allow road improvements within a stream setback and an Exception to the RSS for selective reductions in the width of the private access road to the winery; and

WHEREAS, the project is located on a ±20.46-acre site, located at 1871 Mount Veeder Road, Napa (APN: 034-110-047) (the Property) within the Agricultural Watershed (AW) zoning district and general plan designated Agricultural, Watershed and Open Space (AWOS) on the west side of a private road, one (1) mile west of its intersection with Mount Veeder Road. Access to the property is through APNs 034-100-020, 034-100-043, and 034-110-059; and

WHEREAS, the Public Notice for the Planning Commission hearing and Notice of Intent to adopt a Mitigated Negative Declaration/MMRP was mailed to all property owners within 1,000 feet of the subject property as well as any other persons who had requested notice. The notice was published in the Napa Valley Register on July 6, 2024; and

WHEREAS, the public hearing was originally scheduled for the August 7, 2024, Planning Commission Meeting. Due to receipt of public comments and errors found by staff prior to the meeting, the item was continued to August 21, 2024; and

WHEREAS, on August 21, 2024, the Planning Commission held a duly noticed public hearing to consider approval of the Project. The Planning Commission voted (5:0 – AYES: Brunzell, Dameron, Phillips, Mazotti, and Whitmer) to approve the Hillwalker Vineyards Winery project; and

WHEREAS, on August 30, 2024, a timely notice of intent to appeal was filed by Appellant and a timely appeal packet was submitted on September 16, 2024 (the Appeal); and

WHEREAS, in accordance with Napa County Code (N.C.C.) Section 2.88.080(A), a hearing on the Appeal was scheduled before the Board of Supervisors (the Board) for December 3, 2024, a date at least twenty-five but no more than ninety days from the date of submittal of the Appeal; and

WHEREAS, public notices of the appeal hearing were mailed, emailed and provided to all parties who received notice of the Planning Commission hearings and within 1,000 feet of the Property and published in the newspaper on November 12, 2024; and

WHEREAS, on December 3, 2024, the Board opened the public hearing and continued the matter to February 25, 2025, to accommodate all parties' schedules. No public testimony occurred on December 3, 2024; and

WHEREAS, on February 25, 2025, at a duly noticed continued public hearing on the Appeal, the Board heard and considered Staffs' presentation, Appellant's presentation, Applicant's presentation, and all evidence and all written and verbal testimony regarding the Appeal. The Board closed the public hearing and adopted a motion of intent to deny the Appeal in its entirety, adopt the revised Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project; uphold the Planning Commission's decision to approve the Project, and approve the Project subject to the revised Conditions of Approval; 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 April 8, 2025; and

WHEREAS, on April 8, 2025, 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 contains 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 April 8, 2025.

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. N.C.C. 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. To clarify the County's procedural requirements and expectations regarding land use appeals, the Board of Supervisors requires the parties attend a mandatory pre-hearing conference with a representative of the County Counsel's office and the Chair of the Board of Supervisors to discuss estimates on presentation lengths, scope of evidence, and testimony to be presented, together with witness lists. Any witness not appearing on a witness list is treated as a member of the public and allotted the usual three minutes of speaking time.

C. A pre-hearing conference was held on November 14, 2024, with Appellant, Applicant's counsel, Chair Cottrell, and a Deputy County Counsel. Appellant and Applicant agreed to various procedural matters related to the Appeal hearing including, but not limited to, exchanging witness lists, providing the Chair in advance of the hearing with any requests for "good cause" to either supplement the record with new information and/or requests to have the Appeal heard de novo (e.g., a fresh hearing), time limits for presentations and page limits for supplemental legal arguments.

D. Neither the Applicant nor the Appellant submitted a timely good cause request.

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 Appellant in the Appeal¹:

A. First Ground of Appeal.

Appellant's position: Appellant Water Audit California (WAC) asserts that the Notice of Determination (NOD) filed with the [State Clearing House (SCH)] names both the PBES and "Planning Commission" as lead agencies. Appellant asserts that the Planning Commission was without jurisdiction to consider the project, as the Commission may not be the judge to their own matter.

¹ This Resolution summarizes the grounds of appeal. For the complete text of the Appeal, please see the actual Appeal dated September 16, 2024.

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

Napa County serves as the lead agency for this project. Under Public Resources Code section 21067, a “lead agency” is defined as the public agency responsible for carrying out or approving a project that could significantly impact the environment. The lead agency’s responsibilities include filing the necessary environmental documents and fulfilling obligations under the California Environmental Quality Act (CEQA). Napa County is identified as the lead agency in several documents, including the State Clearinghouse (SCH) summary, Notice of Determination (NOD), Summary form, and Notice of Completion (NOC). Napa County submitted the NOD and additional filings to the SCH, including the contact information of the person responsible for filing the documents within the Napa County Planning, Building and Environmental Services (PBES).

Section 2.50.020 of the Napa County Code (N.C.C.) establishes the Planning Commission, within the County which serves as the decision-making body for Use Permit applications. The appellant is mistaken in claiming that the Planning Commission is “judging its own matter.” The Planning Commission is not responsible for filing the necessary documents or carrying out the project itself. As the lead agency, Napa County manages the environmental review process, while the Planning Commission makes decisions on planning matters related to the project, based on the CEQA documents and recommendations provided. The NOD does not make the Planning Commission the lead agency, rather the Planning Commission serves decision-making body.

The appellant also claims that Napa County, as the lead agency, failed to consult with Responsible and Trustee Agencies. This assertion is incorrect. In line with its responsibilities, Napa County actively consulted with these agencies throughout the environmental review process. In compliance with CEQA guidelines, the County ensured proper notification and involvement of the relevant agencies. The County submitted documents to the State Clearinghouse (SCH) for agency review, including detailed plans and assessments of potential impacts. The County received a comment letter from the California Department of Fish and Wildlife (CDFW), a trustee and responsible agency, and incorporated their recommended mitigation measures into the Revised Conditions of Approval (COA) (Attachment B), ensuring their concerns and expertise were addressed. The COA directly incorporates CDFW’s letter by reference.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Planning Commission’s decision. Therefore, the Board denies the First Ground of Appeal and upholds the Planning Commission’s approval of the Project.

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B. Second Ground of Appeal.

Appellant's position: Appellant claims the project access embraces for approximately one-half mile a tributary stream to Pickle Creek. Appellant contends that the drawings show a clear infringement to the riparian way and that the relevant segment of the stream was not encompassed in the posted CEQA documents. Further, the application discloses the blocking of a watercourse, and the diversion of a spring, neither of which was disclosed in the CEQA postings. Appellant contends that the application states that PBES and staff will review it for completeness and reasonableness, however there is no staff report.

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

The Initial Study/Mitigated Negative Declaration (IS/MND) submitted to the SCH for review identified an unnamed tributary of Pickle Creek that crosses under the existing driveway through culverts at two locations and drains to a detention basin. (Initial Study/Revised Mitigated Negative Declaration & MMRP, p. 2.) The IS/MND included an assessment of the proposed project's potential impacts and evaluated the Napa County Roads & Street Standards (RSS) Exception and the Conservation Regulation Stream Setback Exception requests within Section IV, Biological Resources. (*Id.* at p. 9.) The COA adopted by the Board of Supervisors incorporates Mitigation Measures AG-1, BIO-1, BIO-2, BIO-3 (as revised), and BIO-4 to address potential impacts to the unnamed tributary of Pickle Creek and to reduce the project's impact to a less-than-significant level. (Attachment B, Final Agency Approval Memos, pp. 12-14.)

CDFW, acting as both a trustee and responsible agency, submitted a comment letter following their review of the project documents. While the letter did not identify new environmental impacts, CDFW recommended four additional mitigation measures to further reduce potential environmental effects, all of which were incorporated into the COA. These measures included three requiring preconstruction surveys to be conducted and shared with CDFW prior to the start of construction. The surveys would determine if the applicant needs to apply for a California Endangered Species Act Incidental Take Permit (ITP) and/or a Lake and Streambed Alteration Agreement (LSAA). (Attachment B, Final Agency Approval Memos, pp. 13-14.) A fourth mitigation measure was added to require a thorough assessment of potential impacts to the stream, including those related to the placement, construction, and operation of the driveway modifications and tree removal. (*Id.* at p. 16.) The COA, revised in response to CDFW's letter, were presented to the Planning Commission prior to the final project decision. (Planning Commission August 21, 2024, Transcript, p. 8:13-23.) Further, the Board of Supervisors adopted the revised COA, which directly incorporate the CDFW memorandum as submitted. (Attachment B; Board of Supervisors Meeting February 25, 2025, Recording at 3:17:48.) The Board also modified COA 6.12 Permit Prerequisite Mitigation Measures (b) – (g) to designate California Department of Fish & Wildlife as the responsible agency. (*Id.*)

The appellant claims that the “application states that PBES staff will review it for completeness and reasonableness, however there is no staff report.” It is unclear what specific concern the appellant has regarding the absence of a staff report. PBES did review the application for completeness before it was presented to the Commission for review and action. The Staff Report presented at the Commission meeting details PBES's review and confirmation of the project during the permit processing. (Board Agenda Letter to the Napa County Planning Commission 8/21/2024, pp. 3-4.) Additionally, the report includes a recommendation to the Planning Commission, analyzing all components of the project and the record, including the conclusions of the IS/MND. The Staff Report presented at the Board of Supervisors meeting also detailed the project’s review. During the deliberation at the public hearing, Supervisor Manfree stated that the project had gone through a rigorous review. (Board of Supervisors Meeting February 25, 2025, Recording at 4:48:40.) Further, Supervisor Gallagher expressed agreement with the Staff Responses to the Ground of Appeal attached to the Staff Report and commented that the project was well vetted through the Planning Commission. (Board of Supervisors Meeting February 25, 2025, Recording at 4:49:10.)

Conclusion

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Planning Commission’s decision. Therefore, the Board denies the Second Ground of Appeal and upholds the Planning Commission’s approval of the Project.

C. Third Ground of Appeal.

Appellant’s position: Appellant contends that the graphics submitted to [SCH] do not have necessary dimension or detail. Appellant asserts that Graphics “K” does not show distances of driveway length and from stream or cistern, or between extraction water and adjunct wells or watercourses. Lastly, Appellant asserts that the CEQA documents do not disclose two tributaries to Redwood Creek within one thousand feet of the site.

Findings and Decision: The Board finds and determines that the graphics submitted to the SCH contain the necessary dimensions and details. These graphics were submitted to SCH for review by responsible and trustee agencies, included as Attachment K to the Planning Commission Staff Report, and included as Attachment H to the Board of Supervisors Staff Report. The graphics include plans (Sheets UP-4.0, UP-5.0, and UP-6.0) that provide detailed information on the proposed RSS Exception request and the turnouts affected by the stream setback, which address the request for a Conservation Regulation Stream Setback Exception. Additionally, Sheet UP-1.0 shows the locations of the project site’s existing wells and the spring-fed cistern. These sheets, submitted by Stillwater Civil Design, each feature a clear measurement scale, allowing the viewer to assess distances between the various features depicted in the plans.

The Biological Assessment, dated February 3, 2024, prepared by LSA Associates on behalf of the Applicant, was also submitted to the SCH. This assessment included a map of

Special-status Reptile and Amphibian Occurrences within two miles of the project site, along with all USGS BlueLine Streams, the project's detention basin (Figure 2), and biologist representative photos (Figure 3) and conclusions. (Biological Habitat Assessment, pp. 7-8.) While the Appellant contends that two tributaries to Redwood Creek were not disclosed, staff determined that these tributaries are outside the 1,500-foot buffer from the project boundaries and will not be impacted by the proposed project. During the public hearing at the Board, Staff clarified that blue line streams are not synonymous with significant streams. (Board of Supervisors Meeting February 25, 2025, Recording at 4:44:14.) The definition of a significant stream is rooted in hydrologic connection relative to the aquifer. A Napa County GIS map identifies the extent of all significant streams. This map is also included in the guidelines and on the Napa County website.

As proposed, the existing project driveway, which is shared by three other properties (APNs 034-100-020, 034-100-043, and 034-110-059; the winery property is APN 034-110-047), must be widened to meet the County's RSS requirements. Planning and Engineering staff conducted a thorough review of the proposed RSS Exception and Stream Setback Exception requests and recommended approval, subject to the COA and mitigation measures revised in response to the CDFW comment letter.

Conclusion:

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

D. Fourth Ground of Appeal.

Appellant's position: Appellant claims that the document submissions to SCH did not include any analysis regarding water availability, the diversion of the spring, or the proximity.

Findings and Decision: The Board finds and determines that:

In compliance with requirements for all discretionary permits, a Water Availability Analysis (WAA) was prepared and submitted for County review. Additionally, potential impacts to groundwater resources were evaluated under the County's Interim Well Standards, adopted by the Board of Supervisors in 2022 and revised in January 2024.

The final WAA, prepared by Stillwater Civil Design and dated February 9, 2024, includes a Tier 1 calculation for both existing and proposed water uses, as well as a groundwater recharge analysis for the project site. (Water Availability Analysis, p. 3.) According to the estimates in the Tier 1 analysis, the applicant has implemented irrigation reduction measures, such as dry farming techniques, which have reduced groundwater use from approximately 0.5 acre-feet/acre/year to 0.2 acre-feet/acre/year. The winery is estimated to require approximately 0.204 acre-feet/year (af/yr), which includes usage for the winery, employees, and visitation and marketing. The combination of these irrigation reductions and the moderate increases in water

use to support the proposed winery and existing residence results in a net reduction of 1.15 af/yr, with a total estimated water usage of 1.63 af/yr for the property. The Tier 1 analysis estimates annual recharge for the parcel at 2.23 af/yr, which exceeds the total estimated water use of 1.63 af/yr, leading staff to conclude that the project would not have an adverse impact on groundwater recharge or local groundwater levels.

The WAA determined that a Tier 2 analysis was unnecessary for this project because groundwater use is being reduced overall. Staff determined a Tier 2 analysis was not applicable for the following reasons: 1) Napa County's Interim Well Standards (January 2024) specify in Footnote 8 that a Tier 2 analysis is only required for an increase in groundwater use for existing wells; 2) there are no known off-site springs within 1,500 feet being used for domestic or agricultural purposes; and 3) the project does not propose an increase in groundwater use. To clarify, a Tier 2 analysis is only required when groundwater extraction increases. Since the project reduces overall groundwater use, a Tier 2 analysis is not required. (Water Availability Analysis, pp. 2-4.)

Regarding potential impacts to off-site springs and significant streams, the WAA guidelines specify that a Tier 3 analysis for groundwater and surface water interaction is only required if the groundwater comes from a well within 1,500 feet of a Significant Stream. In this case, a Tier 3 analysis is not necessary, as staff determined that the project's wells are not within 1,500 feet of a Significant Stream.

Furthermore, the WAA was deemed technically adequate by the Engineering Division based on the information provided by the applicant, the project's location, and available geologic and hydrologic data. On June 5, 2024, Engineering issued a memorandum concluding that the WAA was technically adequate in relation to Napa County's water use criteria, well and spring interference, groundwater/surface water interaction, the Napa Valley Subbasin Groundwater Sustainability Plan, and the Public Trust Doctrine. (WAA Technical Adequacy Engineering Services Memorandum, June 5, 2024.)

The Appellant refers to the "diversion of a spring," however, the project does not propose any spring diversion. The Appellant's argument is unclear. The spring-fed cistern is an existing feature, and no modifications are proposed. The onsite spring is not subject to a Tier 2 analysis because groundwater use is being reduced, and the spring is owned by the Applicant. Tier 2 analyses are only required for impacts to neighboring wells and springs. Even assuming a spring exists within 1,500 feet of a project well, the County's Interim Well Standards (January 2024) specifically exempt existing wells from a Tier 2 analysis for spring interference if groundwater usage is not increasing. As disclosed in the IS/MND and the Project WAA, groundwater use is decreasing, so a spring interference analysis is not required, regardless of the proximity of the well.

Regarding proposed improvements adjacent to a detention basin, Planning and Engineering staff found that the proposed road improvements within the stream setback are minimized. As explained by Staff, the detention basin is an existing condition, which is not a part of the project or on the Applicant's parcel. (Board of Supervisors Meeting February 25, 2025, Recording at 4:24:30.) The proposed road improvements involve approximately 250 feet of road widening from 14 feet to 22 feet and the installation of six (6) proposed turnouts. Three (3) of

these turnouts, located within the stream setback, do not propose to disturb ground which is closer to the stream. (Supplemental Memorandum to the Planning Commission, August 6, 2024). The IS/MND addresses this issue in Sections IV (Biological Resources), XVII (Transportation), and XXI (Mandatory Findings of Significance). The IS/MND concludes that the impacts would be less than significant with mitigation measures incorporated. It is important to note that CDFW submitted comments on the project's environmental document, which included revised and additional mitigation measures. These measures were directly incorporated into the COA. Additionally, these changes did not necessitate a recirculation of the project to the SCH.

Lastly, the project's WAA was available for review by trustee agencies. The Appellant provides no legal support or authority for the claim that the County failed to comply with document submission requirements to the SCH. While the Appellant may wish for every document related to the project, including the WAA, to be uploaded to the SCH website, that is not required by law. The SCH, within the Governor's Office of Planning and Research (OPR), manages the State's environmental review process under CEQA. The Appellant misunderstands the requirements for document submission to the SCH. Only specific CEQA documents—such as Notices of Determination, Notices of Preparation, Notices of Exemption, and draft environmental documents—are required to be submitted. The County has fully complied with its obligations under CEQA.

Conclusion:

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

E. Fifth Ground of Appeal.

Appellant's position: Appellant asserts that the Clearinghouse documents submitted by County are inconsistent because of an error with the listed APNs related to property access. Appellant contends the entire project was not submitted for review, and therefore agency review is incomplete.

Findings and Decision: The Board finds and determines that agency review is complete. The SCH Summary Form for Electronic Document Submittal accurately lists the APNs for the Use Permit, Conservation Regulation Exception request, and RSS Exception request. The correct APNs, as outlined in the SCH Summary Form, are:

- Project Site APN: 034-110-047 (1871 Mount Veeder Road, Napa)
- Adjacent Properties for driveway access: APNs 034-100-020, 034-100-043, and 034-110-059.

The NOC & Environmental Document Transmittal Form identified the subject property and also provided the Longitude and Latitude in degrees, minutes, and seconds to assist State Agencies in locating the proposed project (Notice of Completion & Environmental Document Transmittal

Form, p. 1). Additionally, this information was posted on the County's website in response to the posting of the IS/MND prior to the Planning Commission hearing.

Staff acknowledged that typographical errors regarding APNs were present in the IS/MND submitted on July 5, 2024. Should reviewing agencies have difficulty locating the project or property, they can contact County staff for clarification before proceeding with document review. No such request for clarification was made.

The item was originally scheduled for the August 7, 2024, Planning Commission Meeting. However, due to public comments received from the Appellant and errors identified by Staff before the meeting, the item was continued to August 21, 2024. In light of this delay, Staff updated the Staff Report and IS/MND, addressed the comments, and incorporated the requested mitigation measures from CDFW. During the August 21, 2024, Planning Commission meeting, Staff clarified the APN discrepancies related to property access in their presentation. (Planning Commission August 21, 2024, Transcript, p. 3:5-14; 26:5-14.) This was further addressed by Staff at the Board of Supervisors meeting. (Board of Supervisors Meeting February 25, 2025, Recording at 4:23:47.) Lastly, the NOD submitted to SCH accurately identified the project's APN and the APNs related to property access.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Planning Commission's decision. Therefore, the Board denies the Fifth Ground of Appeal and upholds the Planning Commission's approval of the Project.

G. Sixth Ground of Appeal.

Appellant's position: Appellant claims that the "CEQA Hillwalker Vineyards IS-MND and MMRP_OCR names five (5) wells", and states, "Tier II and III Analysis are not required for the project," however, the Water Availability [Analysis] acknowledges only two wells, and does not address the diversion of a spring. Appellant contends a Lake and Stream Alteration Agreement is required from CDFW for "impairment of the riparian way."

Findings and Decision: The Board finds and determines that the WAA specifies that there are four existing onsite wells that will be used to supply water for the proposed winery, and no new wells are planned for the project. (Water Availability Analysis, p. 1.) The WAA also indicates that the projected water usage for the project is 1.63 acre-feet per year, which is less than the estimated groundwater recharge rate of 2.23 acre-feet per year. The project employs dry farming techniques, resulting in a water usage lower than the amount previously required for irrigating the onsite vineyards. (Water Availability Analysis, p. 1.)

The IS/MND erroneously stated that five wells exist on the property. The discrepancy in the number of wells between the IS/MND and the WAA is clarified by the fact that the WAA correctly excluded the spring-fed cistern on the property from the well count, while staff mistakenly included it. The cistern, an existing feature, is not being used for this project and is not subject to a Tier 2 analysis, as explained in the Findings and Decision for Appeal Ground No. 4.

In the course of preparing its responses, Staff discovered that in 2006, the previous property owner obtained a well destruction permit (E06-01125) for a different well not related to the current project. Although the Environmental Health Division records do not confirm whether this well was decommissioned, the Applicant confirmed it was not, and a COA has been added requiring its destruction. (Attachment B.) As stated in the Findings and Decision for Appeal Ground No. 4, no spring diversion is proposed as part of this project and a Tier 2 analysis for spring interference is unnecessary.

Lastly, the Appellant asserts that a Lake and Streambed Alteration Agreement (LSAA) is required from the CDFW. This concern was addressed through the evaluation of the RSS Exception and Conservation Regulation Exception requests, which ensured that any potential environmental impacts would be avoided. The proposed groundwater usage is decreasing and will not adversely affect groundwater or biological resources in the area. All wells on the property are subject to the COA, along with any additional mitigation measures required by CDFW to determine if an LSAA is necessary. If required, CDFW would maintain the LSAA document.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Planning Commission's decision. Therefore, the Board denies the Sixth Ground of Appeal and upholds the Planning Commission's approval of the Project.

H. Seventh Ground of Appeal.

Appellant's position: Appellant asserts that there are adjacent wells and blue water streams within 1,500 feet that require Tier II and Tier III analyses. Appellant asserts there are no geological studies, well completion reports, or well pump test data.

Findings and Decision: The Board finds and determines that the project is reducing groundwater use and County Interim Well Standards do not require applicants complete a Tier 2 or Tier 3 analysis. See Findings and Decision for Appeal Grounds No. 4 and No. 6, above. No geological studies, well completion reports, or well pump test data are required for completing a Tier I analysis. Additionally, project wells are more than 1,500 feet from designated significant streams Redwood and Pickle Creeks, and a Tier 3 is not required based on distances. The

tributaries to Pickle and Redwood Creeks are not classified as significant streams and a Tier 3 is not applicable to those watercourses.

Conclusion

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Planning Commission's decision. Therefore, the Board denies the Seventh Ground of Appeal and upholds the Planning Commission's approval of the Project.

I. Eighth Ground of Appeal.

Appellant's position: Appellant claims that the Water Availability Analysis and Water Use Estimate calculations for various water-using activities are not in conformity with County's WAA Guidance Document 2015, nor with current Water Availability Analyses. Appellant contends that there are omissions and inaccurate calculations and that "the cumulative adversely differences impact the water neutrality determination."

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

The WAA Guidance Document, dated May 12, 2015, Appendix B: Estimated Water Use for Specified Land Use, offers recommendations for estimating water use and provides the following guidance for WAA preparers:

"Each project applicant is responsible for estimating the water usage for their proposed project. While general guidelines are provided below, other industry standards may apply. The PBES may offer data based on previous applications, and each project's unique characteristics should be considered. The most relevant data should be used to estimate water use for the specific project."

(Water Availability Analysis (WAA) – Guidance Document, Napa County, Adopted May 12, 2015, Appendix B, p. 18)

While the Appellant argues that the WAA and the Water Use Estimate Calculations do not align, the WAA for this project sufficiently estimates the water use for the residence by utilizing the most appropriate data. The WAA was prepared by Stillwater Civil Design, a licensed and registered civil engineering firm in California, and adequately estimates water use for the project. There is no requirement for strict adherence to the guidance document. As the WAA notes, the County's guidance document is intended to:

"Provide guidance and a procedure to help county staff, decision makers, applicants, neighbors, and other interested parties gather the necessary information to answer the question adequately. The WAA is not an ordinance, is not prescriptive, and project-specific conditions may require more, less, or different analysis to meet CEQA

requirements. However, the WAA serves procedurally as the baseline for analysis in any discretionary project.”

(WAA Guidance Document, p. 3)

From the project WAA, Planning Staff determined the groundwater usage for the site, as reflected in the IS/MND and Staff Report. The estimated water use for the existing onsite residence is 0.5 acre-feet per year (af/yr), which includes additional usage for a pool with a cover. Water usage for landscaping is estimated separately at 0.025 af/yr. The total estimated water use for the residence, pool, and landscaping is 0.525 af/yr. These estimates were added to the vineyard (0.9 af/yr), winery (0.064 af/yr), and domestic water use for employees and guests (0.14 af/yr) estimates and rounded up conservatively to arrive at a total proposed water usage of 1.63 af/yr for the project parcel. This led to the following conclusion for the proposed project: existing usage is 2.78 acre-feet per year, while the proposed usage is 1.63 acre-feet per year, resulting in a reduction of approximately 1.15 acre-feet per year. The recharge analysis indicated a value of 2.23 acre-feet per year. This information was incorporated into the IS/MND, analyzed by staff and interested parties, and considered by the Planning Commission and Board of Supervisors.

Additionally, the Engineering Division deemed the WAA technically adequate based on the information provided by the applicant, the site’s location, and the available geologic and hydrologic data. (WAA Technical Adequacy Engineering Services Memorandum, June 5, 2024.) The Findings and Decision for Appeal Ground 4 are incorporated herein.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Planning Commission’s decision. Therefore, the Board denies the Eighth Ground of Appeal and upholds the Planning Commission’s approval of the Project.

J. Ninth Ground of Appeal.

Appellant’s position: Appellant asserts that the project watercourses are supportive of federal and state designated special status species that constitute the *res* (i.e. the assets) of the public trust. Napa County has an affirmative duty to administer the natural resources held by public trust solely in the interest of the people of California.

Findings and Decision: The Board finds and determines that:

1) The County does not dispute that under the Doctrine, it has an affirmative duty to take the public trust into account in the planning and allocation of trust resources, and to protect public trust uses whenever feasible. In Napa County, the Napa River is the navigable waterway protected by the public trust doctrine. The Doctrine applies only if the project approval “will

result in extraction of groundwater adversely affecting the public's right to use [a navigable waterway] for trust purposes, [then] the County must take the public trust into consideration and protect public trust uses when feasible." (*Environmental Law Foundation v. State Water Resources Control Bd.* (2018) 26 Cal.App.5th 844, 853-54.)

2) To comply with longstanding California Supreme Court and Court of Appeal holdings, Napa County has determined that projects extracting water from wells within 1,500 feet of defined "Significant Streams" must submit a Tier 3 or equivalent analysis for the County to discharge its legal duties under public trust doctrine, whether the proposed project is proposing to extract more or less groundwater or remain at status quo (e.g., no net increase). The Doctrine is only implicated by groundwater use if the groundwater in question is hydraulically interconnected to the Napa River. A public trust analysis begins and ends with whether the project allegedly harms a navigable waterway. (*Environmental Law Foundation v. State Water Resources Control Bd.*, (2018) 26 Cal.App.5th 844, 859.) The County's obligation is to consider and give due regard, but not necessarily to prohibit uses or to fully mitigate impacts as required by the California Environmental Quality Act (CEQA).

3) As previously stated, a Tier 3 analysis is the County's adopted method for complying with its duties. This analysis considers groundwater and surface water interaction if the groundwater comes from a well within 1,500 feet of a Significant Stream which the County has determined has a high probability of being hydraulically connected to the Napa River, a "navigable waterway" for public trust purposes.

4) Here, the entire parcel is outside of the 1,500' foot buffer from a significant stream. The project will not extract water from wells within 1,500' of a defined significant stream. The record includes a WAA (dated February 9, 2024) prepared by Stillwater Civil Design for the project which showed a reduction in groundwater use over existing use, satisfying the Tier 1 requirement. The Tier 2 analysis requires Well and Spring Interference Criterion when a neighboring non-project well is located within 500 feet of the onsite project well. A Tier 2 analysis is not required for this project as no new wells are being proposed, and the proposed water use for this project is estimated to be less than pre project water use for vineyard irrigation. Additionally, the Stillwater WAA opined that the project well is not within 1,500 feet of a significant stream and that there was not a hydraulic connection to a navigable waterway. This determination of connectivity is the first step in a Tier 3 analysis. Here, no further analysis is required as all wells are outside the buffer, as determined by the project engineer. (Interim Napa County Well Permit Standards and WAA Requirements - January 2024.) Tier 3 analysis is only conducted when substantial evidence in the record determines the need for such an analysis. The groundwater/surface water criteria are presumptively met if the distance standards and project well construction assumptions are met. (WAA Guidance Document Tables 3, 4, and 5, pp. 12-13). Given this, the County has satisfied its duty to consider impacts to public trust resources.

5) Further, the Board of Supervisors adopted revised COA includes measures that feasibly mitigate any alleged harm. The COA directly incorporates mitigation measures submitted by CDFW, including required preconstruction surveys and compliance with state permitting requirements.

Conclusion:

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Planning Commission's decision. Therefore, the Board denies the Ninth Ground of Appeal and upholds the Planning Commission's approval of the Project.

Section 4. Revised Conditions of Approval.

The Board revised the Conditions of Approval to include: (a) revision to 4.2 Tours and Tastings/Visitation to 306 days of tours and tastings with up to 13 visitors maximum; (b) revisions to 6.12 Permit Prerequisite Mitigation Measures (b) – (g) to designate California Department of Fish & Wildlife as the responsible agency, and (c) require the destruction of a well previously processed under E06-01125. The revised Conditions of Approval are attached as Attachment B.

Section 5. CEQA Determination.

A. The Board has received and reviewed the revised Mitigated Negative Declaration pursuant to the provisions of CEQA and of Napa County's Local Procedures for Implementing CEQA, and adopts the CEQA findings contained in Attachment A.

B. The Board adopts the revised Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the Project and finds that the proposed Project would not have any potentially significant effects after implementation of mitigation measures.

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. Denies the Appeal in its entirety;
- B. Adopts the revised Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project;

- C. Upholds the Planning Commission’s approval of Use Permit No. P23-00101-UP, Use Permit No. P23-00239-UP (an Exception to the Conservation Regulations), and an Exception to the Napa County Road and Street Standards (RSS);
- D. Adopts the Findings attached as Attachment A; and
- E. Approves the Hillwalker Vineyard Winery Project subject to the Revised Conditions of Approval attached as Attachment B.

Section 8. Effective Date.

This resolution shall take effect in accordance with the provisions of Napa County Code 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 Napa County Board of Supervisors, State of California, at a regular meeting of said Board held on the 8th day of April 2025, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSENT: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

 ANNE COTTRELL, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: <i>Chris R.Y. Apallas</i> Date: March 26, 2025	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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- Attachments:
- Attachment A – Final Project Findings
 - Attachment B – Revised Conditions of Approval