

“A”

Appeal Packet



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APPEAL PACKET COVER SHEET
(Section 2.88.050 of Napa County Code)

RECEIVED
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NAPA COUNTY
CLERK OF THE BOARD

Deadline for filing with the Clerk of the Board's office: no later than 2 p.m. on the 10th working day after the filing of the Notice of Intent to Appeal. (Napa County Code sec. 2.88.050(A).)

TO BE COMPLETED BY APPELLANT (Please type or print legibly)				
Action Being Appealed: <u>Planning Commission approval of Hagafen Cellars Winery Use Permit Major Modification</u>				
Permittee Name: <u>Norman Weir / Hagafen Winery</u>				
Permittee Address:	<u>4160</u>	<u>Silverado Trail</u>	<u>Napa</u>	<u>CA 94558</u>
	No.	Street	City	State Zip
Project Site Address/Location (if different from Permittee Address):				
No.	Street	City	State	Zip
Assessor's Parcel No.: <u>039-130-002</u>				
Permit Number: <u>P19-00121</u>		Date of Decision: <u>April 1, 2026</u>		
Nature of Permit or Decision: <u>Approval of winery use permit major modification and related CEQA determination</u>				
Appellant's Name: <u>Ariane Matschullat</u>				
Appellant's legal status (check one): ☐ Individual ☒ Corporation/registered nonprofit				
☐ Individual on behalf of unofficial organization (e.g., neighborhood group, special interest group, etc.)				
Specify organization name: <u>Weathervane Ranch LLC</u>				
Telephone #: () _____		Fax #: () _____		
E-Mail Address: <u>amhm46@gmail.com</u>				
Mailing Address:	<u>2185</u>	<u>N. California Blvd, Suite 240</u>	<u>Walnut Creek</u>	<u>CA 94596</u>
	No.	Street	City	State Zip
Appellant's Qualification as Interested Person:				
<u>Adjacent property owners who participated in the Planning Commission proceedings.</u>				
<u>project applicant, adjacent property owner, other (describe)</u>				
Primary Point(s) of Contact for Appellant:		☐ Check here if Appellant is sole point of contact and will be the prehearing conference representative		
Contact # 1 Name: <u>Patricia Curtin</u>				
Telephone # (510) <u>8346600</u>		Email: <u>pcurtin@fennemorelaw.com</u>		
Mailing Address:	<u>2185</u>	<u>N. California Blvd, Suite 240</u>	<u>Walnut Creek</u>	<u>CA 94596</u>
	No.	Street	City	State Zip
☒ Check here if this contact will be your representative at the prehearing conference				

Contact # 2 Name: _____
 Telephone # (____) _____ Email: _____
 Mailing Address: _____
 No. Street City State Zip
☐ Check here if this contact will be your representative at the prehearing conference

Attach additional sheet(s) for additional contacts if needed.

Reason for Appeal. Be specific – **factual or legal basis for such grounds of appeal must be expressly stated or they are waived.** At a minimum, you must include: (1) identification and description of the specific factual or legal determination(s) made as part of the decision that are the focus of the appeal; and (2) express assertion of all arguments, contentions, and facts that form the grounds for your appeal. If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, or that there was a lack of a fair and impartial hearing, this must be expressly stated. *(attach additional sheets and/or supporting documentation if necessary)*

See Attached

Are you appealing a decision relating to real property? (check one) ☒ Yes ☐ No
If Yes, please ensure that you attach the required Ownership Report, including list of owners and Assessor's map page(s) as indicated on the Checklist.

Payment of required fees (check one): ☒ Attached ☐ Will be submitted later*

* Pursuant to Napa County Code sec. 2.88.050, payment **must** be received by the Clerk of the Board no later than the 2 p.m. deadline.

DocuSigned by: ARIANE MATSCHULLAT Signature of Appellant	4/27/2026 Date	ARIANE MATSCHULLAT Print Name
--	----------------------------------	---

Fennemore Craig P.C.

2394 E Camelback Road

Suite 600

Phoenix, AZ 85016-3429

Wells Fargo

56-362/412

No. 491478

Void After 180 Days

Pay
Exactly Two Thousand and 00/100 Dollar(s)

Date
04/27/2026

Amount
\$ *****2,000.00

TO THE
ORDER OF

COUNTY OF NAPA
1195 THIRD STREET STE 310
NAPA, CA 94559



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⑈491478⑈

RECEIPT		DATE <u>4/29/2026</u>	No. <u>415229</u>
RECEIVED FROM <u>Fennemore Craig PC</u>		<u>\$2,000.00</u>	
<u>Two thousand & 00/100</u>		DOLLARS	
☐ FOR RENT		<u>Appraisal Fee - 2 Hagafen Winery</u>	
☒ FOR			
ACCOUNT	<u>491478</u>	☐ CASH	FROM <u> </u> TO <u> </u>
PAYMENT		☒ CHECK	
		☐ MONEY ORDER	
		☐ CREDIT CARD	
BAL. DUE		BY <u> </u>	3-11

REASONS FOR APPEAL

Appeal of the Planning Commission approval of Hagafen Cellars Winery Use Permit Major Modification (P19-00121-MOD), 4160 Silverado Trail, Napa, California, APN 039-130-002.

Appellants Ariane Matschullat and Weathervane Ranch, LLC respectfully appeal the Planning Commission's April 1, 2026 approval of the Hagafen Cellars Winery Use Permit Major Modification, Application P19-00121-MOD. This supporting statement satisfies Napa County Code section 2.88.050 by identifying the determinations challenged and expressly stating all grounds, contentions, and supporting facts presently asserted in support of the appeal. To preserve all available issues, Appellants expressly allege prejudicial abuse of discretion and, as set forth below, lack of a fair and impartial hearing.

I. APPELLANTS AND BASIS FOR INTERESTED-PERSON QUALIFICATION.

Ariane Matschullat and Weathervane Ranch, LLC are owners of property immediately adjacent to the Hagafen Cellars property. Appellants appeared in the Planning Commission proceedings through written objections and a presentation raising concerns regarding notice, longstanding violations, intensification of use, parking, neighborhood impacts, and CEQA. Appellants owned their property since 1991. They participated in the original use permit proceedings in 1998 and are identified on the list attached to the original use permit to receive prior notifications of special events. Yet, despite the statement made in the March 18, 2026 Staff Report (p. 8, Revisions to Existing Conditions) and by the Applicant at the Planning Commission hearing, they never received such notices. Appellants therefore qualify as interested people for purposes of appeal.

II. SPECIFIC FACTUAL AND LEGAL DETERMINATIONS BEING APPEALED.

Appellants challenge each of the following determinations, findings, approvals, and implied findings that were part of the Planning Commission's action:

- The approval of the Use Permit Major Modification itself, including the final conditions of approval.
- Findings that the Applicant may lawfully expand or continue operations that previously exceeded or departed from prior conditions of approval without first demonstrating full compliance with those conditions.
- The approval of increased visitation, including approval of seven-day operations, expanded daily and weekly visitation, and any associated intensification of retail, tasting, and event-related activity.
- The removal, weakening, or modification of existing neighbor-protection and monitoring conditions, including event-notice and reporting requirements.

- Findings that the project is adequately supported as to parking, traffic circulation, neighborhood compatibility, and operational impacts on adjacent properties.
- The CEQA determination made in connection with the approval, including the claim of categorical exemption and reliance on an unlawful operating baseline.
- Determination that the hearing process and public notice were legally adequate notwithstanding the notice concerns raised by Appellants.

III. EXPRESS GROUNDS FOR APPEAL.

A. Prejudicial Abuse of Discretion: Approval of a Modification that Legalizes Longstanding Violations.

The record reflects a longstanding pattern of noncompliance with the winery's existing conditions of approval. That history, together with Appellants' objections and concerns, is set forth in the letters to the Planning Commission dated March 17, 2026 (**Exhibit A**) and March 31, 2026 (**Exhibit B**). Rather than requiring the Applicant to cure those violations and demonstrate sustained compliance, the Planning Commission approved a modification that effectively ratifies conduct neighboring property owners have challenged for years.

One clear example is the failure to provide Appellants and neighbors with advance notice of the many special events that have occurred over the years. Staff and the Applicant incorrectly assert that prior notice was provided and, because no neighbors responded, rely on that lack of response as a basis for removing the advance-notice condition. Neighbors didn't respond because they didn't receive notice. The County's reasoning is flawed, inconsistent with its enforcement framework, and constitutes a prejudicial abuse of discretion.

Additional violations also occurred. The Applicant constructed structures within required setbacks and without permits; converted the "office" into a residence; exceeded attendance limits for tours, tastings, and special events; exceeded the maximum number of permitted special events; and hosted outdoor events despite an express prohibition on those activities. These are not minor or technical deviations. They were repeated blatant violations that should neither be overlooked nor allowed to continue.

Appellants previously advised the Planning Commission that the Applicant waited years to seek this modification, even as these violations persisted and neighboring property owners repeatedly objected. The Planning Commission should have required the Applicant first to cure the violations and demonstrate sustained compliance. It should not reward longstanding noncompliance by granting additional entitlements.

B. Removal or Weakening of Protective Conditions without Adequate Justification or Safeguards.

The approval does not only allow a substantial increase in winery operations, it also removes or weakens protections that were important to neighboring owners and for enforcement. The modification eliminates or diminishes existing notice and reporting requirements that would help affected neighbors monitor event activity and the County

evaluate compliance. These notice and reporting requirements were key conditions imposed at the request of the Appellants and neighbors during the original use permit proceeding. The removal of these conditions is particularly improper given the Applicant's history of disputed operations and the lack of evidence that reduced oversight will protect neighboring properties.

At a minimum, the Board should require restoration or equivalent replacement of prior safeguards, including neighbor event notice, visitation tracking, and meaningful monitoring and reporting obligations.

C. Intensification of use not Supported by Substantial Evidence Regarding Compatibility, Parking, Traffic, and Noise.

The approved modification substantially intensifies winery operations. As presented to the Planning Commission, the approval authorizes a 140 percent increase in daily visitation, more than doubles weekly visitation, expands operations to seven days per week, and expands retail activity. Those changes materially increase the intensity of use of the site and the resulting burden on surrounding properties. Yet the record does not contain substantial evidence demonstrating that this increased level of activity remains compatible with neighboring residential and agricultural uses.

Appellants also raised a specific concern regarding parking and site capacity that the record does not answer. The approval allows up to 60 persons per day for tastings and retail sales and up to 100 persons for marketing events, yet only 11 guest parking spaces are provided. Despite Appellants' request for clarification, the record contains no evidence explaining how guests will arrive, where they will park, or whether any overflow parking, shuttle service, or other transportation management measures will be used. In the absence of such evidence, the County could not reasonably conclude that the site can safely and lawfully accommodate the approved increase in visitation and event attendance.

The same defect appears with respect to access and traffic. The approval imposes a new condition requiring the Applicant to improve the access driveway within one year of use permit approval. (p. 10, Part III, 6.15.d.) But if those improvements are necessary to address access and circulation issues arising from the approved use, they should have been required before the intensification of use was allowed to proceed, not deferred for a year after approval. Moreover, the record does not meaningfully describe the scope, location, or adequacy of the required improvements. It states only that the driveway is to be brought into compliance with Napa County Road and Street Standards and that the driveway entrance is to be widened by four feet. Staff further acknowledges that these improvements will require removal of olive trees and disturbance of landscaping, vineyards, and graded areas of the winery development. (March 18 Staff Report, p. 8.) Yet the record contains no site plans, diagrams, or other substantial evidence showing where these improvements will occur, what physical changes they will require, or whether they will adequately mitigate the resulting safety and traffic impacts.

Nor does the record contain substantial evidence addressing the noise and operational impacts associated with the expanded level of visitation, retail activity, and events. Increased attendance, more frequent operations, and expanded event activity will increase vehicle trips, on-site circulation, outdoor activity, and noise affecting neighboring properties. But the approval is not supported by analysis demonstrating that those impacts were fully evaluated or adequately mitigated.

The Board should not uphold a substantial intensification of use unless the record demonstrates, with substantial evidence, that parking, access, traffic, noise, and operational impacts on neighbors have been fully analyzed and adequately mitigated.

D. Lack of Fair and Impartial Hearing; Notice and Due-Process Deficiencies.

Appellants expressly allege lack of a fair and impartial hearing to the extent the County proceeded without legally adequate public notice of the Planning Commission hearing. Appellants previously raised that the staff materials appeared to rely on a courtesy notice from November 2020, years before the 2026 Planning Commission hearings, and that the record did not clearly establish current mailed notice to affected owners. If legally adequate notice was not provided, the proceeding violated Napa County Code and basic due-process requirements.

Because proper notice is a prerequisite to a fair opportunity to be heard, the Board should reverse or remand the approval if the County cannot demonstrate that notice was lawfully given.

E. Improper Application of the California Environmental Quality Act (CEQA).

Appellants expressly challenge the CEQA determination that accompanied the permit approval. The County cannot lawfully use allegedly unlawful or nonconforming operations as the environmental baseline in order to minimize or mask the impacts of the expanded project. The project increases visitation, expands operational days, and intensifies use in a manner that foreseeably affects traffic, noise, and neighborhood conditions. At minimum, the County was required to evaluate whether the project falls outside any claimed exemption or whether an exception to the exemption applies.

1. The County used an improper CEQA framework.

This matter is not a first-instance CEQA review of a new winery. Napa County's own 1999 records show that the original Hagafen use permit was approved together with a Negative Declaration. CEQA Guidelines section 15064(f)(7), states that when an agency is considering a change to, or further approval for, a project previously approved with an EIR or negative declaration—including a conditional use permit—the agency must proceed under Guidelines sections 15162 through 15164. And section 15162 (b) expressly states that after adoption of a negative declaration, the agency must determine

whether to prepare a subsequent negative declaration, an addendum, or no further documentation. A categorical exemption is not one of the options listed in that framework. (Pub. Resources Code, § 21080; CEQA Guidelines, §§ 15064 (f)(7), 15162, 15164.)

The California Supreme Court has made clear that, when a project was previously reviewed, the threshold question is whether the prior environmental document still retains relevance or “informational value” to the pending decision; if it does, the agency must then decide under the subsequent-review provisions whether project changes require major revisions to that prior document. (*Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937.) And in *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467—a Napa County winery case—the court held that a later winery approval should be treated as a modification of the already approved winery project, not as an entirely new CEQA undertaking, and evaluated the environmental consequences of the modification under the prior-document framework. The County’s own analysis repeatedly characterizes this application as a “Use Permit Major Modification” to a winery already established under Use Permit No. 97219-UP. Under *San Mateo Gardens* and *Benton*, the County was required to analyze this approval through sections 15162-15164, not bypass that framework with a new categorical exemption. (*Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.*, supra, 1 Cal.5th 937; *Benton v. Board of Supervisors*, supra, 226 Cal.App.3d 1467.)

2. The Code Compliance Program cannot enlarge or replace mandatory CEQA requirements.

The County expressly relies on Resolution No. 2018-164 and the Code Compliance Program to justify using 2018 out-of-entitlement operations as the basis for its CEQA analysis. But local CEQA procedures must be “consistent with” CEQA and the state Guidelines, and the CEQA Guidelines apply to local governments throughout California. (Pub. Resources Code, § 21082; CEQA Guidelines, § 15022.) A local compliance or amnesty program may define how the County handles enforcement, but it cannot enlarge the scope of a state categorical exemption, cannot eliminate the exceptions in Guidelines section 15300.2, and cannot displace the state-mandated subsequent-review framework in sections 15064 (f)(7), 15162, and 15164. The County cannot lawfully use Resolution No. 2018-164 as a substitute for the CEQA pathway required by state law.

3. Even apart from the unlawful-baseline issue, the project does not qualify for the Class 1 “Existing Facilities” exemption.

Class 1 is limited to operation, permitting, maintenance, or minor alteration of existing facilities involving “negligible or no expansion of existing or former use,” and “[t]he key consideration is whether the project involves negligible or no expansion of use.” (CEQA Guidelines, § 15301.) CEQA also requires an agency to analyze the “whole of an action,” not isolate only those pieces it considers physically minor. (Pub. Resources Code,

§ 21065; CEQA Guidelines, § 15378.) Here, the project is the whole package: recognition of seven-day operations; recognition of retail sales Monday through Sunday; recognition of up to 60 visitors per day, 311 visitors per week and 9,719 visitors annually; continued use of a previously unapproved 720-square-foot room; driveway widening, removal of olive trees and possibly vineyards; and removal of notice and reporting conditions. That is not a negligible or no-expansion approval on the face of the project description.

This point is even clearer when the approved project is measured against the lawfully permitted Operational COAs identified in appellants' March 17 letter which allowed 25 visitors per day, 150 per week, 7,825 annually, operations six days per week, and narrower retail hours. Appellants already preserved that the modification would authorize roughly a 140 percent increase in daily visitation and a 107 percent increase in weekly visitation, along with seven-day operations and expanded retail activity. Whether or not the County wishes to characterize those unlawful 2018 operations as part of the site's "setting," Class 1 still asks whether the *approved project* involves negligible or no expansion of use. It plainly does not.

4. The County did not establish Class 4 eligibility because its own analysis admits tree removal but omits the required analysis.

Class 4 applies only to minor alterations to land, water, or vegetation that "do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes." (CEQA Guidelines, § 15304.) The County's analysis states that driveway widening will require removal of existing olive trees and potentially vineyard rows adjacent to the driveway. But the Staff report does not find that the olive trees are not healthy, mature, or scenic, and it does not explain why this tree removal falls within the regulation's narrow forestry/agricultural carve-out. Instead, the analysis moves directly to slope, waterway, scenic-area, and geologic-hazard issues. On this record, the County did not make the showing necessary to invoke Class 4.

5. The County's own water/public-trust analysis shows a serious "unusual-circumstances" problem that independently defeats categorical exemption.

Guidelines section 15300.2 (c) bars use of a categorical exemption where there is "a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." In *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, the Supreme Court held that local agencies may consider conditions in the project vicinity in deciding whether unusual circumstances exist. Here, the County's analysis does not describe a routine housekeeping approval. It contains a separate "Public Trust" section, relies on a December 4, 2025 Tier III-equivalent Water Availability Analysis for potential impacts to Soda Creek, and states that approval will impose a new 17-gallon-per-minute pumping cap, metering, groundwater monitoring, reporting, and future authority to require additional measures or revoke the permit if

groundwater-basin effects occur. A project that requires a site-specific Soda Creek/public-trust analysis and new groundwater restrictions is not the paradigm of an ordinary Class 1/Class 4 project. At minimum, the record evidence required a real unusual-circumstances analysis, not a conclusory rejection of the exception. (CEQA Guidelines, § 15300.2 (c); *Berkeley Hillside Preservation v. City of Berkeley*, supra, 60 Cal.4th 1086.)

6. The cumulative-impact exception also bars categorical exemption.

CEQA Guidelines section 15300.2 (b) makes Class 1 and Class 4 exemptions unavailable where “the cumulative impact of successive projects of the same type in the same place, over time is significant.” Since 2018, the County has been approving expansions in winery uses as a result of the Code Compliance Program with similar CEQA exemptions or limited environmental review. These approvals have added traffic and safety impacts along Silverado Trail and impacts on groundwater constraints in the same area. Yet, the County determined that these approvals do not result in a cumulative impact without identifying or analyzing any actual successive comparable projects before reaching that conclusion. (CEQA Guidelines, § 15300.2 (b).)

For all of these reasons, the County’s categorical-exemption determination must be set aside. The County must evaluate this approval under the CEQA framework governing modifications to projects previously approved with a Negative Declaration—i.e., CEQA Guidelines sections 15064 (f)(7), 15162, and 15164—and determine, based on substantial evidence and the whole record, whether the prior Negative Declaration retains informational value and whether the proposed changes require a subsequent EIR, a subsequent negative declaration, an addendum, or other lawful further review.

E. Findings Unsupported by the Whole Record.

As explained in the letters in the attached **Exhibits A and B**, the Planning Commission’s expressed or implied findings regarding consistency with applicable County Code requirements, compatibility with neighboring properties, adequacy of conditions of approval, or the absence of significant environmental and operational impacts, are not supported by substantial evidence in the whole record.

III. REQUESTED RELIEF.

For the reasons set forth above, Appellants respectfully request that the Board of Supervisors grant the appeal and do one or more of the following:

- Reverse the Planning Commission’s approval of Application P19-00121-MOD and deny the requested modification;
- Remand the matter with instructions to provide legally adequate notice, conduct proper required CEQA review, and prepare findings supported by substantial evidence;

- Require the Applicant to demonstrate full compliance with existing conditions of approval before any modification is reconsidered;
- Restore or replace neighbor-protection and monitoring safeguards, including event notice and meaningful reporting requirements; and
- Require a clear evidentiary showing regarding parking, traffic, access, noise, and neighborhood compatibility before any intensification of winery operations is approved.

IV. RESERVATION REGARDING SUPPORTING EVIDENCE.

This appeal statement is intended to preserve the grounds expressly identified above. Appellants reserve the right to submit additional evidence, declarations, expert materials, and legal authorities in support of these stated grounds, consistent with Napa County Code section 2.88, the prehearing conference procedures, and any scheduling order issued by the Chair or Clerk.

V. EXHIBITS ATTACHED AND REQUIRED DOCUMENTS SUBMITTED.

- March 17, 2026 letter to the Planning Commission (**Exhibit A**).
- March 31, 2026 letter to the Planning Commission (**Exhibit B**).
- Ownership report and assessor map.
- Campaign Contribution Disclosure Form.
- Appeal Fee (\$2,000 check).

EXHIBIT A

FENNEMORE.

Patricia E. Curtin
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March 17, 2026

Planning Commission
Napa County
1195 Third Street, Third Floor
Napa, CA 94559

**Re: Planning Commission Meeting – March 17, 2026 – Item No. 8.A
Objections to Use permit Major Modification #P19-00121-MOD
Hagafen Cellars – 4160 Silverado Trail**

Dear Chair Brunzell and other Commissioners:

We represent Mrs. Ariane Matschullat and Weathervane Ranch, LLC, owners of property adjacent to Hagafen Cellars, the applicant in the above-mentioned matter. Mrs. Matschullat resides at 4176 Silverado Trail (APN 039-130-001), which is contiguous to the northern boundary line of the Hagafen Cellars. Weathervane Ranch owners APN 039-130-003, which is contiguous to the eastern boundary of the Hagafen Cellars

Our clients oppose Hagafen's major modification application to its use permit that requires the winery to operate under specific conditions of approval ("**Application**"). The Application is at odds with an essential purpose of the Code Compliance Program adopted by the Napa County Board of Supervisors (the "**Board**") by Board Resolution No. 2018-164 (the "**Board Resolution**"). The Code Compliance Program is not intended to grant new and expanded entitlements if the applicants have willfully exceeded the limits of their conditions of approval.¹ That is the case here.

¹ The initial Board hearing on the proposed Code Compliance Program was held on November 12, 2017. PBES Director Morrison's Board Agenda Letter for that hearing explained the proposed bifurcation/decoupling concept. As set forth in that Agenda Letter, any permit application received before a set deadline (which eventually was designated as March 29, 2019) "that includes requests to both remedy existing violations and to expand existing entitlements would be 'decoupled' and subject to a two-step process. The first step would be the processing and a decision on those portions of the application that remedy existing violations. Once all outstanding violations have been addressed to the County's satisfaction, then and only then would the second step begin of processing and considering the requests for expanded entitlements."

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Moreover, the Application cannot be considered by the Planning Commission until the County evaluates its potential environmental impacts as required by CEQA. That has yet to be done.

I. INTRODUCTION

Ordinances passed by the Board and reinforced by the Board Resolutions establishing the Code Compliance Program clearly express the Board's intention that expansion of entitlements unauthorized by a subsequent permit are not acceptable. *Napa County Code Section 18.16.020(I)*; *Board Resolution No. 2018-164 § 1(a)(iv)*. The Napa County Code sets forth in unequivocal language that "no expansion of uses" is permitted without express authorization. *Napa County Code § 18.16.020(I)*.

Napa County's Code Compliance Program seeks to remedy persistent ongoing failures of landowners to abide by their conditional use permits, while at the same time acknowledging that violations sometimes unintentionally arise from landowners' ignorance or misunderstanding of their use permits' conditions of approval.² At the same time, the Board recognized that bad actors exist and must be dealt with. During the hearings leading up to the adoption of the Board Resolution, it was noted that some winery owners were knowingly violating their permit. As stated by Supervisor Wagenknecht at the September 12, 2017, Board Meeting, "not all violations are equal and that is very clear."

During its two decades of operation, Hagafen Cellars has demonstrated a conscious disregard for compliance with the Conditions of Approval of its winery use permit. Other than applying for amnesty in March 2019 under the County's Code Compliance Program, the Applicant has shown no sincere interest in altering its ongoing course of behavior. The Applicant has continued to violate the conditions of approval of its winery use permit and exceed the limitations imposed by those conditions.

Despite the violations, Staff recommends approval allowing the violations to become "permitted." And even worse, Staff declared these violations (which result in the

² For example, Section 1(b) of the Board Resolution allows property owners who are unsure whether they are in compliance with their current conditions of approval "to voluntarily initiate a review by the County to determine the extent of their existing entitlements and/or permissible uses of their property." Section 1(b) also provides property owners a right to appeal an unfavorable decision by the PBES Director to the Board. Should such an appeal be unsuccessful, the deadline for submitting an Application under the Code Compliance Program is extended for an amount of time equal to the time required to process the status determination application (not to exceed 120 days).

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intensification of the winery use) exempt from environmental review under CEQA. We ask the Commission not to approve these violations.

II. RELEVANT COUNTY CODE SECTIONS AND CODE COMPLIANCE PROGRAM PROVISIONS

In the AP district in Napa County “no expansion of [winery] uses or structures beyond those which were authorized by a use permit . . . shall be permitted except as may be authorized by a subsequent use permit issued pursuant to [the provisions of Title 18 (Zoning) of the Napa County Code].” *Napa County Code Section 18.16.020(I)*. The Board expressly intended that “significant [permit] violations” which include “visitation and marketing in excess of approved limits,” along with “wine production in excess of approved limits” –are to be remedied and distinguished from proposed expansions. *Board Resolution No. 2018-164 § 1(a)(iv)*.

In assessing an application under the Code Compliance Program, the PBES staff report is required to “clearly distinguish between portions of a proposed project that are necessary to remedy existing significant violations, and those portions of a proposed project that would expand beyond current levels of operation.” *Board Resolution § 1(a)(iv)*. “Visitation or marketing in excess of approved limits” is defined in Board Resolution § 1(a)(iv) as a significant violation.

III. THE OPERATIVE CONDITIONS OF APPROVAL

Hagafen Cellars use permit conditions of approval (Use Permit Modification #99477-MOD; the “**Operative COAs**”) were established in June 2000 pursuant to a settlement agreement that resolved litigation challenging the initial conditions of approval from 1999 (Use Permit #97219).

The only changes to the Operative COAs since June 2000 were the result of a Very Minor Modification (P18-00081) that was approved by the Zoning Administrator in 2018 (the “**Very Minor Modification**”). (The Very Minor Modification application was in itself a violation of the Operative COAs, as discussed below in this letter.

And now, the Applicant seeks to modify the Operative COAs to further intensify the uses at the winery and specifically increase the number of visitors allowed, and expand operational and retail hours, despite the many violations of these conditions and others.

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IV. OVERVIEW OF THE VIOLATIONS

As set forth in below, it appears that the visitation and marketing events taking place at Hagafen Cellars have for many years exceeded the approved limits of the Operative COAs and constitute significant violations under the Code Compliance Program. Accordingly, those violations must be decoupled from the portions of the Application that would expand beyond current levels of operation, and the PBES staff's recommendations for dealing with those violations must be considered separately by the Planning Commission.

The initial Board meeting that resulted in the Board Resolution adopting the Code Compliance Program took place on September 12, 2017. From the outset, a significant policy theme emerged. As Supervisor Wagenknecht stated at that hearing, "there are some that are clearly gaming the community for a long time." Supervisor Wagenknecht added that he "would like to have [such violations] internally decoupled."

To support this policy, the Board established that violations must be addressed before requests for expanded uses are considered. As Supervisor Gregory stated at the Board Meeting on December 4, 2018, "[t]his isn't changing the way we do status determinations. This isn't even changing parts of how the compliance program works. This is simply putting an end to considering compliance problems without serious penalty." At that same meeting, PBES Director Morrison also directly addressed this point:

"There have been concerns that there are too many loopholes for non-compliant wineries. There are no loopholes. Either landowners with violations come in to the County to voluntarily comply by the deadline, or they're required to immediately comply after the deadline. In either case, they are required to comply. It's that simple. There's comments and concerns that non-compliant wineries receive preferential treatment. Projects that have violations may be subject to fines and penalties as well as repayment of staff costs. Decisions on projects would require a separate set of recommendations and decisions for those portions of the project that deal with violations. . . . The process does not give any preference to violating landowners."

Taken together, these policy directions indicate a desire to deal firmly with the bad actors of the wine industry, in order to rein in the behavior of some winery owners who knowingly exceed their existing use permit conditions of approval and hope not to get caught, in contrast to those winery owners who do the right thing by applying to the County

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in advance for approval of proposed expansions in use. Hagafen Cellars is a clear example of the former type of winery owner.

V. EXISTING SIGNIFICANT VIOLATIONS BY HAGAFEN CELLARS

A. Violations of Operative COA No. 2.

Operative COA No. 2 states in part as follows:

“A maximum of twelve (12) event/year are allowed, which includes any events authorized pursuant to the Temporary Event Ordinance and shall not exceed four (4) hours in length. Except for the ‘harvest’ event and events as may specifically be authorized pursuant to the Temporary Event Ordinance, no picnicking, outdoor dining, or outdoor wine tasting shall be permitted and no outside marketing activities shall involve amplified music. All events shall cease by 10:00 PM (including cleanup) except the events specified above as ending at 10:00 PM shall complete cleanup by 11:00 PM.”

Neighbors have observed numerous events at the winery over the years that appear inconsistent with the permitted limits. The County’s temporary event permit records show only 13 such permits issued between 2004 and 2014, suggesting that additional events occurred without the required permits.³ The logical conclusion is that many marketing events have been held at Hagafen Cellars since 2000 in violation of the Operative COAs.

Operative COA No. 2 further states as follows:

The individuals on the attached mailing notice list shall be provided with written notice, a minimum of ten (10) days, in advance of any and all of the twelve (12) events that can occur each year.

The Applicant has been in continual violation of this provision. Our clients have never received such written notices from Hagafen Cellars nor, based on the clients’ conversations with a number of their neighbors whose names are also on the mailing notice list, neither have those neighbors received the required notices.

³ In 2004, 2 temporary event permits were issued, followed by 2 in 2005, 1 in 2006, 2 in 2007, 2 in 2008, 2 in 2009, 1 in 2010, and 1 in 2014, for a total of 13 temporary event permits.

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B. Violations of Operative COAs No. 3(a) and No. 8.

Operative COA No. 3(a) states in part as follows:

Tours of the winery and/ or tasting of wine **shall be by appointment only . . . and shall be limited to** members of the wine trade, persons invited by the winery who have pre-established business or personal relationships with the winery or its owners, **and persons who have made unsolicited prior appointments for tours or tastings.**" (Bold added.)

Operative COA No. 8 states in part as follows:

"A sign specifying the hours and days of tours and tastings and retail sales complying with all applicable County ordinances regarding signing shall be posted along Silverado Trail."

Hagafen Cellars initially complied with the signage requirements by placing metal plaques on each of the two entry structures flanking the driveway entrance from Silverado Trail. As required, the signs read "Tours and Tastings by Prior Appointment Only."

Sometime thereafter, however, Hagafen Cellars removed the required signage. The gradual way in which Hagafen Cellars went about this removal is emblematic of the Applicant's pattern of behavior. Photos taken over the years (see Exhibit A) reveal the following sequence of changes.

Sometime thereafter, the signs were removed by Hagafen Cellars in violation of Operative COA No. 8 and never replaced. Foliage was positioned by the Applicant in front of the left entry structure in an attempt to disguise the absence of the required signage on that entry structure.

Next, an electrical transformer was positioned in front of the left entry structure to make the empty space where the sign used to be less obvious.

More recently, two new plaques were placed on the two front entry structures where the required signs were initially placed in 2000. However, instead of reading as required by Operative COA No. 8, the new signs simply read "Hagafen Cellars." In addition, for a period of time during the summer of 2021, a two-sided sandwich-board type sign was placed near the front of the right entry structure. The sign read "OPEN New Releases" without any mention that tours and tastings are by prior appointment only.

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Given the above sequence of events, it strains credulity to believe that the Applicant has been strictly complying with the prior-appointment provisions of the Operative COAs.

Hagafen Cellars should be required to restore the required signage to both the left and right entry structures, and to comply fully with the prior-appointment provisions of the Operative COAs. The Applicant should further be required to verify its compliance by maintaining detailed records and providing them to the County on an ongoing basis.

C. Violation of Setback Requirements of Operative COA No. 14.

Operative COA No. 14 states in part as follows:

All required aboveground water storage tanks . . . shall be screened from views of adjacent properties by a visual barrier consisting of fending and/or dense landscaping.

There is presently no screening of either the aboveground water tank shown in the initial drawings, or the second aboveground water tank that appears to have been added later.

D. Violation of Operative COA No. 17.

Operative COA No. 17 states in part as follows:

All facilities of the winery, including offices, shall be for the exclusive use of the on-site winery. No overnight accommodations are permitted.

Photos taken by a County inspector during a code violation inspection of the interior of the winery show a bed situated on the second floor of the winery. It is obvious from these photos that the winery building was being used for overnight accommodations in violation of Operative COA No. 17. On April 23, 2019, during an inspection that identified certain health and safety issues, the County inspector observed this violation and ordered the Applicant to cease such prohibited uses.

Our clients request that the Planning Commission direct County Inspectors to perform unannounced spot inspections of the Winery facilities from time to time to ensure that such prohibited uses have not been resumed by the Applicant.

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VI. OTHER USE PERMIT VIOLATIONS

A. Misuse of the Very Minor Modification Process.

There has been only one modification of the Hagafen Use Permit since 2000. It was initiated by Hagafen Cellars' March 6, 2018, "Request for very Minor/Minor Modification."

The Applicant's request "to serve wine to our visitors in our existing outdoor trellis areas . . . including picnicking" disingenuously failed to mention that Operative COA No. 2 expressly prohibits "picnicking, outdoor dining, or outdoor wine tasting" except for "the 'harvest' event and any events as may specifically be authorized pursuant to the Temporary Event Ordinance."

The Applicant's request was misleading and resulted in the County's approval of an expansion of uses in violation of the express provisions of Operative COA No. 2, which limitations have been in place since June 2000.

The Applicant attempted to justify its request for outdoor consumption of wine in the patio area by referring to a 2009 amendment to California Business & Professions ("B&P") Code Section 23358 allowing "on-premises consumption of wine produced on-site and purchased from the winery." But the 2009 amendment did not change the fact that language in Operative COA No. 2 prohibits outdoor wine tasting (as well as picnicking and outdoor dining) except for the harvest event and events specifically authorized pursuant to the Temporary Event Ordinance. As a result, on-premises consumption of Hagafen Cellars' wine produced on the premises is extremely limited, as are picnicking and outdoor dining.

It is clear that Hagafen Cellars has chosen to ignore some of the strict requirements imposed by Operative COA No. 2. But the Very Minor Modification Conditions of Approval neither supersede nor eliminate the limitations set forth in Operative COA Section 2. Subdivision (e) of B&P Code Section 23358 expressly so provides: "Nothing in this section [23358] . . . is intended to alter, diminish, replace, or eliminate the authority of a county, city, or city and county from exercising land use regulatory authority by law to the extent the authority may restrict, but not eliminate, privileges afforded by [Section 23358]." The amendment to B&P Code Section 23358 that was made as a result of Assembly Bill 2004 allowing "on-premises consumption of wine produced on-site and purchased from the winery" did not change the fact that Operative COA No. 2 PROHIBITS outdoor wine tasting (as well as picnicking and outdoor dining) except for the harvest event and events specifically authorized pursuant to the Temporary Event Ordinance.

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The Zoning Administrator's approval of this portion of the Very Minor Modification should never have occurred without reference being made to the continuing applicability of the limitations set forth in Operative COA No. 2. The Very Minor Modification should be modified by the Planning Commission to make it abundantly clear that those limitations remain in full force and effect.

B. Traffic and Parking Impacts.

Visitation, retail sales and marketing events in excess of approved limits of the Applicant's Operative COAs will have an environmental impact on the amount of traffic generated by visitors to Hagafen Cellars and cast doubt on whether the number of onsite parking spaces are adequate for this increase. Staff asserts the increase in visitors (seeking to allow an additional 1,894 visitors/year), along with the increase in operational hours and retail sales (seeking to operate 7 days/week) will not possibly cause *any* new significant environmental impacts, even on traffic. But Staff provides no data to support this assertion. The only assertion made is that these increases in use are exempt from CEQA because there is no possibility that they may cause an impact (addressed further below).

We request that Staff take a closer look at this issue. During the Board's hearings leading up to the adoption of the Board Resolution, the Board repeatedly stressed that key considerations of the Code Compliance Program include safety concerns. Increased levels of traffic directly caused by increased visitation and marketing events in excess of the permitted amounts directly raise such safety concerns here. Given the narrow two-lane roads that dominate the Napa Valley, it is logical to infer that visitations in excess of winery use permit conditions of approval increase automobile traffic and raise serious safety issues.

Chicken Coop Using Boundary Fence as Part of the Enclosure.

The above-referenced County staff inspection of April 23, 2019, also identified a health and safety issue regarding the use of an extension cord at the north side of the winery in violation of 2016 California Fire Code ("CFC") section 605.5.⁴ County staff directed the Applicant to discontinue using the extension cord. If the Applicant has not already done so, the Applicant should be required to do so now.

⁴ **605.5 Extension cords.** Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.

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VII. THE COUNTY MAY NOT USE ONGOING PERMIT VIOLATIONS AS THE ENVIRONMENTAL BASELINE UNDER CEQA

A. The CEQA Baseline Must Reflect Lawfully Authorized Operations.

CEQA requires that environmental impacts be measured against the existing environmental setting, which normally reflects the physical conditions at the time environmental review begins. (CEQA Guidelines §15125(a).) However, courts have made clear that the baseline must be reasonable and supported by substantial evidence, and agencies may not adopt a baseline that distorts the environmental analysis or masks project impacts. The California Supreme Court has held that the baseline must represent “the real conditions on the ground” in a manner that allows meaningful analysis of environmental change. (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322–328.)

Where existing operations exceed legally authorized levels, using those unlawful operations as the baseline improperly hide the environmental impacts of the proposed project. In such cases, courts have required agencies to use a baseline that reflects lawfully permitted operations rather than ongoing violations.

B. The Proposed “Recognition” of Existing Activities Would Legalize Ongoing Violations.

Hagafen Cellar’s application seeks approval of activities that exceed the limits established in the Operative COAs, including:

Category	Current Permit	Proposed Recognition
Days of operation	Mon–Fri, Sun	Mon–Sun
Retail sales	Mon–Thu, Sun	Mon–Sun
Visitors/day	25	60
Visitors/week	150	311

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Category	Current Permit	Proposed Recognition
Annual visitors	7,825	9,719

The winery also seeks approval for:

- use of a previously unapproved 720-square-foot storage room
- removal of monitoring and reporting conditions
- removal of notice requirements to affected neighbors

Importantly, these expanded activities were already occurring in violation of the existing permit prior to the filing of the application. These unauthorized activities cannot be “recognized” as the existing condition, which would then become the CEQA baseline.

C. Using the Violation-Based Baseline Would Improperly Mask Environmental Impacts.

If the County adopts the unlawful operations as the baseline, the CEQA analysis will show little or no environmental change, even though the project substantially expands the intensity of use beyond what was approved.

Measured against the Operative COAs, the proposed project represents a substantial increase in activity:

- 140% increase in daily visitation (25 → 60 visitors)
- 107% increase in weekly visitation (150 → 311 visitors)
- Expanded operations to seven days per week
- Expanded retail operations

These changes have clear potential to increase:

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- traffic on local rural roads
- noise and activity levels
- parking demand
- visitor-related impacts on neighboring residential properties

Using the unlawful operational level as the baseline would erase these impacts from the CEQA analysis, contrary to CEQA's fundamental purpose of informing decision-makers and the public of environmental consequences.

Given that the proposal would increase annual visitation, expand operating days, and intensify retail activity, it is self-evident that additional vehicle trips will be generated. Increased traffic volumes and parking demand are reasonably foreseeable consequences of increased visitation. At a minimum, these changes raise a fair argument that the project may result in environmental impacts related to traffic and parking thereby requiring CEQA review.

D. CEQA Does Not Allow Applicants to Benefit from Their Own Permit Violations.

Courts have cautioned that CEQA cannot be used to retroactively legitimize unlawful activities. If agencies were permitted to adopt violation-based baselines, project applicants could:

1. expand operations beyond permit limits
2. create a new "existing condition"
3. seek approval based on that condition

Such an approach would reward noncompliance and undermine both CEQA and local permitting enforcement. The California Supreme Court in *Communities for a Better Environment* emphasized that baselines cannot be manipulated in ways that obscure the project's true environmental impacts.

Similarly, courts have held that agencies must avoid baselines that artificially minimize environmental change. (*Sunnyvale West Neighborhood Assn. v. City of Sunnyvale* (2010) 190 Cal.App.4th 1351.)

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E. Removal of Monitoring Conditions Further Undermines Environmental Oversight.

The project also proposes removal of several permit conditions that currently ensure monitoring and transparency, including requirements for:

- annual visitation reports
- grape sourcing reports
- annual wine production reporting
- notice to affected neighbors

These conditions serve an important role in ensuring compliance with the winery's approved operational limits. Eliminating these monitoring requirements while simultaneously expanding operations would reduce the County's ability to verify compliance and detect environmental impacts. This reduction in oversight raises additional concerns under CEQA, which requires enforceable mitigation measures and monitoring programs. (Public Resources Code §21081.6.)

For these reasons, the Commission must:

1. Reject the proposed baseline based on existing unauthorized operations.
2. Use the winery's permitted operational limits under Use Permit No. 99477 as the CEQA baseline.
3. Conduct a full environmental analysis of the impacts associated with the proposed expansion of visitation, retail operations, and facility use.

Only by using the legally permitted operational level as the baseline can the County ensure that CEQA review accurately discloses the environmental impacts of the proposed project.

VII. CONCLUSION

The Applicant seeks to portray itself as a small, family-owned winery whose activities in violation of its conditions of approval should be excused and forgiven by the

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County. But to do so would require the County to condone the Applicant's numerous violations of its Conditions of Approval over the past 20-plus years.

That is precisely the sort of behavior the Code Compliance Program is designed to correct rather than reward. To excuse such behavior by the Applicant would do a great disservice to the other winery owners who have sought County approval in advance when they wished to exceed their existing gallonage limitations or the existing visitation and marketing limits of their current use permits.

As Supervisor Wagenknecht observed in 2017 during the Board's sessions leading up to the adoption of the Code Compliance Program, the Program is composed of two parts: a violation process and an expansion process. That should be the path the Planning Commission follows here.

Hagafen Cellars should be required to strictly comply with its existing Conditions of Approval and to demonstrate over a meaningful period of time *such as two years* that it has done so before being allowed to submit any new applications to the County for modification or expansion of its existing Conditions of Approval.

At a minimum, the Commission should require the winery to demonstrate sustained compliance with its existing permit conditions before considering any expansion of its operational limits.

Sincerely,

FENNEMORE LLP



Patricia E. Curtin

PCUR

cc: Emily Hedge, Planner III
Clients

45804760.1/062377.0001

062377.0001 45804760.1

Curtin, Patricia

From: Curtin, Patricia
Sent: Wednesday, March 18, 2026 11:24 AM
To: meetingclerk@countyofnapa.org
Subject: FW: Letter opposing Hagafen Winery - Planning Commission Meeting for March 18 re: Hagafen Winery
Attachments: Ltr to Napa County Planning Commission re Hagafen Cellars 2024-03-05(45804760.1).pdf

From: Curtin, Patricia
Sent: Wednesday, March 18, 2026 11:23 AM
To: Hedge, Emily <Emily.Hedge@countyofnapa.org>; Gallina, Charlene <Charlene.Gallina@countyofnapa.org>
Cc: Ariane Matschullat <amhm46@gmail.com>; beth@bnpapa.com
Subject: Letter opposing Hagafen Winery - Planning Commission Meeting for March 18 re: Hagafen Winery

Here please find the neighbors opposition letter to the increased continuation of winery usage by Hagafen Cellars.

From: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Sent: Wednesday, March 18, 2026 10:02 AM
To: Curtin, Patricia <pcurtin@fennemorelaw.com>
Cc: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Ariane Matschullat <amhm46@gmail.com>; beth@bnpapa.com
Subject: RE: Confirming Item 8.A continuance of Planning Commission Meeting for March 18 re: Hagafen Winery

Yes. You only need to raise your hand if you would like to speak.

Thank you,
Emily



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A Commitment to Service

Emily Hedge
Planner III
Planning, Building, & Environmental Services
Napa County
Phone: 707-259-8226
1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

From: Curtin, Patricia <pcurtin@fennemorelaw.com>
Sent: Wednesday, March 18, 2026 9:57 AM
To: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Cc: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Ariane Matschullat <amhm46@gmail.com>;

beth@bnpapa.com

Subject: RE: Confirming Item 8.A continuance of Planning Commission Meeting for March 18 re: Hagafen Winery

[External Email - Use Caution]

But only if I need to talk right?

Patricia E. Curtin, Director
T: 510.622.7660 | F: 510.834.1928
pcurtin@fennemorelaw.com

From: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Sent: Wednesday, March 18, 2026 9:56 AM
To: Curtin, Patricia <pcurtin@fennemorelaw.com>
Cc: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Ariane Matschullat <amhm46@gmail.com>;
beth@bnpapa.com
Subject: RE: Confirming Item 8.A continuance of Planning Commission Meeting for March 18 re: Hagafen Winery

Good morning.
Please click "raise hand".

Thank you,
Emily



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A Commitment to Service

Emily Hedge
Planner III
Planning, Building, & Environmental Services
Napa County
Phone: 707-259-8226
1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

From: Curtin, Patricia <pcurtin@fennemorelaw.com>
Sent: Wednesday, March 18, 2026 9:50 AM
To: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Cc: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Ariane Matschullat <amhm46@gmail.com>;
beth@bnpapa.com
Subject: RE: Confirming Item 8.A continuance of Planning Commission Meeting for March 18 re: Hagafen Winery

[External Email - Use Caution]

I am on the zoom but there was no place to be in naming convention. I assume if I need to speak I hit "raise hand."

Patricia E. Curtin, Director
T: 510.622.7660 | F: 510.834.1928
pcurtin@fennemorelaw.com

From: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Sent: Tuesday, March 17, 2026 11:56 AM
To: Curtin, Patricia <pcurtin@fennemorelaw.com>
Cc: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Ariane Matschullat <amhm46@gmail.com>;
beth@bpnapa.com
Subject: RE: Confirming Item 8.A continuance of Planning Commission Meeting for March 18 re: Hagafen Winery

Hi Patricia,
For the meeting tomorrow staff intends to open the public hearing and present the item. We will note the request for a continuance and recommend continuing to the April 1st hearing.

You can join the meeting through the link in the agenda.
3. Watch on Zoom using the attendee link: <https://countyofnapa.zoom.us/j/87621457786>.
Make sure the browser is up-to-date.

Please use the following naming convention when joining.
Item # 8A, Hagafen Winery – First Name Last Name

I will provide our meeting clerk your name and email address so they will know to look for you should you want to speak.

Thank you,
Emily



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A Commitment to Service

Emily Hedge
Planner III
Planning, Building, & Environmental Services
Napa County
Phone: 707-259-8226
1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

From: Curtin, Patricia <pcurtin@fennemorelaw.com>
Sent: Monday, March 16, 2026 4:16 PM
To: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Cc: Gallina, Charlene <Charlene.Gallina@countyofnapa.org>; Ariane Matschullat <amhm46@gmail.com>;
beth@bpnapa.com
Subject: Confirming Item 8.A continuance of Planning Commission Meeting for March 18 re: Hagafen Winery

[External Email - Use Caution]

Hello Emily-

As you know, we represent Arian Matschullat and Weathervane Ranch, adjoining property owners to Hagafen Cellars. I am following up on the voice mail I just left re the Planning Commission meeting this Wednesday, March 18 on Hagafen's request to modify its Use Permit (Item 8.A). I spoke to Beth Painter this afternoon and our clients would like the time to have a meeting to see if they can resolve their issues. She informed me that she spoke to you as well to request the PC hearing be continued to April 1 to allow for the meetings. I since learned my client is not available on April 1 so there may be a need to continue the hearing to April 15. But that continuance can be made at the April 1 meeting if necessary.

Can you please forward the zoom link to the meeting that allows me to participate if needed. Thank you.

Patricia E. Curtin, Director
T: 510.622.7660 | F: 510.834.1928
pcurtin@fennemorelaw.com

From: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Sent: Friday, March 13, 2026 4:02 PM
To: Curtin, Patricia <pcurtin@fennemorelaw.com>
Cc: amhm46@gmail.com; Gallina, Charlene <Charlene.Gallina@countyofnapa.org>
Subject: RE: Notice of Planning Commission Meeting for March 18 re: Hagafen Winery

Patricia,
The Planning Commission will consider the request and provide direction to staff at the meeting. Additional comments received before Tuesday at 4pm will be provided to the commissioners that afternoon prior to the hearing. Comments received after that will be provided the morning of. I will also send your email to the applicant and their consultant, so they are aware of your initial questions.

I'd be happy to discuss any questions you have before the meeting.

Thank you,
Emily

From: Curtin, Patricia <pcurtin@fennemorelaw.com>
Sent: Wednesday, March 11, 2026 6:52 PM
To: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Cc: amhm46@gmail.com; Gallina, Charlene <Charlene.Gallina@countyofnapa.org>
Subject: Re: Notice of Planning Commission Meeting for March 18 re: Hagafen Winery

[External Email - Use Caution]

Emily, thank you so much for getting back to me. We were asked to be put on notice both Darien Keyes and me and we have documentation to support our requests. So we will not know if the request will be granted until the planning commission occurs?

Patricia E. Curtin, Director
T: 510.622.7660 | F: 510.834.1928
pcurtin@fennemorelaw.com

From: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Sent: Wednesday, March 11, 2026 5:03:24 PM
To: Curtin, Patricia <pcurtin@fennemorelaw.com>
Cc: amhm46@gmail.com <amhm46@gmail.com>; Gallina, Charlene <Charlene.Gallina@countyofnapa.org>
Subject: RE: Notice of Planning Commission Meeting for March 18 re: Hagafen Winery

Patricia,
Your request for a continuance and the attached comments have been received and will be provided to the Planning Commissioners.

I apologize that you were not contacted directly. It was my understanding that Mr. Buehl was the primary contact for the neighbor. He was emailed a copy of the public notice and notice of the availability the staff report on Friday March 6th (stbuehl@gagenmccoy.com).

The agenda and staff report for the March 18th meeting is available at: [Napa County - Calendar](#)

I am a little unclear on the questions written on the notice, but I've provided some information below. I would be happy to discuss the comments and anything that may come up with your review of the staff report.

- Code violations. The project was submitted in the Code Compliance Program in 2019 and permitted to continue operations while the application is in process. See the staff report for additional information. Violations related to building and fire code items have been resolved through the issuance of building permits and corrective actions. The only outstanding item (storage room in the winery building) requires approval by the Planning Commission prior to obtaining necessary permits.

- The home was rebuilt following the 2018 fires, under building permit B19-01370. A residence may be rented, as long as it is for a minimum of 30 days.

- Water usage is discussed in the staff report.

- The required notice for the public hearing is 10 days. The notice was published in the Napa Valley Register on March 5th. Our meeting clerk mailed the notice on March 4th. Notices were mailed to your client at three addresses based on the current Assessor's Records and two addresses associated with the prior approval.

Matschullat Ariane M. H. Etal
38 Vineyard Ln
Greenwich CT 06831-3714

Matschullat, Robert W. and Ariane M.H.
4176 Silverado Trail
Napa, CA 9455

Matschullat, Robert W. and Ariane M.H.
46 Vineyard Lane

Greenwich, CT 06830
039-130-001

Thank you,
Emily



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A Commitment to Service

Emily Hedge
Planner III
Planning, Building, & Environmental Services
Napa County
Phone: 707-259-8226
1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

From: Curtin, Patricia <pcurtin@fennemorelaw.com>
Sent: Tuesday, March 10, 2026 2:18 PM
To: Hedge, Emily <Emily.Hedge@countyofnapa.org>
Cc: Ariane Matschullat <amhm46@gmail.com>
Subject: Notice of Planning Commission Meeting for March 18 re: Hagafen Winery

[External Email - Use Caution]

Emily-

We just received from our client, Arianne Matschullat, the attached notice of a hearing before the Planning Commission on March 18. Our offices never revised the Notice event though we are a party of interest and have been communicating with the County for years on this matter. Can we please postpone this hearing so we can be properly prepared? We are the Party who brought the violations by Ernie Weir/Hagafen Winery to the County's attention shortly after the issuance of the original in June 2000. Ms. Matschullat is the adjoining neighbor to the north of the Hagafen Winery at 4147 Silverado Trail.

Please provide us notice of all hearings and meetings that involve the Hagafen Winery at 4160 Silverado Trail.

Thank you.

Patricia E. Curtin
Director

FENNEMORE.

2185 N California Boulevard, Suite 240, Walnut Creek, CA 94596

T: 510.622.7660 | F: 510.834.1928

pcurtin@fennemorelaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

EXHIBIT B

March 31, 2026

Planning Commission
Napa County
1195 Third Street, Third Floor
Napa, CA 94559

**Re: Item No. 7.A – Hagafen Cellars Winery Use Permit Major Modification (P19-00121-MOD)
Objection; Request for Continuance or Denial**

Dear Chair Brunzell and Members of the Commission:

We represent Ariane Matschullat and Weathervane Ranch, LLC, owners of properties immediately adjacent to Hagafen Cellars. Hagafen Cellar (Applicant) is seeking major modifications to its Use Permit. We previously submitted a detailed objection letter dated March 17, 2026, which is incorporated herein by reference. This letter supplements and reinforces that submittal.

I. REQUEST FOR TWO WEEK CONTINUANCE.

The parties are currently engaged in active negotiations regarding conditions of approval that directly affect neighboring properties. Despite this, the Applicant has refused to agree to a brief, two-week continuance to allow those negotiations to conclude. The parties previously requested a continuance of the March 18 hearing with the understanding—communicated at that time—that additional time beyond April 1 might be necessary due to scheduling constraints of the neighboring property owners. The Applicant raised no objection at that time, but now refuses to support a short continuance, thereby undermining the parties' ongoing good faith efforts to resolve outstanding issues.

This position is particularly unreasonable given the procedural history. The Applicant waited approximately eight (8) years to pursue this modification—and decades after first violating its Conditions of Approval—to seek authorization of those violations. Having delayed for years, the Applicant cannot credibly claim prejudice from a brief continuance to allow affected neighbors a meaningful opportunity to address legitimate concerns.

Rather than engaging in good faith resolution, the Applicant now seeks to force approval of an application that would codify longstanding violations, despite years of objections from

FENNEMORE.

Planning Commission
Napa County
March 31, 2026
Page 2

neighboring property owners. This approach reflects a continued disregard for those neighbors and effectively attempts to impose the impacts of noncompliance without affording them a fair opportunity to resolve outstanding issues. The Commission should not endorse that result and should grant a continuance.

II. NOTICE DEFICIENCIES AND DUE PROCESS VIOLATIONS.

The County's compliance with public notice requirements is unclear and appears deficient. The staff report indicates that a "Courtesy Notice" was sent in November 2020, more than five years prior to the current hearing.

For a Planning Commission hearing, the County Code requires that mailed notice of a public hearing be provided to property owners within the required radius (typically 1,000 feet) in advance of the actual hearing. Reliance on a courtesy notice (assuming this was for the hearing) issued years earlier does not satisfy this requirement.

If updated notice was not properly provided in connection with this hearing, proceeding would violate both Napa County Code and fundamental due process requirements.

At a minimum, the uncertainty regarding proper notice provides an independent and sufficient basis to continue the hearing to ensure that all affected property owners receive proper notice and an opportunity to be heard.

III. THE APPLICATION IMPROPERLY SEEKS TO LEGALIZE LONGSTANDING VIOLATIONS.

The record is clear: the Applicant has operated in violation of its Conditions of Approval for years. Rather than correcting those violations, the Applicant now seeks to have them "recognized" and approved. As the staff report confirms, the application would authorize:

- A 140% increase in daily visitation (25 → 60 visitors)
- A doubling of weekly visitation (150 → 311 visitors)
- Expansion to seven-day operations
- Expanded retail activity

These represent a substantial intensification of use.

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Napa County Code and the Board's Code Compliance Program require that violations be remedied—not converted into new entitlements. Approval here would reward noncompliance and undermine the County's enforcement framework.

IV. FAILURE TO REQUIRE COMPLIANCE WITH EXISTING CONDITIONS.

The operative Conditions of Approval—established through a court-approved settlement—remain binding.

The Applicant should be required to comply with those conditions, including:

- visitation limits,
- appointment-only tastings,
- restrictions on outdoor activities,
- neighbor notice requirements, and
- monitoring and reporting obligations.

Instead, the application proposes to eliminate key safeguards, including neighbor notice and reporting requirements. Given the Applicant's history, removal of these protections would significantly impair enforcement and prejudice adjacent property owners.

V. CEQA VIOLATIONS – IMPROPER BASELINE AND UNLAWFUL EXEMPTION.

The County proposes to treat this project as categorically exempt from CEQA. That determination is legally flawed.

The project increases visitation, expands operational days, and intensifies use in a manner that will foreseeably increase traffic, noise, and neighborhood impacts. At a minimum, this satisfies the fair argument standard.

Further, the County improperly relies on unlawful existing operations as the CEQA baseline, masking the project's true impacts. Courts have repeatedly rejected this approach.

Approval on this basis exposes the County to substantial litigation risk.

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VI. REQUIRED ACTION.

For the reasons stated above and in our prior submittal, we respectfully request that the Commission:

1. Continue this item to allow completion of negotiations and to ensure proper notice is provided;

OR, IN THE ALTERNATIVE:

2. Deny the requested Use Permit Modification; and

3. Require the Applicant to demonstrate full compliance with existing Conditions of Approval before any modification is considered.

Very truly yours,

FENNEMORE LLP



Patricia E. Curtin

PEC/slk

cc: Clients

OWNERSHIP LIST

CERTIFICATION FORM

Attached to this certification form is a list of all property owners within a 1000 -foot radius of the subject property as obtained from the latest Napa County Assessment Rolls.

This list is certified to be true and correct to the best of my knowledge and belief.

Property Located at:

4160 Silverado Trail
Napa CA 94558
Apn# 039-130-002

Signed:

Dana Othind Dated 4/29/2026

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of document.

Dana Othind
Atlas Radius Maps
684 S. Gentry Lane
Anaheim, CA 92807
(714) 906-3168

STATE OF CALIFORNIA)

COUNTY OF Orange)

On this 24th day of April, 2026 before me,
Thaniel Davidson, a Notary Public, personally appeared
Dana Othind who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS My hand and official seal

Thaniel Davidson
Signature



039-100-001 1
GOLDEN STATE INCOME FUND IV LLC
4223 SILVERADO TRL
NAPA CA 94558

039-100-002 2
TAMARA MILLER
102 WHITE OAK CIR
PETALUMA CA 94952

039-100-003 3
JASON & KATHERINE AARON
4205 SILVERADO TRL
NAPA CA 94558

039-100-004 4
SKIP & MARTIN KARABIAN
4195 SILVERADO TRL
NAPA CA 94558

039-100-005 5
NIESAR FAMILY VINEYARD LLC
4185 SILVERADO TRL
NAPA CA 94558

039-100-006 6
SANDRA M SUNDIN
4163 SILVERADO TRL
NAPA CA 94558

039-100-007 7
JOSEPH & WENDY BELTRAMI
4161 SILVERADO TRL
NAPA CA 94558

039-100-008 8
ROBERT JORDAN
4165 SILVERADO TRL
NAPA CA 94558

039-100-010 9
STEPHEN M ELLSWORTH
4171 SILVERADO TRL
NAPA CA 94558

039-130-001 10
ARIANE M H MATSCHULLAT
38 VINEYARD LN
GREENWICH CT 6831

039-130-002 11
NORMAN E & IRIT D WEIR
4160 SILVERADO TRL
NAPA CA 94558

039-130-003 12
WEATHERVANE RANCH LLC
38 VINEYARD LN
GREENWICH CT 6831

039-130-007 13
OSCAR & DENISE M RENTERIA
1221 SODA CANYON RD
NAPA CA 94558

039-130-008 14
ANNA MARIE SCADUTO
1207 SODA CANYON RD
NAPA CA 94558

039-130-009 15
FREDERICK & VICKI REINELL
PO BOX 3229
NAPA CA 94558

039-130-010 16
BRANT ROSCOE
1201 SODA CANYON RD
NAPA CA 94558

039-130-015 & 032 17-18
JOHN & PAMELA L HLIVKA
1169 SODA CANYON RD
NAPA CA 94558

039-130-027 19
RON J & JAYNA D SPITERI
1165 SHADY OAKS DR
NAPA CA 94558

039-130-028 20
RAYMOND J PITTMAN
2555 UNION ST
SAN FRANCISCO CA 94123

039-130-031 & 034 21-22
RAYMOND & JYOTI PITTMAN
2555 UNION ST
SAN FRANCISCO CA 94123

039-130-033 23
BRANT ROSCOE
1201 SODA CANYON RD
NAPA CA 94558

039-130-036 24
SUSAN C BURCHILL
1370 TRANCAS ST #169
NAPA CA 94558

039-140-032 25
DAVID & LISA SCHUEMANN
1135 SODA CANYON RD
NAPA CA 94558

039-390-001 26
EMMOLO FAMILY VINEYARD LLC
1083 GALLERON RD
SAINT HELENA CA 94574

039-390-009 27
4110 SILVERADO TRAIL LLC
338 SPEAR ST #33C
SAN FRANCISCO CA 94105

039-390-010 28
CATHERINE J FURTADO
4239 TERRACE ST
OAKLAND CA 94611

039-390-011 29
ROCKMERE VINEYARDS LLC
4130 SILVERADO TRL
NAPA CA 94558

039-390-012 30
THOMAS & KATHLEEN FAZEKAS
3322 CLAY ST
SAN FRANCISCO CA 94118

039-390-021 31
DELICATO VINEYARDS LLC
12001 S HIGHWAY 99
MANTECA CA 95336

039-400-005 32
SAMUEL E GITTINGS
4311 SILVERADO TRL
NAPA CA 94558

039-400-076 33
GEORGE ALTAMURA
21 VISTA RANCH RD
NAPA CA 94558

039-400-084 34
DARIOUSH KHALEDI WINERY LLC
4240 SILVERADO TRL
NAPA CA 94558

039-590-002 35
KIARASH & BORMAN BEHNIA
4220 SILVERADO TRL
NAPA CA 94558

039-590-003 36
SAM J & NANCY LAMONICA
4190 SILVERADO TRL
NAPA CA 94558

039-590-004 37
GUNTHER & GRANDFIELD HUFNAGL
4180 SILVERADO TRL
NAPA CA 94558

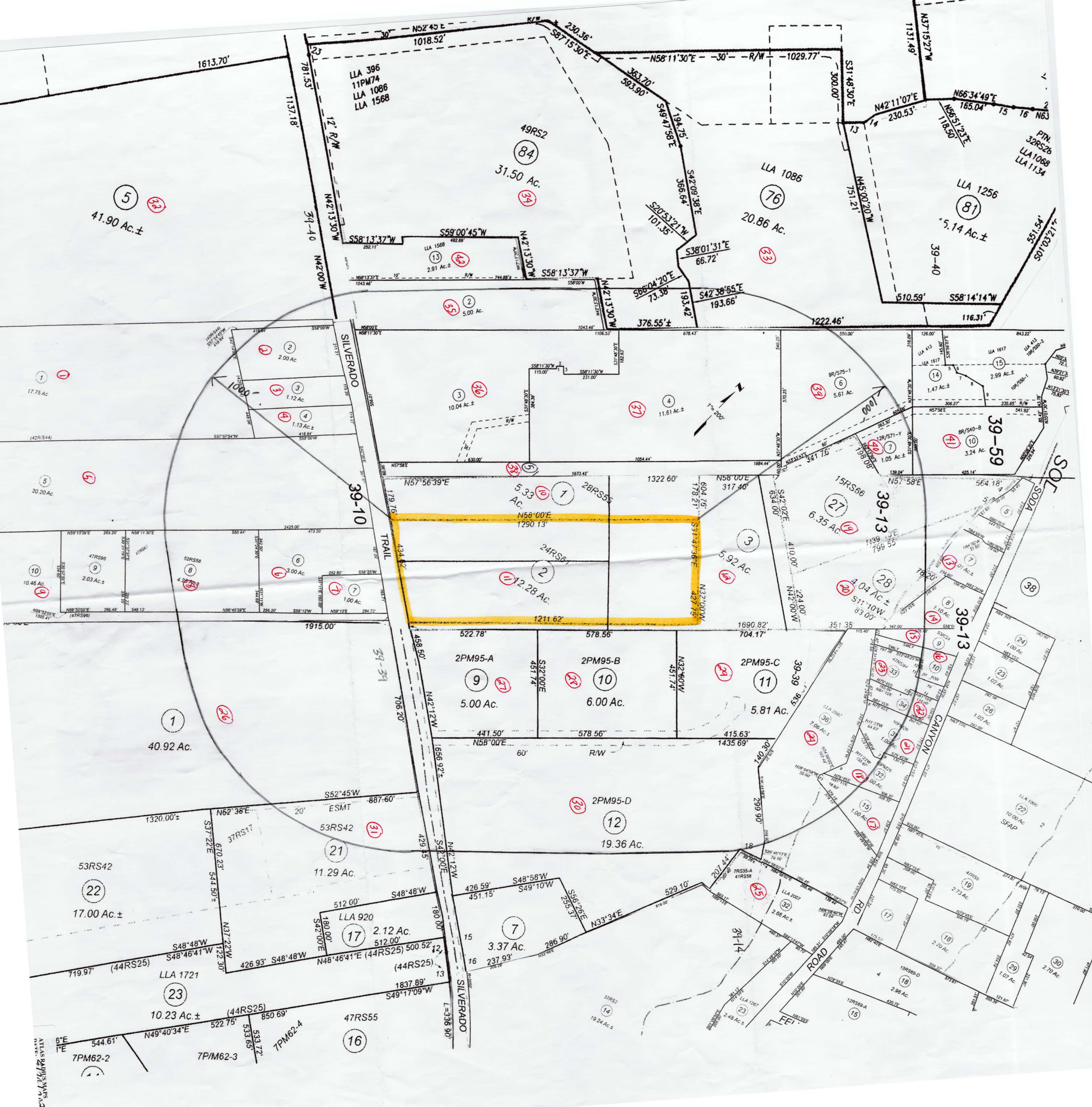
039-590-005 38
RONALD & PENELOPE MALLIN
1180 SHADY OAKS DR
NAPA CA 94558

039-590-006 39
ROBERT A GUNST
1160 SHADY OAKS DR
NAPA CA 94558

039-590-007 40
DANIEL C & ELIZABETH D TRAUB
PO BOX 11870
JACKSON WY 83002

039-590-010 41
ROBERT W FRENCH
4240 JEFFERSON ST
NAPA CA 94558

039-590-013 42
ANTHONY FERRERO
4230 SILVERADO TRL
NAPA CA 94558





NAPA COUNTY
CAMPAIGN CONTRIBUTION DISCLOSURE FORM
PROJECT APPEALS

A Tradition of Stewardship
 A Commitment to Service

(To be included with Appeal Packet)

Effective January 1, 2023, California Senate Bill 1439 expanded requirements of Government Code Section 84308, also known as the "Levine Act," to prohibit public officials from participating in any proceeding involving a license, permit, or other entitlement for use pending before the agency if the official has willfully or knowingly received contributions totaling more than five hundred dollars (\$500) within the preceding 12 months from a party to the proceeding or their agent. The same prohibition applies to contributions from any participant in the proceeding or their agent, if the public official knows or has reason to know that the participant has a financial interest in the decision. The Levine Act requires parties to disclose contributions made by them and their agents to public officials, and to make the disclosure part of the record of the proceeding.

Appellant Name: Ariane Matschullat and Weathervane Ranch, LLC Project Name or Number: P19-00121-MOD

Appellant Organization or Firm (if different than above): Fennemore LLP

Have you, your organization or firm, or an agent of any of them, made any campaign contributions of more than \$500 to any Napa County public official within the last 12 months? Please aggregate any contributions made over the previous 12 months to determine if the \$500 threshold has been met.

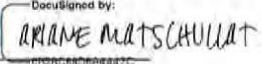
Yes: ☐ No: ☒ (check one)

If no, please sign and date below.

If yes, please provide the following information and then sign and date below. Use additional sheets if necessary.

Date of Contribution	Name of Public Official	Name of Contributor	Amount of Contribution

By signing below, I certify that the information herein is true and correct. I also agree to disclose any future contributions made to Napa County public officials from myself, my organization or firm, or an agent of any of them, after the date of signing this disclosure form, and within 12 months following the County's final decision on the license, permit, or entitlement being appealed. This obligation pertains only to Napa County public officials who have jurisdiction over the appeal.

Date: 4/27/2026 Appellant Signature: 

Organization/Firm name: Fennemore LLP Appellant Name (printed): Ariane Matschullat and Weathervane Ranch, LLC

For questions or additional information, please visit <https://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html>
 PL Doc. No. 109747; Ver. 1/2025