

Attachment A

Preserve Lodi Lane's Appeal
Packet



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EXECUTIVE OFFICE

9:19am
[Signature]

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

A Tradition of Stewardship
A Commitment to Service

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)

#P19.00097-MAD

Action Being Appealed: PLANNING COMMISSION APPEAL of Duckhorn Vse PERMIT

Permittee Name: DUCKHORN VINEYARDS WINERY

Permittee Address: 1000 LODI LAKE ST. Healdsburg CA 94574
No. Street City State Zip

Project Site Address/Location (if different from Permittee Address):
No. Street City State Zip

Assessor's Parcel No.: APN 022-17-10; APN 022-100-033; APN 022-100-031; APN 022-100-035

Permit Number: P19-00097-MAD; VINEYARD P1900098 Date of Decision: MAY 3, 2023

Nature of Permit or Decision: APPEAL MWD APPEAL

Appellant's Name: JOHN D. MURPHY

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: _____

Telephone #: (415) 290-2350 Fax #: () N/A

E-Mail Address: jd.miles.mad@comcast.net

Mailing Address: 1115 LODI LAKE ST. Healdsburg CA 94574
No. Street City State Zip

Appellant's Qualification as Interested Person:
ADJACENT PROPERTY OWNER
project applicant, adjacent property owner, other (describe)

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: John Murphy
 Telephone # (415) 290-2350 Email: jd.miles.mad@comcast.net
 Mailing Address: 1115 LODI LAKE ST. Healdsburg CA 94574
No. Street City State Zip

Check here if this contact will be your representative at the prehearing conference

Contact # 2 Name: AMY MINTOEN
Telephone # (310) 358-2405 Email: ACMD@CBEARTH.COM
Mailing Address: 2200 Pacific Coast Hwy Ste 208 Malibu CA 90254
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.

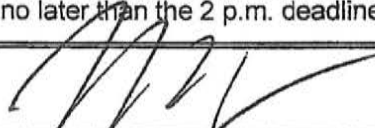
Reason for Appeal. Be specific – factual or legal basis for such grounds of appeal must be expressly stated or they are waived. At a minimum, you must include: (1) identification and description of the specific factual or legal determination(s) made as part of the decision that are the focus of the appeal; 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 ATTACHMENT

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.

Evidence of payment of required fees (check one): Attached Will be submitted later*

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


Signature of Appellant

JUNE 1, 2023
5/31/2023
Date

JOHN MURPHY
Print Name

Preserve Lodi Lane

Sang-Froid Vineyards
1115 Lodi Lane
St. Helena, California 94574
jjdm1@icloud.com

APPEAL PACKET SUBMITTED JUNE 1, 2023 By John D. Murphy, Preserve Lodi Lane

Appeal of Planning Commission Approval of Duckhorn Vineyards Winery Use Permit Major Modification #P19-00097-MOD & Variance #P19 00098.* (See reference page at conclusion of Appeal Packet.)

I. INTRODUCTION

The Napa County Planning Commission explicitly endorsed Planning, Building, and Environmental Services (PBES) institutionalized prejudice towards citizens both concerned with or directly affected by the May 3, 2023 decision to grant Duckhorn Vineyards Winery's Use Permit Major Modification (P19-00097-MOD & Variance (P19-00098) and adopted a Mitigated Negative Declaration (MND). Because of the PBES bureaucratic appeal maze having a chilling effect on substantive public participation in the decision-making process, the Duckhorn Vineyards Winery Use Permit Major Modification application was approved without material consideration of written and verbal public opinions and concerns, particularly from citizens living within 1000 feet of Duckhorn Vineyards Winery.

The Duckhorn project includes the construction of 61,362 square feet production and office facilities; water tanks holding 420,000 gallons; 8,839 square feet expansion of Estate House to 18,162 square feet; development of separate process and sanitary wastewater systems on both East and West Properties connected by Directional Boring under the Napa River; increase in parking spaces from 68 to 96; conversion and expansion of a 23,000 square foot bio-retention pond; permanent destruction of 3.55 acres of Agricultural Preserve (WP) vineyard; removal of approximately 49 trees including heritage oaks; increased wine production from 160,000 to 300,000 gallons; abandonment of Duckhorn's existing Winery Definition Ordinance (WDO) entitlement of 50 visitors per week for "Public Tours and Tastings" for a total of 219 visitors daily by appointment; private tours and tastings for up to 20 guests 120 times annually; wine with food pairings for up to 25 guests 36 times annually; large events for up to 600 guests twice annually; auction-related events for up to 250 guests twice annually; the widening of the east end of Lodi Lane to allow for the striping of a left-hand turn lane onto Duckhorn property; and the construction of an approximately 1000 foot long, 20 foot wide, paved road from Lodi Lane to the new production facility approximately 200 feet from a family residence

Preserve Lodi Lane

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APPEAL PACKET SUBMITTED MAY 31, 2023 By John D. Murphy and Preserve Lodi Lane

Appeal of Planning Commission Approval of Duckhorn Vineyards Winery Use Permit Major Modification #P19-00097-MOD & Variance #P19 00098.* (See reference page at conclusion of Appeal Packet.)

I. INTRODUCTION

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required accommodate 53 foot long tanker and other large trucks utilizing the road to the proposed production facility day and night.*

The Napa County Planning Commission observed the 30-day requirement period for the collection of public commentary, but prejudicially scheduled the public hearing on the Duckhorn's Permit Major Modification MND the day following the closure of the comment period without ever responding to the written opinions and concerns of the public. None of the three of the five commission members nor the PBES Senior Planner authoring the Duckhorn Letter of Intent at the hearing failed to evidence any awareness of having read or responded to either written or verbal public opinions and concerns so as to make it a transparent part of the public record of their deliberation that resulted in the Duckhorn approval decision.

Members of the public were restricted to three minutes each during the hearing to voice concerns and opinions, but Planning Commissioners Whitmer, Dameron, and Phillips, and PBES Senior Planner Trevor Hawkes, failed to either acknowledge or respond to these verbal or previously submitted written citizen comments thus affirming institutional animus toward the public by failing to incorporate it in their legally mandated objective evaluation of the Duckhorn Use Permit Major Modification proposal.

The Planning Commissioners' institutionalized disregard of public opinion in its decision-making about Duckhorn means that the only way Napa County citizens can ensure that their opinions and concerns about the Duckhorn approval are a material part of the decision-making is to pay \$1000.00 to Napa County for the filing of an appeal. This payment and adherence to the highly detailed and unendingly complex procedure for citizens unfamiliar with the PBES public participation process, intentionally disenfranchises the Napa County citizens from their ready right and ability to participate substantively in the Planning Commission's decision-making in transparent contradiction to the county's historical assertion that it both embodies and observes a "Tradition of Stewardship" to the public.

II. CORPORATE AND NAPA COUNTY GOVERNMENT SIEGE OF LODI LANE

Lodi Lane Bookends: Inn at the Abbey and Duckhorn Vineyards Winery

Jackson Family Investments, headquartered in Sonoma County, purchased Freemark Abbey winery at Highway 29 by the "tee" intersection of Lodi Lane half a mile north of St. Helena's city limits in 2006, and then in 2013, a derelict wine tasting facility and run-down motel turned into single family residences occupying a portion of Agricultural Preserve (AP) land at the corner of Highway 29 and Lodi Lane .

The unwholesome appearance of the long-standing shuttered tasting room and former motel rooms converted to single family residences inspired one Lodi Lane resident to award it the honorific "*Squalor Holler*."

In 2016, TSG Consumer Partners, a private equity company in San Francisco, purchased Duckhorn Vineyard Winery located at the "tee" intersection of Lodi Lane and Silverado Trail from the private equity company GI Partners, who had purchased it in 2007 from namesake owners Dan and Margaret Duckhorn.

Freemark Abbey and Duckhorn wineries that bookend Lodi Lane at Highway 29 and Silverado Trail, due to arguably preferential political treatment by PBES in excluding contemporaneous traffic impact study from either the EIR mandated for Jackson's proposed *Inn at the Abbey*, or *Duckhorn's* transformation from a charming rural winery into industrial monument to the wine industry, placed Lodi Lane residents under siege.

In early 2019, both *Freemark Abbey* owner Jackson and *Duckhorn* owner TSG, submitted applications for Use Permit Major Modifications at Napa County Planning, Building, and Environmental Services (PBES), which if approved, will transform historically rural Lodi Lane into a corporate wine industry behemoth generating formidable profits to corporate owners who, arguably, are not taxpaying residents of Napa County.

TSG Consumer Partners—a highly successful publicly-traded \$20 billion dollar company—seeks to transform Duckhorn Vineyards Winery into a manufacturing colossus occupying Napa County's Agricultural Preserve (AP) through the construction of a 60,000 some thousand square foot production facility that allows for the increase in wine gallonage from 160,000 to 300,000 annually; increasing visitors from some 37,000 to some 88,000 annually; doubling the classic *Duckhorn Estate House* tasting facility from about 10,000 square feet to 18,000 plus square feet; removing 49 trees including heritage oaks; widening Lodi Lane between a broken-down one-lane bridge built in 1930 and Silverado Trail to accommodate a left-hand turn lane; and the construction of a two-lane, 20 foot wide, approximately 1,000 feet long, paved road to accommodate 53-foot long Duckhorn tankers rumbling back-and-forth to the new wine production icon both day and night. The new road is only 200 feet from an occupied rural residence and contiguous to a mature, healthy, highly productive vineyard.*

PBES required an Environmental Impact Report (EIR) be conducted of the *Inn at the Abbey* in observance of the California Environmental Quality Act (CEQA), but determined that the *Inn at the Abbey*—at Napa County's 70 percent occupancy rate—could annually serve 57,670 hotel and resort guests arriving and departing in 28,825 passenger vehicles (2 per car); hundreds of employees (and their vehicles) required at to serve a luxury inn and resort; tens of thousands of visitors wine tasting, eating at the restaurant, enjoying a 4000 square foot rooftop bar and lounge, shopping at retail

stores, and attending conference center meetings; using the spa and fitness center; and the arrival and departure of thousands of service and delivery vehicles would have “less than significant” impact on traffic whether it be on Highway 29, Silverado Trail, or Lodi Lane, and excluded any present-day traffic impact studies.

The PBES “less than significant” conclusion about *Inn at the Abbey’s* impact on traffic means that—without being forced to pay a \$1000.00 for an appeal—public opinion and concerns about the traffic impact of the colossal *Duckhorn* expansion was not included in the decision-making process of the Napa County Planning Commission or and therefore from consideration by the Board of Supervisors.

PBES primary reliance on dated traffic studies as the basis of excluding present-day evaluation of the traffic impact of both *Inn at the Abbey* and *Duckhorn* violates the Napa County Traffic Impact Study (TIS) requirements* that such studies required to be completed within two-years prior to the submission of a Use Permit Major Modification application.

Even more compelling is the simultaneous PBES apparent failure to include the examination of the cumulative impact of traffic arising from major use modifications at wineries in immediate proximity to both the proposed *Inn at the Abbey* and *Duckhorn* by its findings that both *Inn at the Abbey* and *Duckhorn* traffic would have “less than significant impact” upon existing traffic.

The PBES *Duckhorn* “less than significant” traffic finding also excludes any consideration of *Duckhorn’s* generation of traffic in the context of *Inn at the Abbey* traffic, including 53-foot-long *Duckhorn* tanker trucks designated to use the “tee” intersection of Lodi Lane and Highway 29 to access and depart the proposed *Duckhorn* wine production colossus because of the nearly 100-year-old (1930) broken-down bridge that commonly floods closing Lodi Lane in the event extended heavy rain .

Historical Goings-On at Lodi Lane

In 1939, the land at Highway 29 and Lodi Lane, presently occupied by *Freemark Abbey* winery, was purchased by three real estate developers, Charles Freeman, Mark Foster, and Albert “Abbey” Ahern who named it ***Freemarkabbey***.

Following its sale years later, *Abbey* sniggered apart from fellow founders “Free” and “mark,” establishing and financially benefiting from the false public historical impression that a religious abbey once occupied the property.

Physical Glory of the Proposed Inn at the Abbey

A four-level 79 room boutique luxury hotel and resort rising to a height of 45 feet constructed on a hill prominently rising above flat agricultural land; underground

*parking for 54 vehicles; 149 surface parking places; 50 rooms on the north side of Lodi Lane and 29 rooms on the south side; pool and plunge pool, spa and fitness center, 4000 square foot rooftop bar and lounge; conference center, wine tasting facilities; reception hall; retail outlets; outside gathering lawn areas; and back-room service areas.**

Hand-in-Hand: Inn at the Abbey and Duckhorn Vineyards Winery

The PBES exclusion of a present-day traffic evaluation from the *Inn at the Abbey* EIR, allowed the Napa County Planning Commission to ignore the opinions and concerns of not only Lodi Lane residents; all those living within 1000 feet of the *Inn at the Abbey*; and every Napa citizen in the required objective evaluation of the Duckhorn proposal in observance of CEQA.

The prejudicial PBES institutionalized political decision about the impact of the Lodi Lane *Inn at the Abbey* traffic serendipitously eliminated the inclusion of the *Inn at the Abbey* EIR from the present-day evaluation of the impact of traffic from Planning Commission's deliberation of the Duckhorn Winery's Use Permit Major Modification.

Duckhorn incorporated the *Inn at the Abbey* traffic studies completed between 2015 and 2019 as part of the factual basis for the PBES finding that the Duckhorn proposal would have "less than significant impact" on traffic thus excluding it from the Planning Commission's consideration of the Duckhorn proposal.*

What amounts to the political exclusion of the traffic impact of the *Inn at the Abbey* on both sides of Lodi Lane at the "tee" intersection of State Highway 29 on the health and safety of the citizenry should the Duckhorn proposal be approved by the Napa County Board of Supervisors, manifests shameless disregard for environmental law and violation of county government's generic responsibilities for public health, welfare, and safety while recklessly exposing Napa County taxpayers to open-ended financial liability in the event of loss or life or limb arising from institutionally dismissed structural traffic hazards on Highway 29 at Lodi Lane.

III. THERE IS SUBSTANTIAL PUBLIC EVIDENCE TO SUPPORT A FAIR ARGUMENT THAT THE DUCKHORN PROJECT MAY HAVE SIGNIFICANT TRAFFIC IMPACTS

Heart-Pounding Traffic Negotiation at Lodi Lane and HWY 29

Preserve Lodi Lane members and supporters are primarily area residents and community members within 1000 feet of the *Duckhorn* project with first-hand personal knowledge of local traffic conditions, hazards, and safety on Lodi Lane and the tee-intersections at Highway 29 and Silverado Trail. The personal observations and experiences of *Preserve Lodi Lane* members and supporters constitute substantive fact-base evidence that was prejudicially excluded by PBES in their evaluation of the

Duckhorn proposal as the direct result of the institutionalization of prejudicial public participation procedures enforced by PBES.

As set forth in the attached legal opinion from the highly experienced CEQA attorneys at Carstens, Black, and Minter LLP, based on the substantial evidence provided by extensive personal observations, a fair argument has been established for necessitating an EIR for the *Duckhorn* proposal.

Preserve Lodi Lane members and supporters have personally experienced and observed that each time a driver desires to make a right or left-hand turn on State Highway 29 from Lodi Lane, he or she routinely nose their vehicle into the northbound traffic lane in the heart-pounding search of an unobstructed sightline to traffic abruptly appearing out of blind curves both the north and south of Lodi Lane at 50 mph and speeds above the posted speed limit. From Lodi Lane south, Highway 29 slopes down slightly some 600 feet to a blind curve bordered by massive trees with thick foliage obscuring vehicles approaching at 50 mph together with intermittent cyclists and the occasional pedestrian.

If the driver of a vehicle seeking to make a right-hand turn from Lodi Lane onto Highway 29 occupies the space next to a driver making a left-hand turn—also being forced to nose into the northbound traffic lane to obtain an unobstructed sightline—his or her vehicle will block the left-hand turn driver’s sightline to traffic approaching from the north at 50 mph and above, forcing them to nose further in the traffic lane or wait until the right-hand driver has completed their turn. Such delays create a physical obstruction and causes the formation of traffic queues on Lodi Lane, which if containing more than four vehicles, will block the proposed southern entrance to the *Inn at the Abbey* on the north side of Lodi Lane. *Preserve Lodi Lane* members and supporters have personally observed and experienced these transparent traffic safety hazards that engender accidents and near misses while often resulting in often heart-pounding anxiety necessitating the preparation of an EIR to replace the Planning Commission approval of the *Duckhorn* MND. (See attachment 3.)

[For example, 53-foot-long Duckhorn tanker trucks will occupy the entire space used for passenger car simultaneous right and left lanes on Lodi Lane, and create static vehicle queues while searching for enough space and time for a massive, very slow-moving tanker truck to safely enter 50 mph Highway 29. The Duckhorn project dramatically increases the potential for collisions between glacially moving tanker trucks who also have views of high-speed Highway 29 both north and south traffic compromised by blind curves, vehicles turning left onto Lodi Lane from Highway 29; separate vehicles simultaneously turning both left and right from Lodi Lane onto Highway 29; a transit stop in proximity to the principal entrance to the Inn at the Abbey; and cyclists and pedestrians using the Vine Trail contiguous to the Highway 29 Inn at the Abbey property and crossing the tee-intersection at Lodi Lane.]

Both the Lodi Lane right and left-hand driver's sightline to southbound traffic is also blocked if more than two vehicles are queued in the Highway 29 left-hand turn lane into Lodi Lane. The Highway 29 left-hand drivers' rear-view north is impaired by an upward slope to a crest with a slight curve in the twelve-foot-wide southbound lane obscuring vehicles appearing suddenly at 50 mph and faster.

When a delivery truck, van, or SUV occupies either the right or left-hand shared lane on Highway 29, all passenger vehicle drivers are discouraged from nosing into the northbound lane to obtain an unobstructed sightline, and will remain in place until the larger vehicle has successfully completed its turn. The length of time waiting to make a safe turn will quickly produce vehicle queues that will block the planned southern entrance to the Inn at the Abbey on the north side of Lodi Lane, and impede *Inn at the Abbey* guests, visitors, employees, *Inn* service carts, and bicyclists from crossing from the south side of Lodi Lane to the north side.

At the same time a vehicle posed to make a left-hand turn from Lodi Lane onto Highway 29 thus blocking the sightline of the driver next to them trying to make a right-hand turn, the vehicle of the driver making the right-hand turn also blocks the sightline north of the driver making the left-hand turn. Both Lodi Lane drivers' sightlines are further compromised by vehicles queued in the Highway 29 left-hand turn lane onto Lodi Lane preventing an unobstructed view of southbound traffic approaching at 50 mph or more over the crest of a curve on an upward slope north.

[Despite Duckhorn's proposed 88,000 plus visitors adding some 44,000 vehicles (at 2 persons a vehicle) to the Lodi Lane traffic load along with hundreds of 53-foot-long tanker trucks driving from to and from the proposed 62,000 square foot plus production and office colossus, was determined by PBES to have "less than significant impact" on traffic.* This PBES conclusion is contradicted by the personal experience of *Preserve Lodi Lane* members and local supporters.]

IV. THE VINE TRAIL

If the traffic impact of the Inn at the Abbey and Duckhorn Vineyards Winery isn't significant enough for the Napa County PBES, the construction of an extension of the Vine Trail on Highway 29 from St. Helena to Calistoga primarily for bicyclists must be considered.

The Vine Trail will contiguously occupy the space both north and south property line of the proposed Inn at the Abbey on Highway 29 crossing Lodi Lane. When the Vine Trail is operative, drivers using Lodi Lane to turn either north or south on Highway 29—both likely having nosed into the northbound traffic lane in an increasingly frustrating—**particularly with the extended presence of Duckhorn's 53-foot-long tanker trucks**—and intense search for physically uncompromised sightlines, will physically impede the passage of Vine Trail bicyclists and pedestrians—along with *Inn*

at the *Abbey* guests, visitors, employees, and guest service carts attempting to use the crosswalk. Pedestrians and cyclists will be forced to stop or dangerously negotiate passage in front of vehicles nosed into the northbound traffic lane, or even more threatening, between queued vehicles.

The Planning Commission approved *Duckhorn* MND exacerbates an indisputable threat to public health, welfare, and safety at the tee-intersection of Lodi Lane and Highway 29.

Entering Lodi Lane from North Highway 29

Aggravating physical hazards at the “tee” intersection of Lodi Lane and Highway 29, is the placement of a southbound left-hand turn lane on Highway 29 onto Lodi Lane. *Preserve Lodi Lane* members and supporters have personally observed southbound drivers headed toward St. Helena, when negotiating their left-hand turn onto Lodi Lane, nose their vehicle forward and block vehicles attempting to turn left on Highway 29. If there is more than one vehicle in the Highway 29 left hand turn queue into Lodi Lane, the next vehicle instantly replaces the vehicle that turned left onto Lodi Lane, maintaining the physical blockade of drivers wanting to turn left often resulting in lengthy vehicle queues.

First-time drivers turning left onto Lodi Lane from the southbound turn lane on Highway 29 are arguably unlikely to have a working knowledge of the Vine Trail, either because they are simply unaware of its existence, or more realistically, because approaching cyclists are often concealed by vehicles traveling north on Highway 29. If more than three vehicles occupy the left-hand-turn lane onto Lodi Lane, they are likely to stop or impede southbound Highway 29 traffic on a 12-foot-wide traffic lane.

[If one or more *Duckhorn* tanker trucks occupies the left-hand turn lane onto Lodi Lane, the wait of drivers attempting to turn left will be extended again creating lengthy traffic queues establishing an adverse traffic safety condition for hotel guests, Vine Trail bicyclists and pedestrians, and hotel employees servicing the 29 room *Inn at the Abbey* south campus on Lodi Lane.]

V. DATED INN AT THE ABBEY AND DUCKHORN TRAFFIC STUDIES

The eight-year-old 2017 State Highway 29 and Lodi Lane *Inn at the Abbey* traffic study found that 15,000 vehicles pass Lodi Lane on Highway 29 each week-day, and 13,000 on week-ends, some 4,848,000 annually. In 2017, the *Inn at the Abbey* traffic study estimated that 350,400 vehicles use Lodi Lane annually.*

The combined Highway 29 and Lodi Lane annual traffic load is **5,198,400**.

The PBES *Inn at the Abbey* Notice of Preparation in 2019 concluded the following about its impact on traffic despite the addition of thousands of guest vehicles arriving and departing multiple times during the usually required minimum two-day stay—with the addition of numerous arrivals and departures for wine tastings and restaurant patronage:

“Upon the addition of project-related traffic to existing volumes, both study sections (Lodi Lane at both Highway 29 and Silverado trail) would be expected to operate acceptably at the same level as existing traffic. Further, the delays would be less than significant than those under Permitted Conditions and a traffic light would not be warranted. Striping left and right-hand turn lanes (Lodi Lane at Highway 29) would reduce conditions to “less than significant.” (*Inn at the Abbey Notice of Preparation is included as Attachment 2.*)

The Napa County PBES *Inn at the Abbey* Notice of Preparation, by finding that the new hotel would have “less than significant impact” on traffic allowed them to exclude tens of thousands of vehicles arriving and departing daily after wine tasting; conference attendance, retail shopping, restaurant and rooftop bar and lounge patronage, and use of fitness center and spa, plus thousands of employee vehicles necessary for the optimum operation of a boutique luxury hotel; and the daily addition of thousands of service and support vehicles required at Napa County’s 70 percent hotel occupancy rate. A Napa Board of Supervisors *Duckhorn* approval would add an estimated 44,000 passenger vehicles and hundreds of 53-foot-long tanker trucks to the *Inn at the Abbey* traffic load at Lodi Lane and Highway 29.

Despite this massive increase in traffic load, no present-day traffic study was required by Napa County PBES for either the *Inn at the Abbey* or *Duckhorn*. PBES chose not assess the cumulative impacts of traffic load, safety, and hazards arising from the *Inn at the Abbey* and *Duckhorn* projects.

Napa County Traffic Impact Study (TIS) Policy

- “A TIS is required if the project exceeds the county’s screening criteria of 40 or more daily vehicle trips.”
- “The project is likely to substantially alter physical or operational conditions on a county roadway, bridge, bikeway, sidewalk, or transportation facility.”
- The county traffic engineer deems a TIS necessary if there is evidence the project’s unique location might lead to (traffic) impacts.”
- “A TIS is valid for two years.”
- Data Study: “Most recent two years.”

The following more than two-year-old traffic studies were employed by both the *Inn at the Abbey* and *Duckhorn* to generate PBES findings of “less than significant Impact” on traffic in violation of the following Napa County’s Traffic Impact Study (TIS) requirements:

- 2016 Collision Data on California State Highways, California Department of Transportation, 2018.
- City of Napa Traffic Study Guidelines, City of Napa, 2004
- County of Napa Administrative Draft, Traffic Impact Study Guidelines, County of Napa, 2020.
- Highway Capacity 6th Edition, Transportation Resource Board, 2020
- Highway Design Manual 6th Edition, California Department of Transportation, 2017.
- Napa County Bicycle Plan, Napa Valley Transportation Authority, 2019
- Napa County General Plan, County of Napa, 2013.
- Napa County Road and Street Standards, 2016.
- Statewide Integrated Traffic Records System, CHP, 2014-2019.
- Technical Advisory on Evaluating Transportation Impacts on CEQA, Governor’s Office of Planning and Research, 2018.
- Traffic Impact Study for the *Inn at the Abbey*, W-Trans, 2019.

Napa County PBES reliance on mostly four-to-five-year-old traffic safety hazard analysis materially failed to analyze present-day traffic health and safety issues at either the project level or cumulatively in light of the Permit Major Modifications at virtually every winery in proximity to Lodi Lane at the tee-intersections at Highway 29 and Silverado.

Wineries Within One Half Mile of Duckhorn Granted Use Permit Major Modifications Within Last Five Years

Ballentine
Ravena
Grace Family
Brasswood
Titus

Trinchero
Elhers
Charles Krug
Faust Haus (new winery)

Preserve Lodi Lane incorporates by reference Use Permit Major Modification date available from Napa County's Current Project Explorer website obtainable from the Current Projects Explorer (countyofnapa.org).*

The cumulative impact of these Permit Major Modifications in increased numbers of permitted visitors, employees, and their vehicles were apparently excluded by PBES with the designation of the traffic impact of the *Inn at the Abbey* and *Duckhorn* had "Less than significant impact in violation of CEQA.

VI. LODI LANE/HIGHWAY 29 STRUCTURAL HAZARDS NEGATIVELY IMPACTING BOTH INN AT THE ABBEY AND DUCKHORN TRAFFIC.

1. Two Highway 29 12-foot-wide travels lanes with contiguous bike paths both North and South crossing the Lodi Lane tee-intersection.
2. Highway 29 North and South slopes on blind curves approximately 600 feet south and 500 feet north of Lodi Lane.
3. An unsignalized tee-intersection at Highway 29 and Lodi Lane subject to substantial increases in vehicular—including 53-foot long tanker trucks—cyclists, pedestrians, service and delivery vehicles, including public transit vehicles, bifurcating the Inn at the Abbey on Lodi Lane calculated to generate tens of thousands of hotel and resort guests, visitors, employees, service and delivery vehicles, and 53-foot-long wine tanker trucks.
4. Single Lodi Lane turn lane capable of accommodating simultaneous right and left-hand turns that when occupied contemporaneously, physically obstruct driver sightlines both north and south.
5. Drivers forced to make U-turns on 30-foot wide, two lane, on 45 mph Lodi Lane to access Inn at the Abbey entrances.
6. Drivers attempting to turn both left and right from Lodi Lane onto Highway 29, compelled to physically nose vehicles into the northbound Highway 29 50 mph traffic lane to obtain unobstructed sightlines in search for vehicles approaching both north and south.
7. Drivers of all vehicles—including 53-foot long Duckhorn tanker trucks—will be required to stop for cyclists and pedestrians utilizing the Vine Trail contiguous to the Inn at the Abbey and Lodi Lane, and Inn at the Abbey guests staying at Inn at the Abbey hotel rooms planned to be constructed on south Lodi Lane,

8. A public transit stop on Highway 29 just south of the main entrance to the Inn at the Abbey that when occupied by a bus, obstructs the view of drivers, cyclists, pedestrians, and vehicles traveling north at 50 mph causing speed reduction and possible stoppage blocking northbound traffic.
9. A public transit stop on the west boundary of 24-foot-wide Highway 29 across from the main entrance to the Inn at the Abbey, absent a crosswalk for Inn guests, employees, or amenity patrons who will be forced to negotiate Highway 29 traffic suddenly appearing at the crest of a rise at 50 mph.
10. Thousands of Inn at the Abbey guests, visitors and employees crossing Lodi Lane on foot or service carts night and day 365 days a year to access the Inn at the Abbey restaurant, winery, conference rooms, retail stores, pool, spa, rooftop bar and lounge.
11. A large fleet of guest service vehicles required to move guests and their luggage from the reception building to rooms located on the south boundary of Lodi Lane at Highway 29.
12. Thousands of service and delivery vehicles required to use Lodi Lane to turn left on the Inn at the Abbey service entrance contiguous to the west boundary of the Inn at the Abbey.

The Duckhorn project's traffic safety impacts at the tee-intersection of Highway 29—excluded by PBES along with the assessment of the cumulative traffic safety impacts arising from Permit Major Modifications at wineries in immediate proximity to Duckhorn both exacerbate the threat to public health and welfare and violate the elemental responsibility of government to ensure and protect the health and safety of its citizenry on its highways, roads, and bridges.

VII. DISTANCE BETWEEN DUCKHORN INDUSTRIAL PARK AND RESIDENTIAL PROPERTY

The PBES Duckhorn Letter of Intent asserts that the location of the proposed production facility is less than 500 feet from the nearest residence and therefore satisfies Napa County winery set-back policy. The only Napa County winery set-back policy is that it is required to be six-hundred feet from Hwy 29, Silverado Trail, and all arterial county roads (which includes Lodi Lane). The PBES basis for approving the production site fails to include a proposed some 1000 foot-long, 20-foot-wide paved road necessary to allow 53-foot long *Duckhorn* tanker trucks to access and exit the proposed production facility that is only 200 feet from an occupied Lodi Lane residence is an intrinsic element of the proposed production structure since it is the sole access and exit choice available and therefore violates the 500-foot setback requirement claimed by PBES.

The Planning Commission approved Duckhorn MND failed to assess the impacts of constructing a new wine production facility together with a new entrance and exit

road physically required to reach the facility that is 200 feet from an occupied residence. The MND noise analysis fails to address either the noise from the production facility, or the noise of 53-foot-long tanker and delivery trucks that are likely to utilize the new road night and day. Since the new road is only 200 feet from an occupied residence, an EIR is required.

VIII. DUCKHORN MITIGATED NEGATIVE DECLARATION (MND) MUST BE BASED ON AN ENVIRONMENTAL IMPACT REPORT (EIR)

Based on the lengthy personal experience of Lodi Lane residents and people living within 1000 feet of the Duckhorn property with structural traffic safety threats at the tee-intersections of Highway 29 and Silverado Trail, establishes a fair argument that the Planning Commission approval Duckhorn MND must be the subject of an EIR.

VIX. Public Document References

- All documents cited in this appeal support packet are designated public by Napa County and obtained through the County of Napa Planning, Building, and Environmental Services through the utilization of its Current Projects Explorer ([countyofnapa.org/Current Projects Explorer](http://countyofnapa.org/Current%20Projects%20Explorer)).

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May 31, 2023

Napa County Board of Supervisors
1195 Third Street,
Room 310
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Re: Support for Preserve Lodi Lane Appeal of Duckhorn Vineyards Winery Use
Permit Major Modification #P19-00097-MOD

Honorable Supervisors:

I have reviewed Preserve Lodi Lane's enclosed appeal of Duckhorn Vineyards Winery Use Permit Major Modification #P19-00097-MOD ("Duckhorn Project"). It is my opinion, as an experienced practitioner under the California Environmental Quality Act ("CEQA"), based on the evidence presented in Preserve Lodi Lane's appeal, that an environmental impact report should be prepared for the Duckhorn Project.

Because issuing a mitigated negative declaration ("MND") truncates the CEQA process with often minimal environmental review, CEQA's "legal standards reflect a preference for requiring an EIR to be prepared." (*Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 332.) An agency proposing to rely upon an MND must make the analysis accompanying the proposed MND as complete and comprehensive as possible. (*Long Beach Savings and Loan Assn. v. Long Beach Redevelopment Agency* (1986) 188 Cal. App. 3d 249, 263.) When considering whether to require preparation of a full EIR or allow review culminating in an MND instead, a court will examine whether there is substantial evidence in the record to support a fair argument that the stated mitigation measures may not achieve the goal of reducing impacts below a level of significance. (*Citizen's Com. To Save Our Village v. City of Claremont* (1995) 37 Cal.App.4th 1157.) ***An EIR must be prepared instead of an MND when there is substantial evidence to support a fair argument that the project may have significant adverse environmental impacts.*** (Public Resources Code § 21151.) "The fair argument standard is a 'low threshold' test for requiring the preparation of an EIR." (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.) If ***any*** substantial evidence of a potential environmental impact after the agency's proposed mitigation measures are implemented exists, then preparation of an MND is not appropriate, even if substantial evidence exists

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Thus, for the reasons set forth in the Preserve Lodi Lane appeal, preparation of an EIR is required for the Duckhorn Project.

Sincerely,


Amy Minter