



A Tradition of Stewardship
A Commitment to Service

Napa County Board of Supervisors

Mountain Peak Winery Appeal – Remand from Napa County Superior Court

P13-00320-UP and Road and Street Standards Exception Request

May 18, 2021

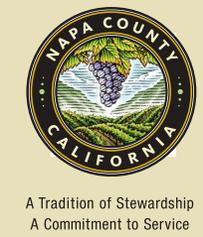


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Approved Project

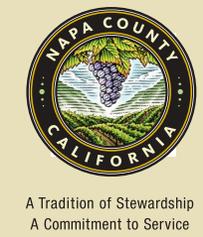
- 100,000 gallon winery, limited by condition that 75% of grapes come from Upper Soda Canyon Road (above the 6.0 mile marker)
 - 8,046 sq. ft. tasting and office building
 - 33,424 sq. ft. cave
 - 19 FT, 4 PT, 4 seasonal employees
 - 60 visitors/day, 275/week for by-appointment Tours and Tastings
 - Marketing Events: 2 annual events @ 75 visitors, 1 annual event @ 125 visitors
 - On premises consumption
 - Exception to RSS to increase slope on portion of commercial drive
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Procedural History

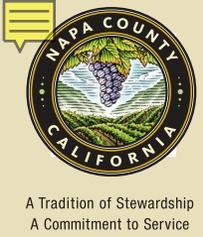
- September 26, 2013 - Application received
 - January 4, 2017 - Planning Commission Approval
 - May 23, 2017 - Board of Supervisors Appeal Hearing
 - August 22, 2017 - Board of Supervisors Findings of Fact and Denial of Appeal
 - September 20, 2017 – Petition for Writ of Mandate
 - October 8, 2017 - Atlas Fire began
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Petitioner’s Motion to Augment the Record

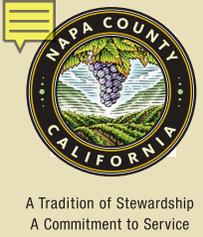
- Motion to Augment the Record sought to introduce post-decision evidence relating to the Atlas Fire. The Evidence consisted of seven declarations, with exhibits.
 1. **Declaration of Anthony G. Arger** – A description of multiple exhibits which include photos taken before, during, and after the Atlas Fire, maps of the extent of the Atlas Fire, maps depicting fire history of the greater Soda Canyon area, maps of Atlas Fire road damage assessments, and finally excerpts of the Atlas Fire Damage Inspection Report and CalFire Incident Report.
 2. **Declaration of Amber Manfree** – A description of the displayed data contained in maps created by the declarant and included in exhibits for declarant Arger.
 3. **Declarations of Cynthia Grupp, David Hallett, Linda Savoie, Glenn Schreuder, and Shelle Wolfe** – Accounts by the declarants of their experience evacuating the Soda Canyon area on the night of October 8, 2017.
 - Court Granted the Motion, but only for “truly new evidence of emergent facts.” The Court defined that as evidence *“that is both (a) relevant to [the County’s] decision in this matter, and (b) not exhibit by or is materially different from those exhibited by previous fires in the subject area.”*
 - Court specified, by paragraph and line, the proposed new evidence that met the Court’s standard and remanded the matter to the County for reconsideration of the decision in light of the evidence.
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Staff determined that the New Evidence was relevant to the following grounds of appeal:

- **Seventh Ground of Appeal** - Appellant contends that the Planning Commission failed to properly consider the Project’s effect on the health, safety, and welfare of the County in light of Incident Reports from the California Department of Forestry and Fire Protection (CalFire) demonstrating that there have been 107 incidents between January 2007 and April 2015 on Soda Canyon Road.
 - **Eighth Ground of Appeal** - Appellant contends that the Planning Commission failed to properly consider the Project’s effect on the health, safety, and welfare of the County in light of maps produced from CalFire data demonstrating that nearly the entire upper portion of Soda Canyon Road, including the Project site, is located in a “Very High Fire Hazard Severity Zone.”
 - **Ninth Ground of Appeal** - Appellant contends that the Planning Commission failed to properly consider the Project’s effect on the health, safety, and welfare of the County in light of a “Pre-Attack Fire Plan” designed by CalFire for the Soda Canyon area, which warns of the extreme fire danger and the likelihood that Soda Canyon Road will quickly become congested in the event of a fire.
 - **Tenth Ground of Appeal** - Appellant contends that the Planning Commission failed to properly consider the Project’s effect on the health, safety, and welfare of the County in light of testimony from the chief of the Soda Canyon Volunteer Fire Department and a former volunteer of the Department describing the inherent dangers of Soda Canyon Road from a fire safety perspective. They testified that approval of the Project would increase the risk of fire and significantly impact rescue efforts.
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Key Takeaways

- The new evidence does not undermine the conclusion that Soda Canyon Road has sufficient capacity to handle evacuation in the event of an emergency.
 - The new evidence does not undermine the conclusion that the Project complies with all applicable regulations for wineries in Napa County, including the proposed Fire Safe Regulations from the Board of Forestry.
 - The new evidence does not show that the Project will have a measurable negative impact on the number of incidents reported on Soda Canyon Road, the risk of fire in the area, the ability of the public to evacuate along Soda Canyon Road, or the inhibition of rescue efforts by emergency personnel.
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Board's Options on Remand

- Deny all remaining grounds of appeal and affirm its decision to uphold the Planning Commission's approval of the Mountain Peak Winery (P13-00320-UP), as recommended by Staff;
 - Reverse its decision and uphold one or more of the grounds of appeal and modify the scope of the Project and/or the recommended Conditions of Approval;
 - Reverse its decision and uphold one or more grounds of appeal and reverse the Planning Commission's decision, thereby denying the Use Permit and related actions, or
 - Reverse its decision and remand the matter to the Planning Commission with direction.
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