

**BOARD OF SUPERVISORS APPEAL HEARING – FEBRUARY
25, 2025 FINAL PROJECT FINDINGS**

**Hillwalker Vineyards Winery Use Permit Exception to the
Conservation Regulations (P23-00239), Exception to the
Napa County Road and Street Standards, and Use Permit
Application (P23-00101)
1871 Mount Veeder Road, Napa
APNS 034-110-047, 034-100-020, 034-100-043, 034-110-059**

ENVIRONMENTAL:

The Board of Supervisors has received and reviewed the revised Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and finds the project:

1. The Board of Supervisors has read and considered the revised Mitigated Negative Declaration and Mitigation Monitoring Report Program (MMRP) prior to taking action on said revised Mitigated Negative Declaration/MMRP and the proposed Project.
2. The revised Mitigated Negative Declaration and MMRP is based on independent judgment exercised by the Board of Supervisors.
3. The revised Mitigated Negative Declaration and MMRP was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. There is no substantial evidence in the record as a whole, that the Project will have a significant effect on the environment provided that measures to mitigate potentially significant impacts to Biological Resources and Agriculture and Forest Resources are incorporated into the project approval.
5. There is no evidence, in considering the record as a whole that the proposed Project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
6. The site of this proposed Project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
7. The Clerk of the Board is the custodian of the records of the proceedings on which this decision is based. Records are located at the Napa County Planning, Building, and Environmental Services Department, 1195 Third Street, Room 210, Napa, California.

EXCEPTION TO ROAD AND STREET STANDARDS:

The Board of Supervisors has reviewed the attached described Road and Street Standards Exception request in accordance with Road and Street Standards Section 3 and makes the following findings:

1. The exception will preserve unique features of the natural environment which includes, but is not limited to, natural water courses, steep slopes, geological features, heritage oak trees, or other trees of least six inches in diameter at breast height and found by the decision-maker to be of significant importance, but does not include human altered environmental features such as vineyards and ornamental or decorative landscaping, or artificial features such as, rock walls, fences or the like.

Analysis: The driveway design has followed the existing gravel driveway alignment. The two segments of the driveway subject to the exception to the RSS are constrained by steep slopes and an adjacent blueline stream, which, forbids road expansion to the compliant width.

2. The exception is necessary to accommodate physical site limitations such as grade differentials.

Analysis: The driveway design has followed the existing gravel driveway alignment. The two driveway segment subject to the RSS are constrained by steep slopes and an adjacent blueline stream, which, forbids road expansion to the compliant width. To achieve the same overall practical effect, nine turnouts were proposed at locations to be inter-visible. These measures will serve to provide the same overall practical effect towards providing defensible space, consistent with the State Responsibility Area (SRA) Fire Safe Regulations.

See Engineering Services Division memorandum dated June 25, 2024, and Recommended Approval Conditions dated August 23, 2023, for further analysis and proposed conditions.

CONSERVATION REGULATIONS EXCEPTION

1. Roads, driveway, building and other man-made structures have been designed to complement the natural landform and to avoid excessive grading.

Analysis: The proposed driveway improvements follow the existing driveway alignment and will require minimal grading. Approximately 1,300-feet will be widened from 14 to 22 feet with nine (9) turnouts along the remaining portions of the existing access drive.

2. Primary and accessory structures employ architectural and design elements which in total serve to reduce the amount of grading and earthmoving activity required for the project including the following elements: a) multiple-floor levels which follow existing, natural slopes; b) foundation types such as poles, piles, or stepping levels which follow minimize cut and fill and the need for retaining walls; c) fence lines, walls, and other features which blend with the existing terrain rather than strike off at an angel against it.

Analysis: There are no new buildings associated with the proposed new winery.

3. The development project minimizes removal of existing vegetation, incorporates existing vegetation into the final design plan, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects.

Analysis: The expanded driveway width (approximately 1,300 ft. in length) and six turnouts proposed in the stream setback. The project site is zoned Agricultural Watershed (AW), which allows wineries upon grant of a use permit. According to the Napa County Environmental resource maps (based on the following layers – Sensitive Biotic Oak Woodlands, Agriculture, and Riparian Woodland Forest) the project site contains Oak woodlands, specifically Coast live oak woodland and trees. The proposed project would result in a loss of up to ten (10) trees, including the removal of eight (8) Live Oak, one (1) California Buckeye, and one (1) California Black Oak. The removal of the scattered ten trees of is consistent with the definition of Vegetation Canopy Cover pursuant to NCC Section 18.108.030; therefore, there removal would need to be mitigated pursuant to NCC Section 18.108.030.D. Removal of the ten scattered trees is required to install the upgrades to the existing shared driveway required by the Napa County Road and Street Standards. The approximate vegetation canopy cover area was developed by presuming the tree canopy of one mature Oak tree is encompasses approximately 60-100 square feet¹ (this area was corroborated by aerial imagery interpretation, to not exceed 100 square feet per tree removed) equating to approximately 0.062 acres, which would yield a total vegetation canopy cover preservation ratio of 0.07 acres (100 feet multiplied by 9 trees multiplied by 3 equals 2,700 square feet and converts to 0.062 acres). The implementation of Mitigation Measure AG-1, requiring a vegetation canopy cover preservation easement or other similar mechanism, requiring the long term preservation of existing oak vegetation at a ratio of 3:1 would result in a less than significant impact to oak resources.

4. Adequate fire safety measures have been incorporated into the design of the proposed development.

Analysis: Given that the project is located in the High Fire Severity Zone, the Fire Marshal's office and Engineering Division have reviewed the plans and determined that the proposed improvements would not result in a physical modification to the slope of the site, change prevailing winds, or alter other factors that would likely exacerbate wildfire risks and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.

5. Disturbance to streams and watercourses shall be minimized, and the encroachment if any, is the minimum necessary to implement the project.

Analysis: The project does not adversely impact threatened or endangered plant or animal habitats as designated by state or federal agencies or identified as special status species, sensitive biotic communities or habitats of limited distribution in the county's Baseline Data Report (2005 or as amended) or Environmental Resources Mapping System.

¹ Gilman, E.F. and Waston, D.G (1993). *Quercus virginiana*: Southern Live Oak. University of Florida. <http://edis.ifas.ufl.edu/st564>

6. The Project does not adversely impact threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the County's environmental sensitivity maps.

Analysis: The Biological Assessment dated February 3, 2024, prepared by LSA Associates on behalf of the Applicant, was also submitted to the SCH. CDFW, in its role as a trustee and responsible agency, submitted a comment letter concluding their review of submitted project documents. While their letter did not identify new environmental impacts, CDFW requested four additional mitigation measures that amplify the revised IS/MND and further decrease potential environmental impacts, which were all incorporated in the COA. The County incorporated three mitigation measures that require preconstruction surveys be conducted and shared with CDFW prior to the commencement of construction, to determine whether the applicant needs to apply for a California Endangered Species Act Incidental Take Permit (ITP) and/or a Lake and Streambed Alteration (LSA) Agreement. Furthermore, the County incorporated a fourth mitigation measure requiring a thorough assessment for potential impacts to the stream including the placement, construction, and operation of the driveway modifications and tree removal.

7. The proposed development does not result in a net increase in soil loss and runoff. [An erosion control plan, or equivalent NPDES stormwater management plan, has been prepared in accordance with Section 18.108.080 and has been approved by the director.

Analysis: Engineering staff has reviewed the latest iteration of the Stormwater Control Plan (SCP), dated March 14, 2024, and determined it is acceptable and consistent with the requirements of Napa County Code Section 16.28.100.

8. The proposed development does not result in a net increase in soil loss and runoff.

Analysis: Engineering staff has reviewed the latest iteration of the Stormwater Control Plan (SCP), dated March 14, 2024, and determined it is acceptable and consistent with the requirements of Napa County Code Section 16.28.100.

USE PERMIT

1. That the Board of Supervisors has the power to issue a use permit under the zoning regulations in effect as applied to the property.

Analysis: The project is consistent with Agricultural Watershed (AW) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Section 18.20.030) are permitted in an AW zoned district with an approved use permit. The project, as conditioned, complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code) as applicable.

2. That the procedural requirements set forth in Chapter 18.124 of the Napa County Code (zoning regulations) have been met.

Analysis: The Appeal and the Use Permit applications have been appropriately filed, noticed, and public hearing requirements have been met. The original hearing notice for the Use Permit and intent to adopt a Mitigated Negative Declaration were posted and published in the Napa Valley Register on July 6, 2024, and copies of the notice were forwarded to property owners within 1,000 feet of the Property, as well as other interested parties. The public comment period ran from July 6, 2024, to August 7, 2024. The Appeal hearing notice was posted on November 12, 2024.

3. That grant of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the county.

Analysis: Granting the Use Permits on the project as proposed and conditioned will not adversely affect health, safety or welfare of the County. Various County divisions and departments have reviewed the project and commented regarding the proposed site access, grading, drainage, hold and haul system, parking, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the protection of the public health, safety, and welfare.

4. That the proposed use complies with the applicable provisions of this code and is consistent with the policies and standards of the general plan and any applicable specific plan.

Analysis: Compliance with the Zoning Ordinance

The project is consistent with the AW zoning district regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.20.030) are permitted in the AW District subject to an approved use permit. The proposed project includes the establishment of a new winery including the winery's visitation and market program. The project, as conditioned, complies with the Napa County Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

Analysis: Compliance with the General Plan

As proposed and conditioned, the requested Use Permit is consistent with the overall goals and policies of the 2008 Napa County General Plan. The General Plan land use designation for the subject parcel is Agriculture, Watershed, and Open Space (AWOS).

General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guides the County to "preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County." General Plan Goal AG/LU-3 states that the County should "support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands." Goal AG/LU-3 and Policy AG/LU-2 recognize wineries as agricultural uses.

The use of the property for fermenting and processing grape juice into wine supports the economic viability of agriculture within the County, consistent with Goal AG/LU-3 and Policy AG/LU-4 ("The County will reserve agricultural lands for agricultural use including land used for grazing and watershed/open space..."). By allowing the proposed agricultural use, the

requested Use Permit supports the economic viability of the existing vineyards and agricultural product processing, consistent with Economic Development Goal E-1 and Policy E-1.

The “Right to Farm” is recognized throughout the General Plan and is specifically called out in Policy AG/LU-15 and in the County Code. “Right to Farm” provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa County’s adopted General Plan reinforces the County’s long- standing commitment to agricultural preservation, urban centered growth, and resource conservation.

Applicable Napa County General Plan goals and policies:

Goal AG/LU-1: Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.

Goal AG/LU-3: Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.

Policy AG/LU-4: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.

Policy AG/LU-8: The County’s minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units.

Policy AG/LU-15: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a “right to farm”), even though established urban uses in the general area may foster complaints against those agricultural practices. The “right to farm” shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2.

Goal CON-10: Conserve, enhance and manage water resources on a sustainable basis to attempt to ensure that sufficient amounts of water will be available for the uses allowed by this General Plan, for the natural environment, and for future generations.

Goal CON-11: Prioritize the use of available groundwater for agricultural and rural residential uses rather than for urbanized areas and ensure that land use decisions recognize the long-term availability and value of water resources in Napa County.

Policy CON-53: The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval. Depending on the site location and the specific circumstances, adequate demonstration of availability may include evidence or calculation of groundwater availability via an appropriate hydrogeological analysis or may be satisfied by

compliance with County Code “fair-share” provisions or applicable State law. In some areas, evidence may be provided through coordination with applicable municipalities and public and private water purveyors to verify water supply sufficiency.

Policy CON-55: The County shall consider existing water uses during the review of new water uses associated with discretionary projects, and where hydrogeological studies have shown that the new water uses will cause significant adverse well interference or substantial reductions in groundwater discharge to surface waters that will alter critical flows to sustain riparian habitat and fisheries or exacerbate conditions of overdraft, the County shall curtail those new or expanded water uses.

Policy CON-77: All new discretionary projects shall be evaluated to determine potential significant project-specific air quality impacts and shall be required to incorporate appropriate design, construction, and operational features to reduce emissions of criteria pollutants regulated by the state and federal governments below the applicable significance standard(s) or implement alternate and equally effective mitigation strategies consistent with Bay Area Air Quality Management District’s (BAAQMD) air quality improvement programs to reduce emissions. In addition to these policies, the County’s land use policies discourage scattered development which contributes to continued dependence on the private automobile as the only means of convenient transportation. The County’s land use policies also contribute to efforts to reduce air pollution.

Policy CON-81: The County shall require dust control measures to be applied to construction projects consistent with measures recommended for use by the BAAQMD [Bay Area Air Quality Management District].

Goal E-1: Maintain and enhance the economic viability of agriculture.

Policy E-1: The County’s economic development will focus on ensuring the continued viability of agriculture in Napa County.

Policy SAF-20: All new development shall comply with established fire safety standards. Design plans shall be referred to the appropriate fire agency for comment as to:

- 1) Adequacy of water supply.
- 2) Site design for fire department access in and around structures.
- 3) Ability for a safe and efficient fire department response.
- 4) Traffic flow and ingress/egress for emergency vehicles.
- 5) Site-specific build-in fire protection
- 6) Potential impacts to emergency services and fire department response

5. That, in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, substantial evidence has not been presented which demonstrates that the new water system or improvement might cause a significant adverse affect on any underlying groundwater basin, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080 of this code.

Analysis: The subject property is not located in a “groundwater deficient area” as identified in Section 13.15.010 of the Napa County Code and is consistent with General Plan Conservation Policies CON-53 and CON-55 which require that applicants, who are seeking discretionary land use approvals, prove that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources.

Based on the submitted Water Availability Analysis (WAA) by Stillwater Civil Design, the subject 20.46-acres, has an estimated groundwater recharge of 2.23-acre feet per year (af/yr). Water Demand Calculations submitted for the project placed the water demand for existing (and proposed) uses on the property as follows: residence and pool with a pool cover 0.5 af/yr; vineyards 0.9 af/yr; winery 0.064 af/yr; total domestic water use 0.14 af/yr; landscaping 0.025 af/yr. The estimated water use for the existing and proposed vineyards, winery, and residence is 1.63 af/yr. Based upon this figure, the project would not increase groundwater extraction beyond the parcel’s yearly estimated groundwater recharge of 2.23 af/yr. The County is not aware of, nor has it received any reports of, groundwater shortages near the project area. The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level. Therefore, the project is considered not to have potential to significantly impact groundwater resources. Because the projected water demand for the project is below the estimated groundwater recharge for the parcel, the requested Use Permit is consistent with General Plan Goals CON-10 and CON-11, as well as the policies mentioned above that support preservation and sustainable use of groundwater for agricultural and related purposes. The project will not require a new water system or other improvements and will not have a negative impact on local groundwater.