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Staff Responses to Grounds of Appeal

Hagafen Cellars Winery Appeal P26-00125
Board of Supervisors Hearing – August 11, 2026

GROUNDS OF APPEAL:

The following outlines the basis of the appeal as contained in Appellant's Appeal Packet dated April 29, 2026. (See **Attachment A**.) For convenience, staff has provided a summary below, but recommends the Board review the actual Appeal for details.

Appeal Ground No. 1: Appellant alleges that approval of the project legalizes longstanding violations of existing conditions of approval. Appellant asserts that the Planning Commission should have required the Applicant to cure the violations and demonstrate sustained compliance, before granting additional entitlements.

Staff Response 1:

Between August 2017 and December 2018, the Board of Supervisors held numerous meetings and discussed a revised code compliance program that included enforceable deadlines for property owners to apply for new permits or modifications to resolve outstanding violations. Ultimately, on December 4, 2018, the Board adopted Resolution No. 2018-164 which established a Code Compliance Program (Compliance Program) that created a limited amnesty program for compliance. Under the Compliance Program, property owners could apply for a modification to their Use Permit to voluntarily remedy existing violations and could continue to operate at existing (unpermitted) levels while the application was being processed. To participate in the amnesty program, applications for a modification were required to be submitted by March 29, 2019, at 2:00 p.m. After the deadline, property owners would need to operate within their existing legal entitlements for one year, before submitting a use permit or modification application to remedy any violations as noted in Section 1.a.v. of the Resolution:

> "Any applicants not enrolled in the Compliance Program that are found to be operating out of compliance with their use permit, will be required to operate within their entitled operations for one year before their application will be considered by the Planning Commission. This time period allows a 'reset' of the CEQA baseline to be the authorized/permitted, not unpermitted levels of operations. Should compliance issues arise in the future, the Applicant would be subject to the timeframe specified above."

On March 27, 2019, Hagafen Cellars Winery (the Applicant or the Winery) submitted Major Modification P19-00121, and entered into the Compliance Program. The application sought recognition of existing days of operation, existing days allowing retail sales, and levels of visitation, that were occurring beyond current entitlements. No intensification of those activities was requested as part of this application. The application also included a request to remove or revise selected prior conditions of approval that required annual reporting of daily visitation counts, grape source data and production, and a requirement to notice a specific list of individuals prior to Winery events.

The Appellant is correct that the Commission's approval legalized the existing violations, however, because the Major Modification was in the Compliance Program, the Applicant was allowed to continue to operate at the existing 2018 operational levels while the application was being processed. The Applicant, like all use permit holders in the Compliance Program, was not required to revert to entitled operations. Appellant's assertion that the Commission should have required the Applicant to revert to entitled operations would have contravened the Board's direction and would have contradicted how the Compliance Program was implemented on 38 projects (including Hagafen Cellars Winery) over the last seven (7) plus years that have been decided by the Planning Commission or Zoning Administrator.

Appeal Ground No. 2: Appellant contends that the Planning Commission improperly removed or weakened neighbor-protection and monitoring conditions that were key safeguards including visitation tracking, and reporting (e.g., annual visitation, grape sourcing, production) obligations and neighbor event noticing.

Staff Response 2:

Contrary to Appellant's assertion the Commission did not improperly revise the conditions of approval (COA). The conditions were discussed by the Commission at two public hearings, were described in the staff report, and were the subject of comment by Appellant and therefore they were properly considered and adopted. The Commission has broad discretion to adopt, amend or remove conditions of approval. (Napa County Code § 18.124.060; *Garavatti v. Fairfax Planning Comm.* (1971) 22 Cal. App. 3d 145, 148.) Furthermore, the revised conditions adopted by the Commission were substantially the same as the original conditions and did not weaken neighbor protections or monitoring requirements. The conditions were revised to reflect the County's current standard conditions of approval, replace outdated language and practices and to ensure consistency and uniformity among winery use permits.

Staff response to the separate topics of the reporting requirements and event noticing is as follows:

Reporting Requirements

Use Permit No. 99477 required submittal of an annual report of daily visitation counts (COA No. 3), an annual report of grape source data (COA No. 15), an annual statement certifying compliance with grape sourcing requirements (COA No. 16), and an annual report of the number of gallons of wine produced during the year (COA No. 21). According to the Applicant, they do in fact maintain these records and provide them to relevant state agencies, however they have not historically provided them to the County as required by Use Permit No. 99477.

The revised conditions adopted by the Commission continue to require the Applicant to maintain records of daily visitation (COA Nos. 4.2 and 4.7), grape sourcing and certification (COA Nos. 4.6 and 4.7), and gallons of wine produced (COA Nos. 4.2 and 4.7). The only difference is that these records are to be provided to the County ***upon request*** rather than automatically on an annual basis.

The requirement to automatically submit annual visitation, production, and grape-sourcing reports to the County reflects an older, non-uniform, approach that predates the County's standardization effort. The visitation log-book requirement, the grape-source/production record-keeping requirement, and the underlying compliance/enforcement authority — including the County's ability to order an audit and commence revocation proceedings under Napa County Code §18.124.120 — have been part of the County's standard winery conditions since at least 2009–2010, and were carried forward, largely unchanged, when the Board formally adopted the winery standard conditions of approval in 2017. Since 2017, modifications to use permits that have outdated conditions are routinely "freshened up" with the 2017 standard conditions of approval so as to ensure uniformity among winery use permits and consistency with current standard conditions.

The Commission's action simply brought this permit into conformance with the standards routinely and consistently applied to winery permits in unincorporated Napa County. Only the delivery mechanism changed, from annual filing to records-on-demand, but that change in no way weakened or reduced the monitoring requirements included in the original use permit. (**Attachment F.**)

Event Notification Requirement

Use Permit No. 99477 COA No. 2 required the Applicant to provide written notice to select individuals, a minimum of ten (10) days in advance of all events that occur each year.

While staff and the Commission were supportive of the Applicant notifying the Appellant prior to events, the Commission felt it was unnecessary for the County to be a party to an arrangement between the Applicant and specific individuals with an interest in the Winery. The Commission supported the Applicant agreeing to continue the notification process as a private agreement with the Appellant rather than as a County imposed condition.

As explained in the March 18, 2026, Commission staff report, and as discussed at the hearing, there are no proposed changes to the permitted events, but the Applicant requested to remove the portion of the existing condition requiring the Winery to provide a notice to select neighbors and individuals prior to events (22 contacts). The Appellant is included on the list three times, two personal addresses and one for Weathervane Ranch LLC, and two contacts at Gagen, McCoy, McMahon & Armstrong, the firm that represented the Appellant at that time, are also on the list.

The Applicant explained that noticing to the list of identified individuals was provided for the first several years following approval of the use permit but no responses were received. After they stopped providing notices they were not contacted by any of the individuals following the occurrence of an event. Appellant's counsel informed the Commission that Appellant has "…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." (Planning Commission Meeting, March 18, 2026, Item 8A - Public Comment.) Because the notification condition did not require that copies be sent to the County, the Department does not have records of the Applicant sending the notices.

Staff was unaware of a compliance issue with this condition of approval, until Applicant informed staff as part of the application that it had stopped complying with the notification condition and requested that it be removed for lack of interest. As noted in the March 18, 2026, staff report, the County does not have any records of complaints regarding marketing events or temporary events at the Winery. This was reiterated by Ms. Hedge during staff's presentation as stated at the March 18, 2026, Commission hearing "…the Department has not received complaints regarding events that were not noticed during that time" (Planning Commission Meeting, March 18, 2026, Transcript, 4:16-28). Despite the Appellant's assertion that violations were ongoing, the Appellant has provided no evidence supporting these statements. It was staff's opinion, which was supported by the Commission, that based on the admitted lack of noticing for many years and the absence of any complaints, removal of the condition would not adversely impact the community or the individuals previously listed.

Noticing individuals prior to events is not a standard condition of approval for wineries, although variations on this type of condition have at times been imposed. Maintaining a condition of this type has the potential to easily become outdated since property ownership contact information is subject to change, as is property ownership itself. Staff recommends that the Board uphold the Commission's decision to remove the notification requirement and encourage the Appellant and Applicant to privately agree to future noticing. At the April 1, 2026, Commission Hearing, the Applicant's counsel informed the Commission that they are willing to continue noticing the Appellant, stating "…we're willing to continue to notify the neighbor. They've given us four addresses that they would like to have notified. We're willing to do that." (Planning Commission Regular Meeting, April 1, 2026, Transcript, 9:19-21).

<u>Potential Revised Conditions of Approval Offered by Applicant After the Planning Commission Decision as Part of the Appeal</u>

Applicant's counsel has offered to revise conditions No. 3. and No. 21 to revert to the original language requiring: (1) submittal of the annual reports the County rather than only upon request;

and (2) to provide notice of all events to interested neighbors upon receipt of an updated list of individuals.

Staff maintains that the conditions adopted by the Commission are sufficient and adequately achieve the intent of the proposed revisions. While staff is supportive of the Applicant notifying the Appellant prior to events, staff does not feel it is necessary for County staff to be involved in this requirement. Staff supports a private agreement for continued noticing between the Applicant and Appellant.

Appeal Ground No. 3: Appellant asserts that the Planning Commission's findings lack substantial evidence that the intensification is compatible with neighboring residential and agricultural uses. Further, Appellant alleges the record is not supported by substantial evidence demonstrating parking, site capacity, traffic, access, and noise were fully analyzed and mitigated.

Staff Response 3:

Appellant mischaracterizes the project and disregards evidence in the record demonstrating that parking, traffic, access and noise were appropriately considered. The project seeks to recognize existing (unpermitted) winey operations that have been occurring since at least 2018. There is no intensification and the project is wholly compatible with surrounding uses. Staff's consideration of application materials and use of professional judgment on each topic is supported by the record, and Appellant has not offered any evidence contradicting staff's conclusions. The following responses further elaborate on staff's application review process and basis for the recommended findings.

Appellant's characterization of this project approval as an "intensification" is incorrect.

Contrary to Appellant's assertion, recognition of the existing operations does not equate to an intensification. Under the Compliance Program, the Commission's approval recognizes operations already occurring at the site. The Compliance Program specifically allowed an applicant to request to remedy existing violations and, as a separate action, request to further expand existing entitlements. The process to "remedy existing violations" is to recognize and approve the levels of operation that were identified, based on 2018 data provided by the applicant, as being out of compliance. The 2018 application sets the baseline conditions which are then analyzed, and a recommendation is presented by staff. A request to "expand existing entitlements" (e.g., an intensification) is a proposal to expand operations beyond the baseline levels identified as out of compliance. The Compliance Program allowed this to occur through the same application; however, the two requests are "decoupled" and considered and acted upon separately by staff and the Commission. Appellant appears to disregard this framework entirely.

The parking, traffic, and noise associated with the existing baseline level of visitation already exists and has existed since at least at the 2018, representing the CEQA baseline. Recognizing these conditions in the permit does not intensify the Winery operations or create a new impact(s) to mitigate. This is consistent with the CEQA baseline governing recognition of existing conditions under the Compliance Program as opposed to a "legal entitlements only" baseline otherwise required of code violators. In fact, one of the incentives of voluntarily participating in the Compliance Program was that wineries or other permittees who entered the program were able to establish their existing unpermitted operations as the CEQA baseline for environmental review. The activity recognized under this approval is not new and was properly evaluated under the framework the Board itself established for code compliance applications.

County Inter-departmental review process

Contrary to Appellant's assertion, the record reveals that as part of staff's regular practice when reviewing projects, and this one in particular, parking, traffic access and noise were considered. As set forth above, the components of this approval reflect recognition of existing operations, and no new physical or operational impact analysis was required as a matter of CEQA baseline. The recognition of baseline operations required no additional parking, traffic, access, or noise analysis under CEQA because no new impact was created. However, utilization of the unpermitted operations as the baseline did not remove the obligation of reviewing County divisions and departments to review and analyze the project for compliance with County and State regulations. Review of applicable regulations was completed, and conditions were applied as necessary.

The application was circulated for interdepartmental review to County subject matter experts including but not limited to the Public Works Department for traffic and circulation, to the Fire Marshal for compliance with the Napa County Road and Street Standards (RSS) and adequate access, to the Engineering Division to review the groundwater analysis, and to Environmental Health for a review of the water system and wastewater system.

Appellant's assertion that increased visitation, retail activity, vehicle circulation, outdoor activity, and events will create additional noise, and neighborhood disturbance is not supported by the project description or substantial evidence in the record. The application does not increase the documented existing visitation level, employee count, wine-production level, or number of marketing events. The staff reports, CEQA memorandum, and Recommended Findings relied on by the Commission all reasonably and appropriately concluded that the approval will not generate additional operational activity compared with existing physical conditions. In addition, the Planning Commission imposed project-specific and standard County conditions addressing noise, lighting, fire and life safety, groundwater monitoring, access, wastewater treatment, and waste disposal to ensure the project would not adversely affect public health, safety and welfare.

Staff addresses each topic as follows:

Parking

Napa County Code does not have fixed parking ratios for winery uses. Parking is, and has consistently been treated as, an operational matter for the owner/operator to manage, consistent with the scope of their project proposal and permit approval. The County discourages more paved parking than a winery's actual operations demand. This approach is consistent with, and reinforced by, the County's General Plan Goal AG/LU-1 directs the County to "preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County." Staff evaluates whether a project site's available parking can reasonably accommodate the proposed operational levels – number of employees, by appointment visitation activities, and authorized marketing program – rather than to impose a rigid numerical standard the Code does not require.

Use Permit Modification No. 99477-MOD Condition No. 6 provides for a maximum of twenty-two (22) off-street parking spaces which was determined sufficient for the original operations, including employees, by appointment visitation, and marketing events.

The Major Modification recognized an increase in by appointment daily visitation from a maximum of 25 visitors to a maximum of 60 visitors. There were no changes to the approved marketing events or number of employees. The Applicant did not request additional parking spaces leading staff to reasonably conclude that the existing parking was satisfactory for the levels of operations that had been occurring for more than seven years.

Utilizing the standard estimate for visitation of 2.6 visitors per car, the daily maximum of 60 guests would represent approximately 24 trips a day. Assuming appointments are staggered throughout the visitation hours of 10 am to 5 pm, there would be sufficient parking, while spaces are utilized for the five (5) full-time and two (2) part-time employees.

Based on the above standard estimates and knowledge of current practices in the industry (shuttling and use of ride shares), staff did not consider it necessary to require additional parking especially since the Applicant did not request any. Therefore, there was no reason to further evaluate the adequacy of the existing parking.

At the April 1, 2026, hearing the Appellant's counsel raised concern regarding parking for events and implied there was an increase in events, stating "We're also concerned that the applicant is seeking to increase visitors for their special events of up to 100 persons, but yet they're only providing 19 parking spaces and only 11 are for guests" (Planning Commission Meeting, April 1, 2026, Transcript, 7:9-12). The record clearly shows that the Applicant did not request an increase in marketing events. Although the Appellant alleges that the approved level of events may have exceeded, no evidence has been provided to support these allegations.

Permit No. 99477-MOD COA No. 6 also includes restrictions on parking, maintaining the safety of travel along Silverado Trail, and protecting neighboring properties. These restrictions were carried forward by the Commission. (See **Attachment D**- COA No. 4.21.)

<u>Traffic</u>

Staff acknowledges that noncompliant operations resulted in additional trip generation beyond what was originally anticipated under the original use permit approval. However, under the Compliance Program, 2018 operations and traffic levels were considered the baseline, and the request for recognition of existing operations did not result in additional trips.

The Applicant completed the Public Works Department "Trip Generation" as part of their 2019 application submittal (March 18, 2026, Planning Commission Staff Report Attachment E – Use Permit Application Packet), including pages identifying the entitled operations (Permit No. 99477) and the 2018 operational levels requested to be recognized. The Applicant prepared an additional sheet highlighting the change in the number of trips, "net new trips", resulting from the change in visitation levels. The additional trips range from 25 trips on Weekends and 27 trips on Weekdays. When the application was deemed completed and the CEQA consideration commenced, the Public Works threshold for completing a traffic impact study was 110 net new trips, which far exceeds the calculated trips that resulted from the change in operations. Accordingly, the Public Works Department did not require submittal of a traffic study. Additionally, Public Works staff considered the parcel's location along a straight portion of Silverado Trail, providing good site distance, and the existence of the left-turn lane into the driveway, installed as required by the original use permit.

Despite the fact that the existing number of trips was not increasing and a formal traffic study was not required, Planning staff compared the proposal to the transportation considerations under CEQA. For analysis of potential impacts from transportation, the CEQA Guidelines consider Vehicle Miles Traveled (VMTs). In 2019, the County updated and adopted the Circulation Element as well as Policy CIR 7 a VMT-based screening threshold. The Napa County Traffic Impact Study Guidelines were updated in 2022 to include a threshold determining that a project generating fewer than 110 net new daily trips is not required to undergo a detailed VMT analysis. The trip generation associated with this project existing conditions falls well below the current threshold.

Moreover, Appellant has not provided any documented evidence that traffic generated by this Winery's operations has actually posed a problem at any point. The Winery has been operating at the levels recognized by this application since at least 2018, per records included in the Use Permit Major Modification application. That means the traffic conditions Appellant now characterizes as inadequately analyzed have been an on-the-ground reality for a period spanning several years, not a hypothetical future condition. Appellant's assertion that the record lacks substantial evidence on this point is not supported by any evidence of an actual or potential impact; it is a contention untethered to any showing of actual or potential harm. Substantial evidence review does not require staff to affirmatively disprove a problem that Appellant has not shown exists.

Access

Appellant incorrectly asserts that the record lacks information regarding the scope, location and adequacy of the driveway improvements required to comply with the Napa County Road and Street Standards (RSS) and how the improvements will mitigate safety and traffic impacts. The RSS were developed in 1971 and have been revised over the years to achieve objectives such as ensuring projects meet the minimum fire safe regulations for safe ingress and egress while striving to maintain the preservation of the health, safety, and welfare of the public.

The March 18th Planning Commission staff report describes that the scope and location of the improvements as driveway widening "by approximately four (4) feet along the main entry…minor expansions to portions of the driveway that loops around the winery building". Further, the report states that the improvements will occur on areas of the site that have previously been disturbed by landscaping, vineyards, and grading for Winery development, noting that the work will likely require removal of existing olive trees and potentially vineyard rows adjacent to the driveway. The Planning Commission March 18th graphics also included a site plan showing the existing driveway with notes stating the requirements for widening to achieve the overall width and vertical clearance required by the RSS. (See the March 18th Planning Commission staff report, Attachment J. "Graphics", includes Sheets "C1.0" and "C2.0".) (See **Attachment G** to this report.)

To ensure the improvements are completed, COA No. 6.15.d. requires the driveway improvements to be completed within one (1) year of approval of the Use Permit Modification. If driveway improvements have not been constructed by this time, Winery operations shall revert back to the levels approved in Use Permit Modification No. 99477. The Fire Marshal's February 20, 2026, Conditions of Approval Memo, also includes a condition requiring the driveway improvements. The one-year timeframe was considered by the Fire Marshal and determined to be reasonable to allow the Applicant to hire a registered civil engineer to prepare the plans, submit a grading permit to the Engineering Division, staff review and approval of the permit, completion of the improvements, and final inspections. Additionally, the Applicant hopes to limit the removal of the olive trees along the driveway or conduct the tree removal and relocation during the most environmentally appropriate time of the year. The timeframe is comparable to three (3) Compliance Program projects approved by the Planning Commission in 2026. The following projects, Hourglass Winery (P19-00102), Barnett Winery (P19-00125), and Paloma Winery (P19-00386), were conditioned to complete their required driveway improvements within eight (8) months, nine (9) months, and two and a half years (respectively).

Contrary to the Appellant's assertion, the driveway improvements are not mitigation for traffic. The driveway condition instead upgrades the existing access to current standards and provides greater safety for employees, visitors, and emergency vehicles. Its completion schedule therefore is not improper deferral of mitigation.

Noise

Appellant asserts that recognizing the increased visitation and operations will increase noise and affect neighboring properties, however generalized fears and speculation do not rise to the level of substantial evidence. (*Banker's Hill, Hillcrest, Park W. Cmty. Pres. Grp. v. City of San Diego* (2006) 139 Cal. App. 4th 249, 274.) Appellant claims that "neighbor have observed numerous events at the winery over the years," however, none of these observations have resulted in noise complaints to the County. Furthermore, the Winery has been operating at least seven (7) years at the level of visitation that the Commission recognized without any record of complaints to the County.

The County does not have a formal threshold for when a noise study is required but since 2015 it has been the Planning Division's administrative practice to require a noise study if a winery's hospitality or production improvements or outdoor on-premises consumption areas are located within 500 feet of the nearest residential structure. Because the Major Modification did not request expanded use of the outdoor areas, expanded visitation or marketing, beyond the existing 2018 levels and because the closest off-site residence was more than 500 feet from the tasting room and outdoor on-premises consumption area, there was no new noise generation to consider or analyze. Based on staff's GIS review of aerial imagery and distance measurements for this site, the closest off-site structures on the Appellant's property to the north are greater than 500 feet from the tasting room and outdoor on-premises consumption areas.

- The closest portion of the tasting room is approximately 510 feet from the nearest accessory structure on the adjacent parcel to the north (Appellant's parcel), and approximately 550 feet from the main residence.
- The closest outdoor on-premises consumption area along the west side of the production building (approved under P18-00081) is approximately 515 feet from the accessory structure and approximately 572 feet from the main residence.
- The trellis structure adjacent to the tasting room is situated approximately 15 feet further from the residential parcel than the tasting room itself.
- Existing Winery landscaping is located between the outdoor hospitality area and the residential parcel, providing additional buffering beyond distance alone.

Each of these distances is greater than 500-feet and therefore staff reasonably considered noise and whether a noise study was warranted. Because there was no change in existing operations and therefore no anticipated increase in existing noise levels, no further analysis was necessary. Appellant has not identified any noise complaint, monitoring data, or other evidence in the record of a noise impact at Appellant's residence or neighboring properties. Appellant merely assumes that more visitors and more operations will increase noise, but these speculative assumptions do not equate to substantial evidence.

<u>Site Capacity</u>

Staff is unclear what specific concern Appellant has regarding "site capacity" separate from the parking, traffic, and noise concerns addressed individually above. To the extent Appellant is raising a distinct concern, Appellant has not identified what that concern is or what evidence in the record supports it.

As explained above, the topics of parking, traffic, access, and noise were appropriately and adequately considered by staff from multiple divisions and departments as part of the interdepartmental review of this application.

<u>Appeal Ground No. 4:</u> Appellant alleges notice and due-process deficiencies. Specifically, Appellant asserts that the public notice for the Planning Commission hearing was deficient due to the reliance on an old "courtesy notice" and that there is nothing in the record to establish current mailed notice was provided to the affected owners.

<u>Staff Response</u>:

Appellant's claim of deficient noticing is both inaccurate and contradicted by the record. The record reveals that Appellant was provided mailed notice five times at two separate addresses and that Appellant's counsel emailed staff confirming Appellant had in fact received notice.

On March 5, 2026, the Public Notice for the Planning Commission hearing and Notice of Intent to adopt various categorical exemptions was mailed to all property owners within 1,000 feet of the subject property. The County's requirements to notice all property owners within 1,000 feet far exceeds the State mandate of noticing all owners within 300 feet. Notice was also provided to those persons on the general CEQA document notification ("Interested Parties") list.

The Notice was also published in the Napa Valley Register on March 5, 2026. **Attachment E** of this staff report includes a copy of the Notice and the mailing list of property owners within 1,000 feet of the subject property. Additionally, staff mailed the Notice to a supplemental list of individuals identified in Permit No. 99477 COA No. 2 for notification of events. The Appellant is included on the 1,000-foot mailing list twice – once as Ariane Matschullat and once as Weathervane Ranch LLC. The Appellant is also included on the supplemental list three (3) times – two (2) separate addresses for Matschullat and once for Weathervane Ranch LLC. The notice sent to the Weathervane Ranch LLC address from the supplemental list was received "Return to Sender" on March 19, 2026. No other copies were received returned.

On March 10, 2026, the Appellant's counsel emailed staff confirming their client received the notice for the March 18th Planning Commission hearing and requested a continuance. The email included a scan of the envelope and the notice itself, featuring a handwritten note that it arrived on March 9th.

In addition, consistent with the Board's direction in 2014 to provide early notice of applications to neighbors (Board of Supervisor Resolution No. 2014-15 – Part I, Section 12 – PBES Department) on November 18, 2020, a project Courtesy Notice was sent to Appellant, neighbors and interested parties as part of the project record.

As evidenced above, notice of the Planning Commission hearing exceeded legal requirements and was provided to Appellant on more than one occasion, to two separate addresses and receipt of the hearing notice was acknowledged by Appellant's counsel. Appellant had a full and fair opportunity to be heard at the Planning Commission.

Appeal Ground No. 5: Appellant alleges that the County cannot use unlawful operations as the CEQA environmental baseline in order to minimize or mask the impacts of the project. The winery was originally approved with a Negative Declaration. Appellant contends that the project increases visitation, expands days, and intensifies use in a manner that foreseeably affects traffic, noise and neighborhood conditions. According to Appellant, CEQA requires subsequent-review under CEQA Guidelines sections 15064(f)(7), 15162 through 15164.

Staff Response:

The County Relied on the Appropriate CEQA Baseline.

As lead agency, the County has significant discretion to determine the appropriate "existing conditions" baseline. (*Communities for a Better Env't v South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 336.) The governing rule is that the baseline must reflect actual physical conditions on the ground at the time environmental analysis commences, regardless of whether those conditions resulted from lawful activity. This principle is firmly established by the California Supreme Court in *Communities for a Better Env't*, and a consistent line of Court of Appeal decisions. The proper baseline is the existing condition of the site, even if that condition may be the result of illegal activity. (*Riverwatch v County of San Diego* (1999) 76 Cal.4th 1428, 1451.) CEQA "is not the appropriate forum for determining the nature and consequences of a prior conduct of a project applicant." (*Riverwatch,* 76 Cal.4th at p. 1452.) However, the rule is not absolute: a lead agency cannot use hypothetical permitted capacity as the baseline, and courts have reserved the possibility of a different baseline where there is evidence of a deliberate attempt to manipulate the CEQA process.

Consistent with these long-standing legal principles, there was nothing improper about the County's use of the existing 2018 Winery operations as the CEQA baseline and there is no evidence of a deliberate attempt to manipulate the CEQA process. The unauthorized level of visitation and the additional days of the week that the Winery is open for retail sales and business had been occurring since at least 2018 and reflects the actual physical conditions on the ground at the time environmental analysis commenced.

The County Reasonably Determined that the Project Did Not Trigger Subsequent Review Under CEQA Guidelines Section 15162.

Appellant contends that because the Winery was originally approved with a negative declaration, CEQA Guidelines Section 15162 requires a subsequent negative declaration if substantial changes are proposed in the project that involve new significant environmental effects or a substantial increase in the severity of previously identified effects. The determination of whether a change is substantial is measured by comparing the existing conditions (e.g., baseline) and the proposed conditions. (*Taxpayers for Accountable Sch. Bond Spending v. San Diego Unified Sch. Dist.* (2013) 215 Cal. App. 4th 1013, 1035-37.) The 2018 operational baseline relied upon by the County is a continuation of Winery operations that have been in existence for more than seven years. Therefore, the County reasonably determined there were no new significant environmental effects or a substantial increase in the severity of previously identified environmental effects. In effect, the status quo in terms of visitation levels and days of operation remained the same. There was no substantial change. Applying that framework, the difference between the original entitlement and documented 2018 operations does not require major revisions of the prior negative declaration. Recognition of the existing operations will not produce a new physical increase over the baseline. The only "new" or "changed" component of the project involved widening of the driveway by four feet to meet the commercial driveway standards required by the RSS. Grading and expansion for the driveway is proposed in areas less on slopes of less than 10% and in previously disturbed by landscaping, vineyards and Winery development.

The record reflects that staff reasonably and appropriately considered CEQA Guidelines Section 15162 and whether substantial changes were proposed in the project that involved new significant environmental effects or a substantial increase in the severity of previously identified effects. This analysis included a review of such topics as groundwater, noise, traffic, wastewater, access, fire and life safety.

Regarding noise, traffic, access, fire and life safety, staff incorporates Responses to Appeal Ground No. 3 here by reference. As to groundwater, the Water Availability Analysis prepared by hydrogeologist OEI (dated December 4, 2025) demonstrates no net increase in water demand and concludes that continued pumping at existing levels is expected to preclude significant adverse effects (if any) on surface water. The Planning Commission imposed COA Nos. 4.20.a and 4.20.b which establishes a maximum extraction of 5.4 acre-feet per year and a 17-gallon-per-minute pumping limit, and COA No.6.15.a. which requires metering, monitoring, and reporting, and retained the County's authority to impose additional requirements if substantial evidence later demonstrates groundwater effects. Pumping limitations and monitoring had not previously been required. The Wastewater Feasibility Report prepared by Stillwater Civil Design (dated

March 5, 2019) evaluated the wastewater system and concluded that the existing system can accommodate the recognized operation. The Environmental Health Division confirmed that the wastewater system was adequate.

Because the approval does not increase visitors, employees, production, events, operating days, or retail activity beyond the documented existing condition, it creates no operational increase in traffic, parking demand, groundwater, wastewater, or noise. The driveway component of the project was separately described and analyzed as minor widening to an existing access on previously disturbed land.

Accordingly, substantial evidence demonstrates that none of the circumstances identified in CEQA Guidelines Section 15162 requires preparation of a subsequent EIR or subsequent negative declaration. The Class 1 and Class 4 categorical exemptions provide an additional basis for concluding that the existing operational and minor physical components will not cause significant environmental effects.

Appeal Ground No. 6: Appellant contends that the County's reliance on categorical exemptions is improper because: (a) while a local compliance program (Board Resolution No. 2018-164) may define how a County handles enforcement, but it cannot enlarge the scope of categorical exemptions or eliminate the exceptions in CEQA Guidelines section 15300.2; (b) the project does not qualify for the Class 1 (Existing Facilities) exemption; (c) the project is not eligible for the Class 4 (Minor Alterations of Land) exemption because olive trees will be removed; (d) the County's own water/public trust analysis demonstrates unusual-circumstances barring use of the exemptions; and (e) cumulative traffic and safety impacts along Silverado Trail and groundwater constraints in the same area prevent use of the categorical exemptions.

Staff Response:

Staff disagrees with Appellant's claim and notes that neither Appellant nor any member of the public raised any specific concerns regarding the applicability or use of the Categorical Exemptions at the Planning Commission hearings. When an agency determines that a project is categorically exempt, it impliedly finds that none of the exceptions applies. (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1022–1023.) An objecting party bears the burden of producing evidence that an exception does apply. (*Berkeley Hillside Preservation v City of Berkeley* (2015) 60 Cal.4th 1086,1105.) Appellant's vague objections do not satisfy Appellant's burden to provide substantial evidence in support of its objection.

As further summarized in Response to Ground No. 5, staff appropriately relied on the existing Winery operations as the CEQA baseline even though those operations resulted from unpermitted activity. This is consistent with CEQA Guidelines Section 15125(a), which provides that the environmental setting at the time environmental analysis is commenced will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The County's approach is supported by a long line of Court of Appeal decisions. (See *Riverwatch*, 76 Cal. App. 4th at p. 1453 (baseline for a proposed quarry development was the actual condition of the land, even though some existing environmental degradation had resulted from prior illegal mining and clearing activities); *Fat v. County. of Sacram*ento (2002) 97 Cal. App. 4th 1270 (baseline for airport expansion was existing airport operations, even though the airport had been operating and had expanded without a required permit for several years); and *Eureka Citizens for Responsible Gov't v. City of Eureka* (2007) 147 Cal. App. 4th 357 (baseline for proposed school playground use was the existing playground facility, even though prior construction of the facility may have violated the city's code).

The record demonstrates that the County appropriately evaluated the project and whether each component of the project met the narrow parameters of the Class 1 and Class 4 Categorical Exemptions and determined that none of the exceptions applied. Staff's analysis is reflected in the February 20, 2026, Categorical Exemption Determination Memorandum (the CEQA Memo), (**Attachment H**) which provides substantial evidence supporting the Commission's decision to find the project categorically exempt.

<u>The Project Falls Squarely within the Scope of the Class 4 Categorical Exemption and the Project would not Impact an Environmental Resource of Hazardous or Critical Concern.</u>

Class 4: Minor Alterations to Land [Title 14 CCR Section 15304] Consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Class 4 exemptions are qualified by consideration of where the project will be located. The project may not impact an environmental resource of hazardous or critical concern (CEQA Guidelines Section 15300.2 (a)).

As discussed in the CEQA Memo, the only new physical change is a minor expansion of the existing driveway to meet the County's Road and Street Standards for safe access for employees, visitors, and emergency vehicles. The driveway will be widened by approximately four (4) feet along the main entry, which may require removal of existing decorative olive trees and potentially vineyard rows adjacent to the driveway. The improvements will occur on areas that have previously been disturbed and altered by landscaping, vineyards, and grading for Winery development.

The State Guidelines do not define "healthy, mature, scenic trees", instead, they rely on local ordinances. The County does not have a tree ordinance or standards for defining "scenic trees". The County's General Plan and the Conservation Regulations (County Code Chapter 18.108) focus on protecting and preserving Oak Woodlands, as found in General Plan Policy CON-24. Based on County General Plan policies and code, the olive trees, while ornamental, are not considered scenic trees, therefore the project is not disqualified from using the Class 4 exemption.

The Project Falls Squarely within the Scope of the Class 1 Categorical Exemption.

Class 1: Existing Facilities [Title 14 California Code of Regulations (CCR) Section 15301]
"Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structure and facilities, involving negligible or no expansion of existing or former use."

As discussed in the CEQA Memo, the Applicant is merely seeking recognition of certain operations that have occurred since 2018. These include being open for business seven (7) days a week (versus six (6) days as previously approved), and higher levels of daily, weekly and annual by appointment visitors than was previously approved, and the continued use of an existing 720 square foot storage room within the Winery building. Through the recognition process and the continuation of operations at existing levels, there would be no discernable change in the Winery's operations that have been occurring over the last seven or more years. There were no requested changes to other authorized levels such as production, employees, or marketing events. Because there is no expansion of the existing use, the project satisfies the Class 1 criteria.

The County's Public Trust Analysis is not Evidence of an Unusual Circumstance and there is no Reasonable Possibility that the Project will have a Significant Effect on the Environment**.**

If there is a "reasonable probability" that an activity will have a significant effect on the environment due to "unusual circumstances," an agency may not find the project categorically exempt from CEQA (CEQA Guidelines Section 15300.2 (c)). This exception applies when both unusual circumstances and a significant impact as a result of those unusual circumstances are shown. (*Berkeley Hillside,* 60 Cal.4th at p. 1115.) As the Supreme court explained in *Berkeley Hillside,* an agency's determination whether this exception applies involves two distinct questions: (1) whether the project presents unusual circumstances; and (2) if the project presents unusual circumstances, whether there is a reasonable possibility that a significant environmental impact will result from those unusual circumstances (60 Cal.4th at p. 1098). The agency considers the second prong of this two-part test only if it first finds that some circumstance of the project is unusual. If the agency finds that the project does not present unusual circumstances, the exception is inapplicable and the agency need not reach the second prong of the two-part test. (*Anderson v County of Santa Barbara* (2023) 94 Cal.App.5th 554, 577.) The party challenging the exemption has the burden to establish by substantial evidence either that the project presents an unusual circumstance or that it will have a significant environmental effect.

Appellant has failed to satisfy the two-prong test. There is no evidence that the project presents unusual circumstances or that a significant environmental impact will result from unusual circumstances. Appellant asserts that just because a Tier III-equivalent water availability analysis was prepared to assess potential groundwater/surface water interaction impacts to Soda Creek that this site-specific analysis along with the groundwater cap and monitoring conditions imposed by the Commission is beyond "routine housekeeping" and equates to an unusual circumstance "beyond the paradigm of an ordinary Class 4 project."

Appellant's assertions demonstrate a lack of familiarity with the long-standing County requirement that discretionary projects perform a water availability analysis (WAA) to determine whether a project will adversely impact groundwater resources and whether extraction of groundwater may impact public trust resources. Contrary to Appellant's assertion, preparation of a WAA is a routine requirement in Napa County and has been so since at least the early 1990s. As a rural county, most agricultural, residential and commercial users in the unincorporated area of Napa County rely on groundwater. To protect this natural resource, ensure long-term water supply sustainability, and protect environmentally sensitive resources, for more than 20 years the County has required discretionary development projects perform a WAA. This requirement implements various County General Plan policies including but not limited to Policy CON-52 (acknowledging that groundwater is a valuable resource in Napa County and encouraging responsible use) and Policy CON-53 (requires all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval).

Consistent with these General Plan policies and the WAA requirement, Applicant provided a WAA prepared by licensed hydrologist O'Connor Environmental, Inc. (the OEI WAA) who evaluated the Winery's overall groundwater demand, adequacy of the water source, and the potential hydrologic relationship with Soda Creek. The OEI WAA determined that continued pumping at the existing operating level (e.g., 17 gpm) and existing extraction level (5.4 acre-feet per year) is expected to preclude significant adverse effects on surface waters. The OEI WAA recommended these operational restrictions be imposed to ensure the continued sustainable use of groundwater on site and in the surrounding area. These recommendations including standard conditions regarding metering, monitoring and reporting, and the County's ability to require additional measures or revoke the permit if groundwater-basin effects occur were adopted by the Commission. (**Attachment D**, see COA Nos. 4.20.a. and b. and 6.15.a. and b.) Adoption of these groundwater protective measures is typical and routine on discretionary projects in Napa County and is for the purpose of precluding adverse impacts on groundwater resources. Completion of the required analysis of groundwater use is not an unusual circumstance; therefore, the project is not disqualified from using the Class 1 or Class 4 exemptions.

Furthermore, there is nothing unusual about recognizing the existing winery operations or about the minor widening of the driveway needed to comply with the County RSS. The operations do not present unusual circumstances compared to other wineries or activities in the area and the Winery is not unusual in size, scope or setting. As shown in the Winery Comparison Table provided to the Planning Commission, Hagafen Winery's annual visitation of 9,719 is well below the average visitation of 11,103 for similar sized wineries. (See March 18, 2026, Planning Commission Meeting Staff Report Attachment I - Winery Comparison Table.) The modestly sized Winery - approximately 4,820 square feet - is also well below the average square feet of comparable 50,000-gallon wineries - 14,360. The Winery is set on a 12.28-acre parcel in the Agricultural Preserve zoning district and has been in operation since 1998.

Furthermore, Appellant has not presented any evidence that the Winery would actually have a significant effect on environment. A reasonable possibility of a significant impact may be found only if the proposed project will have an impact on the physical environment. If there is no change from existing baseline physical conditions, the exception does not apply. (*North Coast Rivers Alliance v Westlands Water Dist.* (2014) 227 Cal.App.4th 832, 872.) The record reveals there is no change in the Winery's existing baseline operations, and the only physical change is the modest grading associated with expanding the exiting driveway to meet County RSS access requirements. Appellant has not met its burden of providing evidence that the Winery operations or access improvements present unusual circumstances or that there is reasonable possibility of a significant effect due to unusual circumstances.

<u>Appellant has not Provided any Evidence of Cumulative Impacts Associated with the Project that would Bar Use of the Class 1 and Class 4 Exemptions.</u>

CEQA Guidelines Section 15300.2.b. precludes use of Class 1 and Class 4 exemptions when "the cumulative impact of successive projects of the same type in the same place, over time is significant." A party challenging a categorical exemption has the burden to produce evidence that the cumulative effects exception precludes application of the exemption. (*Arcadians for Environmental Preservation v City of Arcadia* (2023) 88 Cal.App.5th 418, 439.) Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous (CEQA Guidelines Section 15384.)

Appellant has not provided any evidence of what other projects in the area have added groundwater, traffic and safety impacts along Silverado Trail or that their impacts are cumulatively considerable. Merely asserting that because the County has approved winery projects as a result of the Compliance Program and that those prior approvals may cause a significant cumulative impact is not evidence that these projects have impacts or that their impacts are cumulatively considerable. It is Appellant's unsubstantiated opinion. Appellant's vague conclusory statement that these prior approvals have added "groundwater constraints" in the same area is likewise devoid of any facts. Such speculation is not sufficient to negate a categorical exemption. (*Robinson v. City and County of San Francisco* (2012) 208 Cal.App.4th 950, 959–960, ["speculation that potential future projects similar to the one under consideration *could* cause a cumulative adverse impact is not sufficient to negate a categorical exemption"].)

As stated in Response to Appeal Ground Nos. 3, 5, and 6 (above), there is no evidence of any potentially significant effects to groundwater, traffic or safety resulting from recognizing Winery operations that have been occurring since at least 2018. The only evidence in the record confirms that potential impacts to groundwater, traffic and safety were considered and reviewed by subject matter experts including a hydrogeologist, a civil engineer, the County Engineering Division, the County Public Works Department Traffic Engineer, and the County Fire Marshal who all opined that the project would not have a potentially significant effect on the environment. When there is no substantial evidence of any individual potentially significant effect by a project under review, the lead agency may reasonably conclude the effects of the project will not be cumulatively considerable. (*Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1358.) In short, a cumulative impact of a project is an impact to which that project contributes and to which other projects contribute as well. The project must make some contribution to the impact; otherwise, it cannot be characterized as a cumulative impact of that project. Because there is no evidence of any individual impacts resulting from the project, staff reasonably concluded the effects of the project will not be cumulatively considerable.

Appeal Ground No. 7: Appellant generally asserts the Planning Commission's express or implied findings regarding consistency with applicable County Code requirements, neighborhood compatibility, adequacy of conditions of approval, and absence of significant environmental and operational impacts are not supported by substantial evidence in the whole record.

Staff Response:

Appellant disregards the substantial evidence in the record documenting staff and the Commission's thoughtful review of the Project for compliance with the County Code, consistency with the General Plan, and analysis of potential environmental impacts. This evidence includes, but is not limited to, the specific Use Permit Findings and accompanying analysis adopted by the Commission, the 26 pages of conditions of approval and interdepartmental recommendations imposed on the Project, the CEQA memo, the Water Availability Analysis prepared by a licensed hydrogeologist, and the Wastewater Feasibility Report prepared by a licensed civil engineer, all of which provides ample evidence in support of the Commission's decision.

As discussed in detail in Response to Appeal Ground No. 2, the conditions of approval adopted by the Commission were revised to reflect the County's current standard conditions of approval, replacing outdated language and practices to ensure consistency and uniformity among winery use permits. The conditions are substantially the same as the original conditions and did not weaken neighbor protections or monitoring requirements. Regarding neighborhood compatibility, staff incorporates Responses to Appeal Ground No. 3 here by reference. Appellant's speculative concerns regarding traffic, parking, noise, and neighborhood conditions were not disregarded. Potential operational impacts on these topics and the neighbors were considered. Additionally, as discussed in Response to Appeal Ground Nos. 5 and 6, the necessary and appropriate environmental analysis under CEQA was conducted.

Staff's consideration and professional judgment on each topic is supported by the record, and Appellant has not provided any evidence that contradicts staff's conclusions. Appellant’s disagreement with the conclusions does not mean there is an absence of substantial evidence. The findings identify the evidence relied upon and explain the connection between that evidence and the County’s land use, public-safety and welfare, and environmental conclusions. The above Responses to Grounds further elaborate on staff’s review process and basis for the preparation of the Recommended Findings adopted by the Commission.