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Applicant Additional Legal Argument

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Napa County Board of Supervisors
1195 Third Street
Napa, California 94559

RE: Use Permit Major Modification #P19-00121-MOD: Hagafen Cellars Winery

Dear Honorable Chair and Members of the Board of Supervisors:

I represent Hagafen Cellars, the applicant for Use Permit Major Modification #P19-00121-MOD. On April 1, 2026, the Planning Commission approved Use Permit P19-00121-MOD subject to certain final conditions of approval, Napa County Department comments, and all applicable Napa County regulations. Ariane Matschullat and Weathervane Ranch, LLC appealed the Planning Commission's April 1 decision. Hagafen Cellars requests respectfully that the Board deny the appeal and uphold the Planning Commission's decision. As explained in their "Reasons for Appeal," Ariane Marschullat and Weathervane, LLC are owners of property immediately adjacent to the north and to the east of the Hagafen Cellars Winery. A residence, surrounded by trees and other vegetation, is located on the property to the north, approximately 700 feet from the Hagafen Cellars Winery. The property owned by the Appellants to the east is vacant.

We would appreciate your consideration of the following:

1. The Napa County Code Compliance Program and this Use Permit

The County Code Compliance Program is a "systematic program with enforceable deadlines for landowners to apply for new permits or modifications **to resolve outstanding violations**" (Resolution No. 2018-164; emphasis added). This Program provides an option for property owners not in compliance with their use permits to come forward and remedy any violations.

A. By memo of November 18, 2020, Planning, Building & Environmental Services staff explained to the neighbors that "The winery application acknowledges that operations have been out of compliance with their original 1998 Use Permit."

Hagafen Cellars does not dispute the "outstanding violations" of its previously issued use permit.

B. Napa County Code 18.16.020(I) states that wineries authorized by use permit are allowed in the AP district; "provided, that no expansion of uses or structures beyond those

which were authorized by use permit...shall be permitted **except as may be authorized by a subsequent use permit issued pursuant to this title**" (emphasis added).

Hagafen Cellars does not dispute that a "subsequent use permit" must be issued to continue its existing operations. Application has been made for that "subsequent use permit" in Use Permit Major Modification #19-00121-MOD.

2. The Application's Request for Modification of Conditions

This application requested modification of the following conditions of approval to Use Permit #97219-UP:

- COA 2 to remove the requirement for mailing notice of events to identified individuals
- COA 3 to remove the requirement for submitting an annual report of daily visitation counts
- COA 15 to remove the requirement to submit an annual report of grape source data
- COA 16 to remove the requirement to submit an annual statement certifying compliance with grape sourcing requirements; and
- COA 21 to remove the requirement for submitting an annual report of the number of gallons of wine produced during the year.

The Planning Commission approved each of these requested modifications.

In addition, the Planning Commission modified COA 2 by deleting the following text:

~~Except for the "harvest" event and events as may specifically be authorized pursuant to the Temporary Event Ordinance, no picnicking, outdoor dining, or outdoor wine tasting shall be permitted and no outside marketing activities shall involve amplified music.~~

3. Revised and Updated Request for Modification of Conditions

Hagafen Cellars presents this revised request for modification of the conditions of approval to Use Permit #92719-UP. This revised request is based upon concerns expressed by the Appellants' attorney and Hagafen Cellars' commitment to being a good neighbor:

- Amend COA 2 - Notice of events to certain identified individuals

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

- Amend COA 2 – Limit on picnicking, outdoor dining and outdoor wine tasting to the trellis area

Picnicking, outdoor dining and outdoor wine tasting shall only occur in the existing outdoor trellis area adjacent to the tasting room.

- Amend COA 3 - Visitor Reports

Visitor counts shall be maintained daily that would be made available to the Department within five (5) days notice, and shall be compiled in an annual report submitted to the Department by the end of January of each year.

- Amend COA 21 - Wine Production Reports

The applicant shall report to the Planning Department in December of each year the number of gallons of wine produced during the year.

- NEW 4.20d – Notice of Spraying

On or about March 20 each year, a notice shall be sent to the adjoining property owners informing them that spray season is generally April through July each year and that certified organic materials will be applied approximately every two weeks during the season.

- NEW 6.3 – Lighting

Any exterior lighting shall be shielded and downward directed.

- NEW 9.3 – Eastern gate access

The east-facing gate shall be permanently locked and thereby made non-operative within 10 (ten) days of the approval of P-19-00121-MOD. No pedestrian, vehicle, equipment, agricultural, winery, event, construction, maintenance, or operational access shall occur through the east-facing gate except in the event of a fire or other emergency or with the permission of the property owner to the east.

4. California Environmental Quality Act

The appellants have challenged the County's compliance with CEQA. We will defer to County Counsel's response to the appellants' challenge in this regard and briefly state that:

- The County adopted a negative declaration in conjunction with its approval of the winery by Use Permit #97219-UP.
- Section 15162 of the CEQA Guidelines 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 significant effects."
- There are no "new significant environmental effects" or a "substantial increase in the severity of previously identified significant effects" from the changes approved by the Planning Commission because continued operations at the proposed modified level will not exceed the 2018 operational baseline.
- In the absence of a need for a subsequent negative declaration, Section 15162(d) directs the County to determine whether to prepare "further documentation." The County has made a categorical exemption determination.

5. In conclusion

We ask for your approval of this application which, according to County staff, complies with the terms and conditions of the Code Compliance Program, the General Plan and all other Napa County codes and regulations.

As explained in the County's Agricultural Preservation and Land Use element:

"The Right to Farm is recognized throughout this Plan and is specifically called out in both this Element 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."

Thank you for your consideration.

Sincerely

Betsy Strauss

C: Hagafen Cellars

Emily Hedge

Patricia Curtin

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