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Chair Denial of Appellant Good Cause Request

Bonny's Vineyard Appeal P25-00020-APL

Board of Supervisors Hearing – May 6, 2025



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Board of Supervisors

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Anne Cottrell
Chair

**DETERMINATION OF GOOD CAUSE REQUEST TO
AUGMENT THE DOCUMENTARY RECORD
REGARDING THE BONNY'S VINEYARDS
APPEAL HEARING**

March 21, 2025

TO: William McKinnon, Esq. on behalf of Appellant Water Audit California
Katharine Falace, Esq. on behalf of Applicant Bonny's Vineyards

FROM: Chair Anne Cottrell, Napa County Board of Supervisors

RE: Bonny's Vineyards Winery Appeal Hearing – Good Cause Determination

I have received and reviewed Appellant Water Audit California's (Appellant WAC or WAC) March 3, 2025, request to augment the record with six (6) documents identified below. The Chair's determination to augment the record on appeal requires a finding of "good cause" meaning that the proposed evidence, in the exercise of reasonable diligence, could not have been produced to, or was improperly withheld or excluded from, the Planning Commission. My decision on each of WAC's request is as follows:

1) Appellant WAC requests to augment the record with two graphics. Appellant WAC requests that the record be augmented to include two graphics derived from County GIS data that shows the distance from Conn Creek to the proposed point of extraction (Exhibit A) and a graphic from County GIS showing wetlands delineation (Exhibit B).

Decision and Rationale: Denied. The Chair finds that Appellant WAC has failed to identify why, in the exercise of reasonable diligence, the two graphics derived from County GIS data could not have been provided to the Planning Commission for consideration. Appellant WAC had ample notice and opportunity to provide these graphics to the Planning Commission. On November 7, 2024, Notice of the Public Hearing and Intent to Adopt the Mitigated Negative Declaration was published in the Register which is more than forty days before the hearing held on December 18, 2024. The Planning Commission staff report was also posted to the County's website on December 6, 2024, twelve days prior to the hearing date. WAC was aware of the hearing as evidenced by counsel for WAC's submittal of a comment letter to the Planning

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Amber Manfree
District 4

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District 5

Commission on December 17, 2024. For these reasons, Appellant WAC's request to augment the record with County GIS data graphics (Exhibits A and B) is denied.

2) Appellant WAC requests to augment the record with the CEQA Notice of Determination (NOD)(Exhibit C). Appellant WAC requests that the record be augmented to include the CEQA NOD filed for the project.

Decision and Rationale: A Notice of Determination is a notice filed by a public agency that informs individuals and entities of a decision made by the agency to approve a project. It describes the project, potential environmental impacts (if any) and starts a 30-day period for legal challenges to the project approval.

While the Chair finds that the NOD is a public record, the NOD's relevance to Appellant's appeal is unclear. Nevertheless, because the NOD is a business record of the County, a Good Cause Request is unnecessary and the NOD will be included in the documents made available to the Board as part of the record on appeal.

3) Appellant WAC requests to augment the record with the County's Water Availability Analysis Guidance Document (dated May 12, 2015)(2015 WAA Guidelines)(Exhibit D). Appellant WAC requests that the record be augmented to include the 2015 WAA Guidelines.

Decision and Rationale: The Chair finds that a Good Cause Request is unnecessary for this document and confirms that the 2015 WAA Guidelines document is already part of the record on appeal and is readily available to the Board.

The 2015 WAA Guidelines document is available on the County's website and is included in the "Checklist of Required Application Materials" that applicants with discretionary projects relying on groundwater must submit. It provides the standards and methodology for staff and applicants to analyze whether a discretionary project would potentially impact groundwater resources. Napa County Code (NCC) Section 2.88.010 (K) defines the "record on appeal" as all written materials, staff reports, statements, testimony, information and evidence that were considered by the decision maker, either directly or indirectly, in arriving at the decision being appealed. The Applicant's Water Availability Analysis prepared by CMP Engineering (CMP WAA) is part of the record on appeal as defined by Napa County Code and the CMP WAA references the 2015 WAA Guidelines. Because the 2015 WAA Guidelines document was relied upon (both directly and indirectly) by the Planning Commission in making its decision, that document is part of the "record on appeal" as defined by Napa County Code.

4) Appellant WAC requests to augment the record with Napa County's Well Permit Standards and Water Availability Requirements dated January 2024 (2024 Interim Standards) (Exhibit E). Appellant WAC requests that the record be augmented to include the 2024 Interim Standards.

Decision and Rationale: The Chair finds that a Good Cause Request is unnecessary for this document and confirms that the 2024 Interim Standards document is already part of the record on appeal and is readily available to the Board.

The 2024 Interim Standards is available on the County's website and reflects the standards and methodology for staff and applicants to analyze whether a discretionary project would potentially impact groundwater resources or public trust resources. NCC Section 2.88.010 (K) defines the "record on appeal" as all written materials, staff reports, statements, testimony, information and evidence that were considered by the decision maker, either directly or indirectly, in arriving at the decision being appealed. The CMP WAA is part of the record on appeal as defined by Napa County Code and the CMP WAA references the 2024 Interim Standards. Because the 2024 Interim Standards document was relied upon (both directly and indirectly) by the Planning Commission in making its decision, that document is part of the "record on appeal" as defined by Napa County Code.

5) Appellant WAC requests to augment the record with a County Memorandum entitled "Application of Public Trust Doctrine to Projects Dependent on Groundwater" dated January 10, 2024 (PTR memo)(Exhibit F). Appellant WAC requests that the record be augmented to include the PTR memo.

Decision and Rationale: The Chair finds that a Good Cause Request is unnecessary for this document and confirms that the PTR memo is already part of the record on appeal and readily available to the Board.

The PTR memo is a public document on the County's website, that provides guidance for staff and applicants about the County's obligation to consider public trust resources. This document is referenced in the Planning Commission staff report and in the CMP WAA. NCC Section 2.88.010 (K) defines the "record on appeal" as all written materials, staff reports, statements, testimony, information and evidence that were considered by the decision maker, either directly or indirectly, in arriving at the decision being appealed. Because the PTR memo was relied upon (both directly and indirectly) by the Planning Commission in making its decision, that document is part of the "record on appeal" as defined by Napa County Code.

6) Appellant WAC requests to augment the record with the Staff PowerPoint presentation at the Planning Commission hearing. Appellant WAC requests that the record be augmented to include the Staff PowerPoint presentation from the Planning Commission hearing. Appellant WAC states it is unavailable to attach as an exhibit but that the document has been requested through a Public Records Act request.

Decision and Rationale: The Chair finds that the Staff PowerPoint presentation at the Planning Commission hearing is already part of the record on appeal that will be provided to the Board. The Staff PowerPoint presentation to the Planning Commission is available for review by the

Board and interested parties in the Cloud Folder titled – “P25-00020 Bonny’s Vineyard New Winery – Appeal of P22-00002.” Therefore, a good cause request is unnecessary.

Right to Request an Overrule.

Pursuant to County Code Section 2.88.090 (B), at the beginning of the appeal hearing, prior to opening the public hearing, the Chair shall announce any decision regarding the introduction of extrinsic evidence to the record and the whole Board, by majority vote, may overrule any such decision upon request by an appellant or the permittee. The Chair set a deadline of March 26, 2025 for Appellant WAC to inform County Counsel’s office in writing of WAC’s request that the entire Board overrule the Chair’s determinations set forth herein. Upon receipt of such request, Appellant WAC shall be given three minutes to verbally address the Board at the appeal hearing on their request to overrule the Chair. No written arguments are allowed.