**BEFORE THE BOARD OF SUPERVISORS**

**OF NAPA COUNTY**

In the Matter of:

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| An Appeal by Amalia Palmaz Living Trust and Amalia Palmaz Trustee to a decision by the Napa County Planning Commission on September 6, 2017 to deny the Amalia Palmaz Living Trust’s application for Use Permit No. P14-00261-UP requesting construction of a personal use helicopter-landing pad and related facilities on the property located at 4031 Hagen Road, Napa, California (APN: 033-110-080). The Planning Commission also denied an alternative location for the helipad on a 46-acre parcel located on APN 033-110-079. | **RESOLUTION NO. 2018-\_\_\_\_\_**  **FINDINGS OF FACT AND DECISION ON APPEAL** |

WHEREAS, on or about July 28, 2014, the Amalia Palmaz Living Trust (Palmaz) submitted an application for Use Permit No. P14-00261-UP to the Napa County Planning, Building and Environmental Services (PBES) Department to allow construction and operation of a personal use helipad. The request included construction of an approximately 4,000 square foot hangar and storage building on the property; a new fire hydrant; a new water line connecting to the existing water line; a storm water quality bio-retention basin; and two 5,000-gallon water tanks for fire suppression. Additionally, the existing, private vineyard road providing access to the proposed helipad would be improved, widened and paved to comply with the Napa County Road and Street Standards (the Project or Palmaz Project);

WHEREAS, the Project site is located at 4031 Hagen Road (Assessor’s Parcel No. 033-110-080) in unincorporated Napa County approximately two miles east of the City of Napa municipal boundary, on approximately 0.5 acres of the 220.4-acre property. It has a General Plan land use designation of Agriculture, Watershed and Open Space (AWOS), and is within the AW (Agricultural Watershed) zoning district (the Project Site);

WHEREAS, in December 2015, the PBES Department assisted by planning consultant Ascent Environmental, Inc., initiated the environmental review process required by the California Environmental Quality Act (CEQA), to analyze the potential environmental impacts of the Palmaz Project;

WHEREAS, on December 11 and 12, 2015, the County issued a Notice of Preparation to inform the public and agencies that an environmental impact report (EIR) was being prepared and to invite comments on the scope and content of the document;

WHEREAS, on January 14, 2016, a noticed scoping session on the EIR occurred;

WHEREAS, the County, as lead agency, caused to be prepared a Draft EIR (or DEIR) for the Palmaz Project (April 2016) (State Clearinghouse No. 2015122030). In accordance with CEQA, the Draft EIR was released for public and agency review on April 29, 2016. The public comment period ran from April 29, 2016 through July 15, 2016 (the Planning Commission extended the comment period an additional 32 days);

WHEREAS, on May 25, 2016, the Planning Commission held a public hearing on the Draft EIR for purposes of receiving public comment. Between the start of the public comment period on April 29, 2016, and its end on July 15, 2016, the County received over 100 public and agency written comments on the Draft EIR;

WHEREAS, in accordance with State CEQA Guidelines Section 15132, all comments received on the Draft EIR during the comment period were responded to and included in a Final EIR or FEIR (February 2017). The Final EIR includes the Draft EIR, comments and responses to comments on the Draft EIR, and corrections, revisions, and other clarifications and amplifications to the Draft EIR;

WHEREAS, on February 17, 2017, in accordance with Public Resources Code Section 21092.5, notice of availability of the Final EIR was mailed to all commenting organizations and individuals, and responses to comments from state and local agencies were mailed to those respective agencies, at least ten days prior to the Planning Commission’s action on the Palmaz Project. The FEIR is on file with the PBES Department along with all other documents constituting the record of proceedings;

WHEREAS, on March 1, 2017, at a duly noticed public hearing, the Planning Commission referred the matter to the Airport Land Use Commission (ALUC) for Consistency Determination P17-00137 regarding whether the Project was consistent with the Airport Land Use Compatibility Plan (ALUCP). The Planning Commission continued the hearing on the Project to May 17, 2017[[1]](#footnote-1) so that it could consider the ALUC’s determination and additional public testimony;

WHEREAS, on May 17, 2017, the ALUC reviewed both the proposed Project Site and the Mt. George Alternative site (Assessor’s Parcel No. 033-110-079) analyzed in the DEIR, for consistency with the ALUCP. Due to a tie vote, the ALUC was unable to render a consistency determination for the Planning Commission’s consideration. As such, on May 17, 2017, the Planning Commission accepted additional public comments on the Project and the adequacy of the FEIR and continued the public hearing to a date uncertain pending scheduling of the ALUC meeting and receipt of the ALUC’s consistency determination;

WHEREAS, on August 10, 2017, initiative proponents presented to the Elections Division of the Napa County Assessor-Recorder-County Clerk Department (the Elections Division) a Notice of Intention to Circulate a County Initiative Petition concerning banning the use of personal use airports and helipads (the Measure D Initiative);

WHEREAS, proponents of the Measure D Initiative thereafter gathered sufficient signatures to place the Measure D Initiative on the June 5, 2018 ballot, and the Board of Supervisors did place the Measure D Initiative on the ballot for the June 5, 2018 primary election;

WHEREAS, on August 23 and 24, 2017, notice of the Planning Commission’s September 6, 2017, public hearing on the Project and the adequacy of the FEIR was published in the Napa Valley Register; was emailed to persons who had previously requested notice, expressed an interest in the Project or provided written comments on the DEIR; and was mailed to owners of property within 1,000 feet of the Palmaz landholdings including and surrounding the Project Site, as well as, to commenters on the DEIR who had not provided an electronic mail address in their comments;

WHEREAS, on September 5, 2017, the Notice of Intent and Ballot Title and Summary for the Measure D Initiative prepared by the Napa County Counsel was published in a newspaper of general circulation in the County in the manner required by Elections Code section 9105 (b), and proof of publication was filed with the Elections Division;

WHEREAS, on September 6, 2017, the ALUC held a special meeting on the Project to determine whether the Project Site and Mt. George Alternative site were consistent with the ALUCP. By a vote of 6:1 (AYES: Gallagher, Basayne, Cottrell, Gill, Walcker and Brod; NOES: Scott), the ALUC found the Project Site and the Mt. George Alternative site inconsistent with the ALUCP because noise and safety impacts on the surrounding land uses had not been adequately mitigated. The ALUC’s finding of inconsistency was forwarded to the Planning Commission;

WHEREAS, on September 6, 2017, the Planning Commission held a continued public hearing on the Project. The Commission considered the ALUC’s finding of inconsistency, all public and staff comments, and thereafter closed the public hearing and denied (4:1- AYES: Scott; NOES: Cottrell, Basayne, Gill and Gallagher) the Project and the Mt. George Alternative. The Commission denied the Project because it could not make the required findings for grant of the requested use permit, or find the Project consistent with the General Plan;

WHEREAS, on September 20, 2017, subsequent to the Planning Commission’s and ALUC’s decision and within the prescribed period, the Amalia Palmaz Living Trust and Amalia Palmaz Trustee (Appellant) submitted a timely Notice of Intent to Appeal the Planning Commission’s and ALUC’s decision to deny the Project and subsequently filed a timely Appeal Packet on October 4, 2017. Because the ALUC’s decision was an advisory determination and not a denial of the Project, it was not subject to appeal and not carried forward. The appeal of the Planning Commission’s denial of the Palmaz Project is hereafter referred to as the Appeal;

WHEREAS, in accordance with Napa County Code Section 2.88.080(A), a hearing on the Appeal was scheduled before the Board of Supervisors (the Board) for December 19, 2017, a date at least 15 but no more than 90 days from the date of submittal of the Appeal;

WHEREAS, on December 19, 2017, the Board opened and continued the public hearing to July 10, 2018. The July 2018 date was selected so that the outcome of the Primary Election on June 5, 2018, would be known. The personal use airport and helipad initiative known as the Measure D Initiative was one of the items on the ballot;

WHEREAS, Elections Code Section 15372 provides that the elections official shall prepare a certified statement of the results of the Primary Election held on June 5, 2018 and submit it to the Board within 30 days of the election. Elections Code Section 15400 provides that the governing body shall declare the results of each measure voted on at the election;

WHEREAS, on July 10, 2018, the Board declared that a majority of the Napa County voters voted in favor of Napa County Ordinance No. 2018-02 (the Measure D Initiative), which amended Napa County Code Section 18.120.010 to disallow personal use airports and helipads and to limit the circumstances under which helicopter takeoffs and landings in support of direct agricultural activities may take place; and

WHEREAS, on July 10, 2018, the Board continued the public hearing on the Appeal to August 14, 2018, so that the results of the Measure D Initiative and that Ordinance No. 2018-02 adopting the Measure D Initiative would have time to take effect.

**NOW, THEREFORE, BE IT RESOLVED** by the Napa County Board of Supervisors as follows:

1. On July 10, 2018, the Board of Supervisors declared that the Measure D Initiative was approved by the voters, and the Measure was accordingly codified as Ordinance No. 2018-02 taking effect 10 days thereafter.
2. The pending Palmaz Appeal is now moot because, as a result of the passage of the Measure D Initiative, personal use helipads such as the one sought by Palmaz are no

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longer allowed in Napa County.

1. The Palmaz Appeal is hereby dismissed as moot.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2018, by the following vote:

AYES: SUPERVISORS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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NOES: SUPERVISORS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ABSTAIN: SUPERVISORS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ABSENT: SUPERVISORS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAPA COUNTY, a political subdivision of the

State of California

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BRAD WAGENKNECHT, Chair of the

Board of Supervisors

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| APPROVED AS TO FORM  Office of County Counsel  By: *Laura J. Anderson (e-sign)*  Deputy County Counsel  Date: July 30, 2018 | APPROVED BY THE NAPA COUNTY  BOARD OF SUPERVISORS  Date:  Processed By:    Deputy Clerk of the Board | ATTEST: Clerk of the Board of Supervisors  By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Jose Luis Valdez |

DOCS/BOS/PC-APPEALS/PALMAZ/RESO FF DISMISSAL FINAL.DOC

1. The matter was continued to March 22, 2017. The March 22, 2017 meeting was cancelled and all items were continued to May 17, 2017. [↑](#footnote-ref-1)