

MAR 01 2017

Agency/Miniter 8A

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February 27, 2017

*Via email,
hard copy to follow via U.S. Mail*
Planning Commission
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559

Re: Comments on FEIR for Palmaz Private Helipad and Hanger Project-
Use Permit #P14-00261

Honorable Commissioners,

On behalf of the Napa Agricultural Protection Association, we submit the following comments on the Final Environmental Impact Report (FEIR) prepared for the Palmaz Helipad and Hanger Project (“Helipad Project” or “Project”). The Association previously submitted comments on the Draft EIR (DEIR) on July 15, 2016. We continue to believe the Helipad Project’s allowance of the a new personal, noncommercial helipad in Napa County places the convenience of the Project applicant above the health, safety and welfare of many other area residents and local wildlife.

The Project would have significant noise, land use, safety, and biological impacts that the DEIR failed to analyze. Although the FEIR contains new information in the form of changes to the Project and additional information about special-status wildlife species, the FEIR continues to rely on unsupported information from the Project applicant for its conclusions on several areas of environmental impact. The changes to the Project, such as the refined road alignment and extension, will increase the severity of environmental impacts disclosed in the DEIR, and it has now been confirmed that special-status plant species are located in areas that will be disturbed by the Project. The Project’s EIR must be revised to correct the continuing deficiencies and recirculated for public comment on the new information. This Helipad Project will set a precedent that would be followed by other winery owners seeking private helipads, an impact that has been ignored by the County completely.

I. The EIR’s Analysis of Impacts Remains Inadequate.

A. The Voluntary Enforcement Tracking Does Not Mitigate the Project's Noise Impacts.

The FEIR discusses the Applicant's proposed "voluntary enforcement tracking" program, which it claims will eliminate any noise or hazard impacts caused by deviation from the primary flight path. However, as proposed, the program would not actually prevent deviations and contains no penalties for noncompliance. The "voluntary enforcement tracking" program would consist of two pieces, a pilot log and a complaint-response procedure. The pilot would maintain a log with flight times, landings, and durations, which would be turned over to the County on a quarterly basis. The pilot would also maintain GPS surveillance data. In the event of a noise complaint, the County would review the log to see if the Project helipad was being used. If so, it would ask for the GPS data to determine whether the pilot strayed into a "no fly" zone. If the GPS data confirmed a violation, the County would refer the matter to the Airport Land Use Commission to determine whether the pilot's deviation was necessary or appropriate. (FEIR pp. 2-1 to 2-2.)

This program contains many problems that prevent it from being fully enforceable. The program would only turn over data to the County on a quarterly basis, so a 3-month lapse could occur between the reporting of a violation and any County follow-up. However, according to the letter submitted by the Applicant to the County on February 3, 2017, GPS surveillance data would only be archived for 30 days. By the time the County was able to confirm that the helicopter was in use at the time of a complaint, the data required to determine the pilot's compliance (or noncompliance) with the "no fly" zones might be gone. Additionally, the logs would be maintained by the Applicant without any assurance of accuracy or completeness. Enforcement would only be initiated on the basis of resident complaints. Residents should not have to remain on-guard for violations of the Project's parameters in order to retain their existing level of tranquility.

Further, even if it is confirmed that the Applicant violated the "no fly" zones in the Project, a violation will not even be deemed to have occurred without the concurrence of the Airport Land Use Commission. The County will not even be in charge of enforcement. No penalties are laid out for non-compliance. Without penalties, there is no incentive for compliance.

Finally, unless the "voluntary enforcement tracking" program is included as a mitigation measure or a condition of approval, it is unenforceable and cannot be used as a basis for conclusions that the Project will not have environmental impacts.

The FEIR revises Mitigation Measure 3.4-2, purporting to eliminate nighttime noise impacts to nearby residents by limiting helipad use to "the daytime hours between 7:00 a.m. and 10:00 p.m." (FEIR p. 4-3.) "Master Response-Noise" explains, "helicopter flights would be limited to the daytime hours when people are much less sensitive to

noise.” (FEIR p. 3-9.) However, as commonly understood, “daytime hours” end long before 10:00 p.m. In order to accurately reflect the FEIR’s claim and mitigate the impacts that would be caused by evening and nighttime noise disruptions, MM 3.4-2 should be revised to prohibit flights after 7:00 p.m.

B. The Project Will Have Significant, Adverse Impacts on Special Status Species.

The Napa Agricultural Protection Association appreciates that the County has performed focused biological surveys prior to the completion of environmental review, as requested. Unfortunately, the FEIR fails to incorporate the information obtained from these surveys in concrete and enforceable mitigation measures.

Focused surveys for the holly-leaved ceanothus, a species designated special-status by the California Department of Fish and Wildlife (CDFW), identified multiple individuals at the Mt. George Alternative site in June 2016 and in the Project’s extended roadway alignment on February 13, 2017. (FEIR p. 2-3; Exhibit 2-1; Exhibit 2-5.) The FEIR concluded that the individuals identified at the Mt. George site “likely represent a small percentage of the greater population within the chaparral habitat in the surrounding area.” (FEIR p. 2-3; Exhibit 2-1.) Five holly-leaved ceanothus were documented in multiple locations adjacent to the extended roadway alignment. (FEIR p. 2-8; Exhibit 2-5.) “No special-status species were observed during the rare plant survey conducted for the project site,” but the survey was conducted in June of 2016 at the end of a five-year drought. (FEIR p. 2-2.) The holly-leaved ceanothus individuals are located in areas that would be disturbed for construction of Project roads or the Mt. George Alternative site. Thus, implementation of the Project would result in the loss of individuals of a special-status species, a significant impact on biological resources that has been confirmed, for the first time, in the FEIR.

The FEIR claims that the Project’s impacts to special-status species will be fully mitigated by the implementation of Mitigation Measure 3.3-4, which requires creation of an Avoidance and Mitigation Plan *in the future*. As discussed in Napa Agricultural Protection Association’s July 15, 2016 letter, the future creation of a mitigation plan amounts to impermissibly deferred analysis and impermissibly deferred mitigation. The FEIR provides, “As project design details are developed, they shall be evaluated to determine whether direct or indirect impacts to holly-leaved ceanothus individuals and/or occupied habitat can be avoided.” (FEIR p. 2-3.) Yet, the County *knows* that the holly-leaved ceanothus is located at the Mt. George site and in the extended roadway alignment. The Applicant and County can feasibly avoid all impacts to this species by relocating the Project from the sites where the holly-leaved ceanothus has been identified. The Project should be redesigned and relocated to this end. This is a helipad, not a master plan for a huge multi-decade, phased, mixed-used development. There is no reason that the Project has not yet been designed so that its likely impacts can be

discerned, analyzed, and mitigated in the EIR in accordance with the purpose of CEQA. Deferral of the formulation of mitigation measures is permitted when required information is unavailable and detailed performance standards are included, but neither of these circumstances exist here.

The FEIR notes that because blooming periods for four additional special-status plants that may occur in the alternative site do not occur until spring and summer, “a separate survey would be conducted in June” to identify individuals of those species along the extended roadway alignment. (FEIR p. 2-8.) The County cannot properly disclose, analyze, and mitigate the Project’s impacts to these species until a survey is conducted. Thus, the County’s proposal amounts to impermissible deferral of analysis for these special-status species. Given the record rainfall after a five-year drought, rare species are likely to be detected later in spring, and the Project will have significant impacts on these species unless it and its access roads are redesigned to avoid them. CEQA requires analysis of any realignment.

Further Mitigation Measure 3.3-4, even as revised, contains no assurance that individuals of special-status species will be maintained. Instead, it contains a list of possible measures – avoidance, relocation, transplantation – that may be used in the future. CDFW disfavors transplantation and creation of off-site habitat as mitigation methods because they are far less successful in maintaining populations of rare plant species than methods based on preserving existing occupied habitat and adjacent suitable habitat. MM 3.3-4 gives lip service to consulting with CDFW, but it does not require final approval of the Project’s mitigation of potential impacts to rare plants. Finally, without public oversight of this future process, or any enforceable performance standards, it is unknown how successful the future mitigation program will be. The measure mentions “no net loss” but what is the baseline for this determination? Further, the Project’s construction limits the recovery or spread of special-status species by paving over unoccupied but suitable habitat. Unless avoidance of all special-status species is required, the Project will likely have significant, adverse impacts on the holly-leaved ceanothus and other special-status species. The FEIR’s conclusions to the contrary lack the requisite substantial evidence. What is more, the increase in severity of adverse impact to biological resources that requires recirculation of the EIR.

Curiously, the FEIR does not contain an appendix containing the focused surveys conducted for special-status plants or bat species. These documents must be disclosed in the recirculated EIR.

The FEIR claims that the Project’s location inside the Lake Marie-The Cedars/Adams Ridge Essential Connectivity Area does not present a problem for wildlife corridors or wildlife movement because it is merely “at the edge of the” essential connectivity area and because “noise impacts from overflights and removal of vegetation would not disturb wildlife movement, survival, or reproduction throughout the corridor.”

(FEIR p. 2-13.) Neither the Project, and certainly not the Mt. George Alternative site, are located at the “edge” of the area. Further, no support is provided for the FEIR’s conclusory statement about these impacts.

C. Hazards and Hazardous Materials.

The FEIR revised its introduction to clarify that “no aircraft fuel would be stored on-site” so as to eliminate potential impacts related to polluted runoff and the storage of potentially hazardous materials. (FEIR p. 4-3.) While Napa Agricultural Protection Association appreciates the County’s recognition of its concerns on this issue, nothing in the mitigation measures prevents the storage of aircraft fuel onsite. Unless this prohibition is made enforceable in a condition of approval on the Project, the potential impacts of fuel storage remain.

II. The Final EIR Fails to Adequately Respond to Comments.

CEQA requires the County to respond to the public’s comments and questions with “reasoned, good faith analysis.” (CEQA Guidelines § 15088). When a comment raises a significant environmental issue, the lead agency must address the comment “in detail giving reasons why” the comment was “not accepted.” (*Ibid.*) “Conclusory statements unsupported by factual information will not suffice.” (*Ibid.*; *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1124.) The level of detail of responses to comments must be commensurate with the level of detail of the comments. (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 878 [“the determination of the sufficiency of the agency’s responses to comments on the draft EIR turns upon the detail required in the responses”].)

This requirement for good faith, reasoned analysis “ensures that stubborn problems or serious criticism are not swept under the rug.” (*Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal. App. 4th 715, 732.) The courts have held that inadequate responses to comments – alone – can be grounds for voiding a project’s approval. (*See, Env. Protection Information Center. v. Johnson* (1985) 170 Cal. App. 3d 604, 627.) Failure to respond to a *single* comment is sufficient to invalidate approval of a FEIR. (*Flanders Foundation v. City of Carmel by-the-Sea* (2012) 202 Cal. App. 4th 603.)

The FEIR failed to respond adequately to comments raised in the Napa Agricultural Protection Association’s July 15, 2016 letter, including, but not limited to:

- In response to Comment 01-18, stating concerns about the Project’s compliance with the Migratory Bird Treaty Act (MBTA), which protects nesting areas of birds not listed by the state and federal Endangered Species Acts, the FEIR has changed the DEIR’s statement that “Implementation of the project could result in

loss of nests of common birds that are protected by the MBTA” to “Implementation of the project is not likely to result in loss of nests of common birds that are protected by the MBTA.” (FEIR p. 4-4, emphasis added.) While the FEIR also added language that “The project site and alternative site provide limited habitat to nesting birds because the sites are adjacent to existing vineyard development and operations,” the fact of the existing vineyard development and operations has not changed since the release of the DEIR. The County lacks substantial evidence to support this change in conclusion.

- The response to Comment 01-9, concerning the allowance of a helipad in an area designated by the General Plan for Agriculture, Watershed, and Open Space, is non-responsive. Napa Agricultural Protection Association stated that the helipad use is not contained in the definition of “agriculture”, and that the General Plan designation for the site prohibits non-agricultural uses such as the helipad “unless it is needed for the agricultural use of the parcel.” The County denies that any uses are commercial, but fails to address the inconsistency.
- Comment 01-10 stated that the Project would result in a net loss of prime farmland, a significant impact under CEQA. The County responded by stating that the previous General Plan EIR found the impact would be mitigated if an acre of prime farmland is preserved for every acre lost “[w]here conversion of farmlands of concern under CEQA cannot be avoided.” The loss of prime farmland can be avoided by relocating the Project or adopting the feasible and environmentally superior “no project” alternative.
- Comment 01-13 addresses several conservation policies of the Napa County General Plan. While the response appears to address concerns raised regarding the consistency of the Project with CON-6, the response ignores concerns raised about conflicts with CON-24, “remain, to the *maximum* extent feasible, existing oak woodland and chaparral communities.” (emphasis added.) Relocation of the Project is feasible.

III. Recirculation of the EIR is Required.

CEQA requires recirculation of an environmental impact report when “significant new information” is added. (Pub. Resources Code § 21092.1.) Recirculation is required when the new information shows newly significant environmental impacts or increased severity of previously disclosed environmental impacts. (CEQA Guidelines § 15088.5.) The County denies that recirculation is necessary on the basis that the FEIR does not disclose any newly-significant or more severe environmental impacts. (FEIR pp. 3-11 to 3-13.) However, this conclusion lacks substantial evidence.

Since release of the DEIR, the Project has been revised to include extended and

Dana Ayers, Napa County Planning
February 27, 2017
Page 7 of 7

“refined” road alignments, and focused surveys have been conducted for rare plant and animal species. (FEIR p. 2-3; Exhibits 2-1 and 2-5.) These surveys have resulted in the confirmation that the holly-leaved ceanothus is located in areas that would be disturbed for the refined and extended road alignments, as well as for the Mt. George Alternative. (Exhibits 2-1 and 2-5.) The holly-leaved ceanothus is state-listed and considered by CDFW as a List 1B.2 species, that is rare, threatened, or endangered. (FEIR p. 2-3; Exhibit 2-1.) The FEIR claims, “construction would avoid special-status plants” but does not explain how this will occur if individuals of these species are currently occupying the roadway route. (FEIR p. 2-12.) Thus, the confirmation of this adverse impact on biological resources is significant new information that requires recirculation, preferably after the development of concrete and enforceable mitigation measures in consultation with CDFW.

Conclusion

The proposed Helipad Project would have severe impacts on this bucolic area and would set a flawed precedent for all of Napa County. Before considering this Project, a recirculated EIR must be prepared to fully analyze the many impacts associated with this Project so that decision makers and the public will know “the environmental price tag” prior to project implementation. Thank you for your consideration of these comments. We look forward to reviewing a revised and legally adequate EIR for the Project.

Sincerely,


Amy Minter

cc:

David Morrison, Napa County Planning Director (David.Morrison@countyofnapa.org)

Dana Ayers, Napa County Planner (Dana.Ayers@countyofnapa.org)

Fuller, Lashun

From: Morrison, David
Sent: Monday, February 27, 2017 4:22 PM
To: Frost, Melissa; Fuller, Lashun; Gallina, Charlene
Subject: FW: Comments on FEIR for Palmaz Private Helipad and Hanger Project-Use Permit #P14-00261
Attachments: FEIR Comments - Napa Agricultural Protection Assn Re Palmaz Helipad.pdf

From: Cynthia Kellman [<mailto:cpk@cbcearthlaw.com>]
Sent: Monday, February 27, 2017 4:17 PM
To: joellegPC@gmail.com; mikebasayne@gmail.com; anne.cottrell@lucene.com; tkscottco@aol.com; JeriGillPC@outlook.com; Ayers, Dana; Morrison, David
Cc: Amy Minter
Subject: Comments on FEIR for Palmaz Private Helipad and Hanger Project-Use Permit #P14-00261

Good Afternoon Honorable Commissioners,

Attached please find a comment letter from Amy Minter regarding the above-captioned subject:

Please feel free to contact me with any questions or concerns.

Cynthia Kellman
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Planning Commission Mtg.

MAR 01 2017

Agenda Item # 8A

220 Montgomery Street, Suite 2100 San Francisco, CA 94104
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February 27, 2017

Via Email

Jeri Gill
Planning Commission Chair
Napa County Planning, Building, and Environmental Services Department
1195 Third Street, Suite 210
Napa, CA 94559

Re: Palmaz Final Environmental Impact Report

Dear Commissioner Gill,

I am writing this letter on behalf of Michelle Goss and her family to challenge the adequacy of the Final Environmental Impact Report (FEIR) for the Palmaz Helipad and Hangar Project. While many of the issues raised in my DEIR comment letter dated July 14, 2016 were satisfactorily addressed in the RTC/FEIR, there are some fundamental inadequacies that remain and must be addressed for the document to comply with CEQA. By submitting this letter, in the event that the project is approved and the FEIR certified, we maintain the right to legally challenge the certification.

There is one fundamental issue that is root of two major inadequacies in the FEIR: federal preemption may preclude the ability for local governments to regulate flights. They can regulate whether a permit for a land use is issued, but the ability of the County to control the number of flights that could occur per week, actual flight paths, and hours of operation is not guaranteed due to Federal preemption. We remain concerned that the impacts of the project may have been underestimated and misrepresented and the proposed mitigation measures may be unenforceable. While Napa County has the authority to issue and theoretically revoke a Use Permit there is no certainty that this would happen.

1. Conservative EIR Analysis Scenario Needed – Comments 135-3 and 135-4

In our DEIR comment letter, we requested that the EIR examine a conservative, or worst-case scenario for the number of helicopter trips that the project could generate. We again request that a more conservative estimate of trips as well as the hours, and flight paths be disclosed and associated impacts and mitigation measures be identified and disclosed to the public and decision makers.

In response to our comments, the RTC states that “The assertion that the EIR must always err on the side of conservative analysis is, as a legal matter, incorrect.” We argue that a matter of prudent practice, EIRs evaluate conservative scenarios in the spirit of full disclosure and in order to identify adequate mitigation measures to reduce impacts. See for example, Syar Napa Quarry Expansion, Surface Mining Permit #P08-00337 Appendix B to Final EIR March 2015:

“Worst-case noise levels were calculated based on the assumption that the predominant noise source would be unshielded aggregate mining activities occurring near the quarry boundaries at or near the top of the quarry pit.” (page 21)

“The overall worst-case noise levels that have been determined to be significant would result from unshielded aggregate mining activities occurring near the quarry boundaries.” (page 21)

“Calculations were also made as part of the Draft EIR to predict worst-case mining noise levels at the Syar Napa Quarry boundaries and within Skyline Wilderness Park.” (page 23)

The Palmaz project description should be revised to present a realistic conservative analysis as was done for the Syar Napa Quarry EIR.

2. Enforceability of Mitigation Measures – Comments 135-6 and 135-7

Our comment letter argued that the DEIR contained a key proposed mitigation measure that is fundamentally flawed because it may be unenforceable.

A mitigation measure cannot include unenforceable standards. (See *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal. App. 4th 1252, 1262.) Section 21081.6 (b) of CEQA states that "A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures."

Even the acoustical consultants, Mead and Hunt, who prepared the noise study for the applicant maintain that the ability of the County to regulate flights is extremely limited. Page 13 of the Mead and Hunt noise report included in the DEIR appendix states that it is "...questionable as to whether the County Noise Code Regulations or, at least some aspects of them apply to the proposed helipad. To the extent that the regulations would function to regulate helicopter operations or the amounts of noise that the operations would generate, any local controls are preempted by federal regulations. Less clear is the extent to which the local regulations can be used to determine whether to permit or deny construction of the helipad in the first place."

The RTC states that “Mitigation Measure 3.4-2, as well as the applicant’s suggested voluntary noise abatement measures (restriction on hours of facility use after 10:00 p.m. and before 7:00 a.m., avoidance of the no-fly zone north and west of the project site, and limitation on the number of weekly flights), can be adopted and are enforceable by the County as use permit conditions of approval, should the decision-making body approve the use permit request. See Chapter 2, ‘Project Updates,’ of this FEIR for additional details regarding the applicant’s voluntary noise abatement measures.”

The FEIR states further that “United States Code allows the local agency to impose additional restrictions on the total number of aircraft operations and the hours of operation of a heliport, provided that the proprietor and all operators of the facility (in this case, the applicant, in both regards) agree to the restrictions (49 USC 47524). For the project, these limitations represent a combination of voluntary restrictions offered by the applicant (DEIR, pages 2-1, 2-2, and 2-10) and, therefore, are measures to which the proprietor/operator of the facility would agree.”

Even if we are to accept that local control of the number of flights, hours of operation, and flight path restrictions, the voluntary measures in particular would be unenforceable if the permit holder were to decide that he did not want to abide by self-imposed restrictions.

Thank you for considering our comments as you make your decision regarding whether the FEIR should be certified.

Sincerely,

Deborah Holley

cc: Commissioner Joelle Gallagher
Commissioner Michael Basayne
Commissioner Anne Cottrell, Vice-Chair
Commissioner Terry Scott
David Morrison, Planning Director
Dana Ayers, Planner

Fuller, Lashun

From: Morrison, David
Sent: Monday, February 27, 2017 4:22 PM
To: Fuller, Lashun; Frost, Melissa; Gallina, Charlene
Subject: FW: Emailing - Palmaz FEIR Letter (dh).pdf
Attachments: Palmaz FEIR Letter (dh).pdf

From: Deborah Holley [<mailto:deborah@holleyconsulting.com>]
Sent: Monday, February 27, 2017 4:19 PM
To: JeriGillPC@outlook.com
Cc: anne.cottrell@lucene.com; joellegPC@gmail.com; mikebasayne@gmail.com; tkscottco@aol.com; Morrison, David; Ayers, Dana
Subject: Emailing - Palmaz FEIR Letter (dh).pdf

Dear Commissioner Gill,
Please see the attached letter regarding the Palmaz Project Final EIR.
Thank you,
Deborah Holley

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STEPHEN J. DONOVIEL

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MAR 01 2017

Agenda Item # 8A

February 26, 2017

David Morrison, Director Napa County PBES
1195 Third Street, Suite 210
Napa CA, 94559

Attention: Dana Ayers, Project Planner

Re: Use Permit Application and Final EIR for the
Proposed Palmaz Personal Use Heliport

Dear Ms. Ayers:

Thank you for providing opportunity for comments concerning the above project in its original and alternative forms. I remain unalterably opposed to these proposals and urge PBES, the Planning Commissioners and members of the Board of Supervisors to reject them in their entirety.

I have never met or talked with Mr. Palmaz, but it seems evident from social media that he is passionate about his attraction to and interest in tending to and flying his helicopter and that he finds some difficulty or has a distaste for driving the few miles to the Napa County Airport and wishes to have this object "close to home" as it were. Notwithstanding the multiple references to CEQA, there appears to be no claim that this project has anything to do with his family's vineyard/winery operation or other business ventures except, perhaps, the reference to "...when Palmaz flew an operation, and also to identify if there were any passengers in the aircraft during the operation." (Para. 1, p. 2 of 3, 2/3/17, letter to Laura J. Anderson, Deputy County Counsel from Brian Russell and Amalia Palmaz). His passion seems much like those of others who are involved with such activities as sailing, restoring old vehicles, drag racing, golfing, collecting and target shooting various kinds of guns, etc., the only difference being, exercising his passion creates discomfort, worry, distress and possibly some situations of recurrence of PTSD-like effects for individuals/families/schools in the area.

All of the CEQA-related studies of flora, fauna, noise levels, etc., reported in the DEIR/FEIR and related documents, while interesting, are somewhat irrelevant because advanced degrees are not necessary to witness the aversive effects of helicopters on big game, e.g., mustangs, elk, deer, coyotes, and other wildlife creatures. They have been seen by anyone who watches Public TV nature shows covering tagging and/or population control operations by fish and games departments or other agents.

Making determinations about noise pollution reported by neighbors in the area and the veracity of seriousness of deleterious affects on the level of discomfort, mood, affect and cognitive functioning of the adults and children who are being exposed to the noise/feel of helicopters in the affected neighborhoods can only be properly measured by assessing those individuals, not from readings from measuring devices tested at various distances however useful such instruments are from other projects. It is my opinion that the volumes of complaint letters that speak to noise pollution and other

concerns can be taken as face value "facts" because each person experiences sensory input in a different fashion, including its degree of averseness or pleasantness.

I think the response by Mr. Palmaz's attorney to the various neighbors' expressed concerns about the possible diminution of resale value and disclosure to buyer (letter dated September 23, 2016, to Ms. Ayers and signed by Brian Russell) was informative and interesting. In effect, Mr. Russell was making the point that they probably need not worry because the landowner(s) were likely not in the sphere of influence of applicable laws and criteria. While I accept that he is probably legally correct, I wonder, wouldn't human decency prompt disclosure since the potential buyer might be someone who would experience very severe reactions to the ongoing noise pollution?

It seems to me that this Use Permit Application is only indirectly related to CEQA and facts and figures concerning air quality and GHG emissions, aversive effects on wildlife and noise pollution as it applies to Mr. Palmaz's neighbors. Rather, it in essence, pits one man's passion to fly his helicopter and avoid driving to the airport against numerous neighbors who experience negative reactions to the sound/feel of his and other helicopters, neighbors, who nonetheless recognize the need for public safety helicopter missions and "gut it out" during those occasions for the public good. This project seems to be solely for his pleasure with no apparent public good related to it and, if approved, will have an on-going negative impact on many people in the neighborhood.

It is difficult to understand Mr. Palmaz's motivation to pursue this endeavor once he learned of the widespread negative effects on many of his adult and younger neighbors but I also recognize he has no obligation to explain. Similarly, his motivation and thinking about the following activities raises questions.

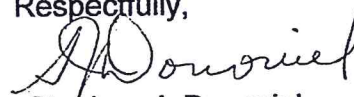
"On average, Palmaz operates their helicopter (arrivals and departures) four times per week. For 75% of the trips leaving the Napa County Airport, Palmaz flies north directly over the Project location. Upon return, Palmaz again flies over the Project site. When Palmaz flies over the Project site they are typically at an altitude range of 500 feet above the ground, up to 2000 feet, depending on the weather, air traffic, and other factors....It is important to understand that Palmaz is currently flying in airspace above the Project site. This flight activity will continue whether the Project is approved or it is denied approval."

(Letter from Brian Russell to Dana Ayers dated September 23, 2016, p.1-2 under Existing Conditions).

To me, the decision in this matter is a no-brainer and I urge the Department, the Planning Commission and the Board of Supervisors to deny Application CUP#P14-00261 in its entirety.

Thank you for considering my input and, if there are questions, please call at 815-1316.

Respectfully,


Stephen J. Donoviel

Cc Planning Commissioners,
Board of Supervisors

Fuller, Lashun

From: Ayers, Dana
Sent: Monday, February 27, 2017 3:41 PM
To: Fuller, Lashun
Subject: FW: 3/1/2017 Planning Commission Agenda Item 8A - Palmaz Personal Use Helipad
Attachments: 02-26-17 Stephen Donoviel Palmaz Ltr.pdf

Public comment for March 1 public hearing.

From: Morgan, Greg
Sent: Monday, February 27, 2017 1:04 PM
To: - Board of Supervisors
Cc: Link, Leanne; Hughey, Alice; Franchi, Helene; Tran, Minh; Anderson, Laura; Apallas, Chris; Dooley, Jason; Morrison, David; Gallina, Charlene; Ayers, Dana; Frost, Melissa; Coil, Gladys; Prescott, Karita; Minahen, Sarah
Subject: 3/1/2017 Planning Commission Agenda Item 8A - Palmaz Personal Use Helipad

Please see the attached correspondence regarding the above-mentioned Planning Commission agenda item.

(This is a Brown Act communication. Please do not "Reply All.")

Thank you,

GREG MORGAN | Board Clerk II
Napa County Executive Office | 1195 Third Street, Suite 310 | Napa, CA 94559
Tel. (707) 299-1515 | greg.morgan@countyofnapa.org

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Fuller, Lashun

From: Ayers, Dana
Sent: Monday, February 27, 2017 3:31 PM
To: Frost, Melissa
Cc: Fuller, Lashun
Subject: FW: No on Palmaz heliport

Planning Commission Mtg.

MAR 01 2017

Agenda Item # 8A

Public comment for March 1 hearing.

From: Teri Sandison [<mailto:terisandison@sbcglobal.net>]
Sent: Monday, February 27, 2017 3:28 PM
To: Ayers, Dana
Subject: Fw: No on Palmaz heliport

Theresa and Hugh Carpenter
3960 Hagen Rd.
Napa, CA 94558

February 22, 2017

Napa County Planning Commission
1195 Third St. Ste. 305
Napa, CA 94558

Dear Ms. Ayers,

I am writing as an interested party, a very close neighbor, to the proposed Palmaz Heliport. Our address is 3960 Hagen Rd., AP# 049-350-027-000. I am very opposed to the negative impact on our peaceful, rural environment of intermittent helicopter landings, flyovers, and departures. There is no helicopter noise in our area unless there is a wild fire, or a terrible car accident on the road to Lake Berryessa. Our property is at the edge of the proposed "no-fly zone", and I can tell that any helicopter noise will be a shocking, jarring disturbance to the usual quiet at our home. We bought our property in 2007, planning to savor the rural life in our later years.

To quote from the environmental impact report:

"Further, helicopter use occurring along the proposed western and northeastern flight paths would result in maximum (Lmax) noise levels that exceed applicable Napa County exterior noise standards during daytime and nighttime flights at existing sensitive receptors. This impact would be significant.

The No Project Alternative is the environmentally superior alternative, because most of the significant impacts of the project would be avoided."

If this Heliport is approved, I think that our property values will be negatively affected, especially having to disclose such a horrible noise nuisance to a potential buyer of our home.

I can see that your commissioners will not be able to regulate these flights, if you once approve them, and the FAA is stretched too thin to respond to us neighbors in the Hagen Rd. area with complaints.

I think that the wide array of wild animals and birds who are living, nesting and breeding in our area, will also be disturbed, shocked, and frightened by such a loud noise as a helicopter on a random basis.

In conclusion, I think this is a frivolous application for a personal heliport. It is only a 15 minute drive down 3rd Ave. to the Napa County Airport, to have a limo deliver friends or guests to the Palmaz property. This personal heliport would result in a great disruption of quality of life, and loss of property values to many neighboring citizens. Please deny this application.

Sincerely,
Theresa and Hugh Carpenter

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Fuller, Lashun

From: Ayers, Dana
Sent: Monday, February 27, 2017 10:55 AM
To: Frost, Melissa
Cc: Fuller, Lashun
Subject: FW: Palmaz "heliport"

Planning Commission Mtg.

MAR 01 2017

Agenda Item #

8A

Follow Up Flag: Follow up
Flag Status: Flagged

Public comment for March 1 public hearing.

-----Original Message-----

From: Gilbert Ferrey [mailto:gibbyfer@aol.com]
Sent: Sunday, February 26, 2017 10:40 AM
To: Ayers, Dana
Subject: Palmaz "heliport"

Dana,

I am Gil Ferrey, living with my wife and extended family (on occasion) at 1020 Mount George Avenue, about one mile from the Palmaz Winery and the proposed "heliport" on the mountain above it which I have visited personally.

I met Christian Palmaz approximately six months ago at the recommendation of Gordy Evans, also an active Napa County resident and a former Marine pilot during Vietnam. I very much enjoyed meeting him, touring his family's winery, and seeing the proposed site for the heliport.

I was an Army helicopter pilot in both Korea and Vietnam, having been commissioned after completing ROTC and upon graduation from Claremont Men's College in 1964. I flew 900 hours in combat in Vietnam without a scratch after having patrolled the DMZ in Korea in a helicopter and while serving as the 7th Aviation Battalion's Intelligence Officer. I subsequently flew for United Air Lines in B-727's as a Flight Engineer and later flew a Bell 206A Jet Ranger helicopter for both Wells Fargo Bank and KSFO, transporting checks and broadcasting live traffic reports for it listeners respectively.

One of the most interesting assignments I had was flying Jules Mayer, the General Manager of Chevron's refinery in Richmond, CA, after two Chevron tankers collided under the Golden Gate Bridge in late 1970. Later in our respective lives, he and I met again as Rotarians and members in the Rotary Club of Berkeley.

My purpose in writing you is to express my complete support for the Palmaz heliport, knowing that 1) we will have a helicopter located in our immediate area if a minor or major disaster occurs in which surface vehicles such as police, ambulances and fire trucks may not be able to come to our part of the valley to assist or evacuate a person or persons who may have no other means of transportation to a medical facility such as Kaiser or Queen of the Valley.

2) I, like everyone, loves the Napa Valley and its environs, enjoys the beauty, tranquility and the general ambiance it provides. But the Valley offers no assurance that it is not subject to disaster, such as the earthquake on the 24th of August 2014, the second night we were staying in our newly purchased home. What a welcome to Napa! We lost electrical power to our home for a number of hours, and had one in the area been on a ventilator with a back up battery, how long would it have lasted. There were a lot of emergencies to deal with at once, fires, collapsed buildings eat. But with only one death which actually occurred ten days later, we got a big pass!

I will be pleased to see and hear Christian Palmaz's Bell 427 twin engine helicopter flying over our area, knowing that I or anyone else in the area can call him, and with the helicopter nearby, he can respond for the benefit of all, but only if the helicopter is close at hand. Living close by, I will also be in a better position to assist him quickly, rather than both of us, or anyone else, having to drive 20 minutes to Napa County Airport, prepare the helicopter and then fly to wherever we are needed.

Unfortunately, I believe that a few residents that choose not to support his application are either jealous, supporters of the NIMBY THEORY, or not long range thinkers. But if and when they need assistance, Christian we still be there to help them.

Christian is an active member of the Sheriff's Aero Squadron and had made it abundantly clear, as he has already proven, that he will contribute his time and the use of his helicopter (if he can get to it) for search and rescue, fire fighting and other emergency reasons at no cost to the County, City, etc.

I serve on the Board of Directors of the Vietnam Helicopter Museum, a non-profit 501 (c) 3 Corporation. We currently fly both an 11 passenger former Army UH-1H "Huey" and a 29 passenger HH-46 twin rotor former Marine Air Sea Rescue helicopter where the hoist is still operational. And we are working diligently to restore to flying condition another 20 helicopters in which we will continue to "Fly For Veterans." We have, like Christian Palmaz, also told the Sheriffs and Police Chiefs of local departments that, we too, will respond in the event we are needed - fire evacuation, major disaster such as a flood, high tide, ship or aircraft disaster, etc., for it is the responsible thing to do.

Recently I heard Officer Jim Andrews, a current helicopter pilot with the CHP's Aero Squadron at Napa Airport, show us pictures at Napa Rotary of its group's pulling a 70 year-old out of the Napa River with their hoist after his kayak overturned. The Fire Department could not get to him, and in 54 degree water he was almost a lost. I have not heard definitively if he survived, but he was delivered to Queen of the Valley alive. This is a perfect example of what I have stated above, and I truly believe the County should welcome the opportunity to have such an asset available when necessary, and without any out-of-pocket expense. To do otherwise would be not only short sighted, but irresponsible as well.

Unfortunately I will not be able to attend the hearing on March 1st, as a close 96 year-old WWII Glider Pilot friend of mine, Len Snyder, passed away last Thursday and I am assisting his Executor with the funeral and internment arrangements to be held in Oakland at 1 PM that same day.

Sincerely,

Gil Ferrey
(510) 527-7367, (707) 666-2941, or (510) 734-2431 (cell)

Sent from my iPad

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**GLEN RAGSDALE
UNDERGROUND ASSOCIATES
INC.**

Contractors license # 611965

Planning Commission Mtg.

MAR 0-1 2017

Agenda Item # 8A

Sunday, February 26, 2017

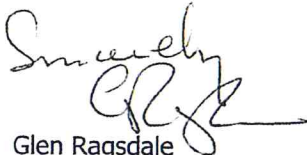
Dana Ayers,

As a fellow aviator, I strongly support the Palmaz interest of building a heliport on their property on Hagen Road in Napa, Ca.

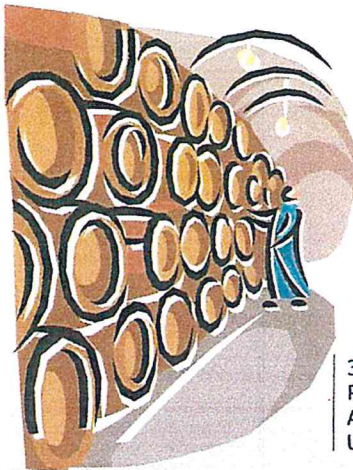
I also believe that a property owner rights in Napa County are being trampled by a few individuals who are just mean spirited, jealous, and unaware of the benefits that the project when completed will bring to the neighborhood and the valley. The proximity of this heliport could have many benefits for neighbors. The CDF could use this site as a fire fighting or rescue pad as an example. I'm positive, knowing Christian, that in an emergency he would donate his time and machine for a life flight to a major trauma center in the bay area.

The Palmaz family has brought another level of fame and fortune to the Napa Valley. They continue to pour capitol into the county coffers, through taxes, and the continued employment of several workers.

Again, I strongly support the family in this endeavor.



Glen Ragsdale
President



325 Diogenes Drive
PO Box 848
Angwin, Ca 94508
USA

PHONE (707) 965-3250
FAX (707) 965-3200
E-MAIL glnyncaves@aol.com
WEB SITE <http://www.winecaves.com>

Fuller, Lashun

From: Ayers, Dana
Sent: Monday, February 27, 2017 10:56 AM
To: Frost, Melissa
Cc: Fuller, Lashun
Subject: FW: application for heliport
Attachments: christian palmaz.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Public comment for March 1 public hearing.

From: Glen Ragsdale [<mailto:gragsdale6@gmail.com>]
Sent: Sunday, February 26, 2017 6:25 PM
To: Ayers, Dana; christian@palmazvineyards.com
Subject: application for heliport

Hi Dana,

The attached letter is in support of the Palmaz application for the use of their private property for a heliport.

Respectfully yours,

Glen Ragsdale

Glen Ragsdale
325 Diogenes Drive
Angwin, Ca 94508
home 707-965-3250
cell 707-738-5705

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LEGGETT CONSTRUCTION, INC.
GENERAL CONTRACTOR

Planning Commission Mtg.

MAR 01 2017

Agenda Item # 8A

February 27, 2017
Napa County Planning Commission.
Regarding Palmaz Heliport use permit # p-14-00261-up

To the members of Napa County Planning Commission

My name is Harold Leggett, I have had the tremendous pleasure and blessing to live in Napa County since May of 1981. I have been a small business owner (Leggett Construction, Inc) in Napa since 1989 and been involved in many volunteer organizations throughout my time of living within Napa County.

Over the past fifteen years I have been integrally involved as a not only a member but an officer of the Napa County Sheriff's Aero Squadron. (A volunteer auxiliary of the Napa County Sheriff's Office, comprised of pilots and observers that assist the Sheriff's department in any facet that requires private aircraft). It is in that capacity that I write this letter on behalf of Christian Palmaz.

One thing I learned at a very early age is the simple fact that an individual's character matters. There are very few individuals with integrity and honor that will stand by their word.

As a result I very rarely offer a personal recommendation.

That being stated, I am very comfortable in offering the following recommendation on Christian's behalf. Christian is a very humble and un-assuming individual. While, I have only known Christian for three years through his affiliation with the Squadron, his integrity and honor are unquestionable. If Christian says he will do something he will do it. His commitment to utilizing his pilot skills on behalf to Napa County whenever he can is phenomenal.

I know that whatever the details are of this use permit it will not only be honored but most assuredly includes many benefits to Napa County for first responders and Napa County in general.

Thank You for your consideration in this matter.

Sincerely:

Harold Leggett

Leggett Construction, Inc
2nd Lt. Napa County Sheriff's Aero Squadron

Fuller, Lashun

From: Ayers, Dana
Sent: Monday, February 27, 2017 10:59 AM
To: Frost, Melissa
Cc: Fuller, Lashun
Subject: FW: letter on behalf of Christian Palmaz use permit Ap #-14-00261-up
Attachments: leggett construction LETTERHEAD.doc

Follow Up Flag: Follow up
Flag Status: Flagged

Public comment for March 1 public hearing.

From: Harold [<mailto:val58hal@comcast.net>]
Sent: Monday, February 27, 2017 7:40 AM
To: Ayers, Dana
Subject: letter on behalf of Christian Palmaz use permit Ap #-14-00261-up

Hello Dana
Please find attached a copy of a letter regarding the Palmaz Heliport use permit.

Thank you for your time.

Harold Leggett

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MAR 01 2017

Agenda Item #

8A

February 26, 2017

Dana Ayers
Dana.ayers@countyofnapa.org

Dear Dana,

This letter is in regard to the proposed helipad at the Palmaz estate on Hagen Road. We live about a mile from the Palmaz property on Hagen Road and have known the Palmaz family since we moved to our home in 2001.

I have read the proposal and spoken briefly with Christian Palmaz during a recent visit with him. I offered to provide my thoughts in favor of their helipad proposal as a sympathetic neighbor.

In short, we believe that the Palmaz family has gone to extraordinary efforts to comply with the various county regulations pertaining to the helipad and they should be allowed to move ahead with their plans. There are certainly situations where neighbors within the same penumbra to us, as the Palmaz family, have improved their property, without the same attention to such regulations. I respect the fact that the Palmaz family has researched their rights and obligations and put forward a well thought out and transparent proposal for this project.

Having lived on Hagen Road for 16 years now, I know what it's like to be on the approach path to our airport, as well as seeing helicopters go over our property on a fairly regular basis. Although we are further from the Palmaz property than other neighbors, I have read about the proposed flight paths, number of flights allowed and other restrictions and it just does not seem to be a major issue from our perspective.

We have had major residential construction going on just a hundred feet from our bedroom for the past year and are surrounded by vineyards with loud frost protection fans, so we understand how life can be interrupted at times here in Napa. The proposed helipad, on a large property, with the noted restrictions, just does not seem to be all that intrusive.

Sincerely,

Steve Salmon
1177 Hagen Road

Fuller, Lashun

From: Ayers, Dana
Sent: Monday, February 27, 2017 11:00 AM
To: Frost, Melissa
Cc: Fuller, Lashun
Subject: FW: March 1st Hearing - Palmaz Helipad
Attachments: Palmaz Helipad.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Public comment for March 1 public hearing.

From: steve@lvpcapital.com [<mailto:steve@lvpcapital.com>]
Sent: Monday, February 27, 2017 7:42 AM
To: Ayers, Dana
Subject: March 1st Hearing --Palmaz Helipad

Hi Dana,

I am a neighbor of the Palmaz family and live on Hagen Road. Please find attached a brief letter regarding the Helipad Project that is to be discussed on Wednesday:

Best regards,

Steve Salmon
1177 Hagen Road

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Fuller, Lashun

MAR 01 2017

From: Morrison, David
Sent: Monday, February 27, 2017 4:25 PM
To: Gallina, Charlene; Ayers, Dana; Anderson, Laura; Frost, Melissa; Fuller, Lashun
Subject: Palmaz

Agenda Item # 8A

FYI

From: Napa Vision 2050 <napavision2050@gmail.com>
Date: February 27, 2017 at 3:00:00 PM PST
Subject: HELI-NO!!Palmaz Heliport Planning Commission Meeting THIS Weds!
Reply-To: <napavision2050@gmail.com>

Heli-No!

URGENT:

Palmaz Heliport Planning Commission Meeting
Wed, Mar 1, 9:00 AM,
County Administration Building,
3rd and Coombs Street, Napa.

BIG MEETING -- The Napa County Planning Commission will consider the Palmaz Heliport Environmental Impact Report and vote on it.

WHAT'S AT STAKE: The skies above Napa County, filled with helicopters, 24/7 and 365 days a year.

This isn't just about Palmaz --

There are hundreds of homeowners in Napa County with the financial

resources to install their own personal heliport to make their commutes a few minutes faster each weekend. Click [here](#) for more information.

WHAT YOU CAN DO:

- Send a note to your Board Supervisor and/or their designed Planning Commissioner.
- Write an editorial in the local paper.
- Contact your friends at the San Francisco Chronicle, CNN / FOX / MSNBC.

SHOW UP!

Join us on 3/1. 9:00 at the County Administration Building, 3rd Floor.

Make sure to grab a red "HELI-NO" T-shirt on the way in. Let the Planning Commission know your opinion without saying a word - a sea of red in the audience!

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Fuller, Lashun

From: Morrison, David
Sent: Monday, February 27, 2017 4:23 PM
To: Fuller, Lashun; Frost, Melissa; Gallina, Charlene
Subject: FW: Emailing - Palmaz Use Permit Letter Gill (dh).pdf
Attachments: Palmaz Use Permit Letter Gill (dh).pdf

Planning Commission Mtg.

MAR 01 2017

Agenda Item # 8A

From: Deborah Holley [<mailto:deborah@holleyconsulting.com>]
Sent: Monday, February 27, 2017 4:08 PM
To: JeriGillPC@outlook.com
Cc: anne.cottrell@lucene.com; joellegPC@gmail.com; mikebasayne@gmail.com; tkscottco@aol.com; Morrison, David; Ayers, Dana
Subject: Emailing - Palmaz Use Permit Letter Gill (dh).pdf

Dear Commissioner Gill,
Please see the attached letter regarding the Palmaz Project Use Permit.
Thank you,
Deborah Holley

Holley Consulting

www.holleyconsulting.com

deborah@holleyconsulting.com

220 Montgomery Street Suite 2100 San Francisco CA 94104

415 389-9329 office

415 609-9329 mobile

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220 Montgomery Street, Suite 2100 San Francisco, CA 94104
415 389-9329
415 609-9329 mobile

February 27, 2017

Via Email

Jeri Gill
Planning Commission Chair
Napa County Planning, Building, and Environmental Services
Department 1195 Third Street, Suite 210
Napa, CA 94559

Re: Palmaz Private Helipad and Hangar Project Use Permit

Dear Commissioner Gill,

I am writing this letter on behalf of Michelle Goss and her family who live immediately adjacent to and south of the Palmaz Winery. The proposed project is inconsistent with the values and key policies of the Napa County General Plan and would reverse the County's long-standing precedent of denial of personal use airports and helipads.

This letter is focused on the merits of the project and whether a Use Permit should be approved. We will submit a separate letter regarding the Final EIR.

As a Planning Commissioner for the people of Napa County, you can ensure that the values, rural character, and rich agricultural and natural resources that make Napa County a special place to live are protected and sustained.

Section 18.124.070 of the Napa County Code requires you to make written findings in order to issue a Use Permit. For the reasons described in this letter, we believe that there are at least two findings that you cannot make for the Palmaz Heliport including:

- Finding C. "That grant of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the county;" and
- Finding D. "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.”

Please consider the key questions below as you make your decision and your written findings regarding the Palmaz helipad:

A. Should a project be approved that will benefit one property owner at the expense of many?

We do not believe that the project sponsor’s desire to avoid a short drive to the Napa Airport outweighs the negative consequences this project would cause. The small increment of benefit to the project sponsor is not worth the noise, hazards, etc. that would adversely affect a large number of residents.

B. Why have former Planning Commissioners and Supervisors denied permits for the majority of personal airports/helipads in the past?

In making the decision on this project, it is important to acknowledge that most of the permit requests made in the past for similar projects have been denied. This consistent, long-standing precedent should be respected by following suit on this project.

C. If the County approves this Helipad, will it encourage others to obtain permits for personal airports/helipads?

This is a major concern. The project would reverse the County’s time-honored decisions regarding private helipads, and open the door for additional applications.

There have not been any applications approved for a non-emergency services helipad for 37 years. The last time Napa County approved an application for a new personal airport or helipad was in 1979 for Timothy Parrot for a 90-day trial and then for a three-year period. Approval of this project would encourage others to apply and it may be difficult for the County to deny such projects after approving the Palmaz helipad.

D. Does this project further the goals and policies of Napa County?

The Agricultural Preservation and Land Use Element of the Napa County General Plan contains policies that “...are collectively intended to perpetuate a policy framework that sets agricultural preservation as the immovable foundation for sound decision-making within Napa County.” (Page AG/LU–8)

The project would not further the goals and policies of Napa County. In fact, it would be inconsistent with many key policies, including the following:

- “Goal AG/LU-6: Create a stable and predictable regulatory environment that encourages investment by the private sector and balances the rights of individuals with those of the community and the needs of the environment.”

- “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-108: With the proviso that no rights are absolute, that we will all best be served by striking a balance between private property rights and all our other rights and our other important community values, this General Plan nevertheless explicitly acknowledges that private ownership provides valuable incentives for the proper care of property and the environment, that preservation of property rights is an important cultural, economic, and community value, that protection of property rights is one of the primary and necessary functions of government at all levels, and that private property rights are therefore deserving of respect and consideration whenever land use decisions are made.”

The helipad is inconsistent with these goals and policies because it would satisfy the desire of one individual to avoid a ten-mile drive but impair the rights, quality of life, and values of the community.

The project would adversely affect the ability to use of the Goss lands for agricultural purposes. The Goss land is zoned Agricultural Watershed and has been used for grazing and cultivation in the past. If the helipad were built, it could limit the Goss family’s ability to use their lands for agriculture, which they hope to do in the future.

Irrigation ponds attract migrating geese which, according to the FAA are the third most dangerous animal in bird strikes on aircraft. Therefore, the FAA recommends airports be at least 10,000 feet away from such ponds. In order for the Goss family to use their land again for grazing or vineyard cultivation they may need an irrigation pond which would be located less than 10,000 feet from both the proposed and alternative helipad sites.

Because the project would limit use of the Goss lands and other properties in the vicinity of the project for agricultural purposes, it would be inconsistent with the key policies that aim to preserve and reserve agricultural lands.

The project would also be inconsistent with the following Napa County General Plan goals and policies addressing excessive noise:

- Goal CC-7: Accept those sounds which are part of the County’s agricultural character while protecting the people of Napa County from exposure to excessive noise.
- Goal CC-8: Place compatible land uses where high noise levels already exist and minimize noise impacts by placing new noise-generating uses in appropriate areas.
- Policy CC-36: Residential and other noise-sensitive activities shall not be located where noise levels exceed the standards contained in this Element without provision

of noise attenuation features that result in noise levels meeting the current standards of the County for exterior and interior noise exposure.

- Policy CC-37: The County shall seek to limit excessive noise impacts of recreational uses—including motorboats, shooting ranges, motorcycles, and other noise-producing equipment— through the enforcement of applicable laws (such as requirements for mufflers) and limits on the location and/or extent of such uses.

The project would be inconsistent with the standards of the Napa County Airport Land Use Compatibility Plan (ALUCP). Most importantly, under the policies set to guide plans for new airports and heliports, policy 2.3.1 states that “In reviewing proposals for new airports and heliports, the Commission shall focus on the noise, safety, overflight, and height limit impacts upon surrounding land uses. And, under section 1.4.6 of the ALUCP, when reviewing proposals for new airports or heliports, among the Commission’s choices of action is: “(c) Disapprove the proposal on the basis that the noise and safety impacts it would have on surrounding land uses are not adequately mitigated.”

E. Does Napa County want to expend precious resources to monitor aircraft activity, respond to complaints, threaten to revoke permits under the threat of litigation, defend itself against potential lawsuits, and all other activities that approval of a heliport would require?

It is hard to understand why the County would want to “sign up for this.” Monitoring for a typical land use project is minimal compared with the staffing resources that would be required for this project to handle and follow-up on noise complaints. How will this additional workload be handled? Is staff time available to answer complaints, keep records, and take action to prevent unpermitted activities?

While proposed condition of approval 17.0 would require that the permittee/property owner pay for monitoring costs, if the project were to be approved, an additional Condition of Approval should be added to specify in a written notice to all residents within a two-mile radius of the project the name, email address, and phone number of the individual(s) accountable for recording and resolving complaints of non-compliance.

Moreover, there is some uncertainty about the reach of local authority over control over aircraft operations due to federal preemption. And, does Napa County want to risk exposure to litigation and pay the defense costs should the project sponsor decide to challenge local control? If you approve this project, additional Conditions of Approval should be adopted in order to provide protection to the County against litigation brought by the permittee over the authority to regulate flights.

Is there a reason that state law requires real estate disclosures for homes within two miles of an airport or heliport?

There is a reason that such disclosures are required. California law mandates that sellers reveal noise and other nuisance factors in a Real Estate Transfer Disclosure Statement prior to sale, permitting prospective buyers to look elsewhere or to lower their offers. As of January 1, 2004, residential property owners in California are required, under certain circumstances, to disclose to prospective buyers that the property is in the "vicinity" of an airport (Assembly Bill 2776, 2002). (See AB 2776.)

The legal definition of a private nuisance is an interference with a person's enjoyment and use of his land. The law recognizes that landowners, or those in rightful possession of land, have the right to the unimpaired condition of the property and to reasonable comfort and convenience in its occupation. Examples of nuisances interfering with the comfort, convenience, or health of an occupant include loud noises.

F. Just because an EIR determines that environmental impacts have been reduced to a less than significant level, does that mean that approving the project would be a wise land use decision?

Land uses that are not permitted as of right, but only allowed with a Use Permit must meet specific standards, and you must make findings if you approve such uses. Just because the EIR concludes that the project's environmental impacts could be reduced below a particular threshold does not mean that approval should be granted. There are many other land use and policy reasons that the Use Permit should not be granted.

For the many reasons described in this letter, we ask that you make the right decision for Napa County and deny the Use Permit for the Palmaz Helipad.

If you choose to approve the project, we request that you add the following items to the Conditions of Approval:

1. The Use Permit shall limit use to just one helicopter to be operated by the permit holder. Items 1.2 and 1.3 in the Recommended Conditions of Approval shall be revised as follows (added text underlined): "1.2 Use of the heliport solely for the permittee's one helicopter, and which helicopter shall meet or exceed noise level requirements for Stage 3 certification by the Federal Aviation Administration with only one helicopter stored onsite at a time; and 1.3 Up to four arrivals and departure flights per week by the permittee's helicopter, for noncommercial use by the aircraft owner and occasional invited guests. Under no circumstances are "invited guests" to mean guests invited to fly their own aircraft and use the onsite helipad.

2. The Use Permit shall be granted for six months. At the six-month mark, the records regarding complaints, flights, etc., shall be reviewed. If the Planning Commission determines that the project has been operating according to the agreed upon terms without violations, then the permit could be extended for an additional six months. This review process would continue to ensure that no violations have occurred and avoids the potential for hearings and litigation to drag on in the event that the County needs to take action to revoke the permit.
3. Provide weekly email noticing of scheduled flights so that residents know when to expect excessive noise and vibration. As many residents testified at the DEIR hearing, part of the stress and anxiety with helicopter noise and vibration is sudden unexpected nature of the noise, the worry that an emergency has occurred, etc. This should be provided to all residents within a two-mile radius.
4. Provide specific monitoring, reporting, and enforcement measures. Enforcement shall include a dedicated person at the County with contact information, including name, phone number, and email address. This information should be listed on the County website and mailed to residents within a two-mile radius. This person would be responsible for responding to and documenting complaints as well as quarterly review of the adherence to the conditions specified in the Use Permit with reports posted online.
5. Agreement to Pay Permittee-Induced Legal Costs. Permittee/property owner shall agree to pay Napa County's legal costs in the event that the permittee/property owner engages in unsuccessful litigation regarding the County's authority to limit flight activity or use of the helipad facility.
6. If the permittee/property owner sells the property, the Use Permit becomes null and void. This would avoid a situation where a future property owner may argue that local control does not apply and pursue litigation.

Thank you for consideration and please feel free to call me at (415) 389-9329 if you have any questions or would like additional information.

Sincerely,

Deborah Holley

cc: Commissioner Joelle Gallagher

Commissioner Michael Basayne

Commissioner Anne Cottrell, Vice Chair

Commissioner Terry Scott

David Morrison, Planning Director

Dana Ayers, Planner