

**From:** [Tittel/Caloyannidis](#)  
**To:** [C/ COUNTY PC Anne Cotrell](#); [C/ COUNTY Jeri Gill](#); [C/ COUNTY PC Joelle Galagher](#); [C/ COUNTY PC Michael Basayne](#)  
**Cc:** [Ayers, Dana](#)  
**Subject:** PALMAZ CP14-002621U P  
**Date:** Thursday, May 11, 2017 10:05:32 AM  
**Attachments:** [PALMAZ - ENFORCEMENT.doc](#)

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Please add to Public Comment

Thank you,

George Caloyannidis

George Caloyannidis  
2202 Diamond Mountain Road  
Calistoga, CA 94515

May 11, 2017

Dana Ayers  
Napa County Planning  
dana.ayers@countyofnapa.org

CC: Napa County Planning Commissioners

**RE : Palmaz Private Heliport Application UP # P14-000261-UP**

## **ENFORCEMENT**

Following are comments in response to issues and questions regarding enforcement of the above Use-Permit raised by several members of the public and Planning Commissioners during the hearing of March 1st, 2017.

Since the County has not assumed the responsibility of monitoring the Amalia Palmaz Living Trust's (THE TRUST) adherence to the terms of this Use-Permit, it must be assumed that such adherence is solely complaint driven.

### **1) DOCUMENTATION AND COMPLAINT FILING PROCESS:**

The filing of any complaint rising to the level of an investigation must include the following documentation:

#### **1.1) ON THE GROUND VIOLATIONS:**

Neighbors must document that the helicopter has exceeded the permitted number of landings and takeoffs.

*Since both the original and alternative helipad locations are hidden from public view let alone open to public access for purposes of identification, it is impossible for any outside persons to document any landing or takeoff and distinguish it from other flying helicopters in the area.*

**If this condition of the Use-Permit cannot be documented by an independent party and if the County fails to assume that responsibility through a specific mechanism, such a complaint is impossible to file, rendering the possibility of an investigation moot.**

#### **1.2) IN THE AIR VIOLATIONS:**

Adherence to the no-fly zone restrictions is equally impossible to document by an outside person on the ground. For a complaint to be credible enough to trigger an investigation, such person must document:

- The time of the incident.
- The exact location of the helicopter in relation to the no-fly zone.
- The identity of the helicopter.

*Documenting the time of the incident places an undue burden on the community because it places it in constant alert having to monitor **any and all** helicopter over-flights before distinguishing permitted from violating ones.*

*It is obvious that it is impossible for any person on the ground to ascertain let alone document the exact location of a helicopter in relation to a no-fly zone. It is equally impossible for such person on the ground to photograph and identify the helicopter in the air, for an over flight which lasts only a few seconds.*

**In view of the above, it is practically impossible for an independent person on the ground to document a no-fly zone violation.**

**If this condition of the Use-Permit cannot be documented by an independent party and if the County fails to assume that responsibility through a credible mechanism, such a complaint is impossible to file, rendering an investigation and follow up enforcement impossible.**

## **2) COMPLAINT FIELDING AGENCIES:**

### **2.1) NAPA COUNTY (ON THE GROUND):**

Since the County has jurisdiction of activities on the ground, and notwithstanding **(1.1)**, it is presumably the only one to field a complaint.

**The County has not put forward a procedure or the administrative infrastructure charged with the responsibility to investigate, respond and act on such a complaint, nor has it put forward how it will respond to THE TRUST if its investigation were to substantiate such complaint.**

### **2.2) FEDERAL AVIATION ADMINISTRATION (IN THE AIR):**

Since the County lacks jurisdiction and the means to enforce conditions *itself has imposed* in the air, and notwithstanding **(1.2)**, it must be presumed that any such complaint must be filed with the FAA. However, neither the number of landings and take-offs nor the no-fly zone restrictions are ones mandated by the FAA.

**Since the Use-Permit restrictions are not mandated by the FAA, it is obvious that the burden of investigating in the air Use-Permit violations falls entirely on the County.**

**The County has not put forward a procedure or the administrative infrastructure charged with the responsibility to effectively document, investigate and enforce in the air Use-Permit violations.**

NOTE: Municipalities such as Torrance, CA, the Hamptons NY and others around the world, have created special departments to field, investigate, respond and take action to helicopter over flight complaints.

### **3) RELIANCE ON DATA SOLELY CONTROLLED BY THE TRUST:**

According to the application, THE TRUST: "Agrees to create a flight log summary at the conclusion of each flight that includes the time of each flight, number of landings and flight duration. That data would be provided to the County on a quarterly basis".

THE TRUST also agrees to: "A surveillance system consisting of GPS position tracking and in-cockpit video/voice recording which would record the arrival and departure of flights to and from the heliport".

And: "If the County receives a no-fly zone intrusion complaint, the County would use the flight log data to determine if the Palmaz helicopter was operational. If it was not operational, no further action would be taken. If it was operational, the applicant would provide to the County the GPS tracking and recording data discussed above to demonstrate compliance with the use permit".

**Any Use-Permit the enforcement of which relies solely on data provided by any applicant with no ability by the County to independently verify the accuracy of such data is not a complete and credible Use-Permit. This is especially troubling in this application as no member of the public under a "complaint driven system" has the ability to adequately document violations which would trigger an investigation.**

#### **3.1) PILOT'S LICENSE:**

Mr. Christian Palmaz (*not the actual applicant*) testified at the hearing that if he were not to abide by the County imposed Use-Permit conditions he would lose his pilot license. The implication is that the FAA is the enforcement authority over the helicopter pilot's adherence to these in the air conditions.

**This is incorrect. Since such conditions are not required by the FAA for private use helicopters, violating them would not constitute grounds for a pilot's license revocation by the FAA.**

#### **3.2) LOG SUMMARY:**

**The Use-Permit condition by which THE TRUST is required to maintain a flight log summary is completely under the control of THE TRUST the completeness or accuracy of which are not independently verifiable. Further, the County has failed to put forward a mechanism demonstrating that it has the expertise and means with which it can analyze the data submitted to it. If the County plans to engage the services of an outside agency to do so, such agency must be identified and the projected costs involved must be made part of the record.**

#### **3.3) GPS TRACKING:**

There are a number of GPS tracking systems on the market.

Flight Data Recorders (FDR, so called "black box") are only mandated for commercial aircraft. Others, less expensive ones only record the location of an aircraft with varying degrees of accuracy. None of them are required for helicopters by the FAA.

FDRs cannot be disconnected by a pilot and their data can only be analyzed at locations with the sophisticated equipment to perform such analyses. We do not believe THE TRUST contemplates the installation of an FDR - a device of substantial weight - nor that it would be willing to fly the helicopter to designated locations for data analyses.

*It is more likely that the contemplated device is a much less sophisticated portable GPS location recorder. However such recorders may be connected and disconnected at the discretion of the pilot. Disconnecting such a device does not violate any FAA requirement. As such, data recorded on such a device are not independently verifiable as being comprehensive.*

**Further, the County has failed to put forward a mechanism demonstrating its ability to analyze the data provided it. If the County plans to engage the services of an outside agency to do so, such agency must be identified and the projected costs involved must be made part of the record.**

**In addition, the County has not put forward a monitoring system which ensures that such GPS recording device is connected at all times.**

#### **3.4) NO-FLY ZONE INTRUSION:**

- THE TRUST proposes that the County investigate such intrusion following a complaint. As discussed **(1)**, such complaint is only theoretic and in practice impossible to file with credible supporting documentation.
- The County would investigate an intrusion only if at the time of the alleged intrusion, the helicopter was operational. This again relies solely on records maintained by THE TRUST which are not independently verifiable.
- If the helicopter was found to have been operational, the GPS tracking and recording data would be analyzed by the County. Such data are not independently verifiable for completeness, neither has the County put forward a mechanism to demonstrate its ability to analyze them.
- While the County would take no action if the helicopter were to have been found not operational, it fails to identify what action it would take if it were to have been found operational.
- The County has failed to put forward the procedure it would employ in verifying the validity of the complaint (data analysis etc) and what action it would take if it found the complaint to be valid.
- At the TRUST'S discretion, the no-fly zone may be violated depending on the TRUST'S sole assessment on whether such intrusion is necessary due to safety reasons. Again, it is impossible to independently verify whether the TRUST'S assessment was valid and necessary at the time or

whether it was not invoked as an excuse to justify **any** no-fly zone violation it engaged in for other reasons.

**The entire body of THE TRUST'S "Voluntary Enforcement Tracking" (EIR 2.1) is completely under its sole control and not independently verifiable. Neither failure to maintain any of them constitutes FAA enforceable violations.**

### **3.5) NON-COMMERCIAL USES:**

The original Use-Permit Application was submitted by Palmaz Family *Vineyards*. Subsequently, the word "Vineyards" was replaced with "Residence". One must assume this change was precipitated when THE TRUST became aware that landings at wineries for its intended use is prohibited. In addition, *commercial uses* in the Agricultural Watershed are prohibited in Napa County. However, THE TRUST'S true intent is questionable in view of the following:

- The pilot's license issued by the FAA is in the name of "*Christian Palmaz, President of Palmaz Vineyards*", the President of a commercial entity.
- The Bell 429 helicopter the TRUST is seeking to land on its residential property is owned and licensed under the name of "*Cedar Knolls Vineyards Inc, DBA Palmaz Vineyards*" a Delaware corporation and a commercial enterprise.
- The Amalia B. Palmaz Living Trust itself is registered in San Antonio Texas.
- Said helicopter will be primarily used for travel to and from the *Genesee Valley Ranch LLC* (Limited Liability Company) in Plumas County, CA , to manage a commercial cattle ranch with adjacent home.
- The two parcels (primary and alternative) for which the Use-Permit is being sought, are both immediately adjacent to the Palmaz Vineyard and Winery.

Only information regarding the manner in which these various entities report the Bell helicopter expenses in their respective tax returns will provide credible information as to whether they have been commercial or private.

**In view of the fact that all entities for which this Use-Permit THE TRUST has applied for are commercial entities in addition to the proximity of the proposed heliport sites to a winery, the question arises whether anybody will have the ability to monitor compliance to non-commercial activities.**

**Since enforcement is proposed to be complaint driven, it is practically impossible for any member of the public to compile comprehensive evidence of commercial uses at either sites to trigger a complaint.**

### **3.6) TRUSTEES RESIDENCY AND ABILITY TO MANAGE USE PERMIT CONDITIONS**

THE TRUST has not been made public. Since the County relies on its Trustees for the adherence to the Use-Permit conditions it is imperative that the primary residencies be made public. If such residencies are in another State, they would be required to be absent from the Hagen Road home for more than 50% of the time which cannot assure their ability to manage the Use-Permit conditions.

**THE TRUST and the legal primary residences of its Trustees must be made public. Even so, subsequent changes to THE TRUST will not require County approval.**

### **4) VOLUNTARY ENFORCEMENT TRACKING:**

The entire Section 2.1 of the EIR: "Applicant's Voluntary Enforcement Tracking" is problematic in its ambiguous language:

**If the proposed tracking program is a mandatory condition of the Use-Permit, it may not be described as "voluntary". Describing it as "voluntary" merely confirms that it is not a FAA requirement and as such, THE TRUST may opt out of it at any time.**

### **5) THE TRUST'S CREDIBILITY:**

Assuming that the Enforcement Tracking is mandatory rather than voluntary, and as is already in the public record inserted by myself and others, THE TRUST has engaged in some of the most egregious land use violations in the past exhibiting patent disregard for the law.

**Placing adherence to the terms of the Use-Permit *entirely* in the hands of THE TRUST with a complete lack of an independent verification mechanism is not credible for any Use-Permit but particularly given THE TRUST'S past Use-Permit noncompliance record.**

## **CONCLUSION:**

### **USE-PERMIT COMPLIANCE IS UNENFORCEABLE**

I reviewing this application, the County has failed to insure the public that by granting this Use-Permit:

- Its "complaint driven" enforcement mechanism is realistic. It is obviously based on theoretic but unrealistic assumptions; therefore nonexistent.
- It has the ability to independently verify THE TRUST-provided voluntary compliance data.
- It has put in place the administrative infrastructure to field, investigate and act on complaints.
- It has put in place specific procedures in the way it monitors, analyzes and verifies data provided by THE TRUST or by a complainant.
- It has put in place specific actions when THE TRUST is found not to adhere to the terms of the Use-Permit.
- It has properly accounted for the costs of the enforcement administration of this Use-Permit.

The enforcement mechanism is an essential part of a Use-Permit. This is what is implied by the word "permit".

This particular Use-Permit is unenforceable unless the County is prepared to employ complex monitoring, analyses and action procedures along with the necessary administrative infrastructure to field and analyze flight data and its associated costs, all of which it must specify in the record, and subject to public comment.

**The County may not grant a Use-Permit when fully aware that in practice non-compliance to its conditions is impossible to monitor, impossible to document and that in its entirety is impossible to enforce.**

**From:** [Tittel/Caloyannidis](#)  
**To:** [C/ COUNTY PC Anne Cotrell](#); [C/ COUNTY Jeri Gill](#); [C/ COUNTY PC Joelle Galagher](#); [C/ COUNTY PC Michael Basayne](#); [C/ COUNTY Terry Scott](#)  
**Cc:** [Ayers, Dana](#)  
**Subject:** PALMAZ CUP P14-002621  
**Date:** Thursday, May 11, 2017 10:15:13 AM  
**Attachments:** [Palmaz Helipad Letter to Napa County Planning Commissioners May 2017.docx](#)

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Please insert to public comment.

Thank you,

George Caloyannidis

George Caloyannidis  
2202 Diamond Mountain Road  
Calistoga, CA 94515

Dana Ayers  
Napa County Planning  
dana.ayers@countyofnapa.org

May 11, 2017

CC: Napa County Planning Commissioners

Re: Proposed Amalia Palmaz Living Trust Conditional Use Permit No. P14-002621

This letter is written in opposition to the proposed Napa County (“County”) Conditional Use Permit Number P14-00261 (“CUP”) for the construction, operation, and use of a heliport (“Heliport”) for the arrival and departure of a Bell 429 helicopter specified in the Final Environmental Impact Report (“FEIR”)<sup>1</sup> and FAA reports<sup>2</sup> (“Helicopter”) on property located at 4031 Hagen Road, Napa, California, Assessor’s Parcel Number 033-110-079 (“Parcel”) submitted by the Amalia Palmaz Living Trust (“Applicant”).

The Napa County Planning Commission is compelled to deny the CUP and proposed Heliport in consideration of the following factual and legal evidence:

**1. The Heliport And Helicopter Are Commercial Use Violating County Code And CUP Conditions:**

- a. Napa County Code prohibits the commercial use of a heliport in the Agricultural Watershed.<sup>3</sup>
- b. The CUP Conditions of Approval<sup>4</sup> (“CUP Conditions”) limit use to a “*personal use heliport*”<sup>5</sup> and expressly prohibit commercial use:<sup>6</sup>
  - “2.3 *Commercial Use Prohibited: The personal use heliport is restricted to residential purposes only and cannot be used for commercial purposes or in conjunction with the operation and/or visitation/marketing program of the Palmaz Winery...*”

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<sup>1</sup> Final Environmental Impact Report, Palmaz Private Helipad and Hangar Project, February 2017, Prepared By: Ascent Environmental, Inc., Amanda Olekszulyn, Principal.

<sup>2</sup> U.S. Department of Transportation, Federal Aviation Administration, Notice For Construction, Alteration and Deactivation of Airports, submitted by Applicant identifies the Helicopter as a Bell (B) 429 helicopter, N665PV.

<sup>3</sup> Napa County Code Sections 18.20.020 and 18.20.030 AW Agricultural Watershed District; and Napa County Code Section 18.120.010 B(2) “*The following uses may be permitted in any zoning district...upon the grant of a use permit...Personal use airports and heliports...*” and Napa County Code Section 18.08.460 “*Personal use airport and heliport’ means an airport or heliport limited to the noncommercial activities of an individual owner or family and occasional invited guests.*” (Italics added)

<sup>4</sup> Memorandum to Dana Ayers, Planning Division, January 24, 2017, from Patrick Ryan, Engineering Services; and Exhibit “A”, Recommended Conditions of Approval, Planning Commission Hearing, March 1, 2017.

<sup>5</sup> Memorandum to Dana Ayers, Planning Division, January 24, 2017, from Patrick Ryan, Engineering Services dated January 24, 2017, “*Construct a non-commercial, private use heliport, including a helipad, hangar building and associated infrastructure to support the proposed use;*” and Napa County Code Section 18.08.460 “*Personal use airport and heliport’ means an airport or heliport limited to the noncommercial activities of an individual owner or family and occasional invited guests.*”

<sup>6</sup> Exhibit “A” Recommended Conditions of Approval, Planning Commission Hearing, March 1, 2017, Section 2.3.

- c. The Helicopter is owned by Cedar Knoll Vineyards, Inc. D/B/A Palmaz Vineyards<sup>7</sup>, a Delaware corporation and commercial entity.<sup>8</sup>
- d. The Helicopter is exclusively piloted by Christian Palmaz, President of Palmaz Vineyards<sup>9</sup> a commercial winery (“Palmaz Vineyards”) and a trade name of Cedar Knoll Vineyards, Inc., a Delaware corporation and commercial enterprise.
- e. The Helicopter and Heliport will be predominantly used by Christian Palmaz for travel between Genesee Valley Ranch, LLC, a California limited liability company<sup>10</sup> in the commercial cattle ranching industry<sup>11</sup> and Palmaz Vineyards, a commercial winery. Christian Palmaz is the corporate Agent for Genesee Valley Ranch, LLC and President of Palmaz Vineyards.
- f. The FAA Form 7480-1 (“Notice for Construction, Alteration and Deactivation of Airports”) for the proposed Heliport was submitted to the Federal Aviation Administration by “Christian Gaston Palmaz, President, Palmaz Vineyards” on Palmaz Vineyards’ letterhead.<sup>12</sup>

As the above dispositive facts confirm:

- The Helicopter is owned by a commercial corporation.
- The Heliport will be predominantly used for commercial business travel by Christian Palmaz (President, Palmaz Vineyards and corporate agent, Genesee Valley Ranch, LLC) to manage a commercial cattle ranch and a commercial winery.

As this letter verifies, the Helicopter and Heliport violate Napa County Code for a “*personal use heliport*”<sup>13</sup> and the CUP Conditions “*commercial use prohibited*.”<sup>14</sup>

## **2. Applicant Violates CUP Conditions And Cannot Comply With Or Supervise CUP Conditions:**

- a. The Applicant (Amalia B Palmaz Living Trust) is a San Antonio, Texas foreign trust.<sup>15</sup> Absent of making this Trust public, it is unclear who the Trustees are and whether their residence status permits them to adequately assure compliance with the CUP Conditions.
- b. The Applicant Violates the CUP Conditions because the Helicopter is not the “*permittee’s heliport*” as mandated by the CUP Conditions.
  - The CUP Conditions require “*use of the heliport solely for the permittee’s heliport.*”<sup>16</sup>

<sup>7</sup> Federal Aviation Administration Aircraft Registry, Bell (B) 429 Global Ranger Helicopter, N665PV.

<sup>8</sup> California Secretary of State, Foreign Corporation Registration Statement.

<sup>9</sup> Palmaz Vineyards Website, <https://www.palmazvineyards.com/our-team>.

<sup>10</sup> California Secretary of State, Domestic Company Registration Statement.

<sup>11</sup> Plumas County Planning Department Staff Report for April 19, 2017 Hearing, Genesee Valley Ranch, LLC.

<sup>12</sup> Letter to James Lomen, Manager, San Francisco Airports District Office, Federal Aviation Administration from Christian Gaston Palmaz, President, Palmaz Vineyards, dated December 28, 2015.

<sup>13</sup> Napa County Code Section 18.08.460 “*Personal use airport and heliport’ means an airport or heliport limited to the noncommercial activities of an individual owner or family and occasional invited guests.*” (Italics added).

<sup>14</sup> Exhibit “A” Recommended Conditions of Approval, Planning Commission Hearing, March 1, 2017.

<sup>15</sup> State of Texas Department of Motor Vehicle Record Details.

<sup>16</sup> Memorandum dated January 24, 2017, Dana Ayers, Planning, Building & Environmental Services, “A” Recommended Conditions of Approval, Section 1.2.

- Napa County Code defines “*Permittee*” as the person who has been issued any permit...”<sup>17</sup>
  - The Helicopter is owned by Cedar Knoll Vineyards, Inc.<sup>18</sup> a Delaware corporation.<sup>19</sup> Amalia Palmaz, Applicant Trustee and the Applicant (Amalia B Palmaz Living Trust) the “*Permittee*” does not own the Helicopter as specified by the CUP Conditions.
- c. As a foreign (Texas) trust, the Applicant cannot enforce the controlling CUP Conditions:<sup>20</sup>
- “1.2 Use of the heliport solely for the permittee’s helicopter...”
    - The Applicant/Permittee does not legally own or control the Helicopter.<sup>21</sup>
    - The Applicant/Permittee will not and cannot legally pilot the Helicopter.<sup>22</sup>
    - The Applicant/Permittee cannot supervise Heliport use because it has no legal authority over a Helicopter it does not legally own or pilot.
  - “1.2 helicopter shall meet or exceed noise level requirements for Stage 3 certification by the Federal Aviation Administration;”
    - The Helicopter can be sold or replaced by Cedar Knolls Vineyards, Inc. (a Delaware corporation) at any time without the knowledge of the County, and the Helicopter owner, Cedar Knolls Vineyards, Inc. is not subject to CUP Conditions.
  - “1.2 Up to four arrival and four departure flights per week by the permittee’s helicopter, for noncommercial use...”
    - The Applicant/Permittee is a foreign Texas trust that does not legally own the Helicopter.<sup>23</sup>
    - The Applicant/Permittee will not and cannot legally pilot the Helicopter.<sup>24</sup>
    - The Applicant/Permittee cannot enforce the weekly number of Heliport arrivals and departures because it does not legally own, control, or pilot the Helicopter.
  - “2.2 No-Fly Zone And Voluntary Compliance Tracking. The applicant shall observe the ‘no-fly zone’ over nearby sensitive receptors...the permittee shall avoid the no-fly zone during approach to and departure from the helipad.”
    - The Applicant/Permittee cannot observe or enforce the “no-fly zone” required to protect Coombsville residences because to do so the Applicant/Permittee must legally own, control, or pilot the Helicopter. As confirmed herein, the Helicopter

<sup>17</sup> Napa County Code Section 18.08.430 “Permittee” means the person who has been issued any permit....”

<sup>18</sup> Federal Aviation Administration Aircraft Registry, Bell (B) 429 Global Ranger Helicopter, N665PV.

<sup>19</sup> California Secretary of State, Foreign Corporation Registration Statement.

<sup>20</sup> Exhibit “A” Recommended Conditions of Approval, Planning Commission Hearing, March 1, 2017.

<sup>21</sup> Federal Aviation Administration Aircraft Registry, Bell (B) 429 Global Ranger Helicopter, N665PV.

<sup>22</sup> Federal Aviation Administration Aircraft Registry, Bell (B) 429 Global Ranger Helicopter, N665PV.

<sup>23</sup> State of Texas Department of Motor Vehicle Record Details.

<sup>24</sup> Federal Aviation Administration Aircraft Registry, Bell (B) 429 Global Ranger Helicopter, N665PV.

is owned by Cedar Knoll Vineyards, Inc. and piloted by Christian Palmaz, President, Palmaz Vineyards.

- “2.2 The applicant’s voluntary compliance tracking program is incorporated herein as a condition of operation of the heliport...”<sup>25</sup>
  - “In order for the County to monitor the Project [CUP] without overburdening the County’s resources, a flight tracking solution has been developed....The first level of reporting entails comprehensive flight records derived from applicant’s flight log output. At the conclusion of each flight, a flight log summary is created...providing details which will include the time of each flight, number of landings, and flight duration....Palmaz [Applicant/Permittee] will provide these flight records to the County on a quarterly basis to ensure that Palmaz [Applicant/Permittee] is in compliance with the Project [CUP].”<sup>26</sup>
  - The Applicant cannot control or monitor the flight log output or flight log summary (providing details including the time of each flight, number of landings, and flight duration) mandated by the CUP Conditions because the Applicant does not legally own, control, or pilot the Helicopter.

As this letter provides and proves, the Napa County Planning Commission must categorically decline and reject the proposed CUP because of the following facts and legal evidence established herein:

- The Heliport & Helicopter are predominantly engaged in commercial use violating County Code And CUP Conditions because the Helicopter is owned by a Cedar Knoll Vineyards, Inc., a Delaware corporation, and piloted by Christian Palmaz, President, Palmaz Vineyards for business travel between Genesee Valley Ranch, LLC, a commercial cattle ranching operation and Palmaz Vineyards, a commercial winery.
- The Applicant violates CUP Conditions and cannot comply with or supervise CUP Conditions because the Applicant does not legally own, control or pilot the Helicopter, and the Applicant cannot supervise or enforce the weekly number of Heliport arrivals and departures, the no-fly zone, the compliance tracking requirements, and other significant CUP Conditions.

Any approval of the CUP would imperil the County to the unintended consequences designated below:

- The County would authorize a CUP with constructive notice and knowledge that the CUP Conditions cannot be legally satisfied consequently sanctioning future heliport permitting and uses that are inherently defective.
- Approval of the CUP on a five (5) acre parcel would impermissibly encourage numerous small parcel owners to permit heliports in the Agricultural Preserve.

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<sup>25</sup> Exhibit “A” Recommended Conditions of Approval, Planning Commission Hearing, March 1, 2017, Section 2.2.

<sup>26</sup> Exhibit “A” Recommended Conditions of Approval, Planning Commission Hearing, March 1, 2017, Exhibit 2, Letter to Laura J. Anderson, Deputy County Counsel, Office of Napa County Counsel, from Brian Russell, Abbott & Kindermann, Inc. and Amalia Palmaz, dated February 3, 2017.

- The Parcel could be sold or transferred at any time and as the CUP runs with the land, a stand-alone heliport on a five (5) acre parcel would create an impermissible land use standard in Napa County.
- Because there is no residence on the Parcel, the granting of the CUP would establish a daunting permitting precedent in the Agricultural Preserve.

We welcome the opportunity to meet with you to further discuss the declination and rejection of the CUP and look forward to working with you to support and preserve Napa County's Agricultural Preserve.

Sincerely,

**From:** [Tittel/Caloyannidis](#)  
**To:** [Ayers, Dana](#)  
**Cc:** [C/ COUNTY PC Anne Cotrell](#); [C/ COUNTY Jeri Gill](#); [C/ COUNTY PC Joelle Galagher](#); [C/ COUNTY PC Michael Basayne](#); [C/ COUNTY Terry Scott](#)  
**Subject:** PALMAZ - UP P14-00261  
**Date:** Sunday, May 14, 2017 10:46:46 AM  
**Attachments:** [PALMAZ - ENFORCEMENT \(2\).pdf](#)

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Please consider and insert into the record.

Thank you,  
George Caloyannidis

George Caloyannidis  
2202 Diamond Mountain Road  
Calistoga, CA 94515

May 14, 2017

Dana Ayers  
Napa County Planning  
dana.ayers@countyofnapa.org

CC: Napa County Planning Commissioners

**RE: Palmaz Private Heliport Application UP# P14-000261-UP**

**ATTACHMENT TO COMMENT DATED 5/11/2017**

## **ENFORCEMENT (2)**

### **6) CIRCUMVENTION OF CEQA**

**Failure to monitor and allow Use-Permit mitigation violations to persist distorts the protections mandated by CEQA.**

The Palmaz Use-Permit contains a number of mitigations the implementation of which the EIR maintains renders impacts "less than significant". It follows that should such mitigations not be implemented in practice, environmental damage of various significance would occur.

As argued in my May 11, 2017 written comment, the County has not presented a mechanism by which it proposes to monitor let alone enforce the proposed helicopter activities of the Amalia B. Palmaz Living Trust and insure its adherence to the mandated mitigations. My argument also showed that a "complaint driven" mechanism to perform such monitoring is physically impossible to implement.

During my appeal to the County Board of Supervisors of the *Reverie Use-Permit Modification P13-00027MOD*, I submitted a comment reviewed by the law firm of Shute, Mihaly & Wineberger LLP (enclosed) outlining recent case law which establishes that allowing violations of CEQA mitigations to persist moves the CEQA baseline forward and accommodates the circumvention of its safeguards.

**By approving this Use-Permit, the County would do so with constructive notice and knowledge that this Use-Permit cannot be monitored or enforced by it or by the public, consequently sanctioning future heliport permitting that is inherently subject to the circumvention of CEQA.**

III. Authorizing illegal improvements distorts the CEQA process.

The Commission's approval of the Reverie application also makes a mockery of CEQA. As the Reverie case demonstrates, where illegal uses are allowed to continue unchecked by enforcement for years, that illegal use risks becoming the baseline condition for any CEQA analysis when the landowner applies for new permits or permits to legalize the existing illegal condition. See *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214, 250-51 (holding that "the baseline must include existing conditions, even when those conditions have never been reviewed and are unlawful"); *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 370 (existing playground built in violation of code was nevertheless part of the CEQA baseline). As a result, no meaningful CEQA analysis can be performed where the landowner seeks to authorize an existing illegal use. Accordingly, where the local government is willing to turn a blind eye to such illegal conduct and retroactively approve illegal uses, the landowner's ability to skirt CEQA provides yet another incentive to build or expand uses and structures without abiding by the local government's land use process. Why properly seek approval when you can build first and thereby make your new development an environmental fait accompli?

The County makes matters worse by failing to do anything to investigate the applicant's claims about the extent of an existing illegal use. The applicant can claim to have increased its use beyond the limits of its existing use permits, whether true or not, and the County will subsequently "recognize" and legalize that claimed use without scrutiny. Without corroboration, the applicant's claims become the baseline for CEQA analysis, allowing the applicant to evade full analysis and mitigation of the impacts of that expanded use. In other words, the County's current practice of authorizing existing illegal uses without scrutiny not only encourages illegal uses, it paradoxically encourages landowners to exaggerate the extent of those illegal uses. As it stands in Napa County, there will be no consequence from doing so.

The County's process here — widespread non-enforcement of code violations combined with a willingness to later retroactively legalize those violations with little scrutiny — thus carves a giant loophole in CEQA and creates strong incentives for landowners to break the law.

Napa County's consistent pattern of after-the-fact approval of violations, violates the very spirit of the CEQA process as mandated by the state law to safeguard the environment and the public interest.

---

<sup>1</sup> It is troubling that the County has thus far simply accepted the applicant's assertions about the scope of the existing use, without requiring any corroboration or apparently performing any independent investigation. Moreover, the County has no system in place to audit visitation numbers on an independent basis. It relies solely on records maintained by wineries, which undermines the credibility of any audit. It relies solely on the honor system.

Louise Dunlap  
[changewrite@earthlink.net](mailto:changewrite@earthlink.net)

May 13, 2017

To: Napa County Planning Commissioners

From: Louise Dunlap, co-owner, 2300 North Third Ave., parcel 052-130-009

I am co-owner of land abutting Palmaz property to the south, so I've followed the EIR process closely. Our parcel is mostly steep, "wild" land that we value for its natural state and have protected by donating an easement to the Napa County Land Trust. After reading, commenting on the EIR and listening to public comment, I urge the Commissioners to reject the FEIR for the reasons listed below and to choose a "no build" alternative rather than either site described in the proposal. Exactly because it is "out of sight, out of mind" for many Napers, the alternate site may be a MORE dangerous and environmentally destructive one than the original site.

We are looking to you for enlightened leadership in this time of environmental distress. Please think "big" here and do the right thing for our safety and our beautiful valley.

#### **Reasons not to accept the FEIR**

- **Insufficient protection against fire** The alternate site, especially, is located in a vulnerable area, remote from firefighting services. (Even though right of way for fire access is to be improved, the site is remote from highway 221, itself a long slow route for a fire truck.) These chaparral-covered hills are very vulnerable to burning. The coming summer and fall will be an especially dangerous time to introduce new machinery and people to this remote area. Grasses grown tall in the season's heavy rains will provide excess tinder. And because this ecosystem has been deprived of the periodic light burning with which it evolved, it has such so much tinder build-up that any fire will be catastrophic for us all—including the Palmaz family.
- **Inadequate consideration of Great Blue Heron rookery near the original site or Golden Eagle and White Tailed Kite flight patterns at the upper site.** It is a sign of poor science that the FEIR completely ignored the rookery—which is known to naturalists all over the region and is close to the originally proposed site. The eagle and the kite were covered, but in a limited and inadequate way. The FEIR considered only specific nesting sites (particular trees that would be lost in construction). This may be customary procedure in EIRs, but better science would look more holistically at impacts to the birds' lives and ecosystem. Can these high-flying raptors share their soaring space with a helicopter? *These species of special interest are holding on precariously in our ecosystem and a heliport could well drive them out of this habitat.* As I mentioned in the March 1 hearing, I have personally observed the Golden Eagle teaching its young to fly right in the approach path of the Palmaz helicopter and at the same altitude.

- **Insufficient attention to impacts on the nearby Foote Botanical Preserve at the alternate site.** I am concerned about the possibilities of invasive plants being spread by increased presence of vehicles, machinery, soil disturbance, and other development problems during construction, use, and maintenance. *The ATV road to be used for access to this site is a classic example of the kind of pathway by which invasive species are introduced to pristine areas.*
- **Lack of specific information on increased use of ATV road to alternate site:** How will noise, lights, and passenger safety be impacted if it is used for visitor access? (More than one County employee has reported that vehicles they were riding in stalled on this road, which is in places very steep.) The added use of this roadway should receive scrutiny for its environmental impacts.
- **Future scenarios** Once the heliport is permitted and becomes a “fact on the ground,” there is nothing in the documents to prevent its use from expanding beyond four weekly round trips or to prevent present or future owners from upgrading to larger, noisier helicopters.

### **What we hope from you**

As Napa County deals with the current era of extreme climate, brought on by ever-increasing industrialism, we know your job is not easy—seeking balance between development and the natural beauty that has made Napa a national and world treasure. Doing so may involve thinking outside the box and even changing some standard procedure and institutions.

- **Be proactive in the longer term:** Could you, for example, team up with the FAA and develop some guidelines for flights over the Napa Valley—to protect wildlife and humans from the noise we already endure?
- **Protect us against externalities.** Making sure that one decision does not open the door to unintended effects, such as many landowners wanting private heliports.

Please keep in mind the understanding that one thing leads to another: A road—in combination with feral pigs, which are plentiful in the Mt. George area—can lead to an epidemic of new invasive plants. An increase in helicopter traffic can discourage the Golden Eagle from returning to its traditional soaring grounds. And more use of any vehicles in tinder-dry areas (especially remote ones) can lead to uncontrollable fires like those we’ve been seeing in our region during the past few years.

What is to say that your standards cannot be higher than CEQA’s, at least as they are interpreted by EIR consultants? Napa deserves the best.

**From:** [Mike Gallagher](#)  
**To:** [Steve and Lee Stefanki](#); [Mary T Beller](#); [Mary Elke](#); [Pedroza, Alfredo](#); [Randy Gularte](#); [Larry Rasmussen](#); [chrismcclu@gmail.com](#); [Jeanne Johnston](#); [John Shackford](#); [Ayers, Dana](#)  
**Cc:** [Constance Gallagher](#)  
**Subject:** Fwd: 052-220-011 heliport and property values  
**Date:** Saturday, May 13, 2017 8:45:40 AM  
**Attachments:** [DECLVAL 2017.doc](#)  
[ATT00001.htm](#)

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Hello Neighbors, Here's the response from John Tuteur, the Napa county assessor, concerning the potential drop in property values because of the possible Palmaz Helicopter flights.

I guess the good news is that, if our property values decline, there could be an adjustment to our property taxes. The bad news is we won't know this until after the Heliport is approved and in operation. Read attached document.

It is logical to believe that potential buyers of property in the Coombsville area will be less likely buy, if the Palmaz Helicopter is flying over their property 8 times or more each week. Our property values will surely decline as will our quality of life. It is also logical to predict that other rich people in the Napa Valley will want their own helicopter, if Palmaz gets one.

So sorry, I can be at the upcoming meeting. Hopefully some of you can attend.

I have copied our supervisor Alfredo Pedroza in hope that he will vote no on the approval of personal Helicopters in Napa County and Dana Ayers, from the planning commission, for the record.

God, please save and protect our peaceful Napa Valley life!

Sincerely, Mike

Mike Gallagher  
CityPASS  
1035 Barrow Lane  
Napa, CA 94558  
707 253 1222  
[mikeg@citypass.com](mailto:mikeg@citypass.com)

Sent from my iPad

Begin forwarded message:

**From:** "Tuteur, John" <[John.Tuteur@countyofnapa.org](mailto:John.Tuteur@countyofnapa.org)>  
**Date:** May 12, 2017 at 5:15:23 PM PDT  
**To:** "'[mikeg@citypass.com](mailto:mikeg@citypass.com)'" <[mikeg@citypass.com](mailto:mikeg@citypass.com)>  
**Subject:** 052-220-011 heliport and property values

Mike, thanks for your phone call regarding possible impacts on property values in your area if the Palmaz heliport is approved and built.

As County Assessor we follow the market, not try to predict it. If the project is approved, and if the impacts you predict do occur, we will, of course, track sales of properties in the vicinity of the heliport and under the flight paths. My job, of course, is to be fair, not to raise revenue. Thus we would adjust values if reductions were supported by market transactions.

Should we determine that the activities associated with the heliport have had a negative impact on the value of parcels being bought and sold, we will enroll the sales prices showing such impacts. If the reduction is significant enough to warrant further action, we would also review properties that have not sold to determine if we should enroll temporary declines in value for those parcels.

I have attached an article on decline in value for further information.

Please let me know if I can be of further assistance,

John Tuteur  
Assessor-Recorder-County Clerk  
[john.tuteur@countyofnapa.org](mailto:john.tuteur@countyofnapa.org)

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A Tradition of Stewardship  
A Commitment to Service

**Assessor-Recorder-County Clerk**  
Assessor Division

1127 First Street, Suite 128  
Napa, CA 94559-2931

(707) 253-4459  
Fax: (707) 299-4440

**JOHN TUTEUR**  
**ASSESSOR-RECORDER-COUNTY CLERK**

## GOOD NEWS/WORSE NEWS ABOUT DECLINES IN VALUE

Proposition 13, passed by California voters in June 1978, created a new system for valuing property by establishing a base year value as of a change of ownership or new construction. Once a base year value was established, inflationary increases were limited to no more than two per cent per year. There was no provision in Proposition 13 for values of property to decline below their factored base year value.

In November 1978 voters approved Proposition 8 permitting county assessors to review properties to determine if the current market value as of January 1 each year had declined below the factored base year value established by Proposition 13. As an independently elected local official, the Assessor's job is to be fair, not to raise revenue. If the value of a piece of property has declined below its Proposition 13 factored base year value then it will be reduced. For property owners a temporary decline in value can be good news and bad news. The good news is that tax bills go down because property taxes are based on the value of the property. The worse news (not just bad) is that the property is not worth what was paid for it.

To track declining market conditions, the certified appraisers in the Assessor's office review sales of comparable properties and entire neighborhoods to look for transactions indicating that prices may be dropping. If a property's market value as of January 1 is lower than the factored base year value, a decline in value is enrolled. That lower value will be reviewed each year and reduced further if necessary. When sales indicate that the market has begun to recover, the temporary, reduced value will be increased at a rate that matches the recovery in the real estate market until the factored base year value is restored. Napa County has reduced the assessed value of 4,430 properties as of January 1, 2016 in response to current market conditions. Those properties as well as almost all single family residences including condominiums will be reviewed again as of January 1, 2017 using sales from April 1, 2016 through March 31, 2017. Property owners will hear the results of that review in July 2017\*. Any reduction in value will appear on the 2017-2018 tax bill which arrives in October 2017.

As for the future, there is no crystal ball. The cyclical nature of the wine market and the impact of regulatory changes can impact the value of vineyard or potential vineyard properties. Because Napa County is still a sought-after place to live with its diversified economy, strong environmental protections and unique quality of life, declines in value usually are not as severe or widespread as in neighboring counties or other parts of the state.

Property owners who believe their property may have suffered a decline in value should contact the Assessor's office at 707.259.8740 beginning in February 2017 through November 15, 2017. The earlier we are contacted the better.

Should you have any questions please contact Napa County Assessor-Recorder-County Clerk John Tuteur at 707.253.4459 or by e-mail [john.tuteur@countyofnapa.org](mailto:john.tuteur@countyofnapa.org) More articles can be found at <http://www.countyofnapa.org/Assessor/>

\*The results of that review will be posted on the county website around July 15, 2017. You will be able to see the results by going to this web address and putting in your parcel number or street address. A link to the value notice will appear.

<http://www.countyofnapa.org/assessorparceldata/>

RECEIVED

MAY 1 1 2017

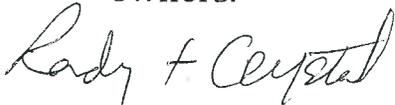
COUNTY OF NAPA  
BOARD OF SUPERVISORS

To: Supervisors

RE: Heli Port, Hagen Rd.

Helicopter usage is not good for our environment or economy.

1. Noise – it does not matter how soft the sound is, it is still noise.
2. Hawaii Affect: How soon before we allow tours of the valley by helicopter?
3. You are letting the “Camel’s nose under the tent”. If you let one person build their private heliport then others throughout the valley will also find a personal use for themselves.
4. The Napa airport would be used less as the helicopters would come in from Sac/ SF/ or Oakland and go directly to estate owners.



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Randy and Crystal Gularte  
3323 Hagen rd.

RECEIVED

MAY 15 2017

NAPA COUNTY  
EXECUTIVE OFFICE

Napa County Planning Commission  
May 11, 2017  
Issue: Palmaz Heliport

Dear Planning Commission Members,

I am disappointed that I won't be able to attend the Commission meeting Wednesday May 17, 2017 at which the Palmaz private heliport will be discussed. There are many reasons to deny this request, one of which is the negative impact it will have on the neighbors and thousands of other residents. Some people feel they can do anything they want because they are rich, even if it isn't legal. Mr. Palmaz has done that over the years, here and in other communities.

A couple years ago Mr. Palmaz was fined over \$500,000 for diverting a stream on their property, and this is only one of many violations. Do what you want and pay the fine later seems to be his method of operation. He can afford the fines and can donate large amounts of money to get political influence. Napa is not the only place he has done this. In Genesee Valley, in Plumas County, Palmaz built a heliport in an area where The Plumas County General Plan specifically prohibits heliports. Instead of going through the normal Special Use Permit process which would have required environmental review, he got County permission for a "barn" which doesn't require environmental review. The Palmaz argument in Plumas County is that their heliport is the equivalent of a barn, and their helicopter is, like a truck or a tractor, necessary for ranching. In both places, language will be twisted so they can get what they want, regardless their impact on others.

If you as a commission are serious about protecting Napa County, denying this permit is one way to do that. The following are a few of the many reasons to deny it:

1. The use permit is unenforceable.
2. Based on past records, he cannot be trusted to follow the law or the conditions set down in the use permit. Voluntary enforcement won't work.
- 3 It is impossible to document violations to the no-fly zone restrictions.
4. They profess that the helicopter he flies is quiet, which is not the truth. Living in the country, when I hear the sound of helicopters I immediately think something bad is happening.
5. Once the door is open you won't be able to go back. Imagine the sky over Napa County filled with helicopters. If you approve this you have opened Pandora's Box.

I urge you to please deny this request.

Thank you.



Harris Nussbaum  
3170 Mt. Veeder Rd.  
Napa, CA 94558  
Nussbaum@napanet.net

**From:** [Morrison, David](#)  
**To:** [Ayers, Dana](#); [Gallina, Charlene](#); [Frost, Melissa](#)  
**Subject:** FW: Palmaz Heliport  
**Date:** Monday, May 15, 2017 11:16:18 AM

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**From:** Lach Reed [mailto:[lachlanrd@gmail.com](mailto:lachlanrd@gmail.com)]  
**Sent:** Monday, May 15, 2017 11:08 AM  
**To:** Morrison, David  
**Subject:** Palmaz Heliport

I am a resident of Napa, living at the edge of town, overlooking Mt. George. I am strongly opposed to the proposed Palmaz heliport for many reasons.

Lachlan Reed  
[lachlanrd@gmail.com](mailto:lachlanrd@gmail.com)  
707-299-7250

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**From:** [Brian Russell](#)  
**To:** [Anderson, Laura](#); [Morrison, David](#); [Ayers, Dana](#)  
**Cc:** [Joelle Gallagher](#); [Mike Basayne](#); [anne.l.cottrell@gmail.com](mailto:anne.l.cottrell@gmail.com); [Jeri Gill](#); [Terry, Scott](#)  
**Subject:** Palmaz  
**Date:** Saturday, May 13, 2017 11:41:08 AM  
**Attachments:** [2017-05-12 Ltr to Laura Anderson.pdf](#)

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Please see the attached communication in anticipation of the Planning Commission meeting on May 17th.

Best regards,

Brian

## **Brian Russell**

### **ABBOTT & KINDERMANN, INC.**

A Professional Corporation

1485 Main Street, Suite 205 | St. Helena, CA 94574

tel: (707) 294-2775 | fax: (707) 968-5728

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May 13, 2017

**Via Email to:** [laura.anderson@countyofnapa.org](mailto:laura.anderson@countyofnapa.org)

Laura J. Anderson  
Deputy County Counsel  
Office of Napa County Counsel  
1195 Third Street, Suite 301  
Napa, CA 94559-3035

**Re: Palmaz Heliport, CUP #P14-00261**

Dear Ms. Anderson:

This communication is in response to a letter drafted by Mr. George Caloyannidis dated May 11, 2017. In Mr. Caloyannidis' letter, there are several factual inaccuracies that need to be clarified.

First off, Mr. Caloyannidis misuses the term "commercial" throughout his letter. Section 3527(d) of the California Code of Regulations, Title 2, defines Commercial Activities as: "Those activities that may offer a facility, service or commodity for sale, hire, profit, or other business purpose." Commercial Activities in this context is "flight training, charter flights" or a "facility used to transport persons for compensation or hire."

The applicant's heliport would **not** be used for commercial purposes. As stated in the project application, and throughout the EIR and the staff report, the heliport would be used to support the personal use helicopter operations for family members and occasional invited guests. The helicopter owner would **not** be compensated (by money or other remuneration) for providing flights to the passengers. If the helicopter owner was being compensated for the flights, then this would be considered a commercial flight, but since they are not compensated this is a *non-commercial* flight under Section 3527(d).

Moreover, land use permits run with the land. The land owner is Amalia Palmaz Living Trust. Who pilots a private use helicopter that is owned or controlled by Amalia Palmaz Living Trust is not relevant to this use permit application. What is important are the conditions of approval that are placed on the land owner and the project. So long as the land owner or permittee is in compliance with the conditions of approval for the project, they are in conformance with their use permit. The County has been provided with every indication that the

Amalia Palmaz Living Trust is able and willing to comply with the conditions of approval set forth for this project. All of the mitigations are feasible and all of the conditions of approval are enforceable.

In the conditions of approval, staff uses the term “permittee’s helicopter.” The intent of this term is to identify a helicopter controlled by the permittee and to prevent others (outsiders/third parties) from using the applicant’s helipad. For clarification, the applicant does have a relationship with the Bell 429 helicopter referenced in the EIR. The applicant would be willing to show proof of their relationship with the helicopter if it is desired by the County.

Where the applicant flies their helicopter after taking off from the property, so long as the applicant complies with the conditions of approval for the project, is not within the County’s jurisdiction to monitor. Several conditions of approval have placed on this project. Many of those conditions have been suggested by the applicant, like reporting of flight logs in perpetuity and videotaping of flights, to ensure that the applicant is in compliance with the conditions of approval. Additionally, these conditions were suggested to confirm that the flights are not completed for a commercial purpose.

In terms of the ownership of the property, there are many different reasons why owners create a trust, a LLC or a corporation to own property. This is not the first applicant to own a property in a trust in Napa County, and it certainly will not be the last. This Commission has approved many projects where the owner is one LLC and the operator of the winery is another. This has never been an issue in the past. Further, this has never been an issue for this project, and to bring this matter up now is just a desperate diversion tactic. Mr. Caloyannidis is simply and sadly hoping to distract the Commission in order to move the discussion away from the merits of this project.

Finally, Amalia Palmaz is Christian Palmaz’s mother. They are a family. Christian is a family member who is certified to fly a Category 3 personal use helicopter in compliance with the conditions of approval. Christian Palmaz is not receiving any compensation for flying the helicopter. This activity is compliant with and is in the spirit of Section 18.120.010(B)(2) of the Napa County Code.

Please contact me if you have any additional questions.

Very truly yours,

**Brian Russell**

Brian Russell

BR/lh

**From:** [Brian Russell](#)  
**To:** [Jeri Gill](#); [Terry, Scott](#); [Mike Basayne](#); [anne.l.cottrell@gmail.com](mailto:anne.l.cottrell@gmail.com); [Joelle Gallagher](#)  
**Cc:** [Anderson, Laura](#); [Morrison, David](#); [Ayers, Dana](#)  
**Subject:** Palmaz- General Plan Consistency  
**Date:** Saturday, May 13, 2017 12:01:09 PM  
**Attachments:** [2017-05-12 Ltr to Napa PC re Project GP Consistency.pdf](#)

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Commissioners,

Attached please find a communication which discusses how the Palmaz personal use heliport application is consistent with the Napa County General Plan.

Please let me know if you have any questions.

Best regards,

Brian

**Brian Russell**

**ABBOTT & KINDERMANN, INC.**

A Professional Corporation

1485 Main Street, Suite 205 | St. Helena, CA 94574

tel: (707) 294-2775 | fax: (707) 968-5728

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May 13, 2017

The Honorable Jeri Gill, Chair  
Napa County Planning Commission  
1195 Third Street, Suite 210  
Napa, CA 94559

**Re: Palmaz Heliport, CUP #P14-00261**

Dear Chair Gill:

This law firm represents the Amalia Palmaz Living Trust (“Palmaz”), the applicant for the Palmaz Private Use Heliport Use Permit Application #P14-00261 (the “Project”). Palmaz is submitting this letter to assist the Napa County Planning Commission (“Commission”) in making the Project’s Napa County General Plan consistency determination. As demonstrated below, the Project is consistent with the Napa County General Plan and, therefore, we respectfully request that the Commission approve the Project.

**I. General Plan Consistency Review Standard**

“[S]tate law does not require precise conformity of a proposed project with the land use designation for a site, or an exact match between the project and the applicable general plan. [Citations.]” (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 678.) An agency need only find that the proposed project is compatible with the goals and policies of the general plan, not rigid conformity. (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 717–718.) “To reiterate, the essential question is ‘whether the project is compatible with, and does not frustrate, the general plan’s goals and policies.’ [Citations.]” (*Naraghi Lakes Neighborhood Preservation Assn. v. City of Modesto* (2016) 1 Cal. App. 5th 9, 18.) “[I]t is beyond cavil that no project could completely satisfy every policy stated in [a city’s general plan], and that state law does not impose such a requirement.” (*Sequoyah Hills, supra*, 23 Cal.App.4th 704, 717–718)

As is discussed more fully below, both the Project Site and the Mt. George Alternative Site meet this test for general plan conformity. Consequently, the Commission can have confidence that its general plan consistency determination is entitled to substantial deference. (*Naraghi Lakes, supra*, 1 Cal. App. 5th at 18 [“Where, as here, a governing body has determined that a particular project is consistent with the relevant general plan, that conclusion carries a

strong presumption of regularity that can be overcome only by a showing of abuse of discretion.”].)

## II. General Plan Consistency Analysis

Applying the deferential general plan consistency test under the state’s Planning and Zoning laws, Napa County Planning staff in its February 27, 2017, memorandum to the Planning Commission, demonstrates that the Commission can find the operation of the Project at either the Project Site or the Mt. George Alternative Site is consistent with the Napa County General Plan. The following analysis reviews several applicable policies identified in staff’s analysis, including:

- 1) **AG/LU-3 & -27** – Projects shall be designed to minimize conflicts arising from encroachment of urban uses (including non-agricultural uses) into agricultural areas.
  - a. **Project Site** – The inclusion of conditions of approval and mitigation measures to reduce noise impacts identified in the EIR demonstrates that these requirements will minimize potential impacts on surrounding agricultural areas.
  - b. **Mt. George** – The inclusion of conditions of approval and the alternative site’s more remote location minimizes the potential impacts on sensitive receptors in surrounding agricultural areas.
- 2) **AG/LU-4** – The County shall reserve agricultural lands for agricultural use, unless planned for urban development.
  - a. **Project Site** – The Project would convert 0.53 acres of existing vineyard on a 220.4 acre property. The relatively small conversion of agricultural land to a non-agricultural use is similar in size and character to other accessory uses that could be built, such as detached garages or outdoor recreational areas associated with residential uses. In addition, the minimal amount of conversion and the nature of the non-agricultural use will not result in the remaining land not being reserved for agricultural use.
  - b. **Mt. George** – This site is not designated as agricultural land and the approximately one acre site would not require the removal of an existing agricultural use.

- 3) **AG/LU-9** – Projects shall avoid converting farmland conversion where feasible, and the County shall require farmland preservation easements on farmland of equal or higher quality on an acre-per-acre basis.
  - a. **Project Site** – The Project would convert 0.53 acres of existing vineyard which is identified by the State as Prime Farmland and Farmland of Local importance. Consistent with the policy, the Project must mitigate this impact through permanent preservation of at least 0.53 acres of farmland of equal or greater quality.
  - b. **Mt. George** – This site is designated as “Other” land and not designated as farmland. The approximately one acre site would not require the removal of an existing agricultural use.
- 4) **CC-46** – Noise created by Projects involving new transportation noise sources shall be mitigated to reduce noise below maximum acceptable indoor or outdoor noise levels for existing noise-sensitive land uses.
  - a. **Project Site** – The EIR analysis demonstrates that the flight path and daytime operational restrictions will reduce impacts to less than significance and ensure the applicable noise thresholds are not exceeded.
  - b. **Mt. George** – The EIR analysis demonstrates that no mitigation is necessary to ensure the operations will not exceed the acceptable noise thresholds.
- 5) **CON-18** – Projects shall be designed to retain movement corridors of adequate size and quality for wildlife use occupying the affected habitat.
  - a. **Project Site** – The EIR’s mitigation measures require avoidance of special-status plants and mature oak trees that provide habitat for area wildlife. The Project is also required to comply with minimum setback requirements for improvements adjacent to designated streams.
  - b. **Mt. George** – The EIR’s mitigation measures require avoidance of special-status plants and mature oak trees that provide habitat for area wildlife. The Project is also required to comply with minimum setback requirements for improvements adjacent to designated streams.

While these are just some examples demonstrating the Project’s consistency with relevant Napa County General Plan land use, community character, and conservation policies, some questions have been raised about whether the Project is consistent with other policies in the Napa County General Plan. While the law does not require such rigid conformity with every policy as outlined above, the Project can still be found to be substantially compliant with those identified policies:

- 1) **AG/LU-12** – No new non-agricultural uses shall be permitted in an agricultural area, except as consistent with Policies AG/LU-2, AG/LU-5, AG/LU-26, AG/LU-44, AG/LU-45 and ROS-1.
  - a. **Project Site** – The Project is an accessory use to an existing residence, ornamental landscaping features, and three acres of vineyards, which will still remain the primary use at the site and is consistent with Policy.
  - b. **Mt. George** – The Project is an accessory use to an existing residence, The Project is subordinate to and compatible with the existing 15 acres of vineyards, which will still remain the predominate use at the site. In addition, the policy includes exceptions to ensure new Projects are compatible with the protection of locally important agricultural lands and uses. Here, the Project is consistent with Policy ROS-1 which encourages the operation of recreational facilities “in ways that protect natural resources, enhance natural habitats, conserve agricultural lands, maintain agricultural productivity, and respect private property.” As an accessory use to the existing residence, the Project provides an opportunity for motorized recreational use by the property owner (*See* Napa County General Plan – Recreation and Open Space Element, p. ROS-4.)
  
- 2) **AG/LU-20** – Lands designated as Agriculture, Watershed, and Open Space on the Land Use Map have the following standards: (1) To provide areas where the predominant use is agriculturally oriented; protect and enhance agriculture, watersheds, and floodplains; and (2) General Uses – Agriculture, agricultural processing, single-family dwellings.
  - a. **Project Site** – The Project would minimally impact less than one acre of agricultural land on a 220.4 acre parcel. The Project is an accessory use to an existing residence, ornamental landscaping features, and three acres of vineyards, which will still remain the primary use at the site. In addition, proposed roadway improvements and bioretention features will protect and enhance the area watershed and public safety.
  - b. **Mt. George** – The Project would minimally impact approximately one acre of land on a 46-acre parcel. The Project is subordinate to an existing 15 acres of vineyards, which will still remain the predominate use at the site. In addition, proposed roadway improvements and bioretention features will protect and enhance the area watershed and public safety.

**III. Conclusion:**

As established above, the Commission has substantial evidence to find that the Palmaz private use heliport, whether located at the Project Site or the Mt. George Alternative Site, is consistent with the relevant goals and policies of the Napa County General Plan. Palmaz, therefore, respectfully requests that the Commission:

- (1) Find that the Project is consistent with the Napa County General Plan; and
- (2) Approve the Project.

Very truly yours,

Brian Russell

BR/lh

**From:** [Morrison, David](#)  
**To:** [Ayers, Dana](#); [Gallina, Charlene](#); [Frost, Melissa](#)  
**Subject:** FW: Palmaz heli-port  
**Date:** Monday, May 15, 2017 12:54:50 PM

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

From: Wayne Ryan [<mailto:Wayneryan@sbcglobal.net>]  
Sent: Monday, May 15, 2017 12:14 PM  
To: Morrison, David  
Subject: Palmaz heli-port

To the members of the commission

I am a resident of Napa County for 31 yrs and I strongly oppose the Palmaz private heli-port . Not needed (they can drive), noise nuisance for neighbors and worst of all a bad precedent.

Vote no

Wayne Ryan  
2332 Bueno St  
Napa CA 94558

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**From:** [Coil, Gladys](#)  
**To:** [- Board of Supervisors](#)  
**Cc:** [Link, Leanne](#); [Hughey, Alice](#); [Tran, Minh](#); [Richard, Jeffrey](#); [Anderson, Laura](#); [Morrison, David](#); [Ayers, Dana](#); [Apallas, Chris](#); [Frost, Melissa](#); [Minahen, Sarah](#); [Dooley, Jason](#); ["Cindy Black"](#)  
**Subject:** FW: City of St. Helena Concern Related to Private Heliport Use  
**Date:** Thursday, May 11, 2017 1:09:58 PM  
**Attachments:** [St. Helena Heliport Letter.pdf](#)

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The attached correspondence was received today regarding Private Heliport use.

**(This is a Brown Act communication, please do not "reply all")**

Gladys I. Coil, CCB,CMC~Admin. Mgr-Clerk of the Board  
Napa County Executive Office ~707-253-4196  
1195 Third Street, Rm. 310~Napa, CA 94559



A Tradition of Stewardship  
A Commitment to Service

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**From:** Cindy Black [<mailto:CBlack@cityofsthelena.org>]  
**Sent:** Wednesday, May 10, 2017 6:18 PM  
**To:** Coil, Gladys  
**Subject:** City of St. Helena Concern Related to Private Heliport Use

Hi Gladys, please see the attached letter concerning private heliport use.

Thank you,

Cindy Black  
City Clerk  
City of St. Helena  
1480 Main Street  
St. Helena, CA 94574

General Office 707-967-2792  
Direct 707-968-2742 | Fax 707-963-7748  
[cityclerk@cityofsthelena.org](mailto:cityclerk@cityofsthelena.org)  
[www.cityofsthelena.org](http://www.cityofsthelena.org)

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## City of St. Helena

*"We will conduct city affairs on behalf of our citizens  
using an open and creative process."*

1480 Main Street  
St. Helena, CA 94574  
Phone: (707) 967-2792  
Fax: (707) 963-7748

[www.cityofsthelelena.org](http://www.cityofsthelelena.org)

April 12, 2017

Napa County Board of Supervisors  
Napa County Administration Building  
1195 Third St, Suite 310  
Napa, CA 94559

County Supervisors,

Re: Private Heliport Development within the County of Napa

It has recently come to the attention of the St Helena City Council that a discretionary Use Permit application was filed with the Napa County Planning, Building and Environmental Services Department, proposing to construct and operate a heliport for private helicopter landings on private property within the County of Napa jurisdiction (File No. P14-00261).

Rather than comment on the merits of a specific project, the St Helena City Council would like to voice concerns over the use and operation of private heliports within the Napa Valley generally. Approval of a Use Permit to operate a private heliport has the potential to motivate additional applications for private heliport development throughout the County. Such an increase in applications (and any subsequent approvals) could impact the citizens of St Helena and the aesthetic beauty of the Napa Valley as a whole, in a variety of unforeseen and unknown ways. Other jurisdictions struggles with the use of private helicopters have been well documented (as referenced in the numerous comment letters received on the Environmental Impact Report for P14-00261) and the potential for broader impacts to the Valley as a whole should not be ignored. For these reasons, the Council has chosen to express its concern over the potential for private use heliports, and their associated impacts, to become more common place in the Valley.

Based on this concern, it is requested by the St Helena City Council that, prior to approval of any new applications for private heliport operations, the County of Napa undertake a comprehensive review of the private use of helicopters with the goal of establishing County-wide land use regulations governing these applications. This process should involve outreach to citizens in all communities in the Valley. A proactive review and subsequent implementation of land use guidelines, with input requested from all stake holders, is a much preferred approach to land use issues that have the potential to affect the Napa Valley as a whole.

Thank you for your consideration of the potential impacts of this very important issue.

St Helena City Council  
Mayor Alan Galbraith  
Vice Mayor Peter White  
Councilmember Paul Dohring  
Councilmember Geoff Ellsworth  
Councilmember Mary Koberstein

**From:** [Nancy Sellers](#)  
**To:** [Ayers, Dana](#); [McDowell, John](#)  
**Subject:** RE: Notice of Airport Land Use Commission Hearing  
**Date:** Monday, May 15, 2017 11:25:12 AM

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I am writing to encourage a vote against the private Palmaz heliport. We have lived on Olive Hill Lane for over 35 years and in that time we have continually tried to enhance our property both for our own enjoyment and to keep our property values strong. We would NEVER do anything to willingly cause our property values to decrease and if the heliport is allowed to be built our property values are very likely to decrease and we will have no say or control over the situation. That is just wrong!

No individual property owner should have the right to have a negative impact on multiple property owners who have no recourse. Thank you.

Best Regards,  
Nancy Sellers

1246 Olive Hill Lane  
Napa, CA 94558

(707) 255-4813  
(707) 256-2738 – fax  
(707) 812-0845 – cell/text (please do not leave messages on my cell)

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**From:** Ayers, Dana [mailto:[Dana.Ayers@countyofnapa.org](mailto:Dana.Ayers@countyofnapa.org)]  
**Sent:** Friday, May 5, 2017 5:12 PM  
**To:** Ayers, Dana; McDowell, John  
**Subject:** Notice of Airport Land Use Commission Hearing

Interested Party,

Attached is a notice of a public hearing scheduled for 8:00 a.m. on the morning of May 17, 2017, before the Airport Land Use Commission (ALUC) regarding the proposed Palmaz Personal Use Heliport (P17-00037 – ALUC).

As explained in the notice, the ALUC will be reviewing the proposal solely to make a determination of whether the proposed heliport is consistent with the Napa County Airport Compatibility Plan, and the ALUC is not authorized to make any decisions regarding certification of the project environmental impact report (EIR) or approval or denial of the use permit request.

Questions about the information contained in this notice, or about the role of the ALUC, can be directed to John McDowell, ALUC staff, at email address [john.mcdowell@countyofnapa.org](mailto:john.mcdowell@countyofnapa.org) or by telephone at (707) 299-1354.

You are receiving this email because you have expressed an interest in or submitted a comment letter on the proposed project or the draft EIR for the proposed project. If you wish to have your

email address removed from this list, please contact me by reply to this email.

Regards,

Dana Ayers, Planner  
Napa County  
Planning, Building & Environmental Services  
1195 Third Street, Napa, CA 94559  
Phone: 707-253-4388  
Fax: 707-299-4320

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**From:** [Christine Tittel](#)  
**To:** [Ayers, Dana](#)  
**Cc:** [C/ COUNTY PC Anne Cotrell](#); [C/ COUNTY Jeri Gill](#); [C/ COUNTY PC Joelle Galagher](#); [C/ COUNTY PC Michael Basayne](#); [C/ COUNTY Terry Scott](#)  
**Subject:** Palmaz Application  
**Date:** Thursday, May 11, 2017 1:51:32 PM  
**Attachments:** [Palmaz from Christine Tittel.doc](#)

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Dear Members of the Planning Commission,

Please consider my comment coming from someone who has lived the nightmare of a Napa valley helicopter flying neighbor.

Thank you,  
Christine Tittel

Christine Tittel  
2202 Diamond Mountain Road  
Calistoga, CA 94515

May 11, 2017

To the Napa County Planning Commissioners

RE: USE PERMIT P14-00261 (PALMAZ HELIPORT)

Dear Napa County Commissioners,

#### MY VIEW FROM THE TRENCHES

In 2005 my immediate neighbors Doris and Paul Ebner, Lindalou and Mike Ryge, myself and a handful of visionary volunteers collected 3,500 petition signatures which led to the Ordinance which prohibits landings at wineries.

This Ordinance was triggered by the application of a joint venture of the Constant Diamond Mountain Winery in our neighborhood and Wine Country Helicopters which would have led to commercial flights at wineries throughout the Napa valley.

At the time Supervisors Luce and Dodd who voted in favor of the applicants argued that in spite of acknowledging the environmental costs of permitting such helicopter traffic at wineries, they did not outweigh the potential benefit to the local economy.

Judging from the subsequent economic health our valley has experienced since, such valley-wide pervasive environmental sacrifice was not necessary.

Looking back, the hours, days, weeks and months of work and sacrifice we put into this effort turned out to an incalculable benefit for every citizen, visitor, business and winery in this valley. The Napa valley's image as the pristine, agricultural oasis was preserved along with the livability, pleasure and economic benefit of all.

But there is a troubling subsequent history to this.

If in 2005 we thought we were safe, we were wrong. Over nine years following the passage of the Ordinance and up until his illness and death, Mr. Constant kept landing a helicopter at his winery. Telephone calls to the County were ignored, then answered by demands for documentation before it could act.

While many neighbors could speculate with some accuracy that a helicopter had landed on the Constant heliport, only Mr. Ebner treading through brush was able to take a photograph of the helicopter. Whoever happened to be at home would call Mr. Ebner and if *he* happened to be home (perhaps 1/3rd of the time) he would record the incident.

Regardless, the entire community who is in constant alert anyway whenever a helicopter flies in the vicinity due to the potential of fires was saddled with the added anxiety and responsibility to record when possible the illegal flights at the winery.

Adequately documented complaints of the time and duration of the incident and the photograph and registration number of the helicopter were filed with the County time and time again. All the County did was send a notice to the winery that it was engaging in an illegal practice, a practice he was fully aware of anyway. No action was taken against the complicit helicopter operator.

Our County failed to protect us with any effective follow up, with no consequences to the offenders, no use permit revocation and the nightmare continued until the sad ending after a full nine years of hell, a hell we never bargained for in our quiet neighborhood on top of our mountain in our beautiful valley.

The facts you need to consider while reviewing the Palmaz use permit are:

The County does not have the means to monitor a helicopter landing use permit.

When it tells citizens to watch out for illegal landings and report them and after their copious efforts, extremely difficult at times (impossible in the Palmaz case) to document, the County abdicates its responsibility to act and protect them.

This is neither a responsive nor a responsible government if it keeps doling out use permits it has no means or is patently unwilling to monitor and enforce.

In addition, while our efforts to safeguard the noise environment of our valley in 2005, rest assured that if you approve the Palmaz use permit, many will follow. And this is not speculative as there are dozens of heliports around the valley ready for action, many of which are already in use illegally.

While Councilmen Luce and Dodd had argued for a potential economic benefit in 2005, none whatsoever can be made in allowing helicopter uses for recreational or personal convenience. It is a sad testament to our society that certain citizens feel entitled to sacrifice the peace and quiet of our valley, it's very asset, and the peace and quiet of their neighbors for personal convenience.

It would be even sadder if a government would accommodate them.

Sincerely,  
Christine Tittel

**From:** [Beverly Wilson](#)  
**To:** [Ayers, Dana](#)  
**Subject:** Palmaz Heliport proposal  
**Date:** Monday, May 15, 2017 2:26:55 PM

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Dear Mr. Ayers,

I have been a resident of la Londe Lane since 1983. I moved here from the busy Bay Area for the quite rural life where i could pursue my fine art career here at my home studio. I strongly object to the construction of a heliport on Mt. George. Allowing this construction will lead to future permit approvals, one at a time, and eventually our Napa Valley rural neighborhoods will no longer be quiet and peaceful....we will be trading clear and quiet skies for the convenience of one wealthy family. Voting yes is a vote to diminish the quality of life here in our beautiful valley for the majority of our residents. While I can understand many agricultural requirements which create noise, ie; machinery, wind machines, etc., a private helicopter flight path over our residential area is completely unnecessary and unacceptable.

I will be attending the planning meeting on May 17th.

**Please do not allow this proposal to be approved!!!**

Sincerely,

Beverly Wilson  
1044 La Londe Lane, Napa



*View of Mt. George*

**From:** [Zega, Karen](#)  
**To:** [Ayers, Dana](#)  
**Subject:** Palmaz  
**Date:** Thursday, May 11, 2017 4:20:49 PM

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Dear Dana Ayers,

Thank you for returning my call regarding the heliport proposal. You were very forthcoming and informative.

My 81 year old mother and I moved into Alta Heights two years ago to enjoy a peaceful time together while we can. The news of this proposal greatly upset us both. We used to live in East Hampton, NY and there was a long drawn out fight to get restrictions on helicopters. Now it is about to start again here.

Please know that by granting permission for Palmaz you will be opening Pandora's box. If you place restrictions they will be difficult to enforce and it will only open the door for more people to do the same. It is so easy to do the bait and switch recently performed by Maisonry in Yountville. They got a permit for one thing and then slowly melded it into another thing entirely.

Please do not let this valley become a place where money can buy you anything.

Thank you for your consideration.

Best,  
Karen Zega  
Elizabeth Foster  
1437 Sproul Ave,  
Napa, CA 94559

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