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## Correspondence

(May 17, 2017 - August 30, 2017)

**McDowell, John**

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**From:** Deborah Holley <deborah@holleyconsulting.com>  
**Sent:** Monday, July 31, 2017 2:32 PM  
**To:** mikebasayne@gmail.com; nbbrod@gmail.com; anne.cottrell@ucene.com;  
JeriGillPC@outlook.com; 'Terry Scott'; amy.walcker@gmail.com  
**Cc:** Frost, Melissa; Morrison, David; McDowell, John  
**Subject:** Continuance of Palmaz Matter to September 6, 2017 ALUC Meeting

Dear Commissioners,

I understand that no testimony will be heard on the Palmaz project at the August 2, 2017 ALUC meeting and that the item will simply be continued to the September 6, 2017 meeting.

Based on this understanding, I will not be attending the August 2 meeting to represent the interest of my client, Michelle Goss.

Thank you,

Deborah Holley

**Holley Consulting**

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deborah@holleyconsulting.com

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**McDowell, John**

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**From:** Marjorie Lewis <andyandmarge@yahoo.com>  
**Sent:** Monday, July 24, 2017 5:33 PM  
**To:** McDowell, John  
**Subject:** Palmaz Heliport Project  
**Attachments:** Palmaz Private Heliport and Hanger Project.rtf

Mr. John McDowell  
ALUC Staff  
Napa County

Dear Mr. McDowell and ALUC Staff,

Please find attached a letter of my concerns regarding the Palmaz Heliport Project, which I previously submitted to the Napa County Planning Commission and Supervisor Alfredo Pedroza.

My concerns remain as stated in the attached letter. In addition to the concerns outlined in my letter, I now must add to my protest the approval of the Mt. George Alternative site ( Assessor's Parcel No. 033-110-079) which is actually closer to my home than the original proposed project site. Our neighborhood is one of many family homes, the value of which is the beauty and quiet nature of this residential area. A Heliport is incongruent with the established residential area, and will be a public nuisance.

I would appreciate an email response verifying receipt of my email and the attachment.

Thank you.

Marjorie Lewis  
1019 Mt. George Ave  
Napa, Ca 94558  
707-363-2433

Sent from my iPad

June 2, 2016

Napa County Planning, Building and Environmental Services Department  
1195 Third Street, 2nd Floor, Suite 210  
Napa, CA 94559  
Attention: Dana Ayers, Project Planner

Re: Palmaz Private Helipad and Hanger Project DEIR Comment

To the Napa County Planning Commission,

My name is Marjorie Lewis and I am the property owner of 1019 Mount George Avenue, Napa, CA. My husband and I have owned our home for approximately 21 years. Our home sits on 1 acre and is 1.1 miles from the Palmaz property by road; closer as the crow flies. I have been a resident of Napa since 1980, and my husband since 1955.

I am writing to express my objections to the Palmaz Private Helipad and Hanger Project. I want to point out that I have never met Mr. Palmaz or his family, and I have nothing personal against him.

I object to the project due to the following:

- 1) If the Palmaz Private Heliport and Hanger Project is approved, a precedent will be set for future development of personal heliports throughout Napa county. Given similar circumstances, on what grounds would a future applicant be denied, if the Palmaz Private Heliport was previously approved?
- 2) The Palmaz Private Heliport and Hanger project is a "recreational" project. It is simply one man's passion to land his helicopter next to his house. There is no business justification or public benefit of this heliport. The Napa County Airport is 11 miles from Mr. Palmaz's property and provides ample opportunity for his personal helicopter landing needs.
- 3) Once approved and built, there is absolutely no way to regulate Mr. Palmaz's usage of the private heliport and enforce compliance to the rules. The proposal states, "The heliport would be used for no more than four arrivals and four departures per week." Who will provide oversight to the usage? Is it the honor system? What happens when usage exceeds the limits and it becomes a nuisance? Human nature is such that we generally comply because there is a consequence if we do not.
- 4) As a property owner, I am entitled to the quiet enjoyment of my home and property. I support the flyover of helicopters, as we all do, for first responders such as the California Highway Patrol, Cal Fire and the REACH team. The noise near or over my home of the first responder helicopters is significant, but I understand the necessity of them. A recreational heliport 1.1 mile

from my home is disruptive at best and a private nuisance at worst. A Private Nuisance is an interference of a person's enjoyment and use of his land. Examples of private nuisances abound in the law, and include vibrations and loud noises. To clarify, since this is a private, personal heliport, it is separate and distinct from agricultural noise that is generally allowed.

Thank you for your consideration of my concerns and comments. Please take into account the future of our valley and deny the Palmaz Private Heliport and Hanger Project.

Sincerely,

Marjorie Lewis

**McDowell, John**

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**From:** Tittel/Caloyannidis <calti@comcast.net>  
**Sent:** Thursday, June 8, 2017 10:34 AM  
**To:** McDowell, John; Ayers, Dana; Frost, Melissa  
**Subject:** PALMAZ UP14-00261  
**Attachments:** PALMAZ - ALUC COMMENT.doc; PALMAZ - ENFORCEMENT.doc

Dear Staff Members,

I would appreciate you entering the attached comments into the record and distributing them to the Planning and Airport Land Use Commissioners.

Thank you,  
George Caloyannidis

George Caloyannidis  
2202 Diamond Mountain Road  
Calistoga, CA 94515

June 8, 2017

TO: The Napa County Planning Commission and Airport Land Use Commission (ALUC)

John McDowell: (john.mcdowell@countyofnapa.org)

Melissa Frost: (melissa.frost@countyofnapa.org)

Dana Ayers: (dana.ayers@countyofnapa.org)

**RE: Palmaz Use Permit Application P14-00261**

Dear Commissioners:

In anticipation of the future yet to be scheduled ALUC hearing, I herewith address the particular issues within the related Napa County voluminous record which lie within the domain of the ALUC's authority to render its decision for approval or denial of this application.

According to the Napa County Airport Land Use Planning Handbook, 2002: *The Commission will evaluate the adequacy of the facility to the extent that it affects surrounding land use* (not amended in 2012).

The factors affecting compatibility are:

- Noise
- Safety; Minimizing Risks
- Airspace Protection; Restrictions on Hazards to Flight
- Overflight; Impacts on the Community

**A) NOISE PERCEPTION / ANNOYANCE**

**ACOUSTIC NOISE**

The EIR engineering noise impact study submitted by the applicant is based on generic noise contours of the Bell 429 helicopter. These noise contours do not account for the noise amplification due to the particular configuration of the Hagen Road canyon bounded by Mount George.

Several residents testified about the highly intrusive loudness of helicopter overflights in that canyon.

I have submitted in the record (available for your review) a video and sound recording of the applicant's helicopter actual takeoff in a canyon terrain very similar to that of Hagen Road at his ranch in Genesee Valley, Plumas County. The Commissioners can see and hear the tremendous

overflight noise impact this helicopter has in a canyon setting. This is the *actual*, not the *engineer-projected* noise impact.

Ms. Elisa Adler, a resident of Genesee Valley living 2 miles as the bird flies from the Palmaz heliport has submitted a letter into the record describing the devastating effect the Palmaz flights are having on her family's life.

## **NON-ACOUSTIC NOISE FACTORS**

I have entered into the record the following noise studies relating to alternative effects of helicopter generated noise:

- ICBEN 9th International Congress on Helicopter Noise as a Public Health Problem, 2008 Foxwoods CT
- DEFRA Department for Environment, Food and Rural Affairs, Research Into the Improvement of the Management of Helicopter Noise, 2008 Scottish Government
- Aviation Week, London's Heliport Strives to be Neighborly, 2014

Both the ICBEN and DEFRA research studies agree in summary that:

- In terms of acoustical factors, the *impulsive nature* of helicopters or *blade slap* are not accounted for in sound evaluation studies and that it ought to be weighted from 10 to 15 dB (ICBEN).
- Accordingly, the Mugridge et al. (2000) referenced study at RAF Shawbury indicated "*no clear correlation between traditional acoustic parameters and soundscape perception and acceptance*" of helicopter generated noise.
- Similarly, the Leverton & Pike referenced study (2007) concludes that "*specific properties of the helicopter sound are not accounted for by conventional rating procedures and it is these properties that are among the major sources of annoyance for the community*".
- That the effect of sound frequencies and the impulsive nature of helicopter sound are not accounted for has also been acknowledged by the FAA in its 2004 report to the U.S. Congress, though it continues to use the DNL sound level.

Most important, the research studies have identified *non-acoustic* factors also known as *virtual noise* as contributing to disturbance and annoyance in communities. In fact, they have been acknowledged as being "*of equal or greater importance*". ICBEN identifies the following contributing specific factors:

- Negative reaction to leisure flying
- Poor community / airfield relations
- Fear of crashes
- Nobody acts on complaints



- Aircraft are flying too low
- Intrusion, distress, startle, disturbance, locus of control

Similar findings are cited in the California Airport Land Use Planning Handbook, 2002 (not amended in 2012):

- **Chapter 7-12:** *Attitudes regarding the importance of the activity associated with the noise.*
- **Chapter 9-11:** *The potential personal or societal benefits to be gained from the activity involved.*

The Palmaz noise report and EIR have failed to account for the importance of these generally accepted non-acoustic factors in evaluating the effects of helicopter generated noise.

### **WIDE OPPOSITION TO HELICOPTER NOISE**

The city of London with a population of 13 million has only one public use heliport facility. The reason as reported in *Aviation Week* is: *"There have been numerous attempts to build additional public-use heliports in London but all have failed due in large measure to a wave of opposition from residents over noise concerns"*.

Several communities throughout the U.S. have set up agencies to field the mounting helicopter complaints and investigate them. Some are at Long Island North Fork, the Hamptons, the Hollywood Hills, Torrance CA and others. Sen. Diane Feinstein and Rep. Adam Schiff have introduced Bills S.208 and HB.456 demanding Congressional helicopter-specific noise regulation, as has Sen. Chuck Schumer seeking restrictive legislation over Long Island helicopter overflights.

**This is one more proof that given identical noise contours, helicopter noise is much more intrusive than that of ordinary aircraft.**

As corroborated by the studies cited above, while there is public acceptance of helicopter noise for flights which *provide a public benefit* (fire fighting, criminal pursuit, hospital and rescue), the Palmaz heliport, *solely for the applicant's convenience and recreation* (in addition to the applicant's poor community relations) fails to garner even minimal neighborhood acceptance.

### **COMMENT - PALMAZ NOISE IMPACTS**

**The Airport Land Use and Planning Commission must weigh the noise related negative impacts (both acoustic and virtual) on the surrounding community against the personal / recreational use of a helicopter when there is a public airport within a 20-minute drive from the applicant's property in determining whether this heliport is a neighborhood-compatible land use at this location or whether its denial places an overriding undue burden on the applicant.**

## **B) SAFETY / AIRSPACE PROTECTION / RISK PERCEPTION**

According to the Report *"Hellish Copters, Why Are Helicopters Always Crashing"* compiled by Christopher Beam with input from the Crouse Law Offices, the Flight Safety Foundation, Helicopter Association International and the National Transportation Safety Board: *"Helicopters crash about 35% more often per hour in the air than the average aircraft"*.

Similarly, according to the California Airport Land Use Handbook (not amended in 2012):

- **Chapter 8-25:** *37% of helicopter accidents are taking place within 1 mile of a landing site whether be at an airport, a heliport or other location.*
- **Chapter 8-6 (Bar-graph):** *55% of all aircraft fatal accidents occur within 2 miles of an airport and 72% within 4 miles of an airport.*
- **Chapter 9-16:** *Greater risks are also tolerated when more benefit is to be gained from the activity.*

### **BIRD STRIKES**

**Chapter 9-56:** *Any land uses which can attract birds should be avoided but those which are artificial attractors are particularly inappropriate because they generally need not be located near airports. The identified uses are:*

- *Golf courses with water hazards (Napa Valley Country Club golf course)*
- *Wetlands (Wetlands, streams and 7 ponds are in the immediate vicinity)*
- *Landscaping, particularly water features (Napa Valley Country Club)*
- *Wildlife refuges (the adjacent Dunlap/Galbraith Napa Valley Land Trust Conservation Easement)*
- *Agriculture, especially cereal grains (Grapes/vineyards are known bird attractants)*

All of the above are already present in the immediate vicinity of the proposed heliport but since they *pre-date* the proposed heliport they are they cannot be mitigated.

The Dunlap/Galbraith Napa Valley Land Trust Conservation Easement reported the existence of 61 different bird species including - and neighbors have observed - the presence of particularly dangerous Red Tale Hawks, Blue Herons, Ospreys, Turkey Vultures, Wood Ducks, Canadian Geese, Golden Eagles and Wild Turkeys.

### **ASSOCIATED PRESS 12/2015: DANGEROUS HELICOPTER-BIRD STRIKES INCREASE**

*"There have been 204 reported helicopter bird strikes in 2013, a 68% increase over 2009 and a 700% increase over the early 2000s. Large bird populations are on the rise in North America. The Canada Goose population in the U.S. and Canada increased from about 500,000 in 1980 to 3.8*

million in 2013 and the North American Snow Goose population increased from about 2.1 million to 6.6 million (U.S. Fish and Wildlife Service). Other large-bird species with rising populations include Bald Eagles, Wild Turkeys, Turkey Vultures, American White Pelicans, Double-Crested Cormorants, Sandhill Cranes, Blue Herons and Ospreys.

Fixed wing aircraft serious bird strikes have been dropping, in part because of efforts to keep airports and their surroundings free of large birds (clearly not possible here). **The reverse is true of helicopters which fly at lower altitudes around lots of birds.**

**"The data we have is showing we have been very, very lucky, and it's only a matter of time before we start seeing fatalities," said Jorge Castillo, regulations and policy manager for FAA's rotorcraft directorate".**

#### COMMENT - PALMAZ SAFETY AND AIRSPACE PROTECTION

The Airport Land Use and Planning Commission must weigh the overall increased risk potential and the safety of the surrounding community which is developed with hundreds of homes on small parcels and surrounded by mountainous, fire prone chaparral against the personal / recreational use of a helicopter when there is a public airport within a 20-minute drive from the applicant's property in determining whether this heliport is a neighborhood-compatible land use at this location or whether its denial would place an overriding undue burden on the applicant.

#### C) ENFORCEMENT

Among the factors cited in community non-acceptance in the currently available research studies (ICBEN / DEFRA), **"Nobody acts on complaints and poor community / airfield relations"** plays a vital role.

In my extensive analysis: "ENFORCEMENT": (5/11/2017) in the record, I have shown that the conditions of this use permit are **unenforceable** because:

- of the specific location of the heliport, hidden from common view
- compliance is entirely complaint driven - complaints which are impossible to document
- of contradictory enforcement jurisdictions (FAA / County) as to what constitutes a violation
- compliance relies solely on records maintained by the applicant who has a dismal use permit compliance record
- of the lack of a specific administrative infrastructure to field and act on complaints
- of the lack of an administrative infrastructure to analyze the applicant's records

Because "enforcement" relies solely on records maintained by the applicant, the applicant's prior record of compliance with use permit conditions is material. Such is egregious and well documented in the County of Napa.

As the record shows, such compliance with building codes also extends to the conversion of an agricultural building to a hanger in Plumas County without a prior building permit.

#### **COMMENT - PALMAZ ENFORCEMENT / COMMUNITY RELATIONS**

The Airport Land Use and Planning Commission must recognize that this particular use permit is not solely a land use issue because it is inextricably conditioned to and contingent upon the applicant's behavior in the air. A use permit which runs with the land may not be contingent upon conditions in an area over which the FAA but not the County has no jurisdiction. More important, the conditions imposed by the County in the air do not violate FAA rules, nor are the applicant's voluntary self monitoring and reporting mechanisms mandated by it.

The impossibility of monitoring and enforcing adherence to the imposed conditions - both on land and in the air - on which the public relies is fundamental in determining whether this specific heliport is a neighborhood-compatible land use.

At the same time the County may not offer enforcement assurances to the public which knowingly it is unable to fulfill.

#### **D) AIRSPACE PROTECTION / IMPACTS ON FUTURE USES**

The FAA characterizes certain land uses as incompatible to an airport. Among them:

- Residential development
- Bird attractants such as water features (wetlands, ponds, streams, golf courses, conservation easements)
- Bird attractant agricultural ones such as the raising of grains (vineyards are known bird attractants)

The Federal Airport and Airway Development Act FAA 14CF Part 150 states:

*All non-mitigation measures applied to potential new incompatible development must clearly be preventive and serve the goal of preventing the introduction of additional incompatible land use.*

FAA Airport Compliance Order 5190.6B states:

*The FAA expects an airport sponsor to take appropriate actions to the extent reasonably possible to minimize incompatible land. Quite often, airport sponsors have a voice in the affairs of the community where an incompatible development is located or proposed. The sponsor should make an effort to ensure proper zoning or other land use controls are in place.*

Due to their classification as Incompatible uses in the vicinity of a heliport, future bird attractant agricultural uses, including vineyards and irrigation ponds will be discouraged if not prohibited - in the least requiring ALUC review. Similarly per FAA guidelines, residences which are identified as incompatible land uses, will require new Building Code regulations for sound proofing of new or existing ones seeking additions or remodeling.

## **E) OVERLIGHTS / PROPERTY VALUES**

Because the FAA considers a home's proximity to an airport a negative condition, it recommends and the State of California has adopted (AB. 2776) that it be included in a Real Estate Transfer Disclosure Statement.

The fact that home property values in the Napa valley are high as compared to other communities in California, is no proof that such disclosure does not negatively affect their value.

I have submitted in the record the study by Randall Bell, MIA: *The Impact of Airport Noise on Residential Real Estate*. This study considers the related findings in 27 other ones and concludes that the proximity of an airport has a negative effect on residential property values ranging from 2.5% to as high as 29% depending on distance from an airport and on "low to high-class" type housing, the latter being impacted the most.

While its degree fluctuates, it is an established fact that the proximity of an airport has a negative effect on residential property values.

## **COMMENT - PALMAZ FUTURE USES / PROPERT VALUES**

The Airport Land Use and Planning Commission must weigh the negative impacts on residential property values and on future land uses including agriculture and residential development or remodeling - at the least subjecting them to ALUC review - in the vicinity of the heliport against the personal use of such when there is a public airport within a 20-minute drive and whether a denial constitutes an overriding undue burden on the applicant in determining whether this heliport is a neighborhood-compatible land use.

## **F) COMMUNITY ATTITUDES**

Based on public hearings attendance and testimony, the residents of the Hagen Road community are distinctly aware of the variety of negative impacts the proximity of a heliport will have on them and their properties.

As the approximately 100 attendees at *each* of the EIR scoping workshop, the first Planning Commission and the subsequent joint ALUC hearings, the immediate community is solidly opposed at the prospect of a nearby heliport.

The immediate vicinity addresses provided with the opportunity to submit petitions were:

- 3385 - 3960 Hagen Road
- 1212 - 2482 Third Avenue
- 1001 - 1289 Olive Hill Lane
- 1004 - 1176 Mt. George Avenue

**73.9% of them submitted petitions in opposition to the proposed heliport. And 100% of those who cared to respond.**

At the same time, there are 189 petitions in opposition within a half-mile radius of the proposed heliport (It is unknown how many have been aware of the application in order to submit a petition).

#### **FAILURE TO CONSIDER THE WELL BEING OF THE NEIGHBORHOOD**

On May 19, 2017, and in response to a lawsuit filed by residents in Camas County, Idaho, 5th District Judge Robert Elgee ruled that the Camas County commissioners violated state law when drafting an ordinance allowing individuals to obtain conditional use permits to build a private airport in agricultural-zoned county lands.

In his ruling, Judge Elgee said that Camas County showed a *"complete disregard for property rights and the well being of the neighborhood"*.

#### **COMMENT - PALMAZ / WELL BEING OF THE COMMUNITY**

**The well being of a community is a material consideration in determining whether a heliport at this site is a neighborhood-compatible land use.**

#### **G) POTENTIAL COMMUNITY BENEFITS**

The applicant has argued that a heliport on Mount George would provide a landing site for emergency helicopters. Given the topography of the site, this is a poor argument. There are dozens of unimproved acres atop Mount George where a helicopter may land easily and safely including the unimproved site of the proposed heliport. The same applies to numerous sites at the Palmaz vineyard itself as well as at the neighboring Dunlap/Galbraith conservation easement, the Napa Valley Country Club, other vineyards, a horse ranch and others.

#### **COMMENT - PALMAZ / COMMUNITY BENEFITS**

**As the research cited above has shown, had the community perceived this heliport as an element of increased safety, it would have embraced it rather than continue to oppose it.**

## **H) GENERAL COMMENT - PALMAZ HELIPORT**

**It is beyond dispute that this heliport and its operation will diminish the overall quality of life of the Hagen Road community. This heliport:**

- (A) will compromise the peaceful enjoyment of properties through noise**
- (B) will contribute to its anxiety, increase risk and compromise its safety**
- (C) will have operational conditions which are unenforceable**
- (D) will restrict currently accepted agricultural land uses and building codes**
- (E) will negatively impact surrounding home values**

**At the same time, it will provide no public benefit which would justify such negative impacts.**

**The Airport Land Use and Planning Commission must make a reasoned and justifying argument why such negative impacts on the community (which are not "less than significant") are outweighed by the approval of a heliport for private and recreational uses, only a 20-minute drive from a public airport or why its denial would constitute an overriding undue burden on the applicant in determining whether this heliport is a neighborhood-compatible land use.**

**Enclosure: "ENFORCEMENT" 5/11/2017 by this author**

**NOTE: All other referenced studies, reports and documents are available in the public record**

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.

**McDowell, John**

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**From:** McDowell, John  
**Sent:** Wednesday, May 24, 2017 3:19 PM  
**To:** 'Dhana Waken'  
**Subject:** RE: PALMAZ Heliport:Requesting letter of receipt of my statement letter and outcome, please!!!!

Thank you for the correspondence. I have forwarded to the Clerk of the Commissions for inclusion in the administrative record.

John McDowell  
Napa County Planning, Building and Environmental Services Department  
(707) 299-1354

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

**From:** Dhana Waken [mailto:wakendhana@yahoo.com]  
**Sent:** Wednesday, May 24, 2017 2:52 PM  
**To:** McDowell, John  
**Subject:** RE: PALMAZ Heliport:Requesting letter of receipt of my statement letter and outcome, please!!!!

**Attn:** John McDowell  
**Re:** PALMAZ

"Please re-use and share, my letter of concerns for next meeting, if, it did not meet the last deadline for emails.

Also it would be, to the best of interest for "Property Owners in our neighborhood" ...for the Napa County Admin to respectfully, schedule PM meeting for regard to Property Owners concerned!

The PALMAZ property is a five minute walk from our front door-to PALMAZ front entrance of their property and would be an absolute annoyance in many concerns about this Heliport!

Consider, that many cities and neighborhoods have banned, even garden blowers!!!  
Yes, there are vineyard blowers in surrounding properties, that's more than enough "NOISE POLLUTION"!!!!

The PALMAZ property is a 15 minute drive to LOCAL Napa Airport and absurd, they cannot drive that distance!

Their request, is nothing proper, only fact is, they have money to blow, with no concern for our neighborhood's tranquil environment, property values, wildlife, toxic fuel emissions and their selfish want, and ...possible \$\$\$ for the Napa County Administration coffers.

Thank you for honestly, taking the effort to respond to my letter. Your action is appreciated.  
If you don't live in this neighborhood, all of you, (Napa County Administrators) take into consideration, if it were "in your backyard"!

This approval, will "open the floodgates" to more Heliports, through out our prestigious Napa Valley, and Toxic fuel Emissions to those of us who live within 5 mile radius and...will contribute to Health concerns, now evident... more Respiratory disorders (from Allergens and chemicals, of vineyard use, which has decreased frog population in our nearby creeks, less clear healthy running creeks, milky waters)

We have lived in this valley for 43 years, and this selfish act of Palmaz Heliport, because you have money to spend... has more damaging effects unforeseen or mentioned, we strongly OPPOSE, such negligence of Napa County Administration for not doing the math and in the years to come and the impact of Respiratory health concerns to people, as well as, to wildlife environments and NOISE POLLUTION!

Respectfully,

Mr. & Mrs. Eugene Waken  
1145 Olive Hill Lane  
Napa, CA 94558

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On Wed, 5/24/17, McDowell, John <John.McDowell@countyofnapa.org> wrote:

Subject: RE: Requesting letter of receipt of my statement letter and outcome, please!!!!

To: "Dhana Waken" <wakendhana@yahoo.com>

Date: Wednesday, May 24, 2017, 8:03 AM

Mrs. Waken,

No final decisions occurred at last week's Airport Land Use Commission and Planning Commission meetings. The Airport Land Use Commission was deadlocked (3-3) on the matter, and therefore the item was continued until a date can be found when the seventh Commissioner can participate. A new public hearing notice will be sent once a date can be secured. Since the Airport Land Use Commission's determination is required for the Planning Commission to act, the Planning Commission was obligated to continue the item. We are looking to schedule the next hearing in June or July depending on when all Commissioners are available. If you have received notice of past meetings, you will be mailed the new notice. If not, please feel free to give me your mailing address and I'll get your name added to the list.

Thank you,

John

John McDowell  
Napa County  
Planning, Building and Environmental Services Department  
(707) 299-1354

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

From: Dhana Waken [mailto:wakendhana@yahoo.com]

Sent: Tuesday, May 23, 2017 5:24 PM

To: McDowell, John

Subject:

Requesting letter of receipt of my statement letter and outcome, please!!!!

Attn:



John McDowell  
County of  
Napa

Re: PALMAZ outcome

As a Napa Tax paying citizen,  
I am requesting the outcome of recent PALMAZ hearing via email.

Please Advise, via  
email above!

Respectfully,  
Mrs. Dhana  
Waken  
wakendhana@yahoo.com

Sent from my iPhone

CONFIDENTIALITY NOTICE: This email message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If you are not the intended recipient of the message, please contact the sender immediately and delete this message and any attachments. Thank you.

**JOHN & SUSAN RAY**  
**1681 PARTRICK ROAD**  
**NAPA, CA 94558**  
**707-344-2221 (M)**

Airport Land Use Commission Mtg.

AUG 02 2017

Agenda Item # 8A

RECEIVED  
AUG 01 2017  
Napa County Planning, Building  
& Environmental Services

August 1, 2017

Ms. Dana Ayers, Planner  
Napa County Department of Planning, Building and Environmental Services  
County Administration Building  
1195 Third Street  
2nd Floor  
Napa, CA 94559

Re: Palmaz Heliport Project

Dear Ms. Ayers,

My wife Susan and I have previously expressed our concerns in writing about the inadequacy of the Palmaz Heliport DEIR, specifically about the use of computer noise modeling, rather than actual noise level measurement, and about the difficulty the County and neighbors will have in measuring and enforcing many of the key mitigation measures regarding helicopter flight operations, frequency and hours.

Subsequently, I attended the May 17, 2017 Airport Land Use Commission hearing on the Palmaz Heliport proposal and listened carefully to the testimony offered by the applicant's consultant from the firm of Mead & Hunt. I took contemporaneous notes, and have reviewed the video of the meeting to confirm my recollections.

I would like to draw the Commission's attention to part of that testimony which is deeply troubling, and speaks volumes about the applicant's intent to circumvent the mitigation measures specified in the DEIR.

Specifically, in verbal testimony, beginning at minute 47.53 of the May 17, 2017 ALUC meeting video, with a supporting slide displayed at that time (screenshot attached), the applicant is already appearing to interpret key mitigation measures in a way which does not reflect the language of the DEIR, and which are indicative of his intentions with respect to compliance. Key points made by applicant:

1. The limitation of 4 arrival and 4 departures per week is described on the slide and verbally as an "Annual Average" which "Will Fluctuate Depending on Need, Weather, Etc," This is not the language in the DEIR, which contains no reference to "averaging". With an "Annual Average", there could be many more than 4 arrivals and 4 departures per week. For example, if the

applicant has not flown from his proposed heliport for two weeks (due to absence from his residence, flying conditions, or the like), under his interpretation, he could have 12 arrivals and 12 departures in the following week, because it would average only 4 of each over the three weeks. And it seems from the verbal testimony and the slide that the applicant would have the sole discretion to determine this frequency, based on "Need, Weather, Etc."

2. In testimony and according to the slide, applicant is also hedging on a commitment to daytime (7 AM - 10 PM) hours of operation, since he anticipates at least some operations between 10 PM and 7 AM.

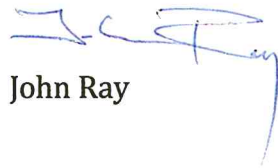
Taken together, these provide clear evidence of the applicant's intent to loosely and creatively interpret the DEIR so that he can conduct flight operations at a frequency during some weeks of the year at a rate higher than that permitted by the language of the DEIR, and to do so at least some times during late night and early morning hours when neighbors are most likely to be sleeping.

The applicant's apparent intent to thwart the DEIR mitigation measures strengthens our concerns about the difficulty the County and neighbors will have in enforcing the mitigation measures. This is particularly troubling in the face of the demonstrated significant financial resources available to the applicant to engage attorneys and consultants who can make enforcement efforts very expensive and time-consuming for the County and neighbors.

This proposal will not serve the public good and should not be approved by the ALUC.

Thank you for your attention to my comments. Please feel free to contact me if I can provide further information or clarification.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Ray", with a long vertical line extending downwards from the end of the signature.

John Ray

Copy: Mr. Ryan Gregory, Supervisor, District 2

## Activity Forecasts

- Annual Average of 4 Arrivals and 4 Departures per Week
- Will Fluctuate Depending on Need, Weather, Etc.
- Based on Recent Usage by Palmaz at Napa County Airport:
  - 92% of operations will be daytime (7:00 a.m. – 7:00 p.m.)
  - 6% evening (7:00 – 10:00 p.m.); 2% night (10:00 p.m. – 7:00 a.m.)