

RESOLUTION NO. 01-09

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE COUNTY OF NAPA, STATE OF CALIFORNIA,
ADOPTING FINDINGS, CONDITIONS OF APPROVAL, A
STATEMENT OF OVERRIDING CONSIDERATIONS,
AND A MITIGATION MONITORING PLAN PURSUANT
TO THE CALIFORNIA ENVIRONMENTAL QUALITY
ACT FOR THE BERINGER WINE ESTATES DEVLIN
ROAD FACILITY; AND APPROVING CONDITIONAL
USE PERMIT NO. 98597-UP**

**FINDINGS FOR APPROVAL OF BERINGER WINE ESTATES DEVLIN
ROAD FACILITY CONDITIONAL USE PERMIT**

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SECTION 1. Background.

A. Application for a use permit was filed with the Napa County Conservation, Development and Planning Department (the Department) by Beringer Wine Estates for a use permit to establish a 1,424,400 square foot facility consisting of 1,167,590 square feet of wine warehouse and storage area; 60,000 square feet of ancillary offices, administrative, and laboratory area; and 196,810 square feet of related uses (wine crushing, blending, bottling, and employee areas, etc.). The project also proposes approximately 115 acres of vineyards; preservation of a riparian and wildlife corridor along "No Name" Creek; a wetlands mitigation program; winery process wastewater ponds; storage ponds for irrigation of vineyards with reclaimed and treated wastewater; and extensive site landscaping within the Napa County Airport Industrial Area Specific Plan area.

B. The project site is 218 acres, located at the southwest intersection of South Kelly Road and Devlin Road, adjacent to the Napa County Airport on the south side within an IP:AC (Industrial Park: Airport Compatibility Combination) zoning district. The site is bounded on the east by the Union Pacific Railroad right-of-way.

C. On January 27, 2000, the Department determined through the preparation of an Initial Study that the project might result in significant environmental effects, and required the preparation of an Environmental Impact Report (EIR) consistent with the requirements of the California Environmental Quality Act (CEQA).

D. On March 5, 2000, Environmental Science Associates (ESA) was retained to prepare an EIR addressing the significant or potentially significant impacts on the environment associated with development of the proposed project.

E. On March 6, 2000, a Notice of Preparation was distributed to appropriate agencies for the purpose of obtaining written comments from these agencies regarding the scope and content of environmental information and analysis which said agencies wanted to be addressed in the EIR.

F. On May 25, 2001, the Draft EIR for the project was prepared. The Draft EIR or DEIR was circulated for public review and comment from between May 25, 2001 to July 9, 2001.

G. On May 30, 2001, notice of availability of the DEIR was provided to appropriate agencies and the general public via a Notice of Completion sent to the State Clearinghouse and via a public notice published in the Napa Valley Register, a local newspaper of general circulation.

H. Written comments were accepted on the DEIR between May 25, 2001 and July 9, 2001.

I. On June 27, 2001, the Napa County Conservation, Development and Planning Commission (the Commission) held a public hearing on the DEIR at which time the Commission heard and considered all verbal and written evidence and testimony presented on the DEIR. A transcript of the comments was prepared.

J. On September 7, 2001, the County, as the lead agency for the proposed project, caused to be prepared a Final Environmental Impact Report (FEIR). Pursuant to State CEQA Guidelines section 15132, the FEIR consists of the following documents and records: *Beringer Wine Estates Devlin Road Facility Draft Environmental Impact Report (dated May 25, 2001)*; *Beringer Wine Estates Devlin Road Facility Final Environmental Impact Report (dated September 7, 2001)*; and the related planning and other County records, minutes, and files constituting the record of proceedings which is incorporated herein by this reference. The DEIR and FEIR are hereafter referred to as the FEIR or Final EIR.

K. The FEIR was prepared pursuant to the California Environmental Quality Act, Public Resources Code section 21000, et seq., and the State CEQA Guidelines, California Code of Regulations, Title 14, section 15000, et seq..

L. On September 7, 2001, the FEIR was prepared and made available to the public. In addition, the FEIR was sent to all public agencies that commented on the DEIR.

M. The Planning Commission, in conjunction with this resolution, by a separate document is also approving a reporting and monitoring program pursuant to Public Resources Code section 21081.6 which program is designed to ensure compliance with proposed project changes and mitigation measures imposed to avoid or substantially lessen the significant effects identified in the Final EIR.

N. On September 19, 2001, the Planning Commission held a duly noticed public hearing on Use Permit No. 98597-UP and on the FEIR for purposes of considering the adequacy of the Responses to Comments incorporated into the FEIR. At its meeting on September 19, 2001, the Planning Commission opened and continued the public hearing to September 26, 2001.

O. On September 26, 2001, the Planning Commission held a duly noticed public hearing at which time it heard and considered the presentation by Planning Department staff, ESA and its subconsultants and technical experts regarding preparation of the Responses to Comments incorporated into the FEIR and all verbal and written public comments on the adequacy of the FEIR. After reviewing and considering all verbal and written testimony presented, the Planning Commission made a motion of intent (5:0) to certify the FEIR and directed County Counsel's office to prepare a resolution certifying the FEIR and to bring it back to the Planning Commission for consideration and adoption at its next meeting on the proposed project.

P. Duly noticed public hearings before the Planning Commission on the proposed project and Use Permit No. 98597-UP on October 17, October 31 and November 7, 2001, were continued to December 5, 2001.

Q. On December 5, 2001, the Planning Commission adopted Resolution No. 01-08 and certified the Final EIR for the proposed project. That same day, the Commission held a continued public hearing on the proposed project, Use Permit No. 98597-UP, the conditions of approval and the Commission heard and considered all public testimony (verbal and written) and all other evidence related to the proposed project. Thereafter, the Commission closed the public hearing on Use Permit No. 98597-UP and made a motion of intent to approve the project and directed County Counsel's office to prepare a resolution containing findings of approval and to bring the resolution back to the Commission for consideration and adoption.

SECTION 2. Location and Custodian of Documents.

A. The Record of Proceedings (record) upon which the Planning Commission bases these findings and its actions and determinations regarding the proposed project includes, but is not limited to:

- 1) the Draft EIR, the Final EIR and the appendices and technical reports cited in and/or relied upon in preparing the Draft and Final EIRs;
- 2) all staff reports, County files and records and other documents, prepared for and/or submitted to the Planning Commission and/or the County relating to the Final EIR and/or the proposed project;
- 3) the evidence, facts, findings and other determinations set forth in this resolution;
- 4) the Napa County General Plan, the 1986 Napa Airport Industrial Area Specific Plan, the Napa County Airport Industrial Area Road Improvement and Development Fee Schedule, the related EIRs and studies;
- 5) the Napa County Code;
- 6) all applications, designs, plans, studies, data and correspondence submitted by the project applicant in connection with the Final EIR and/or the proposed project;
- 7) all documentary and oral evidence received at public hearings or submitted to the County during the comment periods relating to the Final EIR and the proposed project;
- 8) all other matters of common knowledge to the Planning Commission including, but not limited to, County, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the County of Napa and its surrounding areas.

B. The FEIR is on file with the Napa County Conservation Development and Planning Department and, along with the related planning and other County records, minutes and files constituting the record of proceedings, are incorporated herein by this reference.

SECTION 3.

Significant Impacts Which Can Be Mitigated to a Less-Than-Significant Level.

A. Transportation, Circulation and Parking

1) *Impact B.4 (Devlin Rd./So. Kelly Rd. intersection):* The EIR found that the project will increase PM peak hour volumes by more than one percent (three percent total) at the Devlin Road/South Kelly Road intersection, which would already have volumes exceeding peak hour signal warrant criteria levels.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that the impact to the Devlin Road/So. Kelly intersection will be mitigated to a less-than-significant level by the imposition of Mitigation Measure B.4. Mitigation Measure B.4 is implemented as condition of approval no. 42 (a) on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment.

Rationale: Condition of approval no. 42 (a) requires the applicant to pay its “fair share” cost towards design and construction of a signal at the Devlin Road/So. Kelly Road intersection if it is determined, through monitoring, that installation of the signal is necessary to mitigate significant backups on one or more intersection approaches. Although base case and base case plus project volumes would exceed peak hour signal warrant criteria levels, PM peak hour all way stop operations would still be at LOS D which is considered an acceptable level of service. Therefore, with this mitigation the impact will be reduced to a less-than-significant level.

2) *Impact B.6 (SR29/So. Kelly Rd. northbound left turn lane):* The EIR determined that the project will contribute to instances where demand for storage in the left turn lane on the northbound SR29 approach to South Kelly Road will exceed the available storage length.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that the impact to the SR 29/So. Kelly Road left turn lane will be mitigated to a less-than-significant level by the imposition of Mitigation Measure B.6. Mitigation Measure B.6 is implemented as condition of approval no. 41 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is mitigated to a less-than-significant level.

Rationale: Condition of approval no. 41 requires the applicant to construct and complete lengthening of the SR 29/So. Kelly Road northbound left turn lane by 250 to 375 feet in order to accommodate traffic from both the proposed project and the Aenski warehouse project. This improvement will be completed prior to occupancy of the first phase of the project. Construction of this improvement will reduce this impact to a less-than-significant level.

3) *Impact B.7 (Transfer Station backup):* The EIR found that westbound project vehicles on South Kelly Road desiring to turn left to the Devlin Road extension will experience

extended delays when Waste Transfer Station traffic is backed up east of the Waste Transfer Station entrance.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that the impact to westbound vehicles on South Kelly road desiring to turn left to the Devlin Road extension will be mitigated to a less-than-significant level by the imposition of Mitigation Measure B.7. Mitigation Measure B.7 is implemented as condition of approval no. 42 (b) on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is mitigated to a less-than-significant level.

Rationale: Condition of approval no. 42 (b) requires the applicant to pay a “fair share” contribution towards construction of a left-turn lane on the westbound South Kelly Road approach to Devlin Road (extending back to SR 29) to allow for inbound project left-turn movements. Implementation of this condition will reduce this impact to a less-than-significant level.

4) *Impact B.8 (Construction Trucks):* The EIR found that construction activities related to the project will result in temporary increases in truck traffic and construction worker traffic. This would be a less-than-significant impact on weekdays, but will be a significant impact on weekends due to the existing traffic backups associated with the Waste Transfer Stations.

Finding: Based on the FEIR and the entire record, the Planning Commission finds that the impact on the weekend traffic backups associated with the Waste Transfer Station will be mitigated to a less-than-significant level by the imposition of Mitigation Measure B.6. Mitigation Measure B.6 is implemented as conditions of approval nos. 41 and 43 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment.

Rationale: Condition of approval no. 41 requires the applicant to construct and lengthen the SR 29/South Kelly Road northbound left turn lane prior to occupancy of the first phase of the project. In the event that condition no. 41 is not implemented prior to initiation of project construction, condition of approval no. 43 requires that construction activities associated with new public roads or improvements to existing public roadways shall be limited to weekdays, in order to reduce the weekend impacts associated with congestion caused by the Waste Transfer Station queues. Implementation of these conditions will reduce this impact to a less-than-significant level.

5) *Impact B.9 (Parking Spaces):* The EIR determined that development of the proposed project could generate demand for off-street parking spaces. Because the number of on-site spaces proposed by the project is less than required by County code requirements, this will potentially be a significant impact.

Finding: Based on the FEIR and the entire record, the Planning Commission finds that the parking supply impact will be reduced to a less-than-significant level by the imposition of Mitigation Measure B.9. Mitigation Measure B.9 is implemented as condition of approval no. 47 on Use Permit No. 98597-UP by requiring the applicant to provide 350 on-site parking spaces and to provide an on-site reserve parking area. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. The impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 47 requires the applicant to provide 350 permanent striped, paved parking spaces prior to issuance of a certificate of occupancy and to provide an all-weather reserve area to accommodate another 203 vehicles. Within one year of completion and occupancy of each phase of the project, the applicant will fund an independent survey of on-site parking use at the facility and report the results to the County Public Works and Conservation, Development and Planning Departments. If, based on the survey, the County determines that the parking demand is approaching supply, the applicant will develop a revised estimate of the total on-site parking needed at project completion and submit a new parking plan demonstrating the number of permanent and improved parking spaces that will be provided in the reserve area. The parking plan will be reviewed and approved by the County. Upon completion of construction of the entire project, the process will be repeated. Provision of 350 parking spaces and sufficient area for an additional 203 spaces will reduce this impact to a less-than-significant level.

B. Visual Quality

1) *Impact C.3 (Light and Glare):* The EIR concluded that the proposed project will result in an increase in development that would generate some light and glare at the project site.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that light and glare impacts will be reduced to a less-than-significant level by imposition of Mitigation Measures C.3a –3c. Mitigation Measures C.3a –3c are implemented as conditions of approval nos. 19 and 23 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is mitigated to a less-than-significant level.

Rationale: Project light and glare impacts will be minimized by implementation of conditions of approval nos. 19 and 23 which require the applicant to:

- a) Install low-level street and pedestrian scale light fixtures in outside areas less than 16 feet above ground with the lights aimed downward to illuminate the area around the fixture. The lights will be designed to provide pedestrian illumination levels of about 3 foot-candles. Any additional lighting near loading areas which may be greater for safety will be shielded to minimize migration to off-site receptors.
- b) Use natural non-reflective colors where possible on project structures.

c) Install timing devices, where appropriate and feasible, to minimize the amount of time that project lighting will be utilized.

d) Submit an exterior lighting plan to the County Planning Department for review and approval. Any changes to the lighting plan will also be submitted to the Planning Department for review and approval and depending upon the nature of those changes, may require modification of Use Permit No. 98597-UP.

Implementation of these conditions will reduce light and glare impacts to a less-than-significant level.

C. Air Quality

1) *Impact D.1 (Construction Dust)*: The EIR found that construction activities will generate substantial amounts of dust, which will result in potential health and visibility impacts in the project vicinity

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that air quality impacts resulting from construction dust will be mitigated to a less-than-significant level by imposition of Mitigation Measure D.1. Mitigation Measure D.1 is implemented as condition of approval no. 33 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 33 requires the applicant to implement a dust abatement program which includes, but is not limited to, watering all active construction areas twice daily or more often during windy periods; covering or maintaining at least 2 feet of freeboard on all trucks hauling soil, sand or other loose material; applying non-toxic soil stabilizers on all unpaved access roads, parking and staging areas or inactive construction areas; daily sweeping; covering or enclosing exposed stock piles; limiting traffic speeds to 15 mph; installing sandbags or other erosion control measures to prevent silt runoff onto public roadways; and suspending any activities that cause dust plumes which cannot be controlled by watering. These measures are consistent with the Bay Area Air Quality Management District standards.

D. Hydrology/Water Quality

1) *Impact E.1 (Increased non-point source runoff)*: The EIR determined that operation of the proposed project will result in increased nonpoint source pollution entering the stormwater runoff and therefore entering the local water resources. This would be a significant impact.

Finding: Based on the FEIR and the entire record, the Planning Commission finds that impacts from increased non-point source pollution will be mitigated to a less-than-significant level by imposition of Mitigation Measures E.1a – E.1d. Mitigation Measures E.1a – E.1d are implemented as conditions of approval nos. 50 - 53 and 56 on Use Permit No. 98597-UP.

Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: To mitigate impacts from increased nonpoint source pollution, conditions of approval nos. 50 - 53 and 56 require the applicant to:

- a) Retain a licensed civil engineer to prepare a drainage plan for the site which will move collected storm water from the parking lots and other impervious surface areas through vegetated drainage swales and detention basins prior to any discharge into creeks or drainage ditches.
- b) Maintain a permanent 50 foot setback from No-Name creek.
- c) Develop and implement a pesticide and fertilizer management plan for all landscaped and vineyard areas.
- d) Treat process wastewater from wine production operations in accordance with all applicable standards and requirements of the County Department of Environmental Management and the Regional Water Quality Control Board. The treatment and storage facilities will be designed to accommodate a 10-year annual rainfall, in addition to the maximum wastewater that could be generated from wine production operations.

Implementation of these measures will reduce the impacts to a less-than-significant level.

2) *Impact E.2 (Increased Runoff from Increased Impervious Surfaces):* The EIR found that operation of the proposed project will result in increases in local storm runoff volumes due to increased impervious surface area and the potential increase in antecedent soil moisture conditions due to irrigation. Discharge of collected storm runoff could cause soil erosion and local flooding at discharge points and in downstream areas.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that impacts from increased runoff caused by increased impervious surfaces will be reduced to a less-than-significant level by imposition of Mitigation Measures E.2a and E.2b. Mitigation Measures E.2a and E.2b are implemented as conditions of approval nos. 54 and 55 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 54 requires the applicant to use Best Management Practices in the design and installation of the storm water drainage system and discharge points, to install silt fences and/or hay bales barriers prior to October 15th of each construction year during which winter ground-disturbance occurs and to inspect sedimentation control devices after each rain event (and to clean out as necessary) to reduce the risk of localized flooding and

soil erosion. Condition of approval no. 55 prohibits the applicant from irrigating the vineyard during winter months (from mid-October through mid-April) of each year unless prior written approval is obtained from the County Department of Environmental Management. This condition further requires that vineyard slopes be graded to reduce slopes and potential erosion and that vineyard replacement rows follow the contours of the naturally occurring topography or in accordance with the requirements of the Napa County Resource Conservation District.

3) *Impact E.4 (Construction Equipment Fuel):* The EIR determined that construction of the proposed project buildings and parking areas may result in increased erosion and sedimentation, with subsequent impacts to water quality and/or storm drain capacity during construction. Additionally, release of fuels or other hazardous materials associated with construction equipment may reduce water quality.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that construction related impacts on hydrology will be reduced to a less-than-significant level by the imposition of Mitigation Measures E.4a and E.4b. Mitigation Measures E.4a and E.4b are implemented as conditions of approval nos. 51 and 67 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment.

Rationale: To mitigate construction related impacts on hydrology, condition of approval no. 51 requires the applicant to permanently maintain a minimum 50' set back from No-Name creek and the wetland restoration areas. Condition of approval no. 67 requires the applicant to prepare and implement a Stormwater Pollution Prevention Plan in accordance with the Regional Water Quality Control Board standards and requirements prior to commencement of construction activities. These measures will reduce construction related impacts on hydrology to a less-than-significant level.

4) *Impact E.5 (Vineyard/Landscaping Construction):* The EIR found that the proposed project may result in increased erosion and sedimentation from construction of the vineyards and landscaped areas, with subsequent impacts to water quality and/or storm drain capacity.

Finding: Based upon the FEIR and entire record, the Planning Commission finds that hydrological impacts resulting from vineyard and landscape construction will be reduced to a less-than-significant level by imposition of Mitigation Measures E.5a and E.5b. Mitigation Measures E.5a and E.5b are implemented as conditions of approval nos. 55 and 88 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment.

Rationale: To mitigate hydrological impacts resulting from vineyard and landscape construction, condition of approval no. 55 requires the applicant to grade the vineyards in a manner that reduces significant erosion and to follow the contours of the topography for any vineyard rows planted on slopes. Condition of approval no. 88 further requires the applicant to

promote and improve the use of vegetative vineyard floor management to prevent erosion and sedimentation. These measures will reduce the impact of vineyard and landscape construction on water quality to a less-than-significant level.

E. Biological Resources

1) *Impact F.1 (Corps Wetlands)*: In the EIR it was determined that construction of the proposed project may result in permanent and temporary impacts to potential jurisdictional wetlands under the jurisdiction of the U.S. Army Corps of Engineers (Corps). Project construction has the potential to permanently alter on site wetlands and significantly affect federally listed wetland-associated wildlife species, including vernal pool fairy shrimp and steelhead trout in the Napa River. Potential impacts also include filling and sedimentation of seasonal wetlands and waters of the U.S.

Finding: Based upon the FEIR and entire record, the Planning Commission finds that impacts on potential jurisdictional wetlands will be mitigated to a less-than-significant level by the imposition of Mitigation Measures F.1a through F.1d. Mitigation Measures F.1a through F.1d are implemented as conditions of approval nos. 65 and 66 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact will be reduced to a less-than-significant level.

Rationale: To reduce impacts to the 0.50 acres of wetlands that will be filled, conditions of approval nos. 65 and 66 require the applicant to complete a Corps-verified wetland delineation prior to construction of facilities within or adjacent to potential jurisdictional wetlands; to site facilities so as to avoid wetlands and waters of the US to the extent possible; to implement measures to minimize and avoid direct and indirect impacts to jurisdictional wetlands; and where impacts to wetlands and waters of the US cannot be avoided, to compensate for such losses on-site, at a 2:1 ratio. Suitable land exists on site on the north side of No-Name Creek for the creation of on-site replacement wetlands. 2.921 acres of existing seasonal wetlands and 0.676 acres of created wetlands will be preserved in perpetuity as habitat for the vernal pool fairy shrimp. In addition, the applicant will be required to obtain a Corps permit and a Streambed Alteration Agreement pursuant to Section 1600 of the California Fish and Game Code from CDFG for temporary or permit construction within any wetlands areas. Through implementation of these conditions and measures, the project will be consistent with the federal "no-net loss" wetland policy and will result in the permanent protection and enhancement of an important biological feature in the Airport Industrial Specific Plan area.

2) *Impact F.3 (Nesting Birds)*: The EIR determined that construction activities may adversely affect non-listed special-status nesting raptor and other nesting birds. Potential nesting habitat for several non-listed special-status raptor species (Table IV.F-1 of the EIR) occurs on or near the project site. Nesting habitat for northern harrier occurs in grasslands through the site, particularly near No Name Creek; an active red-tailed hawk nest was observed in one of the two eucalyptus trees on the site. Human disturbances from construction activities may cause nest

abandonment and death of young or loss of reproductive potential at active nests located near the project site.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds impacts on nesting birds resulting from construction activities will be reduced to a less-than-significant level by the imposition of Mitigation Measure F.3. Mitigation Measure F.3 is implemented as condition of approval no. 70 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 70 requires the applicant to retain a qualified biologist to conduct pre-construction surveys within 30 days prior to any ground disturbing activities to determine the presence or absence of active raptor nests and other special status wildlife species. The results of the surveys will be forwarded to the US Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). If nesting activities are observed, the habitat or trees will not be removed until the end of the breeding season, and adequate buffer zones between active nests and construction activities will be observed as determined through consultation with the USFWS and CDFG. The buffer zone will be maintained for the duration of the nesting season and monitored weekly by the biologist to ensure compliance and success of the action. Therefore, the impact on special status nesting birds will be reduced to a less-than-significant level.

3) *Impact F.5 (Aquatic Life):* The EIR found that the proposed vineyard areas would require long-term landscape maintenance that include irrigation and the application of fertilizers and pesticides. These operations have the potential to adversely affect aquatic life (e.g., steelhead, California tiger salamander, and fairy shrimp) in on-site seasonal wetlands, No-Name Creek, and in the Napa River.

Finding: Based upon the FEIR and entire record, the Planning Commission finds that potential impacts to aquatic life in on-site wetlands, No-Name Creek and the Napa River will be reduced to a less-than-significant level by imposition of Mitigation Measures F.5a and F.5b. Mitigation Measures F.5a and F.5b are implemented as conditions of approval nos. 85 and 86. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 85 require the applicant to intersperse areas of natural vegetation with vineyard rows and to provide vegetative buffers in accordance with USFWS guidelines to avoid direct and indirect impacts to vernal pool invertebrates. Condition of approval no. 86 requires the applicant to develop and implement an Integrated Pest Management Program (IPM) in conjunction with the seasonal wetland (vernal pool) management plan to minimize the use of pesticides near seasonal wetlands on the project site. Components of the IPM are described in condition of approval no. 86. Implementation of these conditions will reduce this impact to a less-than-significant level.

4) *Impact F.6 (Surface Runoff)*: The EIR determined that the increase pollutant loads caused from site development in surface runoff and stormwater may decrease habitat quality in the Napa River for Central California coast steelhead, winter-run chinook salmon, and other fish, and within No Name Creek for California tiger salamander.

Finding: Based upon the EIR and entire record, the Planning Commission finds that impacts from increased pollutant loads caused by site development in surface runoff will be reduced to a less-than-significant level by imposition of Mitigation Measure F.6. Mitigation Measure F.6 is implemented as condition of approval no. 67 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 67 requires the applicant to prepare and implement a Stormwater Pollution Prevention Plan in accordance with the State Water Quality Control Board standards and requirements as part of its National Pollutant Discharge Elimination (NPDES) permit prior to commencement of construction activities. Although, implementation, enforcement and monitoring of this measure will be the responsibility of another jurisdiction (the RWQCB) it is not voluntary. Napa County has a reasonable expectation that the RWQCB will abide by its regulatory requirements and that pollutant load runoff related impacts will be reduced to a less-than-significant level.

F. Cultural Resources

1) *Impact G.1 (Potential Archeological Sites)*: The EIR found that the proposed project construction could affect potentially significant archaeological resources.

Finding: Based on the FEIR and entire record, the Planning Commission finds that impacts to unknown potential archeological sites will be reduced to a less-than-significant level by the imposition of Mitigation Measures G.1a through G.1c. Mitigation Measures G.1a through G.1c are implemented as conditions of approval nos. 80, 81 and 82 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 80 requires that a qualified archaeologist monitor all excavation activities where potential disturbance of cultural resources is likely to occur. If archeological resources are discovered, condition of approval no. 81 requires construction activities will be immediately stopped and that an archaeologist evaluate the find. If human remains are encountered, condition of approval no. 82 requires compliance with specific steps. Compliance with these measures will ensure that if unknown cultural resources are discovered during construction activities, they will be protected and this impact will be reduced to a less-than-significant level.

2) *Impact G.2 (Barn Demolition)*: The EIR determined that the proposed project would result in demolition of the barn structure located on the project site.

Finding: Based on the FEIR and the entire record, the Planning Commission finds that the impact on the barn structure will be reduced to a less-than-significant level by the imposition of Mitigation Measure G.2. Mitigation Measure G.2 is implemented as condition of approval no. 83 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: The barn has not been identified as eligible for the California Register of Historic Resources or a local register of historic resources; however, it may be of interest to the County or others interested in Napa County history. Condition of approval no. 83 requires the applicant to consult with the County and the Napa Landmarks Design Review Committee to determine whether there may be interest in documenting, photographing or moving the structure or saving some of its elements prior to demolishing the barn structure. Implementation of this condition will ensure that impacts to the barn structure are reduced to a less-than-significant level.

G. Public Safety

1) *Impact H.2 (Public Safety)*: The EIR found that the proposed project will result in construction of water treatment, storage, and detention ponds that may attract wildlife that may pose a danger for aircraft approaching and departing from the Napa County Airport.

Finding: Based upon the FEIR and entire record, the Planning Commission finds that safety hazards resulting from wildlife attracted to the ponds will be reduced to a less-than-significant level by the imposition of Mitigation Measure H.2. Mitigation Measure H.2 is implemented as condition of approval no. 96 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 96 requires the applicant to establish and implement a comprehensive wildlife management plan for the site prepared by a wildlife biologist with airport expertise. The plan will assess whether the combination of wetland restoration and ponds present a potential hazard by attracting wildlife to or near the project site. The plan will be developed in consultation with the US Department of Agriculture (Wildlife Damage Unit) and the Napa Pilots Association will be approved by the Federal Aviation Administration – Flight Standards Division. To reduce wildlife hazards, the wildlife management plan will include the following: professional evaluation of the wildlife control measures annually; establishment of a seasonal baseline for each season, after the initial baseline period has been established; monitoring of wildlife populations and wildlife/aircraft conflicts for at least 3 years following construction of the wetlands and ponds in order to ascertain the need for any plan revisions; incorporating features into the landscape which discourage waterfowl

populations; and compliance with applicable measures contained in the 1999 USDA *Wildlife Hazard Management at Airports* manual. Testimony presented by Brian Pittman, Senior Wildlife Biologist, ESA, confirms that waterfowl typically go where food sources are located and that by designing the wastewater ponds to be unattractive to birds by eliminating vegetation around them, making the sides steep, using netting and other control techniques, birds are more likely to go to other places such as Fagan Slough. Therefore, this impact will be reduced to a less-than-significant level.

H. Public Services and Utilities

1) *Impact I.6 (Solid Waste Increase)*: The EIR determined that the proposed project may result in a substantial increase in solid waste that may impact Napa County's solid waste source reduction and recycling rates.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that the project's impact on solid waste will be reduced to a less-than-significant level by imposition of Mitigation Measure I.6. Mitigation Measure I.6 is implemented as condition of approval no. 100 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 100 requires the applicant to provide adequate storage space for recyclables and compostable materials and to comply with Napa County's recycling program. Implementation of this condition will reduce solid waste impacts to a less-than-significant level.

I. Geology, Soils and Seismicity

1) *Impact J.1 (Groundshaking)*: The EIR found that in the event of a major earthquake in the region, seismic groundshaking may potentially injure persons at the project site due to structural damage, structural collapse or falling of facility structures. Groundshaking may potentially expose persons and property to seismic-related hazards, including localized liquefaction, related ground failure and seismically-induced settlement.

Finding: Based upon the FEIR and entire record, the Planning Commission finds that ground shaking impacts will be reduced to a less-than-significant level by imposition of Mitigation Measure J.1. Mitigation Measure J.1 is implemented as condition of approval no. 79 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Condition of approval no. 79 requires that all project facilities comply with site-specific recommendations and standards for seismic design and soils foundation engineering as required by the project geotechnical engineer, Title 24 of the California Code of Regulations

and applicable County ordinances. Compliance with this condition will reduce ground shaking impacts to a less-than-significant level.

2) *Impact J.3 (Expansive Soils)*: The EIR found that construction proposed by the project may be subjected to geologic hazards related to expansive soils, settlement, and corrosivity.

Finding: Based upon the FEIR and the entire record, the Planning Commission finds that geologic hazards will be mitigated to a less-than-significant level by imposition of Mitigation Measure J.3a and J.3b. Mitigation Measures J.3a and J.3b are implemented as conditions of approval nos. 78 and 79 on Use Permit No. 98597-UP. Accordingly, changes or alterations have been required in, or incorporated into, the proposed project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

Rationale: Conditions of approval nos. 78 and 79 require that engineering measures and geotechnical standards be incorporated into the project design so as to minimize damage from expansive soils. Implementation of these conditions will reduce geologic hazards to a less-than-significant level.

SECTION 4. Significant Impacts Which Cannot be Fully Mitigated and Findings on Mitigation Measures that are Rejected.

The Planning Commission finds that the Final EIR identifies three significant environmental effects on air quality and biological resources that have not been avoided or substantially lessened. The Planning Commission further finds that, in response to each such significant effect identified in this Section 4, while all identified feasible changes or alterations have been required in, or incorporated into, the proposed project that significant impacts remain either because:

- Specific economic, legal, social, technological or other considerations make infeasible some of the mitigation measures or project alternatives identified in the Final EIR and more fully set forth in Section 5 (Alternatives) and Section 6 (Statement of Overriding Considerations) below, or
- Because the EIR finds that no mitigation is available to reduce these impacts to an insignificant level.

The following unavoidable significant effects on the environment have been identified.

A. Air Quality

1) *Impact D.2 (Air Pollutant Emissions)*: The FEIR determined that the project's operation would result in an increase in criteria air pollutant emissions.

Findings and Rationale: The Planning Commission finds that the increase in criteria pollutant emissions resulting from the project is significant and unavoidable. Mitigation Measure D.2 is implemented as condition of approval no. 32 (a) through (e) on Use Permit No. 98597-UP by requiring the applicant to develop a multipurpose pedestrian and bicycle pathway; provide for connections with existing and future transit services; provide its employees with carpool and ride sharing information; implement flexible and compressed work schedules for facility employees so as to avoid peak-commute hours; and utilize low emission maintenance and operational equipment. The Planning Commission further finds that even with incorporation of Mitigation Measure D.2, criteria air pollutant emissions will be reduced but not to a level of insignificance. This impact is overridden by the project benefits as set forth in Section 6 (Statement of Overriding Considerations).

2) *Impact D.5 (Cumulative Impact):* The FEIR found that the project would contribute to the cumulative adverse effect of land use development on regional air quality.

Findings and Rationale: The Planning Commission finds that the project's cumulative impact on regional air quality is significant and unavoidable. Mitigation Measure D.5 is implemented as condition of approval no. 32 (a) through (e) on Use Permit No. 98597-UP by requiring the applicant to develop a multipurpose pedestrian and bicycle pathway; provide for connections with existing and future transit services; provide its employees with carpool and ride sharing information; implement flexible and compressed work schedules for facility employees so as to avoid peak-commute hours; and utilize low emission maintenance and operational equipment. The Planning Commission finds that even with incorporation of Mitigation Measure D.5, cumulative regional air quality impacts will be reduced but not to a level of insignificance. This impact is overridden by the project benefits as set forth in Section 6 (Statement of Overriding Considerations).

B. Biology Resources

1) *Impact F.2 (Federally Listed Wildlife Species):* The FEIR determined project construction has the potential to significantly affect federally listed wildlife species. Impacts may occur to vernal pool fairy shrimp, with secondary effects to steelhead trout in the Napa River.

Findings and Rationale: The Planning Commission finds that development of the project facilities in proximity to and on wetlands potentially occupied by vernal pool fairy shrimp is significant and unavoidable. Mitigation Measure F.2 is implemented as condition of approval no. 65 on Use Permit No. 98597-UP by requiring the applicant to consider all wetland delineated areas as sensitive habitat and to avoid (to the extent possible) those areas; to maintain a sufficient buffer zone to protect the wetland resources; to compensate for loss of wetlands and vernal pool fairy shrimp habitat on site at a 2:1 ratio; and to retain a qualified biologist to oversee all aspects of construction monitoring that involves wetlands protection. The Planning Commission further finds that even with incorporation of Mitigation Measure F.2, the impact on wetland habitat will be reduced but not to a level of insignificance. This impact is overridden by the project benefits as set forth in Section 6 (Statement of Overriding Considerations).

SECTION 5. Project Alternatives.

The Planning Commission has considered various project alternatives as analyzed in the FEIR. As to each alternative, the Commission finds that specific economic, legal, social, technological and other considerations make these project alternatives infeasible and rejects them in favor of approval of the proposed project.

A. *The No Project Alternative:* Under the No Project Alternative, the project would not be constructed at the site; all site characteristics would remain in their existing condition and the site would continue to be used primarily for grazing purposes.

Findings and Rationale: The Planning Commission finds the No Project Alternative is infeasible and less desirable than the proposed project and rejects this alternative for the following reasons:

1) Under the No Project Alternative, potentially significant impacts to seasonal wetlands and special status wildlife species resulting from project construction would be avoided; however, no setbacks would be created to protect No-Name Creek and the wetlands in the northwest corner of the project site. In addition, No-Name Creek and the wetlands areas would continue to be degraded by livestock and there would be no riparian vegetation along the corridors of No-Name Creek.

2) The No Project Alternative would not meet the applicant's objectives of centralizing its blending, bottling, warehousing and distribution in order to reduce its transport time and costs into one integrated facility located in Napa County.

B. *The Reasonably Foreseeable/Offsite Development Alternative:* The proposed project would not be constructed under the Reasonably Foreseeable/Offsite Development Alternative, but rather the project site would be developed with land uses and at a maximum intensity allowed under the zoning ordinance and 1986 Specific Plan. The applicant would expand its facilities by doubling production at its St. Helena facility. This Alternative would allow for a maximum building density of 50% and would include such uses as light manufacturing; assembly plants; machine shops; processing and packing plants; offices; research, development and testing laboratories and facilities and enclosed rifle and pistol ranges.

Findings and Rationale: The Planning Commission finds the Reasonably Offsite/Offsite Development Alternative is infeasible and less desirable than the proposed project and rejects this alternative for the following reasons:

1) The Reasonably Foreseeable/Offsite Development Alternative could result in a maximum of up to 2,800 employees which could result in between 7,260 and 10,353 vehicle trips per day or between 826 and 1,567 AM peak hour trips per day and between 859 and 1,842 PM peak trips per day thereby substantially increasing traffic impacts in the area as compared to a maximum of 99 AM peak trips and 45 PM peak trips per day with the proposed project. This

Alternative would also require a larger parking area in order to accommodate the 2,800 employees compared to the 230 employees under the proposed project.

2) This Alternative would still impact regional air quality and would result in worse emissions due to the substantially higher number of vehicle trips than would be generated under the proposed project. In addition, the applicant would roughly double production at its current St. Helena facility and its other existing leased facilities and double the number of tanker and other delivery trucks to the St. Helena facility. The emissions associated with the increased production at the St. Helena facility in combination with mobile source emissions associated with the light industrial development at the site would be substantially higher than the emissions associated with the proposed project.

3) Under the Reasonably Forseeable/Offsite Alternative, impacts to seasonal wetlands and biological resources and conversion of existing farmland to non-agricultural use would still occur.

C. The Wetlands Preservation Alternative: The Wetlands Preservation Alternative would be similar to the proposed project; however, the total square footage of protected wetlands would be increased and the site plan of the proposed facilities would be reoriented to eliminate all impacts on wetlands. The total square footage of development under this Alternative would be lower and the total amount of space devoted to vineyards would be reduced.

Findings and Rationale: The Planning Commission finds the Wetlands Preservation Alternative is infeasible and less desirable than the proposed project and rejects this alternative for the following reasons:

1) Like the proposed project, this Alternative would still create significant and unavoidable air quality impacts and have similar impacts on traffic, visual and hydrology.

2) Reorientation of the facilities would result in less vineyards due to soil constraints and placement of the wastewater ponds closer to neighboring properties on the south. This Alternative would not meet the applicant's objectives of having a site large enough and configured in a manner that supports the on-site wastewater treatment ponds and sufficient vineyard acreage for grape supply and wastewater recycling.

D. The Reduced Development Alternative: Under the Reduced Development Alternative, construction of facilities for bottling, warehousing, administration, laboratory use, blending/fermentation and sugar testing would still occur on site but the buildings would be reduced from 1.4 million square feet to 700,000 sq. ft. and the amount of land devoted to vineyards would be increased by 700,000 sq. ft.

Findings and Rationale: The Planning Commission finds the Reduced Development Alternative is infeasible and less desirable than the proposed project and rejects this alternative for the following reasons:

1) This Alternative would not meet the applicant's projected business needs and would require the applicant to expand its existing operations at its other winery/bottling facilities which could include St. Helena or other locations. Expansion of the applicant's existing facilities would presumably increase truck traffic and air quality impacts in the area where these facilities exist.

2) Depending on the final redesign of the project under this Alternative, significant and unavoidable impacts to wetlands and special status wildlife species could potentially be reduced but not avoided completely.

E. Alternative Sites: Three potential alternative sites were considered. The three sites are:

- Area "A" - The Adjacent Parcel on Airpark Road. A 60-acre site located adjacent to the Biagi warehouse on Airpark Blvd.
- Area "B" - The Giavonnoni Property. The 200-acre site immediately adjacent to the southern property line of the proposed site.
- Area "C" - Expansion of Existing Facilities. Rather than construct the proposed facility at the project site, the applicant considered expanding construction at its existing facilities in or near St. Helena, Sonoma, Cloverdale and Paso Robles.

Findings and Rationale: For the reasons discussed in the EIR, the Commission finds that each of the alternative sites are infeasible for development of this project for the reasons set forth below and in the EIR.

Area "A" would not be a feasible alternative for the proposed project because the site has insufficient space for the wastewater treatment and disposal system. In addition, the site has significant wetland areas which would restrict the number and size of facilities proposed under the project.

Area "B" would have satisfied the size requirements of the proposed project, however the property is not for sale and therefore would not be a feasible alternative.

Area "C" would not be a feasible alternative because it would not meet the applicant's objectives of centralizing blending, bottling, warehousing and distribution in one location. The proposed project will allow the applicant to centralizes its operations in order to reduce the number and length of truck trips needed.

SECTION 6. Statement of Overriding Considerations.

Public Resources Code section 21002 and Section 15093 of the State CEQA Guidelines allow lead agencies to approve projects with significant unavoidable environmental effects such as those discussed in Section 4 when the benefits of the project outweigh these significant effects, and thus render them "acceptable."

As explained above and in the FEIR, the proposed project, even as redesigned with mitigation, alone or together with cumulative development, will result in the following three significant unavoidable adverse impacts:

- 1) *Impact D.2 (Air Pollutant Emissions)*: The FEIR determined that the project's operation would result in an increase in criteria air pollutant emissions.
- 2) *Impact D.5 (Cumulative Impact)*: The FEIR found that the project would contribute to the cumulative adverse effect of land use development on regional air quality.
- 3) *Impact F.2 (Federally Listed Wildlife Species)*: The FEIR determined project construction has the potential to significantly affect federally listed wildlife species. Impacts may occur to vernal pool fairy shrimp, with secondary effects to steelhead trout in the Napa River.

Notwithstanding that the project will have significant environmental impacts that will not be mitigated to an insignificant level, the Planning Commission hereby finds that development of the proposed project will have the following specific overriding economic, social, environmental and other benefits that substantially outweigh the significant effects on the environment:

1) **Habitat Restoration**: The FEIR and evidence in the record found that the project site has been severely degraded by cattle grazing, contains a monocrop of non-native grasses and essentially provides no upland habitat for small mammal burrows. No-Name Creek has been highly impacted and has sparse emergent and aquatic vegetation cover. As noted in the FEIR and in testimony from Brian Pittman, Senior Wildlife Biologist for ESA, no fairy shrimp have actually been found on the site; however, since fairy shrimp have been identified in seasonal wetlands adjacent to the site, it is assumed that they are present in all seasonal wetlands on the site and mitigation measures have been incorporated into the project. As part of project development, the applicant will be required to create approximately 20 acres of high quality wetland and riparian habitat. The created wetland and riparian habitat will be permanently preserved, located in an upland area protected from contamination and flows, consist of a 2:1 replacement ratio and provide stability to the fairy shrimp. The existing uncovered, bare corridors along No-Name Creek will be replanted with native vegetation and protected by a 50' permanent setback which will provide a migration corridor for wildlife. The record indicates that after restoration and development of the wetland and riparian areas and other mitigation measures contained in the FEIR, the project site will be better from a biological standpoint than its current state.

2) **Traffic Benefits**: Development of the project in the Airport Industrial Specific Plan Area will allow the applicant to consolidate its four existing distribution facilities into one integrated location. According to the evidence presented, the proposed project will result in 5,215 less truck trips on Highway 29 between St. Helena and Jamison Canyon Road and approximately 3,200 less truck trips along Jamison Canyon Road thereby reducing traffic congestion in those areas. As part of project development, the applicant will construct and complete lengthening of the northbound SR29 left turn lane to westbound South Kelly Road.

The applicant will also pay its fair share costs towards the costs of constructing a signal at the Devlin Road/South Kelly Road intersection and constructing a left turn lane on the westbound South Kelly Road approach to Devlin Road (extending back to SR 29) to allow for inbound project left turn movements.

In addition, as part of the traffic mitigation measures imposed as conditions of approval on the project, the applicant will contribute to planned off-site roadway and intersection improvements through payment of the County's Traffic Mitigation Fee. Planned improvements that would be partially or fully funded by the traffic mitigation fee include: improvements to Devlin Road (construction of extensions and widenings, and signals at Soscol Ferry Road and Airport Boulevard); upgrading the SR 12-29/Soscol Ferry Road/SR 221 intersection to become a full or partial interchange; and upgrading the SR12-29/Jameson Canyon Road (SR 12)/Airport Boulevard intersection to become a full interchange.

3) Planning Benefits: The project promotes the County's planning goal and image of the Airport Industrial Specific Plan area as an industrial center. The County has long designated the Airport Industrial Specific Plan area as the prime location for industrial development. The proposed project is consistent with and meets the standards of 1986 Airport Industrial Area Specific Plan. Although the maximum floor area coverage allowed for most industrial uses is 0.35 square feet per acre of net lot area with warehousing as high as 0.50 square feet per acre, the proposed project will have a lot coverage of no more than 15% and will incorporate extensive landscaping and approximately 120 acres of vineyards thereby creating a less intense use than is otherwise allowed.

4) Preservation/Enhancement of Napa County Economy: Approval of the proposed project will ensure that Beringer, the longest operating winery in the County, remains headquartered in Napa County and that the company is able to process, distribute and sell its wines in an efficient manner and thereby continue to contribute to the viability of the County's major economic component, agriculture. As an integrated wine warehouse facility, the proposed project supports the County's agricultural preservation goals by creating a facility that will accommodate bottling, distributing, fermentation and storage of 2,300 acres of grapes farmed by the applicant in Napa County.

5) Alternative Transportation: Since the project is located in close proximity to Union Pacific railroad lines, the applicant intends to use rail cars to ship goods directly to distributors that use rail. The applicant's reliance on rail cars for distribution of its products will reduce vehicle trips, reduce air emissions and promote the use of alternative modes of transportation.

6) Maintenance of Open Space: The project will result in development of approximately 120 acres of vineyards on site which will create a visual perception of open space and will contribute to the County's primary industry of agriculture.

SECTION 7. **Findings for Approval of Use Permit (Napa County Code Chapter 18.124).**

Pursuant to Napa County Code section 18.124.070, the Commission must make the following five findings before issuing a use permit:

1) Section 18.124.070 (A): “The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the property.”

Facts: The proposed project is an integrated wine production facility consisting of wine production, warehousing, bottling, storage and distribution. The project is located in the Industrial Park zoning district which allows the following uses with a use permit: professional, administrative and general business offices; research, development and testing laboratories and facilities; cooperage, bottling plants, wine warehousing and distributing; manufacturing, compounding, processing, packing, treating or storing of products such as foods stuff (fermentation); and other uses which in the opinion of the Director are non-nuisance causing and similar in character to these uses. (See County Code Section 18.40.020) The project is also located within the Airport Compatibility (AC) combination district. All structures or uses permitted in the principal zoning district are allowed in the AC combining district except outdoor amphitheaters, sanitary landfills and any other structures “not normally acceptable” in the applicable compatibility zone as shown in Section 18.80.070. (County Code Section 18.80.040) The project is located in Compatibility Zone D where warehousing, office uses and low intensity light industrial uses are considered normally acceptable uses. Schools, libraries, hospitals, nursing homes, large shopping malls and amphitheaters are not normally acceptable uses in Compatibility Zone D.

Findings and Rationale: Based on the facts listed above and the entire record, the Planning Commission finds that it has the power to issue the use permit for the project under the zoning regulations in effect as applied to this property.

2) Section 18.124.070 (B): “The procedural requirements set forth in this chapter [18.124] have been met.”

Facts: The applicant applied in writing for the use permit and provided detailed information regarding the project on the appropriate forms provided by the County. The procedural requirements of Section 18.124.020 require a completed form accompanied by plans, elevations, graphics and other information necessary to show the detailed of the proposal. As described elsewhere in these findings, public hearings were held on the project application, and these hearings were properly noticed in a newspaper of general circulation. Furthermore, witnesses were heard, relevant evidence was admitted and considered, the applicant appeared and was represented by counsel, pursuant to the requirements of Section 18.124.040.

Findings and Rationale: The Commission finds that the procedural requirements of Chapter 18.124 of the Zoning Ordinance have been met because the applications were properly filed, processed by staff and this Commission held duly noticed public hearings and considered

testimony in favor and in opposition to the project. The Commission closed the hearing, deliberated, made its decision and adopted these findings of approval pursuant to state and local laws.

3) Section 18.124.070 (C): "The grant of the use permit, as conditioned, will not adversely affect the public health, safety and welfare of the county."

Facts: Issues pertaining to the public health, safety and welfare are detailed in the FEIR and the extensive findings contained in this document. Protection of the public health, safety and welfare is the essence of CEQA's requirements to inform the public of the environmental effects of proposed projects and to adopt mitigation measures to avoid or reduce potential harm to the environment and the people of Napa County.

Findings and Rationale: The Commission finds that grant of the use permit will not adversely affect the public health, safety and welfare because the Commission thoroughly studied the impacts of the proposed project in its certification of the Final EIR and described its rationale for approval in the findings adopted pursuant to that EIR. Although some significant effects on the environment could not be mitigated, the Commission has balanced economic, environmental, social, technological and other project benefits and has found that those outweigh the unavoidable environmental risks associated with the project. In making this finding, the Commission incorporates the facts, findings and rationale set forth in this document, as well as the Statement of Overriding Considerations which explains how the Commission balanced the unavoidable adverse environmental impacts against the community benefits derived from the project.

The Commission finds that in order to protect the public health, safety and welfare, it must impose detailed conditions of approval on the project as described throughout the findings. (Those conditions of approval are attached as Exhibit "A.") For these reasons and others presented in these findings, the Commission finds the project, as conditioned, will not adversely affect public health, safety and welfare.

4) 18.124.070 (D): "That the proposed use complies with applicable provisions of this code and is consistent with the policies and standards of the general plan and any applicable specific plan."

Facts: The following adopted plans and zoning ordinances apply to the proposed use permit: Napa County General Plan; the 1986 Airport Industrial Area Specific Plan; the Airport Land Use Compatibility Plan; and the Napa County Zoning Ordinance. Each of the relevant standards, goals and policies of these adopted plans is reviewed in the Draft EIR. The Draft EIR includes a summary matrix which identifies the goals of each adopted plan or code and identifies how the project is consistent or inconsistent with those relevant individual goals, policies or standards.

Findings and Rationale: The Commission finds that the project is consistent with the adopted relevant codes and plans detailed in the attached Consistency Matrix and hereby adopts

as its findings and rationale, each of the findings of consistency made in the Consistency Matrix attached to these findings as Exhibit "C." The Planning Commission has the discretion to interpret its own plans and zoning code in a reasonable manner and relies on evidence presented in these hearings to find consistency with the goals, policies and standards of its adopted plans and zoning code, as set forth in the Consistency Matrix. The Commission rejects certain consistency findings made in the DEIR and substitutes its own judgement in finding consistency for the reasons described in Exhibit "C" to these findings.

5) Section 18.124.070 (E): "The proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080 of this code."

Facts: The EIR describes the water source and availability in detail. The applicant will use the City of American Canyon water system to provide water to the site. The applicant has obtained a "will serve" letter from the City of American Canyon indicating the City's willingness to provide water to the site for the intended use. The applicant has represented that it will vest its rights under the "will serve" letter prior to the expiration date of the letter. According to the evidence presented, the City of American Canyon has diversified its sources of water and is capable of providing the amount of water needed to serve the project.

Findings and Rationales: The Commission finds that groundwater will not be adversely affected because the project is not located within a designated critical groundwater area; the water supply will come from a municipal water system (City of American Canyon) rather than from groundwater sources; irrigation needs for the vineyard and landscaping will be with treated process wastewater; and the project does not propose drilling new wells which would access groundwater sources.

SECTION 8. Substantial Evidence.

Substantial evidence supporting each and every finding made herein is contained in the Final EIR and in the record of proceedings on the proposed project.

SECTION 9. Mitigation Monitoring and Reporting Program.

The Planning Commission hereby adopts the Mitigation Monitoring and Reporting Program attached as Exhibit "B."

SECTION 10. Final Determinations.

Based on the foregoing facts, findings, rationales, determinations and conclusions, the Planning Commission hereby:

- 1) Adopts the findings of facts and rationales as set forth in this Resolution;

- 2) Adopts the proposed project described in the FEIR and rejects all other alternatives;
- 3) Adopts the Statement of Overriding Considerations contained in Section 6; and
- 4) Approves Use Permit No. 98597-UP subject to the attached Conditions of Approval and feasible mitigation measures. (See Exhibit "A" attached and incorporated here by reference).

SECTION 11. **Effective Date.**

This resolution shall take effect immediately upon its adoption.

The foregoing resolution was read, considered, and adopted at a regular meeting of the Conservation, Development and Planning Commission of the County of Napa, State of California, on the 19th day of December, 2001, by the following vote:

AYES: COMMISSIONERS SCHOENKE, SCOTT and KING

NOES: COMMISSIONERS NONE

ABSTAIN: COMMISSIONERS HOLZHAUER and GRAVES

ABSENT: COMMISSIONERS NONE

Attest:
MARY JEAN MCLAUGHLIN
Clerk of the Commission

By: _____

APPROVED AS TO FORM Office of County Counsel By: _____ Date: _____
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Attachments:

Exhibit "A" - Conditions of Approval
Exhibit "B" - Mitigation Monitoring and Reporting Program
Exhibit "C" - Land Use Consistency Matrix