

RESOLUTION NO. _____

**A RESOLUTION OF THE CONSERVATION,
DEVELOPMENT AND PLANNING COMMISSION OF THE
COUNTY OF NAPA, STATE OF CALIFORNIA,
ADOPTING FINDINGS DENYING USE PERMIT
APPLICATION NO. P07-00398-UP FOR THE LAKE
LUCIANA GOLF COURSE PROJECT**

WHEREAS, an application for a use permit was filed with the Napa County Conservation, Development and Planning Department (the Planning Department) by William Criswell for Lake Luciana Golf Course (Applicant) for a rural recreational use to develop an 18-hole championship golf course, attendant buildings and site improvements including lake-side recreational uses with a small boat dock and boat storage pavilion and to improve existing dirt access roads to serve the golf course and nearby parcels. The Planning Department designated this application as Use Permit No. P07-00398-UP. Proposed activities associated with the golf course would include the following: 1) Removal of existing vegetation and grading of fairways, cart paths and ancillary buildings including installation of landscaping and irrigation systems; 2) construction of a new clubhouse building with kitchen and eating area for golfers; 3) construction of a swimming pool, small boat dock and provision of canoes, kayaks and small sailboats for use on Lake Luciana; 4) construction of a golf cart storage cave and maintenance building; 5) construction of approximately 25 stream, lake and wetland crossings including riparian habitat restoration; and 6) construction, widening and improvement of the primary access road from Lake Luciana to Pope Valley Road intersecting approximately 1,000 ft. north of Ink Grade to 20 feet except in areas where widening would impact sensitive environmental features (the Project);

WHEREAS, the proposed Project is located on approximately 226 acres along the northern edge of Dick Week Lake. The 17 adjacent parcels occupy approximately 1,180 acres. The Project site is located approximately one mile northeast of the terminus of Barnett Road in Pope Valley within an Agriculture, Watershed and Open Space (AWOS) general plan designation and an Agricultural Watershed (AW) zoning district, Assessor's Parcel numbers: 018-260-017, 018-290-001 to -013, 018-080-056 to -058, -061 and -062, 018-270-013 and -054, 018-240-009, 018-080-063 and -064;

WHEREAS, on August 14, 2007, the Planning 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);

WHEREAS, LSA Associates, Inc. was retained by the Applicant to prepare an EIR addressing the significant or potentially significant impacts on the environment associated with development of the proposed Project;

WHEREAS, on August 15, 2007, 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;

WHEREAS, on September 5, 2007, the Conservation, Development and Planning Commission (Planning Commission) held a public scoping meeting to take testimony on items to be addressed in an EIR;

WHEREAS, a Draft EIR (DEIR) for the Project was prepared. The DEIR was circulated for public review and comment from July 3, 2008 to August 18, 2008;

WHEREAS, on July 3, 2008, 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;

WHEREAS, on August 6, 2008, the Planning 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. The Commission voted to extend the comment period from August 20, 2008 to September 18, 2008;

WHEREAS, written comments were accepted on the DEIR for 78 days between July 3, 2008 and September 18, 2008;

WHEREAS, in accordance with CEQA, all comments received on the DEIR during the public comment period were responded to and included in a Final Environmental Impact Report (FEIR);

WHEREAS, on January 7, 2009, the County, as the lead agency for the proposed Project, caused to be prepared a FEIR. Pursuant to State CEQA Guidelines section 15132, the FEIR consists of the following documents and records: *Lake Luciana Golf Course Use Permit Application #P07-00398-UP Environmental Impact Report (dated July 2, 2008)*; *Lake Luciana Course Use Permit Application #P07-00398-UP Final Environmental Impact Report (dated January 2, 2009)*; and the related planning and other County records, minutes, and files constituting the record of proceedings which is incorporated herein by this reference;

WHEREAS, the FEIR was prepared pursuant to the CEQA, Public Resources Code section 21000, et seq., and the State CEQA Guidelines, California Code of Regulations, Title 14, section 15000, et seq.;

WHEREAS, on January 7, 2009, the FEIR was made available to the public. In addition, the FEIR was sent to all public agencies that commented on the DEIR;

WHEREAS, pursuant to County Code Section 18.124.040, on January 9, 2009, a Notice of Public Hearing regarding the Project was published in a newspaper of general circulation in the County and mailed to interested persons within 300 feet of the Project;

WHEREAS, on January 21, 2009, the Planning Commission held a duly noticed public hearing on Use Permit Application No. P07-00398-UP for purposes of considering certification of the FEIR and the merits of the proposed Project. Due to the large amount of interest on the Project, the Commission was unable to complete its consideration of all public testimony and therefore continued the public hearing to February 4, 2009;

WHEREAS, on February 4, 2009, at the Applicant's request, the Planning Commission continued the public hearing to February 18, 2009, after hearing additional public testimony;

WHEREAS, on February 18, 2009, the Planning Commission held a continued public hearing on the proposed Project and Use Permit Application No. P07-00398-UP. 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 Application No. P07-00398-UP and adopted a motion of intent to deny the Project and directed County Counsel's office to prepare a resolution containing formal findings in support of the denial and to bring the resolution back to the Commission for consideration and adoption at its regular meeting on March 18, 2009;

WHEREAS, on March 18, 2009, the Planning Commission considered this proposed Resolution denying the Project;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. **Recitals.**

The Commission finds that the foregoing recitals are true and correct.

SECTION 2. **CEQA Determination.**

The Commission finds that denial of the Project is exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(4) which exempts disapproval of projects from CEQA review.

SECTION 3. **Findings Supporting Denial of Use Permit for Parks or Rural Recreation Facilities (Napa County Code Section 18.104.390).**

A) Napa County Code Section 18.104.390 contains seven special findings that the Commission must make prior to issuance of a use permit for a rural recreational facility. These seven findings are in addition to the standard use permit findings required by Section 18.124.070. The Commission did not address and decide whether or not the standard use permit findings in Section 18.124.070 could be made. Based on the entire record, the Commission finds

and determines that it cannot make four of the seven required findings contained in County Code Section 18.104.390 as further described below.

B) The Commission finds that the use has not been shown by evidence in the record to be appropriately located. (Section 18.104.390 (A).)

Facts and Rationale: The golf course is proposed in Pope Valley which is a remote, rural area of the County located a substantial distance away from population centers. Testimony in the record demonstrates that a majority of the prospective golf course members reside forty-five minutes or more away from Pope Valley in St. Helena or South Napa or in areas located entirely outside of Napa County. The guiding philosophy reflected throughout the 2008 Napa County General Plan (the General Plan) is to preserve agricultural land for agricultural use and to locate urban uses in urban areas. In fact, as part of the General Plan update, the Land Use Element was renamed the Agricultural Preservation and Land Use Element to emphasize the County's strong commitment to preservation of agricultural lands for agricultural use.

The General Plan recognizes a distinction between urban and nature-based recreational uses. The definition of "urban recreation" contained in the Recreation and Open Space Element includes, but is not limited to, highly improved parks, swimming pools, sports fields and courts. Whereas, "nature-based recreation" is defined as including recreation which takes place in and around, and is significantly focused on, the natural environment, including but not limited to, walking, hiking, bicycle riding, camping and swimming in lakes. (Recreation and Open Space Element page ROS-4.) Pursuant to Policy AG/LU-27 of the Agricultural Preservation and Land Use Element, nature-based recreation is considered compatible with agriculture and is not considered urbanizing. Policy ROS-22 encourages nature-based recreation near each population center and in more remote areas of the County while urban recreation uses are considered appropriate in more developed, non-agricultural areas of the County. The proposed golf course includes an accessory swimming pool complex, clubhouse, dining room and lounge, pro shop and paved access roads which makes it similar to a highly improved park and more of an urban recreational use rather than a nature-based form of recreation. Because of these features, the Project would be more appropriately located in an urban area and off agricultural lands.

Conclusion: Based on the foregoing and the entire record, the Commission finds that the Project is not appropriately located.

C) The Commission finds that the use would significantly affect the ability to conduct existing agriculture uses on site or nearby. (Section 18.104.390 (C).)

Facts and Rationale: The record reflects that part of an existing remnant vineyard located on State-designated farmland would have to be removed to accommodate development of the golf course, clubhouse and access roads. The Project would also result in the conversion of approximately 30.1 acres of land classified as Prime Farmland, Unique Farmland and Farmland of Statewide Significance to accommodate a non-agricultural, urban recreational use and concomitant access roads. The preservation of agricultural land for agricultural uses has been a long-standing policy in Napa County and is reflected in numerous policies and goals

throughout the General Plan. The proposed Project would convert agricultural land into an urban recreational use. While the golf course project could potentially be removed in the future and returned to an agricultural use, the economic return on the land from its use as an "up scale", private golf course and related development is greater than for viticulture or agricultural uses. When agricultural land is worth more for another use such as for a golf course, residential or commercial development than it is for agricultural use, it significantly affects the ability to conduct existing agricultural uses on site or nearby.

Conclusion: Based on the foregoing and the entire record, the Commission finds that the Project would significantly affect the ability to conduct existing agricultural uses on site.

D) The Commission finds that the use would significantly affect potential agricultural operations on site or nearby. (Section 18.104.390 (D).)

Facts and Rationale: The proposed Project site supported vineyards in the past up until approximately 1994. The record further reveals that there are a mixture of "good soil" and "poor soil" on site. Soils experts and vineyard managers testified that the "poor soil" (the Maxwell soils) comprises approximately 39% of the site, is scattered in pockets throughout the site and that this soil type can be challenging to farm yet it is capable of producing a crop as evidenced by the past production on site and other producing vineyards in the County. The record also contains evidence that properties adjacent to the Project site are planted in vineyard, some of which are located on Maxwell soils and that these vineyards are producing, although the yield is lower than it is for vineyards that are not located on Maxwell soils. While the golf course and accessory structures could potentially be removed in the future and returned to an agricultural use, the economic return on the land from its use as an "up scale", exclusive golf course is greater than for viticulture or agricultural uses. When agricultural land is worth more for another use such as for a golf course, residential or commercial development than it is for agricultural use, agriculture is at risk and the economic viability of agriculture on site or nearby becomes threatened.

The golf course would be irrigated with water supplied by a private water company known as the Juliana Mutual Water Company (the Water Company). The record contains testimony from the Water Company's civil engineer that during critically dry years, there would only be enough water for the Water Company to supply between 65.6% and 72.4% of its irrigation demands. The bylaws for the Water Company require that during those severe drought years, the Water Company would adjust water allocations as necessary during the shortage "in a manner that is fair and equitable to all water users." Testimony was provided to explain that this means that the Water Company Board of Directors, in its sole discretion, would determine where the water is needed and how the water will be allocated. Because there is not sufficient water available to accommodate all of the Water Company's irrigation demands during the driest years, the potential exists that water supplied to vineyards could potentially be reduced or diverted from vineyard or other agricultural operations to accommodate the golf course irrigation needs which would significantly impact agricultural operations on site or nearby.

Conclusion: Based on the foregoing and the entire record, the Commission finds that the Project would significantly affect potential agricultural operations on site or nearby.

E) The Commission finds that the use would not serve local needs. (Section 18.104.390 (G).)

Facts and Rationale: The proposed golf course has been designed by the acclaimed design team of Tom Doak and Associates. Testimony in the record demonstrates that Tom Doak designed golf courses are world famous, attract a large amount of interest and have a dedicated following of golf enthusiasts who travel all over the world for the opportunity to play at one of his courses. Many testified that Tom Doak golf courses become destination spots. Residents from outside of Napa County including, but not limited to, Santa Rosa, San Francisco, San Diego, and Pleasanton testified as to their intent to purchase one of the 550 private memberships at the Lake Luciana Golf Course. Testimony in the record further reveals that a majority of the Napa County residents who testified about purchasing a membership reside forty-five minutes or more away in St. Helena or South Napa.

Conclusion: Based on the foregoing and the entire record, the Planning Commission finds that the Project would not serve local needs.

SECTION 4. The Project is Inconsistent with the 2008 Napa County General Plan.

A) Since the general plan is the constitution for all future development, any decision affecting land use and development must be consistent with the general plan. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570.) However, a project need not be in perfect conformity with each and every general plan policy. A project must be examined to determine whether overall it is in harmony and agreement with the policies stated in the general plan. (*Sequoia Hills Homeowners Ass'n v. City of Oakland* (1993) 153 CA3d 391, 408.)

B) The Planning Commission finds and determines that while the Project would be consistent with many of the policies and goals contained in the 2008 Napa County General Plan, the Project is inconsistent and not in harmony or agreement with the following General Plan Policies and Goals¹ and is therefore inconsistent overall with the General Plan:

1) Agricultural Preservation and Land Use Element Goal AG/LU-1.
Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.

Rationale: Construction of the clubhouse and access roads would require removal of existing remnant vineyard. The Project would also result in the conversion of approximately 30.1 acres of agricultural and grazing land into a golf course, clubhouse, swimming pool complex, dining room and lounge and related accessory uses, all of which are non-agricultural uses on agricultural land.

¹ Some of the policies have been abbreviated. Please refer to the actual policy for the complete text.

2) Agricultural Preservation and Land Use Element Goal AG/LU-3. Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.

Rationale: The proposed Project would convert agricultural land into an urban recreational use. While the golf course project could potentially be removed in the future and returned to an agricultural use, the economic return on the land from its use as an “up scale”, private golf course and related development is greater than for viticulture or agricultural uses. When agricultural land is worth more for another use such as for a golf course, residential or commercial development than it is for agricultural use, the long term, economic viability of agriculture is jeopardized.

3) Agricultural Preservation and Land Use Element Policy AG/LU-4. The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.

Rationale: See rationale above for Goal AG/LU-1 and Policy AG/LU-3 which are incorporated here by reference.

4) Agricultural Preservation and Land Use Element Policy AG/LU-9. The County shall evaluate discretionary development projects, re-zonings, and public projects to determine their potential for impacts on farmlands mapped by the State Farmland Mapping and Monitoring Program, while recognizing that the state’s farmland terminology and definitions are not always the most relevant to Napa County, and shall avoid converting farmland where feasible. Where conversion of farmlands mapped by the state cannot be avoided, the County shall require long-term preservation of one acre of state-designated farmland that would be converted to non-agricultural uses.

Rationale: See rationale above for Goal AG/LU-1 and Policies AG/LU-3 and AG/LU-4 which are incorporated here by reference.

5) Agricultural Preservation and Land Use Element Policy AG/LU-12. No new non-agricultural use or development of a parcel located in an agricultural area shall be permitted unless it is needed for the agricultural use of the parcel, except as provided in Policies AG/LU-2, AG/LU-5, AG/LU-26, AG/LU-44, AG/LU-45, and ROS-1.

Rationale: The proposed Project consists of a private membership, “up scale” golf course recreational use on lands zoned Agricultural Watershed and designated Agriculture, Watershed and Open Space by the General Plan. Because the Project includes a golf course, club house, swimming pool complex, dining room and lounge, and related accessory structures, it is considered urban recreation. None of the proposed uses are considered agricultural or are needed for agricultural use of the parcel.

6) Agricultural Preservation and Land Use Policy AG/LU-20. The following standards shall apply to lands designated as Agriculture, Watershed, and Open Space on the Land Use Map of this General Plan. To provide areas where the predominant use is agriculturally oriented; where watersheds are protected and enhanced; where reservoirs, floodplain tributaries, geologic hazards, soil conditions, and other constraints make the land relatively unsuitable for urban development; where urban development would adversely impact all such uses; and where the protection of agriculture, watersheds, and floodplain tributaries from fire, pollution, and erosion is essential to the general health, safety, and welfare. General Uses: Agriculture, processing of agricultural products, single-family dwellings. Minimum Parcel Size: 160 acres, except for certain exceptions. Maximum Building Intensity: One dwelling per parcel except for certain exceptions.

Rationale: The proposed Project includes a golf course, clubhouse, swimming pool complex, dining room and lounge and related accessory structures. These Project features are similar to a highly improved park and considered an urban recreation use. As a result, the proposed Project would result in placement of an urban recreational use on agricultural lands. Urban uses are more appropriately located in urban areas. See also rationale above under Goal AG/LU-1 and Policy AG/LU-3 which are incorporated here by reference.

7) Agricultural Preservation and Land Use Policy AG/LU-22. Urban uses shall be concentrated in the incorporated cities and town and designated urbanized areas of the unincorporated County in order to preserve agriculture and open space, encourage transit-oriented development, conserve energy, and provide for healthy, "walkable" communities.

Rationale: As described herein, the Project is an urban recreational use proposed in Pope Valley which is a rural, remote area of the County. The area with the closest and largest transit services, shopping, banks, commercial, retail and related facilities is approximately seven miles away in the village of Angwin. Given the remote location of the Project, it does not encourage "walkable" communities or transit-oriented development.

8) Agricultural Preservation and Land Use Policy AG/LU-26. The County will discourage proposed urban developments which require urban services outside of existing urbanized areas.

Rationale: The proposed Project is considered an urban recreational use located outside of an urbanized area on agricultural zoned and General Plan designated lands.

9) Agricultural Preservation and Land Use Policy AG/LU-27. For the purposes of this General Plan, the terms "urbanized" or "urbanizing" shall include the subdivision, use, or development of any parcel of land for non-agricultural purposes. Engaging in nature-based recreation or agriculturally compatible uses that are permitted in the applicable zoning district without the issuance of a use permit, such as

development of one single-family house and/or second unit on an existing legal lot, shall not be considered urbanizing.

Rationale: The proposed Project would involve the development and use of agricultural lands for an urban recreational use. See also rationale above under Goal AG/LU-1, Policies AG/LU-4, AG/LU-12 and AG/LU-22 which are incorporated here by reference.

10) Agricultural Preservation and Land Use Policy AG/LU-28. Consistent with the County's longstanding commitment to urban-centered growth, new multi-family housing and other urban uses shall be directed to the incorporated cities and town and urbanized areas of Napa County.

Rationale: The proposed Project would involve the development and use of agricultural lands for an urban recreational use. See also rationale above under Goal AG/LU-1, Policies AG/LU-4, AG/LU-12 and AG/LU-22 which are incorporated here by reference.

11) Agricultural Preservation and Land Use Policy AG/LU-99. Rural Character: The County shall recognize and preserve the rural character of Pope Valley by ensuring that future decisions do not adversely affect the quality of Pope Valley's environment.

Rationale: Pope Valley is a small, remote, rural, agricultural based community. The proposed Project would introduce an "up scale" exclusive private membership recreational use into the rural environment of Pope Valley. The population of Pope Valley was approximately 1,500 people in 2006. Residential development on the 17 adjacent parcels could potentially result in 100 new residents to Pope Valley. While this would represent less than one percent of the County's current population in the unincorporated area, it would reflect a seven percent increase in the population of Pope Valley. Five hundred and fifty private golf members are proposed as part of the Project. The cumulative effect of the proposed Project along with redevelopment of the Aetna Springs Resort could result in an even greater population increase to the area. The additional population and golf visitors will likely generate a demand for increased services that are customarily found in urban areas that support population and visitor needs such as lodging, grocery stores, coffee shops, restaurants and gas stations. All of these Project components and resulting potential impacts could adversely affect the rural quality, historical feel and unique ambiance of Pope Valley.

12) Conservation Element Policy CON-2. The County shall identify, improve, and conserve Napa County's agricultural land through the following measures: a) Limit growth to minimize urban development on agricultural land and reduce conflict with the agricultural operations and economy.

Rationale: The proposed Project would involve the development and use of agricultural lands for an urban recreational use. The use of agricultural lands for a golf course, clubhouse, swimming pool complex, dining room and lounge, and related accessory structures threatens the long term economy of agriculture because it would sanction the use of agricultural lands for a non-agricultural purpose when it is more profitable to do so, when the agricultural lands would not result in a premium crop and when the agricultural lands would be more challenging or difficult to farm.

13) Recreation and Open Space Element Policy ROS-3. Recreational facilities and improvements on open space lands should be the minimum necessary to achieve recreation objectives and be limited in density, intensity, need for public services, impacts on the natural environment, growth inducement, and impacts on neighboring properties. Uses on open space lands shall respect the character of the surrounding area, and shall not contribute to the likelihood that additional nonagricultural uses of agricultural land will be proposed to support or be accessory to the continued existence of the recreational use.

Rationale: In addition to the 18-hole golf course, the proposed Project includes a clubhouse, 125 seat dining room/lounge/deck, golf storage cave, maintenance facility, 150,000 gallon swimming pool complex, pergola, boat dock, and boat storage pavilion all of which contribute to the “up scale”, exclusive ambiance of the Project but are more than the minimum necessary to achieve a golf course.

C) Based on the foregoing reasons and the entire record, the Commission finds the Project inconsistent with the 2008 Napa County General Plan.

SECTION 5. Substantial Evidence.

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

SECTION 6. Final Determinations.

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

- 1) Finds the Project categorically exempt from CEQA;
- 2) Adopts the findings of facts and rationales as set forth in this Resolution; and
- 3) Denies the proposed Project described in the FEIR.

SECTION 7. 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 18th day of March, 2009, by the following vote:

AYES: COMMISSIONERS _____

NOES: COMMISSIONERS _____

ABSTAIN: COMMISSIONERS _____

ABSENT: COMMISSIONERS _____

BOB FIDDAMAN, Chairman

ATTEST: _____
Clerk of the Commission

By: _____

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Laura J. Anderson (by e-signature)</u></p> <p>Date: <u>March 13, 2009</u></p>
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<p>APPROVED BY THE NAPA COUNTY CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION</p> <p>Date: _____</p> <p>Processed by: _____</p> <p>Deputy Clerk of the Commission</p>
