

Exhibit B
CONDITIONS OF APPROVAL
DRINKWARD BEHRENS WINERY
P06-01310
APN: 021-410-019-000

1. SCOPE: The permit shall be limited to:

- a 4,246 square foot two story winery building;
- a 1,841 square foot covered outdoor crush pad; (no outdoor tanks are included)
- one full-time and two part-time employees;
- five parking spaces including one disabled-accessible space;
- widening driveway access to Public Works standards of 18 feet with two foot of shoulders;
- winery wastewater system to include on-site pre-treatment, holding tanks and a drip system; and
- by appointment tours and tastings with a maximum of 10 visitors per day and 21 per week.

The winery shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials and shall comply with all requirements of the Napa County Code. It is the responsibility of the applicant to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and guests of the winery to ensure compliance is achieved.

Any expansion or changes in use shall be by the approved in accordance with Section 18.124.130 of the Napa County Code and may be subject to the Use Permit modification process.

2. MARKETING: Marketing events shall be limited as follows:

- a. Special events per year:
Frequency: 4 times per year
Number of persons: 21 persons maximum
Time of day: 11:00 AM to 10:00 PM
- b. Trade events:
Frequency: ten per year
Number of persons: 21 persons maximum
Time of day: 11:00 AM to 10:00 PM
- c. Harvest event:
Frequency: 1 time per year
Number of persons: 21 persons maximum
Time of day: 11:00 AM to 10:00 PM
- d. Wine Auction related event:
Frequency: 1 time per year
Number of persons: 100 persons maximum
Time of day: 11:00 AM to 10:00 PM

"Marketing of wine" means any activity of a winery identified in this paragraph which is conducted at the winery and is limited to members of the wine trade, persons who have pre-established business or personal relationships with the winery or its owners, or members of a particular group for which the activity is being conducted on a prearranged basis. Marketing of wine is limited to activities for the education and development of the persons or groups listed above with respect to wine which can be sold at the winery on a retail basis, and may include food service without charge except to the extent of cost recovery when provided in association with such education and development, but shall not include cultural and social events unrelated to such education and development. (Ord. 1104 § 11, 1996: Ord. 947 § 9 (part), 1990: prior code § 12071). All activity, including cleanup, shall cease by 10:00 PM. Start and finish time of activities shall be scheduled to minimize vehicles arriving or leaving between 4:00 PM and 5:30 PM.

3. TOURS AND TASTING:

Tours and tasting and retail sales shall be by appointment only for a maximum of 10 persons/day and 21 persons/week and are limited to members of the wine trade, persons who have a pre-established business or personal relationships with the winery or its owners, or members of a particular group for which the activity is being conducted on a pre-arranged basis. Tours and tasting shall complete by 4:00 PM. Retail sale of wines shall complete by 4:30 PM and shall be limited to only those fermented and bottled on-site by the winery operator. A log book (or similar record) shall be maintained which documents the number of visitors to the winery, and the dates of their visit. This record of visitors shall be made available to the Department upon request.

4. GRAPE SOURCES:

At least 75% of the grapes used to make the winery's wine shall be grown within the County of Napa. The permittee shall keep records of annual production documenting the source of grapes to verify that 75% of the production is from Napa County grapes. The report shall recognize the Agriculture Commission's format for County of origin of grapes and juice used in the Winery Production Process. The report shall be provided to the Conservation, Development and Planning Department upon request, but shall be considered proprietary information not available to the public.

5. SIGNS

Prior to installation of any winery identification or directional signs, detailed plans, including elevations, materials, color, and lighting, shall be submitted to the Conservation, Development and Planning Department for Comprehensive Sign Plan review and approval. All signs must meet the design standards included in Chapter 18.116 of the County Code. No internal lighting is allowed.

6. GATES/ENTRY STRUCTURES

Any gate installed at the winery entrance shall be reviewed by the Planning and Public Works Departments and the Napa County Fire Department to assure that it is designed to allow a large vehicles such as motorhomes to turn around if the gate is closed without

backing into the public roadway and that fire suppression access is available at all times. If the gate is part of an entry structure an additional permit shall be required according to the County Code.

7. LIGHTING

All exterior lighting, including landscape lighting, shall be shielded and directed downward, shall be located as low to the ground as possible, and shall be the minimum necessary for security, safety, or operations and shall incorporate the use of motion detection sensors to the greatest extent practical. No flood lighting or sodium lighting of the building is permitted, included architectural highlighting and spotting. Low-level lighting shall be utilized in parking areas as opposed to elevated high-intensity light standards. Prior to issuance of any building permit for construction of the winery, two (2) copies of a detailed lighting plan showing the location and specifications for all lighting fixtures to be installed on the property shall be submitted for Department review and approval. All lighting shall comply with Uniform Building Code (UBC).

8. LANDSCAPING/PARKING:

Two (2) copies of a detailed landscaping plan, including parking details, shall be submitted for review and approval prior to issuance of building permits. The plan shall indicate the names and locations of all plant materials to be used along with the method of maintenance. **Plant materials shall be purchased locally when practical. The Agricultural Commissioner's office (707-253-4357) shall be notified of all impending deliveries of live plants with points of origin outside of Napa County.**

The location of employee and visitor parking and truck loading zone areas shall be identified along with proposed circulation and traffic control signage (if any). Landscaping and parking shall be completed prior to occupancy, and shall be permanently maintained in accordance with the landscaping plan.

No trees greater than 6" DBH shall be removed, except for those identified on the submitted site plan. Any trees that are removed shall be replaced elsewhere on the property on a 2 for 1 basis of equivalent caliper. Replaced trees shall be identified on the landscaping plan. **Trees to be retained shall be protected during construction.**

Parking shall be limited to approved parking spaces only and shall not occur along access roads or in other locations. In no case shall parking impede emergency vehicle access or public roads. If any event is held which will exceed the available on-site parking, the applicant shall arrange for off-site parking and shuttle service to the winery.

9. OUTDOOR STORAGE/SCREENING/UTILITIES

All outdoor storage of winery equipment and all wastewater tanks shall be permanently screened from the view of adjacent properties by a visual barrier consisting of dense landscaping and slatted chained link fencing. No item in storage is to exceed the height of the screening. Water and fuel tanks, and similar structures, shall be screened to the extent practical so as to not be visible from public roads and adjacent parcels and are subject to the review and approval of the Planning Department.

10. RENTAL/LEASING

No winery facilities, nor portions of thereof, including but not limited to offices, kitchens, barrels storage areas, and warehousing space, shall be rented, leased, nor used the entities other than persons producing and .or storing wine at the on-site winery, except as may be specifically authorized in this use permit or pursuant to the Temporary Events Ordinance (Chapter 5.36).

11. COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES:

The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Departments and Agencies, including but not limited to:

Department of Environmental Management as stated in their letter of October 20, 2008;
Department of Public Works as stated in their letter of September 17, 2008;
County Fire Department as stated in their letter of October 3, 2006;
Building Inspection Division as stated in their letter of July 1, 2008.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Departments and Agencies shall be determined by those Departments or Agencies. The inability to substantially comply with the requirements of other County Departments and Agencies may result in the need to modify the approved use permit.

12. GRADING AND SPOILS:

All spoils generated by construction of the project facilities shall be disposed of per Public Works direction. All spoils piles shall be stored on slopes less than 5% and outside any required stream setbacks. All spoils piles shall be removed prior to occupancy.

13. WELLS

The permittee may be required (at the permittee's expense) to provide well monitoring data if it the Director of Environmental Management determines that water usage at the winery is affecting, or would potentially affect groundwater supplies or nearby wells. Data requested could include, but may not be limited to, water extraction volumes and static well levels. If applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gage potential impacts on the groundwater resource utilized for the project proposed. Water usage shall be minimized by use of best available control technology and best water management conservation practices. In the event that changed circumstances or significant new information provide substantial evidence that the groundwater system referenced in the use permit would significantly affect the groundwater basin, the director of environmental management shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to meet the requirements of the Napa County Groundwater Ordinance and protect public health, safety, and welfare. That recommendation shall not become final unless and until the director has provided notice and the opportunity for hearing in compliance with the county code section 13.15.070.G-K.

14. NOISE

Construction noise shall be minimized to the maximum extent practical and allowable under State and local safety laws. Construction equipment muffling and hours of operation shall be in compliance with County Code Chapter 8.16. Equipment shall be shut down when not in use. Construction equipment shall normally be staged, loaded, and unloaded on the project site. If project terrain or access road conditions require construction equipment to be staged, loaded, or unloaded off the project site (such as on a neighboring road or at the base of a hill), such activities shall only occur between the hours of 8 AM to 5 PM.

Exterior winery equipment shall be enclosed or muffled and maintained so as not to create a noise disturbance in accordance with the Code.

There shall be no amplified sound system or amplified music utilized outside of approved, enclosed, winery buildings.

15. COLORS:

The colors used for the roof, exterior walls and built landscaping features of the winery shall be limited to earth tones that will blend the facility into the colors of the surrounding vegetation and shall be reviewed and approved by the Department prior to the issuance of any building permits. Highly reflective surfaces shall be prohibited.

16. DUST CONTROL:

Water and/or dust palliatives shall be applied in sufficient quantities during grading and other ground disturbing activities on-site to minimize the amount of dust produced. Construction activities shall not occur during windy periods.

17. ARCHEOLOGICAL

In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The Department will be contacted for further guidance, which will likely include the requirement for the applicant to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during the development, all work in the vicinity must be, by law, halted, and the Napa County Coroner informed, so that he can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the nearest tribal relatives as determined by the State Native American Heritage Commission would be contacted to obtain recommendations for treating or removal of such remains, including grave goods, with appropriate dignity, as required under Public Resources Code Section 5097.98.

18. TRAFFIC

Reoccurring and scheduled vehicle trips to and from the site for employees, and deliveries will not occur during peak (4:00 PM – 6:00 PM) travel times to the maximum extent possible. All road improvements on private property required per the Department of Public Works shall be maintained in good working condition.

19. ADDRESSING

All project site addresses shall be determined by the Conservation, Development and Planning Director, and reviewed and approved by the U.S. Post Office, prior to issuance of any building permit. The Conservation, Development and Planning Director reserves the right to issue or re-issue an appropriate situs address at the time of issuance of any building permit to ensure proper identification and sequencing of numbers. For multi-tenant or multiple structure projects, this includes building permits for later building modification or tenant improvements.

20. STORM WATER CONTROL

For any construction activity that results in disturbance of greater than one acre of total land area, the permittee shall file a Notice of Intent with the California Regional Water Quality Control Board (SRWQCB) prior to any grading or construction activity. All hazardous materials stored and used on-site that could cause water pollution (e.g. motor oil, cleaning chemicals, paints, etc.) shall be stored and used in a manner that will not cause pollution, with secondary containment provided. Such storage areas shall be regularly cleaned to remove litter and debris. Any spills shall be promptly cleaned up and appropriate authorities notified. Parking lots shall be designed to drain through grassy swales, buffer strips, or sand filters prior to any discharge from the impervious surface into a watercourse. If any discharge of concentrated surface waters is proposed in the any "Waters of the State," the permittee shall consult with and secure any necessary permits from the State Regional Water Quality Control Board. All trash enclosures must be covered and protected from rain, roof, and surface drainage.

21. INDEMNIFICATION

An indemnification agreement, in the form attached hereto, shall be signed and returned to the County within twenty (20) days of the granting of this approval.

22. MITIGATION MEASURES

The permittee shall comply with all mitigation measures identified in the adopted Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project.

23. AFFORDABLE HOUSING MITIGATION

Prior to County issuance of a building permit, the applicant shall pay the Napa County Affordable Housing Mitigation Fee in accordance with the requirement of County Code Chapter 15.60 or as may be amended by the Board of Supervisors.

24. MONITORING COSTS

All staff costs associated with monitoring compliance with these conditions, previous permit conditions and project revisions shall be borne by the permittee and/or property owner. Costs associated with conditions and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged. Costs shall be as established by Board Resolution in accordance with the hourly consulting rate established at the time of the monitoring (\$145.44/hour as of July, 2007). Violations of conditions of approval or mitigations measures caused by the permittee's contractors, employees, and guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of compliance deficiencies is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the program at the applicant's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if it is so warranted, to commence revocation hearings in accordance with section 18.124.120 of the County Code.

25. TEMPORARY AND FINAL OCCUPANCY:

All project improvements, including compliance with all applicable codes, conditions and requirements from all departments and agencies with jurisdiction over the project, shall be completed prior to granting of a Certificate of Final Occupancy by the County Building Official, which, upon granting, authorizes all use permit activities to commence. The County Building Official is authorized to grant a Temporary Certificate of Occupancy to allow specified limited use of the project, such as commencement of production activities, prior to completion of all project improvements. In special circumstances, departments and/or agencies with jurisdiction over the project are authorized as part of the Temporary Certificate of Occupancy process to require a security deposit or other financial instrument to guarantee completion of unfinished improvements.

PROJECT REVISION STATEMENT
(ENVIRONMENTAL REVIEW)

Drinkward Behrens Winery
Use Permit P06-001310-UP
3524 Silverado Trail North, St. Helena, CA 94574, APN: 021-410-019

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OCT 29 2008

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT

I hereby revise my project to include the mitigation measures specified below:

CULTURAL RESOURCES

1. The permittee shall either:
 - a. Engage a qualified project archeologist (see *Napa County Guidelines for Preparing Cultural Resource Surveys- Persons Qualified to Prepare*, March 2002) to personally monitor all excavation or below grade construction associated with this project. The permittee's contract with the project archeologist shall reflect the terms of this mitigation measure and shall be submitted for the review and approval of the Planning Director or her designee (hereinafter "Planning Director") prior to issuance of a building permit, any other development permit, or any earthmoving associated with this project.
 - b. Or, stake out and surround, with temporary construction fencing, the areas found requiring protection in the archeological survey dated December 20, 2007 and engage a project archeologist to periodically monitor the sites to make certain no disturbance take place.
2. Should concentrated artifactual materials (including, but not necessarily limited to, obsidian, chert, basaltic flakes and artifacts, grinding tools such as mortars and pestles, and/or human graves) be uncovered at any point, all work shall be stopped within 35 feet of the discovery. Said work shall remain stopped until the project archeologist has formally evaluated the find, developed any mitigation measures needed, prepared a report of findings, filed a report with the Napa County Department of Conservation, Development & Planning, and the report has been reviewed and approved by the Planning Director. Recommended mitigation measures as approved and required by the Planning Director shall be implemented to her satisfaction by the permittee as well as their agents, employees, and contractors.
3. All contractors doing work on this project shall be informed of, and bound contractually to honor, the requirement to stop work immediately if artifactual materials (as described at Mitigation Measure 2, above) are encountered.
4. Prior to any certificate of occupancy, and whether the approach described at Mitigation Measure 1a or 1b is pursued, the project archeologist shall submit a final report of finds, mitigation measures, and mitigation measure compliance for the review and approval of the Planning Director.
5. Should any human remains be discovered during or as a result of work associated with this project, all legal requirements relating to the discovery of human remains shall be complied with including, without limitation, California Public Resources Code §5097.98 et seq.

BIOLOGICAL RESOURCES

6. The permittee shall:

Implement the following elements to avoid disturbance to the nesting sites of special-status raptors during the breeding season: For ground disturbing activities occurring during the breeding season (May 1 through July 31), a qualified wildlife biologist shall conduct preconstruction surveys of all potential raptor breeding habitat within 200 feet of grading of all ground disturbing activities. The survey results shall be provided to the Napa County Conservation Development and Planning Department. If active nesting sites are identified during preconstruction surveys, a no-disturbance buffer acceptable in size to California Department of Fish and Game (CDFG) would be created around active raptor nesting sites during the breeding season. If preconstruction surveys indicate that nesting sites are inactive or potential habitat is unoccupied during the earthmoving period, no further mitigation shall be required. This buffer may be modified in coordination with CDFG.

7. To minimize any damage to the existing oak trees to be retained, engage a qualified arborist to conduct and/or oversee trenching for the installation of the drip distribution system using an air excavator or air knife. Before issuance of any permits to commence construction of the project, the permittee shall submit a plan showing the location of all drip lines, stamped and reviewed by a certified arborist. A certified arborist will be present to inspect the construction and installation of the drip lines. Before final occupancy is granted the certified arborist will provide to Napa County Planning Department a letter describing the installation of the drip lines and that this installation was conducted in a manner to maintain a non-intrusive level of disturbance to root systems of trees to be retained.
8. All contractors doing work on this project shall be informed of, and bound contractually to honor, the requirement to stop work immediately if active raptor nesting sites (as described at Mitigation Measure 6, above) are encountered.
9. Prior to any certificate of occupancy, the project biologist shall submit a final report of finds, mitigation measures, and mitigation measure compliance for the review and approval of the Planning Director.
10. By signing this project revision statement, the applicant acknowledges that in the event that the project results in the discovery of active raptor nesting sites, there is a possibility that the project will have to be revised in order to mitigate potentially significant environmental impacts. Such revisions could be substantial and would likely require a use permit modification.

I understand and explicitly agree that with regards to all California Environmental Quality Act, Permit Streamlining Act, and Subdivision Map Act processing deadlines, this revised application will be treated as a new project, filed on the date this project revision statement is received by the Napa County Conservation, Development and Planning Department. For purposes of Section 66474.2 of the Subdivision Map Act, the date of application completeness shall remain the date this project was originally found complete.



Signature of Owner(s)

LES BEARENS

Print Name

OWNER

Interest

MITIGATION MONITORING AND REPORTING PROGRAM
DRINKWARD BEHRENS WINERY / LES BEHRENS #P06-01310-UP (APN 021-410-019)

Mitigation Measure Biological Resources (Section IV)	Monitoring Responsibility	Monitoring/Reporting Action and Schedule	Monitoring Compliance Complete (Name / Date)
1. The project sponsor shall have a certified biologist conduct a survey prior to any construction activities on the site. In the event any special status raptor species are found to occur on-site a 500 foot no-disturbance buffer approved by the California Department of Fish and Game shall be established around active raptor roosts during the breeding season. -- To minimize any damage to the existing oak trees to be retained, engage a qualified arborist to oversee trenching for the installation of the drip distribution system using an air excavator or air knife as described above. A certified arborist will be present to inspect the construction and installation of the drip lines.	Applicant/Planning Department	a. The Biologist's survey results shall be provided to the Napa County Conservation Development and Planning Department. a. Before issuance of any permits to commence earthmoving or construction of the project, the permittee shall submit a plan showing the location of all drip lines, stamped and reviewed by a certified arborist. b. Before final occupancy is granted the certified arborist will provide to Napa County Planning Department a letter describing the installation of the drip lines and that this installation was conducted in a manner to maintain a non-intrusive level of disturbance to root systems of trees to be retained.	
Cultural Resources (Section V)			
1. Engage a qualified project archeologist to personally monitor all excavation or below grade construction associated with this project; or: stake out and surround, with temporary construction fencing, the areas found requiring protection in the archeological survey dated December 20, 2007 and engage a project archeologist to periodically monitor the sites to make certain no disturbance take place.	Applicant/Planning Department	a. The permittee's contract with the project archeologist shall reflect the terms of this mitigation measure and shall be submitted for the review and approval of the Planning Director or her designee prior to issuance of a building permit, any other development permit, or any earthmoving associated with this project. b. Prior to any certificate of occupancy, the project archeologist shall submit a final report of finds and mitigation measure compliance for the review and approval of the Planning Director.	

Behrens MMRP

Archaeological Services, Inc.

9467 Chippewa Trail • Kelseyville, CA 95451
(707) 277-9533 • Fax (707) 277-7790

*CONF PAGE
OK*

CULTURAL RESOURCE RECONNAISSANCE OF 16.8+/- ACRES NEAR ST. HELENA, NAPA COUNTY, CALIFORNIA (APN 021-410-019)

By
Jay M. Flaherty
December 20, 2007

Prepared for
Mr. Jon M. Webb
Albion Surveys, Inc.
1113 Hunt Avenue
St. Helena, CA 94574

RESULTS: Positive

ACRES: 16.8 Acres

SITES: Three: Two Historic, One Prehistoric

LEAD AGENCYS: Napa County Conservation, Development and Planning
Department

CONTACT PERSON:

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NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.



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**Biological Resource Reconnaissance Survey
DRINKWARD BEHRENS WINERY
3524 SILVERADO TRAIL
APN 021-410-019
Napa County**

PROJECT NAME:

DRINKWARD BEHRENS WINERY
3524 Silverado Trail
APN 021-410-019 Development

PROJECT PLAN:

Jon M. Webb
Albion Surveys, Inc.
Consulting Land Surveyors
1113 Hunt Avenue
St. Helena, CA 94574

REPORT PREPARED BY:

Kjeldsen Biological Consulting
923 St. Helena Ave.
Santa Rosa, CA 95404
(707) 544-3091
Fax:(707) 575-8030
kjeldsen@sonic.net

PERIOD OF STUDY:

June 26, 2007

PACIFIC TREE CARE

Joseph A. Schneider Certified Arborist WAE-0156
Jacob S. Schneider Certified Arborist WAE-3478

June 30, 2008

COVER PAGE
ONLY

Jon Webb
Albion Surveyors
1113 Hunt Avenue
St. Helena, CA 94574

RE: Les Behrens Winery, 3524 Silverado Trail, APN 012-410-019

Dear Mr. Webb,

On Thursday the 12th of June, we met to review the site where a grey water distribution system is to be installed throughout the forest. As indicated on the plans which you had supplied to me at that time, the system is to engage approximately four acres of land. It is my understanding that the process of distribution will occur through a drip system, installed slightly below the soil surface.

You voiced concerns about the impact that the distribution system will have on existing native trees. The site is slightly sloped and has a southwesterly exposure. The majority of trees onsite are of coniferous specie, including Ponderosa Pine (*Pinus ponderosa*), Douglas Fir (*Pseudotsuga douglasii*), and a much less populus specie of Foothill Pine (*Pinus sabiniana*). In amongst the conifers there also exist certain hardwoods with the dominate species being Black Oak (*Quercus kelloggii*) and Coast Live Oak (*Quercus agrifolia*). The understory plants consists mostly of Manzanita (*Arctostaphylos manzanita*).

The previously mentioned tree species are less sensitive to the presence of moisture in the native soils for extended periods of time, but Manzanita is quite sensitive to *phytophthora cinimonii* a native soil pathogen. *Phytophthora cinimonii*