

SMALL WINERY USE PERMIT EXEMPTION NO.: \_\_\_\_\_

FINDINGS

ASSESSOR'S PARCEL NO. (S): 020 430 07 00

THIS APPLICATION DOES QUALIFY FOR A SMALL WINERY USE PERMIT EXEMPTION  
~~does/does not~~

BY: Timothy E. Crundall  
Conservation, Development and  
Department

DATE: January 15, 1985.

☐ *Failure to active this application within one year of the Planning Department determination shall invalidate this application and a new application will be required.*

cc: BUILDING INSPECTION DEPARTMENT

NAPA COUNTY  
CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT  
1195 Third Street, Room 210  
Napa, California 94559  
(707) 253-4416



File No.: \_\_\_\_\_

NAPA COUNTY  
CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT  
1195 Third Street, Room 210 . Napa, California 94559 . (707) 253-4416

APPLICATION FOR  
SMALL WINERY USE PERMIT EXEMPTION  
Please fill in all appropriate information  
Items in ( ) are County Requirements for Use Permit Exemption

Proposed Winery Name: La Perlita Del Monte Assessor's Parcel No.: 020-430-07-00

Applicant's Name: Richard L Graeser Telephone No.: 942 4437

Address: 255 Petrified Forest Rd Calistoga Calif 94515  
No. Street City State Zip Code

Status of Applicant's Interest in Property: co owner by right of inheritance

Property Owner's Name: Estates of James B & Elizabeth B Graeser

Address: 255 Petrified Forest Rd Calistoga Ca Telephone No.: 942-4437  
No. Street City State

I. Operating Features: (Check the appropriate spaces)

☒ CRUSHING ☒ FERMENTATION ☒ STORAGE/AGING ☒ BOTTLING/PACKING

☒ SHIPPING VIA: TRUCK; ☒ ADMINISTRATIVE: (NO) TOURS/PUBLIC TASTING

OTHER: \_\_\_\_\_

GALLONS OF WINE TO BE PRODUCED: INITIAL OR CURRENT PRODUCTION 2000 GAL/YEAR  
(NOT TO EXCEED 20,000 GAL.)

ULTIMATE PRODUCTION CAPACITY 20000 GAL/YEAR

HOURS OF OPERATION 7:30 A.M. TO 5:30 P.M. DAYS OF OPERATION 7 DAYS.

NUMBER OF SHIFTS: 1 EMPLOYEES PER SHIFT: 1 FULL TIME 1 PART TIME 1  
(Currently) (Currently)

NUMBER OF SHIFTS: 1 TOTAL EMPLOYEES PER SHIFTS: 1 FULL TIME 1 PART TIME 1  
(Proposed) (Proposed)

NO. VISITORS ANTICIPATED: 0 PER DAY 0 PER WEEK 0

FOR COUNTY USE ONLY	
YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Napa County Conservation,  
Development & Planning Department

FOR COUNTY  
USE ONLY

YES NO

2. Building Features: (Wood, stucco or rock facing required on any non-historic structures).

FLOOR AREA: EXISTING STRUCTURES <sup>2,208</sup> 2,208 SQ. FT. NEW CONSTRUCTION N/A SQ. FT.

TYPE OF CONSTRUCTION: Wood frame

TYPE OF EXTERIOR WALL FACING: wood boards

TYPE OF ROOF: ASPHALT SHINGLES

MAX. HEIGHT (FT.): EXISTING STRUCTURES 18' PROPOSED STRUCTURES N/A  
(Height 35')

COMPLIANCE WITH THE U.S. SECRETARY OF INTERIOR'S  
"STANDARDS FOR REHABILITATION" AND ASSOCIATED  
"GUIDELINES FOR REHABILITATING HISTORIC STRUCTURES" NA ☒ YES ☐ NO ☐

EXISTING STRUCTURES OR IMPROVEMENTS TO BE REMOVED: 0

TYPE OF SHIELDS TO BE INSTALLED  
ON EXTERIOR LIGHTS: LIGHTS SHIELDED BY EXISTING TREES.

WIDTH OF FIRE CLEAR ZONE AROUND WINERY TO BE MAINTAINED:  
(Not less than 100 ft. is located with County designated high fire risk  
area). 100 FT.

METHOD OF DOMESTIC WASTE DISPOSAL: SEPTIC SYSTEM

METHOD OF INDUSTRIAL WASTE DISPOSAL: SEPTIC SYSTEM

3. Site Characteristics:

PARCEL ACREAGE: (Not less than 4 AC.) 45.83 ACRES

ZONING DISTRICT INVOLVED: (AW, AP, and WR ONLY) AW

WINERY COMPLEX SETBACK FROM CENTERLINE OF NEAREST PUBLIC ROAD:  
(Not less than 400 ft. Silverado Trail and State Highways or  
200 ft. other public roads). 600 FT.

ROAD FRONTAGE SEPARATION BETWEEN PROPOSED WINERY:  
(Not less than 2,000 ft. with 1,000 ft. corridor). 3,000+ FT.

DISTANCE BETWEEN PROPOSED WINERY & NEAREST OFF-SITE RESIDENCE:  
(Not less than 500 ft.) 600+ FT.

MINIMUM DISTANCE BETWEEN THE PROPOSED WINERY COMPLEX INCLUDING  
SEWAGE SYSTEM AND ACCESS ROAD AND THE TOP OF THE BANK OF THE  
ORDINARY HIGH WATER CHANNEL OF THE NEAREST RIVER OR STREAM  
NOT COVERED BY COUNTY FLOOD PLAIN MANAGEMENT ORDINANCE.  
(Not less than 50 ft.) 100+ FT.

NAME OF NEAREST RIVER OR STREAM: UNNAMED

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FOR COUNTY  
USE ONLY

YES NO

4. Access and Parking:

PUBLIC ROAD FOR ACCESS TO WINERY: Petrified Forest Rd.

(Small wineries requiring access by means of the following roadways shall not be eligible for use permit exemption.

(1) State Highway Route 29 between Yountville and St. Helena (Lodi Lane) and all dead-end roads extending from that section of highway;

(2) State Highway 121 west of the City of Napa;

(3) American Canyon Road west of Flosden Road;

(4) Flosden Road).

PARKING SPACES: EXISTING SPACES:

6

PROPOSED SPACES:

6

5. Building Site Requirements:

MONTH DURING WHICH WINERY CONSTRUCTION RELATED GROUND DISTURBING ACTIVITIES WILL OCCUR:

(April through October ONLY unless catch basin installed).

June to August  
~~NO NEW CONSTRUCTION~~

NUMBER OF DEBRIS CATCH BASINS TO BE INSTALLED:

N/A

TYPE OF EROSION CONTROL MEASURES INSTALLED TO DISCHARGE ALL CONCENTRATED RUN-OFF AT NON-EROSIVE VELOCITIES:

N/A

TYPE OF GRASS MIXTURE TO BE USED IN AREAS DISTURBED BY WINERY CONSTRUCTION:

dwarf barley

DATE BY WHICH DISTURBED AREAS WILL BE RESEED:

September

6. Landscaping Requirements:

a. INDICATE ON THE PLOT PLAN THE NAMES AND LOCATIONS OF THE PLANT MATERIALS TO BE PLANTED TO SCREEN WINERY STRUCTURES, PARKING LOTS, AND OUTDOOR WORK AND STORAGE AREAS FROM VIEW FROM SURROUNDING PROPERTIES AND ROADWAYS.

b. PROPOSED METHOD OF LANDSCAPE MAINTENANCE: VINEYARD &

EXISTING TREES.

NAPA COUNTY  
USE ONLY

YES NO

7. Environmental Considerations:

1. DOES THE PROPOSED SMALL WINERY BUILDING OR RELATED FACILITIES LIE WITHIN AN "ENVIRONMENTALLY SENSITIVE AREA":

No a. A DESIGNATED FLOODWAY

No b. A RECOGNIZED ACTIVE EARTHQUAKE FAULT ZONE

No c. AN AREA THREATENED BY LANDSLIDES *\*(questionable landslide noted below structures - existing structures; no changes)\**

No d. THE EXTENDED CLEAR ZONE OF A HELIPORT OR AIRPORT

No e. AN ARCHAEOLOGICALLY SENSITIVE AREA

No f. THE HABITAT AREA OF A RARE AND/OR ENDANGERED PLANT OR ANIMAL

2. DOES THE PROPOSED SMALL WINERY LIE WITHIN:

No a. A HIGH FIRE RISK HAZARD AREA

*(none)*

No b. A RECOGNIZED HISTORIC STRUCTURE

I CERTIFY THAT THE ABOVE STATEMENTS ARE CORRECT AND THAT THE PLANS SUBMITTED ARE ACCURATE:

*Richard L. Grauer*

SIGNATURE OF APPLICANT

*Richard L. Grauer*

*co. executor*

*James B. Grauer Jr.*

SIGNATURE OF PROPERTY OWNER  
(if different from applicant)

*12/31*

DATE

*1984*

*12/31*

DATE

*1984*

FOR COUNTY USE ONLY

DATE FILED: Jan. 2, 1985 ACCEPTABLE PLOT PLAN SUBMITTED: ✓ YES     NO

FILE NO:                      TOPOGRAPHIC SITE LOCATION MAP SUBMITTED: ✓ YES     NO

RECEIVED BY: T. E. Crundall



# COUNTY of NAPA

OFFICE OF CONSERVATION, DEVELOPMENT & PLANNING

PLANNING DIVISION

HILLARY GITELMAN  
Director

PATRICK LYNCH, AICP  
Assistant Director

STEVE LEDERER  
Deputy Director

JOHN MCDOWELL  
Project Manager

ROBERT NELSON  
Supervisor

HEATHER  
MCCOLLISTER  
Principal Planner

SEAN TRIPPI  
Principal Planner

BARBARA ABATE  
Planner

TRISH HORNISHER  
Planner

NAOMI BEATTIE  
Planner

NANCY JOHNSON  
Planner

SUZIE GAMBILL  
Planning Technician

C. RENEE' LEDERER  
Planning Administrative  
Specialist

August 2, 2006

Richard Graeser  
255 Petrified Forest Rd  
Calistoga, CA 94515

RE: GRAESER WINERY Use Permit Modification #P06-0132-UP  
APN: 020-430-007

Dear Mr. Graeser:

Please be advised that the above-referenced **Use Permit** was **APPROVED** by the Napa County, Development & Planning Commission on August 2, 2006, based on the attached conditions, the Napa County departments' comments, and applicable County regulations. The permit becomes effective on August 16, 2006, if not appealed pursuant to Napa County Code Chapter 2.88.

**EXPIRATION DATE: August 2, 2008**

*Pursuant to Section 18.124.080 of the Napa County Code, the use permit must be activated within two (2) years from the approval date, or it shall automatically expire and become void. This letter serves as the only notice you will receive regarding the expiration date of your permit.*

Very truly yours,

John McDowell  
Acting Deputy Planning Director

cc. John Tuteur, Assessor  
Gary Brewen, Building Codes Administrator  
Larry Bogner, DPW  
Christine Secheli, DEM

1195 THIRD STREET  
SUITE 210

NAPA, CALIFORNIA  
94559

TELEPHONE:  
707-253-4417

FAX:  
707-253-4336

WWW.CO.NAPA.CA.US

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**NAPA COUNTY CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT  
CONSERVATION & DEVELOPMENT PLANNING COMMISSION**

**CONDITIONS OF APPROVAL  
USE PERMIT GRAESER WINERY FILE #P06-0132-UP  
APN: 020-430-007**

1. **SCOPE:** The permit shall be limited to a modification of the operations of an existing 20,000 gallon/year winery to add the following:
  - A. Tours and Tasting by appointment only, 18 visitors/day, average 60/week.;
  - B. Marketing Plan to include: three private events with a maximum 40 persons/per event; one annual open house for a maximum 100 persons; and one wine auction event for a maximum 25 guests.
  - C. Improvements to the project access road (widening and paving) and parking area.
  - D. Replacement of existing winery sign, 24 sq. ft. maximum area, 4 feet above the centerline of Petrified Forest Road.
  - E. No changes to the winery operations or historic buildings.

The winery sign shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials. 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 Use Permit modification process.

2. **MARKETING:** Marketing events shall be limited as follows:
  - a. Private Promotional Event

Frequency:	3 times per year
Number of persons/event:	40 maximum
Time of Day:	11:00 AM to 10:00 PM
  - b. Annual Open House

Frequency:	One (1) time per year
Number of persons/event:	100 maximum
Time of Day:	11:00 AM to 10:00 PM
  - c. Napa Valley Wine Auction

Frequency:	One (1) time per year
Number of persons/event:	25 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 tastings are limited to a maximum of 18 persons/day with an average of 60 persons/week. "Tours and tastings" means tours of the winery and/or tastings of wine, where such tours and tastings are limited to members of the wine trade, persons invited by a winery who have pre-established business or personal relationships with the winery or its owners, and persons who have made unsolicited prior appointments for tours or tastings. (Ord. 947 § 9 (part), 1990: prior code § 12070). Tours and tasting shall complete by 4:00 PM. Retail sale of wines shall complete by 4:30 PM and shall be limited to those wines set forth in Napa County Code Sec. 18.16.030(G)(5)(c). 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. SIGNS:**

All signs shall meet the design standards as set forth on Section 18.116 of the County Code. At least one sign placed and sized in a manner to inform the public must legibly include wording stating "Tours and Tasting by Prior Appointment Only".

**5. 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 motor homes 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.

**6. 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, including 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 separate 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.

**7. RENTAL/LEASING:**

No winery facilities, nor portions thereof, including but not limited to offices, kitchens, barrel storage areas, and warehousing space, shall be rented, leased, nor used by entities other than the on-site winery itself, except for custom crush operations, or, as may be specifically authorized in this use permit or pursuant to the Temporary Events Ordinance (Section 5.36.010)

**8. 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 June 26, 2006
- Department of Public Works as stated in their letter of May 9, 2006
- County Fire Department as stated in their letter of April 21, 2006;
- Building Division as stated in their memo received April, 2006.

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.

**9. SPOILS:**

All spoils generated by construction of the project facilities, including cave spoils, shall be disposed of per Public Works direction. All spoils piles shall be removed prior to occupancy.

**10. 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.

**11. 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 Section 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 condition 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.

**12. 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.

**13. ARCHEOLOGICAL FINDING:**

The permittee shall comply with the mitigation measure #1 as stated in the Mitigated Negative Declaration regarding potential archaeological impacts. 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.

**14. TRAFFIC**

Reoccurring and scheduled vehicle trips to and from the site for employees, deliveries, and visitors will not occur during peak (4-6 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.

**15. STORM WATER CONTROL**

For any construction activity that results in disturbance of greater than one acre of total land area, 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.

**16. 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.

**17. 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 (\$125.00/hour as of July, 2006). 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.

**18. MITIGATION MONITORING**

The permittee shall comply with all of the mitigation measures described in the Mitigated Negative Declaration prepared for this project and the accompanying mitigation monitoring and reporting program.



A Tradition of Stewardship  
A Commitment to Service

**Conservation Development and Planning**

1195 Third Street, Suite 210  
Napa, CA 94559  
www.co.napa.ca.us

Main: (707) 253-4417  
Fax: (707) 253-4336

**Hillary Gitelman**  
Director

August 8, 2011

Mike Burwell  
c/o Diamond Heights Winery LLC  
900 Veterans Blvd., Suite 500  
Redwood City, CA 94063

**Re: Use Permit: #P10-00400-UP**  
**Diamond Heights Winery**  
**255 Petrified Forest Rd**  
**Calistoga, CA 94515**  
**APN: 020-430-007-000**

Dear Mr. Burwell:

Please be advised that Use Permit Application #P10-00400-UP was **APPROVED** by the Napa County Planning Commission, on July 6, 2011 to include the following:

- 1) Convert an existing 20,000 gallon per year Small Winery Exemption with no visitation or marketing events to a 20,000 gallon per year winery with visitation and marketing;
- 2) Recognize and upgrade existing improvements including: an outdoor covered crushpad (1,692 sq. ft.), tank pad (735 sq. ft.), winery production area (6,719 sq. ft.) and indoor accessory areas (2,709 sq. ft.) totaling approximately 11,855 square feet of area;
- 3) Increase employees from 1 full-time and 1 part-time to 4 full-time and 2 part-time;
- 4) Increase parking from 8 spaces to 15 spaces;
- 5) Establish by-appointment tours and tastings to a maximum of 15 per day;
- 6) Establish a marketing plan with three events per year for a maximum of 40 guests at each event and one event per year for a maximum of 100 guests;
- 7) Expand the existing subsurface drip winery wastewater system; and,
- 8) Widen the existing access drive to 20 feet.

The approval is subject to the attached conditions of approval, attached Napa County departmental comments and all applicable Napa County regulations.

This permit becomes effective immediately unless an appeal is filed with the Napa County Board of Supervisors pursuant to Chapter 2.88 of the Napa County Code, including payment of applicable fees. You have the right to appeal the conditions of approval and you will be notified should an appeal be filed by another.

**NAPA COUNTY  
CONSERVATION, DEVELOPMENT & PLANNING DEPARTMENT**

**CONDITIONS OF APPROVAL**

**Diamond Height Winery Use Permit  
(APN: #020-430-007-000; File # P10-00400-UP)**

Pursuant to Section 18.124.080 of the Napa County Code, this use permit must be activated within two (2) years from the approval date, or it shall automatically expire and become void. This letter serves as the only notice you will receive regarding the expiration date of your minor modification permit.

**EXPIRATION DATE: July 7, 2013**

*You are hereby further notified, pursuant to Government Code Sec.66020 (d)(1), that the 90-day period, in which you would have to protest imposition of any fees, dedications, reservations, or other exactions that may have been attached as conditions of approval, has begun.*

Should you have any questions, please contact Linda St. Claire, Project Planner at: (707) 299-1348 or e-mail at: [Linda.StClaire@countyofnapa.org](mailto:Linda.StClaire@countyofnapa.org).

Sincerely,

Linda St. Claire  
Planner II

cc: Application File  
Rick Swinth, Project Consultant  
Gregory Sterling, Receiver  
Napa County Assessor  
Chron File

**NAPA COUNTY  
CONSERVATION, DEVELOPMENT & PLANNING DEPARTMENT**

**CONDITIONS OF APPROVAL**

**Diamond Height Winery Use Permit  
(APN: #020-430-007-000; File # P10-00400-UP)**

**1. SCOPE:** This approval shall be limited to approval of a use permit to allow the following:

- no change in the 20,000 gallon per year production;
- recognize and upgrade existing improvements including: an outdoor covered crushpad (1,692 sq. ft.), tank pad (735 sq. ft.), winery production areas (6,719 sq. ft.) and indoor accessory areas (2,709 sq. ft.) totaling approximately 11,855 square feet of area;
- increase employees from 1 full-time and 1 part-time to 4 full-time and 2 part-time;
- increase parking from 8 spaces to 15 spaces;
- establish by-appointment tours and tastings to a maximum of 15 per day;
- establish hours of operation of 10:00 am to 4:00 pm;
- establish a marketing plan with three events per year for a maximum of 40 guests at each event and one event per year for a maximum of 100 guests;
- expand the existing subsurface drip winery wastewater system; and,
- widen the existing access drive to 20 feet.

Except as they may be modified by the project revision statement or by these conditions of approval, 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 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:

- **Private Wine Club Events** may occur Monday through Sunday up to an annual maximum of 3 such events - no more than 1 event may occur on any given day – no more than 40 people are allowed per event – food to be catered;
- **Annual Open House Event** may occur Monday through Sunday up to an annual maximum of 1 such event – no more than 1 marketing event may occur on any given day – no more than 100 people are allowed per event – food to be catered;

Any single Marketing Event may include food which shall be catered and prepared in an off-site commercial kitchen in accordance with Napa County Department of Environmental Management.

**NAPA COUNTY  
CONSERVATION, DEVELOPMENT & PLANNING DEPARTMENT**

**CONDITIONS OF APPROVAL**

**Diamond Height Winery Use Permit  
(APN: #020-430-007-000; File # P10-00400-UP)**

**This marketing plan supersedes any marketing activities previously approved or otherwise previously undertaken. Marketing activities not included in the above list are neither approved hereby nor allowed.**

**Marketing events shall conform to the winery hours of operation included at “SCOPE,” above, except that, to the extent that marketing event cleanup occurs entirely indoors, said cleanup may extend one hour beyond a given day’s approved closing time.**

**Food service may not involve menu options and meal service such that the winery functions as a café or restaurant.**

"Marketing of wine" means any activity of a winery which is conducted at the winery on a prearranged basis for the education and development of customers and potential customers with respect to wine which can be sold at the winery on a retail basis pursuant to Chapters 18.16 and 18.20 of the Napa County Code. Marketing of wine may include cultural and social events directly related to the education and development of customers and potential customers provided such events are clearly incidental, related and subordinate to the primary use of the winery. Marketing of wine may include food service, including food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery.

Business events are similar to cultural and social events, in that they will only be considered as “marketing of wine” if they are directly related to the education and development of customers and potential customers of the winery and are part of a marketing plan approved as part of the winery’s use permit. Marketing plans in their totality must remain “clearly incidental, related and subordinate to the primary operation of the winery as a production facility” (subsection (G)(5) of Sections 18.16.030 and subsection (I)(5) of 18.20.030 of the Napa County Code). To be considered directly related to the education and development of customers or potential customers of the winery, business events must be conducted at no charge except to the extent of recovery of variable costs, and any business content unrelated to wine must be limited. Careful consideration shall be given to the intent of the event, the proportion of the business event’s non-wine-related content, and the intensity of the overall marketing plan. (Ord. 1340, 2010: Ord. 1104 § 11, 1996: Ord. 947 § 9 (part), 1990: prior code § 12071).

Start and finish time of activities shall be scheduled to minimize vehicles arriving or leaving between 4:00 PM and 6:00 PM.

If any event is held which will exceed the available on-site parking, the applicant shall arrange for **on-site valet** or off-site parking and shuttle service to the winery.

**3. TOURS AND TASTING:**

Tours and tastings shall be limited to a maximum of 15 visitors per day (a maximum of 105 visitors per week).



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“Tours and tastings” means tours of the winery and/or tastings of wine, where such tours and tastings are limited to persons who have made unsolicited prior appointments for tours or tastings. Tours and tastings may include food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery and is incidental to the tasting of wine. Food service may not involve menu options and meal service such that the winery functions as a café or restaurant. (Ord. 1340, 2010: Ord. 947 § 9 (part), 1990: prior code § 12070).

Start and finish time of tours and tastings shall be scheduled to minimize vehicles arriving or leaving between 4:00 PM and 6:00 PM, and shall be limited to those wines set forth in Napa County Code Sec. 18.16.030(G)(5)(c).

A log book (or similar record) shall be maintained which documents the number of visitors (tours and tastings AND marketing) to the winery, and the dates of their visit. This record of visitors shall be made available to the Department upon request.

**Consistent with Assembly Bill 2004 (Evans) and the Planning Director’s July 17, 2008 memo, “Assembly Bill 2004 (Evans) & the Sale of Wine for Consumption On-Premises,” on-premise consumption may occur solely within the interior of the tasting room building and in the tasting room building courtyard. Any and all visitation associated with on-premise consumption shall be subject to the 15 person maximum daily visitation limitation.**

**4. GRAPE SOURCE:**

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 Planning Department for administrative review and approval. All signs shall meet the design standards as set forth in Chapter 18.116 of the County Code.

At least one sign placed and sized in a manner to inform the public must legibly include wording stating “Tours and Tasting by Prior Appointment Only”.

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**6. GATES/ENTRY STRUCTURES:**

Any gate installed at the winery entrance shall be reviewed by the Conservation, Development and Planning Department, Public Works Department and the Napa County Fire Department to assure that it is designed to allow large vehicles, such as motor homes, 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. A separate entry structure permit is not required if the entry structure is consistent with entry structure plans submitted, reviewed and approved as part of this use permit approval.

**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, including architectural highlighting and spotting. Low-level lighting shall be utilized in parking areas as opposed to elevated high-intensity light standards. 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 plans shall comply with the current, adopted Napa County Water Efficient Landscape Ordinance. 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.

All existing trees within the area planned for development shall be indicated on the landscaping plan according to species and size. Trees planned for removal shall be indicated on the detailed 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.

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Evergreen screening shall be permanently installed between the industrial portions of the operation (e.g. tanks, crushing area, parking area, etc.) and off-site residences that can view these areas.

Parking shall be limited to approved parking spaces only and shall not occur along access roads or in other locations except during harvest or approved marketing events. 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 shall be screened from the view of adjacent properties by a visual barrier consisting of fencing or dense landscaping. 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.

New utility lines required for this project that are visible from any designated scenic transportation route (see Chapter 18.106 of the Napa County Zoning Ordinance for designated roads) shall be placed underground or in an equivalent manner be made virtually invisible from the subject roadway.

**10. RENTAL/LEASING:**

No winery facilities, nor portions thereof, including but not limited to offices, kitchens, barrel storage areas, and warehousing space, shall be rented, leased, nor used by 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:

The Department of Environmental Management as stated in their letter dated June 2, 2011.

The Department of Public Works Department as stated in their letter of June 14, 2011;

Napa County Fire Department as stated in their letter of January 11, 2011.

Building Division as stated in their letter of June 14, 2011.

Code Enforcement Division as stated in their comments dated April 25, 2011.

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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 grading and spoils generated by demolition and construction of the addition and upgrades to the driveway shall be disposed of per Public Works direction. Any spoils piles shall be removed prior to occupancy.

**13. WELLS / WATER SYSTEMS:**

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 condition 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.

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**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 site specific vegetation and the applicant shall obtain written approval by the Conservation, Development and Planning Department prior to painting the building. 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. Outdoor construction activities shall not occur during windy periods.

**17. ARCHEOLOGICAL FINDING:**

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 permittee shall contact the Conservation, Development and Planning Department for further guidance, which will likely include the requirement for the permittee 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, deliveries, and visitors will not occur during peak (4-6 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.

Prior to issuance of a certificate of occupancy for the approved hospitality building, the permittee shall complete all roadway improvements approved and/or required pursuant to this use permit modification or shall document to the satisfaction of the Planning Director that despite permittee's earnest and continuing efforts to meet the requirements of this approval.

**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

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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 modifications or tenant improvements.

**20. STORM WATER CONTROL:**

For any construction activity that results in disturbance of greater than one acre of total land area, 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. 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, inclusive of the following:

- **Prior to commencement of construction, a qualified biologist shall conduct a survey to determine the presences or absences of any raptor (including spotted owl) or special-status bird nests prior to any permits or tree removal on the site. If present, adequate setbacks shall be per the Department of Fish and Game, until the nestlings have fledged as determined by a qualified biologist, per study methods established by Fish and Game. This survey shall study an exclusionary area with biological monitoring. If any raptor nests or foraging habitat are found, then a buffer zone based on the species and the behavior shall be established. A qualified biologist shall monitor the activities of the nesting birds. If the birds show signs of distress or change in behavior, then work would cease. The buffer/exclusionary areas may be increased after a period of inactivity to allow the birds to resume normal behavior. If the birds show no change in behavior, the work may continue.**
- **Prior to demolition of the existing, and construction of the 120 square foot addition to the historic winery building the applicant shall follow The Secretary of Interiors Guidelines as described in the Historic Resources Report Update by Juliana Inman, dated March 23, 2011.**

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**22. HISTORICAL RESOURCES:**

All permitted work performed on any historic resource shall follow the latest edition of, *The Secretary of Interior's Standards for Historic Preservation and Guidelines for Treatment of Historic Properties, (The Standards)*. Written verification that such work meets the Standards shall be submitted by a qualified historic architect for review and approval by the Planning Department prior to issuance of any grading or building permit.

**23. 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.

**24. 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 requirements of County Code Chapter 15.60 or as may be amended by the Board of Supervisors.

**25. 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. 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.

**26. TEMPORARY AND FINAL OCCUPANCY:**

All project improvements, including compliance with applicable codes, conditions, and requirements of 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

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improvements. Marketing and/or Tours and Tastings are not typically authorized until grant of Final Occupancy, but exceptions where extenuating circumstances exist and are subject to review and approval by the County Building Official, County Fire Marshal, and the Planning Director. 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. Consistent with Board of Supervisors Resolution № 2010-48, "Temporary Certificates of Occupancy are generally not to be used to allow production of wine for more than one year."