

**PLANNING COMMISSION HEARING – JUNE 6, 2012
EXHIBIT A – CONDITIONS OF APPROVAL**

**CAIRDEAN WINERY
VARIANCE #P11-00299-VAR & USE PERMIT #P11-00298-UP
3125 ST HELENA HIGHWAY (SR 29/128), ST. HELENA, CALIFORNIA
APN 022-070-028**

1. SCOPE

The permit shall be limited to:

- A. Two Variances (#P11-00299) to allow the construction of a new winery 259 feet from the centerline of State Route 29/128 (St. Helena Highway) road setback where 600 feet is required for a setback and 100 feet from the centerline of a private road (used by the public) where 300 feet is required for a setback.
- B. A Use Permit #P11-00289) to establish a new 50,000 gallon per year winery with:
 1. A Winery building with total coverage of 61,221sf
 - +/- 19,390sf production area (single story), and
 - +/- 2,500sf admin area including +/- 250sf tasting room, +/- 230sf employee break room;
 2. +/-13,000sf of caves to include:
 - +/- 340sf wine library,
 - +/- 450 case good storage,
 - +/- 12,210 barrel storage;
 3. +/- 3,700sf of covered work area;
 4. A +/- 2,000sf of covered crush pad;
 5. +/- 22,300sf of new access paving (including one-way loop driveway, parking spaces, walkways, loading area);
 6. A gated access;
 7. 14 parking spaces (including 1 ADA-accessible space);
 8. 1-acre of vineyard as shown on the site plan;
 9. A new winery domestic and process wastewater treatment and disposal system (including a 10,500 gallon domestic water tank, a 10,500 gallon irrigation tank and a 65,000 gallon recycled water holding tank and other various smaller tanks as needed);
 10. A 40,000 gallon fire water tank;
 11. A landscaping program that includes a green roof, vineyard plantings, native & drought tolerant plants;
 12. +/- 14,000 cubic yards of cave spoils to be disposed on-site or hauled off-site to Clover Flats or another location;
 13. Fourteen (14) employees (four (4) Full-Time, six (6) Part-Time, and four (4) Harvest);
 14. Tasting Hours: 9:30-6:30 p.m. by appointment only; seven days per week;
 15. Tours & Tasting with pre-prepared foods @ 25 person maximum per day and 25 person average;
 16. Marketing plan with catered food:
 - 2-25 person events per month
 - 2-50 person events per month
 - 2-100 person events per year

- Participation in the Napa Valley Wine Auction for up to 25 persons;
- 17. On-premise wine consumption pursuant to AB 2004; and
- 18. Demolition of four existing structures (a single-family residence, a agricultural barn, a garage and a pool house)

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. **PROJECT SPECIFIC CONDITIONS**

Should any of the below Project Specific Conditions conflict with any of the other, standard, conditions included in this document, the Project Specific Condition shall supersede and control.

A. Winery Food Service

Any food service as part of the Tours & Tasting Program shall be pre-prepared foods. Food service at all Marketing Events shall be catered using an off-site catering service.

B. Evans Consumption

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 in winery buildings and covered and uncovered patio areas. Any and all visitation associated with on-premise consumption shall be subject to the 25 person maximum daily tours and tastings visitation limitation.

C. Mitigation Measures

The permittee shall comply with all mitigation measures identified in the adopted Initial Study/Mitigated Negative Declaration and Project Revision Statement/Mitigation Monitoring and Reporting Program prepared for the project, inclusive of the following:

1. Prior to commencing construction, the permittee shall submit a tree protection and monitoring plan for the Blue Oak woodland area where the septic system dispersal field will be located. The plan shall be prepared by a qualified biologist and shall include the following elements: 1) an inventory of trees; 2) construction measures that will minimize root disturbance; 3) a schedule for maximum rates of treated water dispersal; and 4) a schedule for inspections of tree health by the biologist for a period of 5 years from the grant of occupancy for the winery (and commencing use of the dispersal field). In the event that tree health declines or results in loss of trees, replacement trees shall be planted on-site outside of the dispersal field a recommended by the project biologist and subject to review and approval of the Planning Division.

Method of Monitoring: This Mitigation Measure requires submission of a tree protection and monitoring plan with the landscape plan. **RESPONSIBLE AGENCY(IES)** – Planning Division.

2. Prior to commencing construction, a tree preservation and replacement plan shall be prepared in concert with the project landscape plan subject to review and approval by the Planning Division, which indicates the location, size and species of all trees within the limits of grading and earth disturbance of proposed construction. The plan shall indicate which trees will be removed and which trees will be preserved. A minimum of 3 native replacement shall be planted for each native tree removed. Protective fencing shall be placed around the dripline of trees to be preserved.

Method of Monitoring: This Mitigation Measure requires submission of a tree protection and monitoring plan with the landscape plan. **RESPONSIBLE AGENCY(IES)** – Planning Division.

3. Prior to commencing construction, the permittee shall conduct a pre-construction bat survey to reaffirm that no bat species roost or otherwise occupy areas affected by project construction. The survey shall be prepared by a qualified biologist (or other qualified professional) with expertise in bat habitat. The survey shall meet the protocols of State Department of Fish and Game, and consultation with the Department of Fish and Game shall occur as prescribed by the agency. In the event that the study confirms the results of the original reconnaissance finding that no bat species occupy the project area, then no further mitigation will be required subject to review and approval by the State Department of Fish and Game. In the event that bat species are present within the project area, project construction shall not commence until authorized by the State Department of Fish and Game, and the permittee shall follow all protocols for avoidance and relocation of protected species.

Method of Monitoring: This Mitigation Measure requires submission of a pre-construction bat survey prior to commencing construction. **RESPONSIBLE AGENCY(IES)** – Planning Division & State Department of Fish and Game.

4. A qualified biologist shall conduct a pre-construction survey of all potential nesting habitat for birds within 500 ft. of earthmoving activities. Surveys shall be conducted within 14 days prior to tree removal or ground-breaking activities on the project site. If active nests are found, the project biologist shall consult and obtain approval for appropriate buffers with the California Department of Fish and Game prior to tree removal or ground-breaking activities, or until it is determined that all young have fledged.

Method of Monitoring: This Mitigation Measure requires submission of a pre-construction survey of all potential nesting habitat for birds within 500 ft. of earthmoving activities prior to commencing construction. **RESPONSIBLE AGENCY(IES)** – Planning Division & State Department of Fish and Game.

5. In the event that the existing pond located outside of the project area will be used as a cave tailing disposal location, the permittee shall secure all required permits from California Department of Fish and Game, Regional Water Quality Control Board, U. S. Army Corps of Engineers, and any other potential State or Federal agency with jurisdiction by law. A pre-construction survey for the presence of Western Pond Turtle shall be conducted prior to issuance of a grading permit to fill the pond. The pre-construction survey may also require reconnaissance for other protected species as determined by agencies with jurisdiction by law. In the event that Western Pond Turtle or any other protected species is present at the pond, the permittee shall either avoid placing cave spoils within the pond area, or shall follow the protocols for mitigation of protected species, including like-in-kind replacement of lost habitat, as prescribed by those agencies with jurisdiction over the pond.

Method of Monitoring: This Mitigation Measure requires submission of a pre-construction survey for the presence of Western Pond Turtle prior to issuance of a grading permit to fill the pond. **RESPONSIBLE AGENCY(IES)** – Planning Division & State Department of Fish and Game.

3. **COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES**

The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Departments and Agencies. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as if enumerated herein:

- A. Department of Public Works as stated in their Memorandum dated May 8, 2012 and September 6, 2011.
- B. Department of Environmental Management as stated in their Memorandum dated April 12, 2012.
- C. Building Inspection Division as stated in their Memorandum dated November 16, 2011.
- D. Fire Department as stated in their Inter-Office Memo dated September 1, 2011.

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.

4. **VISITATION**

Consistent with Sections 18.16.030 and 18.20.030 of the Napa County Code, marketing and tours and tastings may occur at a winery only where such activities are accessory and “clearly incidental, related, and subordinate to the primary operation of the winery as a production facility.”

Permittee shall obtain and maintain all permits and licenses from the California Department of Alcoholic Beverage Control (ABC) and United States Tax and Trade

Bureau (TTB) required to produce and sell wine, including minimum levels of crush and fermentation. In the event permittee loses required ABC and/or TTB permits and licenses, permittee shall cease marketing events and tours and tastings until such time as those ABC and/or TTB permits and licenses are re-established.

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.

A. TOURS AND TASTING

“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).

B. MARKETING

"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).

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 6:00 PM.

5. **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.

6. **RENTAL/LEASING**

No winery facilities, or portions thereof, including, without limitation, any kitchens, barrel storage areas, or warehousing space, shall be rented, leased, or 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 (N.C.C. Chapter 5.36).

7. **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. Administrative review and approval is not required if signage to be installed is consistent with signage plans submitted, reviewed and approved as part of this use permit 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".

8. **LIGHTING**

All exterior lighting, including landscape lighting, shall be shielded and directed downward, shall be located as low to the ground as possible, 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 pursuant to this approval, two 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 Planning Division review and approval. All lighting shall comply with the California Building Code.

9. **LANDSCAPING/PARKING**

Two (2) copies of a detailed final landscaping plan, including parking details, shall be submitted for Planning Division review and approval prior to the issuance of any building permit associated with this approval. The plan shall indicate the names and locations of all plant materials to be used along with the method of maintenance. Where applicable, the plan shall be prepared pursuant to the County's Water Efficient Landscape

Ordinance (WELO) and shall indicate the names and locations of all plant materials to be used along with their 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 not shown on the submitted site plan 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 by fencing securely installed at the outer most dripline of the tree or trees. Such fencing shall be maintained throughout the duration of the work undertaken in connection with the winery development/construction. In no case shall construction material, debris or vehicles be stored in the fenced tree protection area.

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

10. **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) shall be placed underground or in an equivalent manner be made virtually invisible from the subject roadway.

11. **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 the written approval of the Conservation, Development, and Planning Department prior to painting the building. Highly reflective surfaces are prohibited.

12. **SITE IMPROVEMENTS AND PUBLIC WORKS-SPECIFIC CONDITIONS**

Please contact (707) 253-4351 with any questions regarding the following.

A. **GRADING AND SPOILS**

All grading and 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.

B. 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.

C. 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.

D. STORM WATER CONTROL

The permittee shall comply with all construction and post-construction storm water pollution prevention protocols as required by County Public Works Department and the California Regional Water Quality Control Board (SRWQCB).

E. PARKING

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).

Parking shall be limited to approved parking spaces only and shall not occur along access or public roads or in other locations except during harvest activities and 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 permittee shall prepare an event-specific parking plan which may include but, shall not necessarily be limited to, valet service or off-site parking and shuttle service to the winery.

F. 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 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, 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.

13. ENVIRONMENTAL MANAGEMENT-SPECIFIC CONDITIONS

Please contact (707) 253-4471 with any questions regarding the following.

A. WELLS

The permittee may be required (at the permittee's expense) to provide well monitoring data if 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 would not

necessarily be limited to, water extraction volumes and static well levels. If the applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gauge 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 §13.15.070 (G-K).

B. NOISE

Construction noise shall be minimized to the greatest 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.

14. 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.

15. ADDRESSING

All project site addresses shall be determined by the Planning Director, and be reviewed and approved by the United States Post Office, prior to issuance of any building permit.

The 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.

16. **INDEMNIFICATION**

If an indemnification agreement has not already been signed and submitted, one shall be signed and returned to the County within twenty days of the granting of this approval using the Department's standard form.

17. **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.

18. **PREVIOUS CONDITIONS**

As applicable, the permittee shall comply with any previous conditions of approval for the winery use except as they may be explicitly modified by this action. To the extent there is a conflict between previous conditions of approval and these conditions of approval, these conditions shall control.

19. **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 resolution of the Board of Supervisors in accordance with the hourly consulting rate established at the time of the monitoring. Violations of conditions of approval or mitigation measures caused by the permittee's contractors, employees, and/or guests are the responsibility of the permittee.

The Conservation, Development, and Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of compliance deficiencies is found to exist by the Commission at some time in the future, the 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 so warranted, to commence revocation hearings in accordance with §18.124.120 of the Napa County Code.

20. **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 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."