

PLANNING COMMISSION HEARING – AUGUST 19, 2015
EXHIBIT B – CONDITIONS OF APPROVAL

Girard Winery
Application Number(s) P14-00053
1077 Dunaweal Lane, Calistoga, CA 94515
(APN 020-150-017)

1. SCOPE

- A. Approval of a Use Permit (P14-00053) to establish a new winery as follows:
1. An annual production capacity of 200,000 gallons;
 2. Construction of new winery building, totaling 32,771 sq. ft. in area to include: 28,955 sq. ft. of production area (crush area, fermentation and barrel storage, restrooms); 3,816 sq. ft. of accessory use area (offices, tasting rooms, retail storage, catered food prep area, and visitor restrooms), with a maximum height of 35 ft. with 45 ft. tall cupolas; a 2,560 sq. ft. covered veranda; and a 2,871 sq. ft. covered work area;
 3. Hosted daily tours and tastings for wine trade personnel and consumers by-appointment only for a maximum of 75 persons per weekday (Monday-Friday); maximum of 90 persons per weekend day (Saturday-Sunday);
 4. Hours of operation: 8:00 AM to 6:00 PM (production hours, except during harvest) and 10:00 AM to 6:00 PM (visitation hours) seven days a week;
 5. Employment of: 11 employees (8 full time; 3 part-time) during non-harvest; during harvest 19 additional employees (12 full time and 7 part time) for a total of 30 employees;
 6. Employee hours: production, 7:00 AM to 3:00 PM; hospitality/ tasting room, 9:30 AM to 6:30 PM;
 7. Construction of twenty-two (22) parking spaces;
 8. Installation of landscaping, an entry gate and a winery sign;
 9. A Marketing Program as follows:
 - a. Four (4) events per year with a maximum of 75 guests;
 - b. Four (4) events per year with a maximum of 200 guests; and,
 - c. One (1) Harvest event per year with a maximum of 500 guests.
 - d. All food to be catered utilizing a ±184 sq. ft. small prep/staging area;
 10. On-premises consumption of wines produced on site within the tasting room, the covered veranda and within the 4,000 sq. ft. portion of the landscaped winery gardens in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 (AB 2004 -Evans Bill also known as the Picnic Bill);
 11. Construction of a new 24' wide winery access driveway from Dunaweal Lane to the winery;
 12. Construction of additional piping and service connections to the existing water system and an update to the existing Transient Non-Community Water System contract to include the Girard Winery;
 13. Installation of on-site sanitary disposal improvements and installation of connections into the existing on-site winery waste water ponds serving Clos Pegase Winery (APN: 020-150-012); and,

14. Installation of 45,000 gallon water storage tank (\pm 30ft diameter, 12 ft. height).

The winery shall be designed in substantial conformance with the submitted site plan, and other submittal materials and shall comply with all requirements of the Napa County Code (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 County Code Section 18.124.130 and may be subject to the Use Permit modification process.

**Alternative locations for fire suppression tanks are permitted, subject to review and approval by the Director of Planning, Building, and Environmental Services, when such alternative locations do not change the overall concept, and do not conflict with any environmental mitigation measures or conditions of approval.

2. PROJECT SPECIFIC CONDITIONS

Should any of the Project Specific Conditions below conflict with any of the other, standard conditions included in this document (beginning in Section 3 and following), the Project Specific Conditions shall supersede and control.

A. On-Premises Consumption

In accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 and the Planning, Building, and Environmental Services Director's July 17, 2008 memo, "Assembly Bill 2004 (Evans) and the Sale of Wine for Consumption On-Premises," on-premises consumption of wine purchased from the winery may occur solely within the hospitality area which includes the tasting rooms, the covered veranda and within the 4,000 sq. ft. portion of the landscaped winery garden area. Any and all visitation associated with on-premises consumption shall be subject to the maximum daily tours and tastings visitation limitation of 75 persons daily and 90 persons weekends, and/or applicable limitations of permittee's marketing plan.

B. Prior to commencing winery production or visitation the permittee shall implement the following transportation demand management programs (the Programs), subject to review and approval by the Director of Planning, Building and Environmental Services:

1. A program to inform employees of the traffic congestion issues south of the project site and to encourage employees to utilize alternative forms of transportation.
2. Inform/educate/encourage visitors to utilize Silverado Trail to access the property via measures such as signage, tasting room information handouts, education of tasting room staff, internet content, etc.
3. A schedule requiring commencement and conclusion of by-appointment visitation to occur outside of peak traffic periods. Peak traffic periods are defined as 4:00 PM and 6:00 p.m. weekdays, 2:00 PM and 4:00 PM on Saturdays, and 1:00 PM and 3:00 PM Sundays.

4. A schedule requiring employee work shifts to commence and conclude outside of peak traffic periods.
5. A schedule requiring marketing event set up, arrival and departure to occur outside peak traffic periods.

3. COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES

Project conditions of approval include all of the following County Divisions, Departments and Agency requirements. The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Divisions, Departments and Agencies at the time of submittal and may be subject to change. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- A. Engineering Services Division as stated in their Memorandum dated July 11, 2014.
- B. Environmental Health Division as stated in their Memorandum dated December 3, 2014.
- C. Fire Department as stated in their Inter-Office Memo dated April 3, 2014.
- D. Department of Public Works as stated in their Memorandums dated April 3, 2015 and June 3, 2015.

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

4. VISITATION

Consistent with County Code Sections 18.16.030 and 18.20.030, 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.” A log book (or similar record) shall be maintained to document the number of visitors to the winery (for either tours and tastings or marketing events), and the date of the visits. This record of visitors shall be made available to the Planning, Building and Environmental Services Department upon request.

A. TOURS AND TASTING

Tours and tastings are limited to the following:

1. Frequency: Seven (7) days per week, Monday through Sunday.
2. Maximum number of persons per weekday (Monday-Friday): 75
3. Maximum number of persons on weekends (Saturday-Sunday): 90.
4. Maximum number of persons per week: 555 (70 weekdays; 90 weekends).
5. Hours of operation: 10:00 AM to 6:00 PM.
6. All food to be catered utilizing a ±184 sq. ft. small prep/staging area.

“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. (County Code Section 18.08.620 - Tours and Tastings)

Tours and tastings shall be limited to those wines set forth in County Code Section 18.16.030(G)(5)(c) - AP Zoning.

B. MARKETING

Marketing events are limited to the following:

1. Marketing Events
Frequency: Four times per year
Number of persons: 75 maximum
Time of Day: 10:00 AM – 6:00 PM.

2. Marketing Events
Frequency: Four times per year
Number of persons: 200 maximum
Time of Day: 10:00 AM – 6:00 PM

3. Harvest Event
Frequency: One (1) time per year
Number of persons: 500 maximum
Time of Day: 10:00 AM – 6:00 PM.

“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 the County Code Chapters 18.16 and 18.20. 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” (County Code Sections 18.16.030(G)(5) and 18.20.030(I)(5)). 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 (County Code Section 18.08.370 - Marketing of Wine).

All activity, including cleanup, shall cease by 8:00 PM. Start and finish times of activities shall be scheduled outside of peak traffic periods to the maximum extent feasible and shall be subject to the Programs' daily trip limitations set forth in Section 2(B). If any event is held which will exceed the available on-site parking, the applicant shall prepare an event-specific parking plan which may include, but not be limited to, valet service or off-site parking and shuttle service to the winery.

5. GRAPE SOURCE

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

6. GENERAL COMPLIANCE AND ANNUAL AUDITS

Permittee shall obtain and maintain all permits (Use Permits and Modifications) and licenses from the California Department of Alcoholic Beverage Control (ABC), United States Tax and Trade Bureau (TTB), and California Department of Food and Agriculture (CDFA) Grape Crush Inquiry data, all of which are required to produce and sell wine. In the event permittee loses the required ABC 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.

Visitation log books, custom crush client records, and any additional documentation determined by staff to be necessary to evaluate compliance may be requested by the County for any code compliance (e.g., audit) or code enforcement process. The permittee (and their successors) shall be required to participate fully in the winery code compliance or enforcement process.

7. 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, such as alternating proprietors and custom producers, except as may be specifically authorized in this use permit or pursuant to the Temporary Events Ordinance (County Code Chapter 5.36).

8. 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, Building, and Environmental Services 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 County Code

Chapter 18.116. At least one sign placed and sized in a manner to inform the public must legibly post the words "Tours and Tastings by Prior Appointment Only".

9. 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. Lighting utilized during harvest activities is not subject to this requirement.

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.

10. LANDSCAPING

Two (2) copies of a detailed final landscaping and irrigation plan, including parking details, shall be submitted with the building permit application package for the Planning Division's review and approval prior to the issuance of any building permit associated with this approval. The plan shall be prepared pursuant to the County's Water Efficient Landscape Ordinance (WELO, County Code Chapter 18.118) as applicable, 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 shall be notified of all impending deliveries of live plants with points of origin outside of Napa County.

No trees greater than 6" diameter at breast height shall be removed, except for those identified on the submitted site plan. Any Oak trees removed as a result of the project shall be replaced at a 2:1 ratio on the project site and shown on the landscaping plans for Planning staff's review and approval. Trees to be retained shall be protected during construction by fencing securely installed at the outer most drip line 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 any off-site residence from which these areas can be viewed.

Landscaping shall be completed prior to issuance of a Final Certificate of Occupancy, and shall be permanently maintained in accordance with the landscaping plan.

11. OUTDOOR STORAGE/SCREENING/UTILITIES

All outdoor storage of winery equipment shall be screened from the view of residents of adjacent properties by a visual barrier consisting of fencing or dense landscaping. No item in storage shall 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 Community Character Element of the General Plan and County Code Chapter 18.106) shall be placed underground or in an equivalent manner be made virtually invisible from the subject roadway.

12. 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 Planning, Building & Environmental Services Department prior to painting the building. Highly reflective surfaces are prohibited.

13. AIR QUALITY

During all construction activities the permittee shall comply with the Bay Area Air Quality Management District Basic Construction Mitigation Measures as provided in Table 8-1, May 2011 Updated CEQA Guidelines:

- A. All exposed surfaces (e.g. parking areas, staging areas, soil piles, grading areas, and unpaved access (road) shall be watered two times per day.
- B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- C. All visible mud or dirt tracked out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. The Air District's phone number shall also be visible.

14. SITE IMPROVEMENTS AND ENGINEERING SERVICES-SPECIFIC CONDITIONS

Please contact Engineering Services 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 managed per Engineering Services direction. All spoils piles shall be removed prior to issuance of a Final Certificate of Occupancy.

B. ROAD IMPROVEMENTS

All road improvements on private property required per Engineering Services shall be maintained in good working condition and in accordance with the Napa County Roads and Streets Standards.

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 the County Engineering Services Division, and the State 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.

F. GATES/ENTRY STRUCTURES

Any gate installed at the winery entrance shall be reviewed by the Planning, Building and Environmental Services 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 Napa County Code and in accordance with the Napa County Roads and Street Standards. 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.

15. ENVIRONMENTAL HEALTH-SPECIFIC CONDITIONS

Please contact Environmental Health with any questions regarding the following:

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

16. PUBLIC WORKS – SPECIFIC CONDITIONS

Please contact Public Works with any questions regarding the following:

A. WATER MONITORING

The permittee shall be required for the life of the project to monitor and maintain written records of water volumes pumped from the two wells. This data will be made available to the County upon request.

B. WATER USE EXCEEDING 10 ACRE-FT/YEAR

Combined water from the two wells shall not exceed 10 acre-ft. per year. If combined water use from the wells exceeds 10 acre-ft. in a given calendar year, the permittee shall notify the County, and provide the following:

1. water volume used;
2. the reason for increased use;
3. the plan the winery has for reducing water use; and
4. other information which may be affecting water use as reasonably requested by the County.

C. COUNTY GROUNDWATER MONITORING PROGRAM

The permittee shall be required to include either or both wells into the County's Groundwater Monitoring program if the County requests that they do so.

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 Planning, Building and Environmental Services 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 the Coroner 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 shall be contacted by the permittee 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. ADDRESSING

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

19. INDEMNIFICATION

If an indemnification agreement has not already been signed and submitted, one shall be signed and returned to the County within twenty (20) days of the granting of this approval using the Planning, Building and Environmental Services Department's standard form.

20. 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 18.107.

21. PAYMENT OF FEES AS PREREQUISITE FOR ISSUANCE OF PERMITS

No building, grading or sewage disposal permits shall be issued or other permits authorized until all accrued planning permit processing fees have been paid in full.

22. 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 to the owner. 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 and shall include maintenance of a \$500 deposit for construction compliance monitoring that shall be retained until grant of Final Certificate of Occupancy. 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 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 County Code Section 18.124.120.

23. 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 Final Certificate of Occupancy by the County Building Official, which, upon granting, authorizes all use permit activities to commence. However, a Temporary Certificate of Occupancy may be granted pursuant to County Code Section 15.08.070(B) to allow 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.

24. STATUTORY AND CODE SECTION REFERENCES

All references to statutes and code sections shall refer to their successor as those sections or statutes may be subsequently amended from time to time.

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