



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 6/17/2015  
Agenda Placement: 9B  
Continued From: 6/3/2015

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** John McDowell for David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** Charlene Gallina, SUPERVISING PLANNER - 299-1355  
**SUBJECT:** Reverie on Diamond Mountain Winery Use Permit Modification

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### **RECOMMENDATION**

**REVERIE ON DIAMOND MOUNTAIN WINERY / REVERIE ON DIAMOND MOUNTAIN, LLC. - USE PERMIT MAJOR MODIFICATION NO. P13-00027 and USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS NO. P15-00141**

**CEQA Status:** Consideration and possible adoption of a Negative Declaration. According to the proposed negative declaration, the project would not have any potentially significant environmental impacts. The project site is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**Request:** Request for approval of a modification to Use Permit #94254-UP, a Use Permit Exception to the Conservation Regulations (P15-00141) and an Exception to the Napa County Roads & Street Standards to allow the following: A) Recognize and authorize an increase the approved production capacity from 5,000 to 9,200 gallons per year; B) Recognize and authorize the 1,460 sq.ft. (Second Floor) of the winery building allocated to accessory use; C) Recognize and authorize the use of the 4,710 +/-sq.ft. cave for wine production, case storage and wine barrel storage and once fire sprinklers are installed use of the cave for tours , tastings and some events (Cave spoils were kept on the property and used to improve the vineyard roads); D) Recognize and authorize an increase in the approved "by appointment visitation" of 20 persons per day with an average of 20 per week to a maximum of 40 persons per day with an average of 200 persons per week; E) Recognize and authorize expansion of the existing marketing plan from the following: 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons to allow 1) 4 events per year with up to 60 persons; 2) 2 events per year with up to 40 persons; 3) 12 events per year with up to 10 guests; and 4) participation in the wine auction; F) Recognize and authorize an increase in the approved number of employees from 2 employees plus 1 temporary employee during harvest to a maximum of 5 employees; G) Recognize and authorize on-premise consumption of the wines produced on-site, consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill) within the winery building and improved lawn areas, and under the mature

redwood grove; H) Recognize and authorize catered food pairings; I) Abandonment of an existing septic system and the installation of a new code compliant domestic and winery waste system. Both hold and haul and rapid aerobic treatment with storage are proposed; J) Installation of a new well; K) Installation of a new automatic storm water diversion valve and a temporary crush pad cover; and L) Installation of a new ADA compliant parking space.

The proposal also includes a Use Permit Exception (#P15-00141) to the Conservation Regulations with regards to retention of the following 1) the portal for the existing wine cave encroaches into the 45 ft. creek setback for the small tributary creek on the property; and 2) the minor landscaping improvements along a portion of Teale Creek that are within the required setback of that creek. The proposal also includes an Exception to the Napa County Road & Street Standards (RSS) to allow for a reduction in the required 20 foot roadway width to preserve unique features of the natural environment.

The project is located on a 39.83 acre parcel approximately 1,000 feet west of Diamond Mountain Road and approximately 4,000 feet from its intersection with State Highway 29/128, within the AW (Agricultural Watershed) Zoning District; 1530 Diamond Mountain Road, Calistoga, CA, APN: 020-440-005.

**Staff Recommendation:** Adopt the Negative Declaration and approve the Use Permit Modification, Use Permit Conservation Regulation Exception, and Road & Street Standard Exception request as modified and conditioned.

**Staff Contact:** John McDowell, (707) 299-1354, [john.mcdowell@countyofnapa.org](mailto:john.mcdowell@countyofnapa.org), or Charlene Gallina, (707) 299-1355, [charlene.gallina@countyofnapa.org](mailto:charlene.gallina@countyofnapa.org)

**Applicant Contact:** Scott Greenwood-Meinert, (707) 252-7122, or [ScottGM@dpf-law.com](mailto:ScottGM@dpf-law.com)

**CONTINUED FROM THE JUNE 3, 2015 REGULAR MEETING.**

## **EXECUTIVE SUMMARY**

### **Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration for the project based on Findings 1-6 of Exhibit A;
2. Approve an Exception to Road & Street Standards based on Findings 7-8 of Exhibit A, and subject to the Conditions of Approval (Exhibit B); and
3. Approve Use Permit Major Modification (P13-00027-MOD) and Conservation Regulation Exception Findings (P15-00141) based on Findings 9-20 of Exhibit A, and subject to the Conditions of Approval (Exhibit B).

### **Discussion:**

The Planning Commission conducted a public hearing on this item on June 3, 2015. After close of the public hearing, where testimony was received from staff, the applicant and interested parties, the Planning Commission took a tentative action to approve a modified version of the project and continued the item to June 17, 2015 to allow staff to return with updated findings and conditions of approval consistent with the Commission's tentative action. Preparation of the revised findings and conditions of approval involved consultation with the applicant especially in regard to defining options for offsetting stream corridor enhancement necessary to meet the findings required for grant of a conservation use permit exception. During consultation with the applicant's representatives, they expressed a desire to propose revisions to their original visitation and marketing program which was not endorsed

by the Commission at the June 3, 2015 hearing. On June 9, 2015, the applicant's representative provided a letter (attached) requesting consideration of both the revised visitation/marketing program, as well as, details on where offsetting environmental enhancement can occur on the property. Correspondence has also been received from other interested parties expressing concerns about the project.

Since the public hearing was closed at the previous meeting, for this meeting it is requested that the Commission reopen the hearing to accept and consider the new evidence admitted to the record; allow limited testimony regarding the new evidence and staff's proposed conditions of approval; and then take a final action.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

According to the proposed Negative Declaration, the proposed project would have no potentially significant environmental impacts. This project site is not on any of the lists of hazardous waste enumerated under Government Code Section 65962.5. See June 3, 2015 staff report and attachments for further details.

### **BACKGROUND AND DISCUSSION**

See June 3, 2015 for project details. This staff report contains only updates in response to the Commission's June 3rd tentative action.

#### **Discussion Points:**

Revised Conditions of Approval - The Commission's tentative action of June 3, 2015 consisted of a series of 'straw votes' of individual components of the proposal. Many of the Commission's straw votes were not unanimous. Overall, there was a majority of the Commission that supported approving expansion of the previously approved use permit, but not to the extent requested by the applicant. Attached Exhibit B contains updated proposed conditions of approval (in tracked change format) based on staff's understanding of the Commission's direction. In summary, the revised approval action would include: a) increasing wine production from 5,000 gallons to 9,200 gallons annually with a condition on estate grown grapes; 2) approval of the cave; 3) retention of the outdoor visitation areas except as modified by the restoration project; 4) inclusion of a restoration project in concert with granted of a use permit exception allowing cave and drive aisle improvements within a creek setback; 5) requiring on-site wine waste sewage treatment; 6) no increase in visitation and marketing levels; 7) no visitation and marketing to be conducted within the cave; and 8) conversion of the second floor guest quarters to winery use.

It is requested the Commission consider the revised conditions, including consideration of all new evidence presented since June 3, 2015, and move forward with a final action. In the event the proposed conditions of approval (and required findings) require additional changes to meet Commission expectations, staff stands ready to implement those changes at the meeting, although substantial changes may necessitate a short meeting recess to allow staff sufficient time implement updates.

Applicant's Revised Visitation and Marketing Program - Prior to and at the June 3, 2015 hearing, there was substantial correspondence received from various parties, including the June 2, 2015 applicant narrative

concerning their proposed visitation and marketing program. This piece of correspondence detailed the applicant's rationale for the level of visitation and marketing requested. The applicant's June 9, 2015 correspondence revises the originally proposed number downward, and requests that the Commission reconsider its tentative motion to retain visitation levels at the level approved in the original permit.

The attached proposed conditions of approval are reflective of the Commission's tentative motion. The June 3, 2015 staff report, including attachments from staff and the applicant, contain information on comparison wineries. The Commission is under no obligation to reconsider its tentative motion, but staff recommends that the Commission receive limited additional testimony on this topic and then determine as part of the final action the appropriate level of visitation and marketing to apply as an accessory use to the wine production at this facility.

Hold and Haul Sewage Program - A majority of the Commission expressed an intent to require on-site wine process sewage to be treated on-site as opposed to allowing a hold and haul system. In response, the applicant's latest correspondence acknowledges that an on-site system will be installed, but requests that installation cannot be completed until after this year's harvest. Staff supports allowing hold and haul for this year's crush, and has addressed this in the proposed conditions of approval by requiring the new on-site system to be completed prior to the following year's crush activities commencing.

Estate Grown Grapes - The majority of the Commission expressed an intent to require use of estate grown grapes as part of the production increase request. Staff has included a condition that the production increase (4,200 gallons per year) be restricted to the use of estate grown grapes, and that the applicant keep records of annual production documenting such source to verify compliance with this condition.

Additional Correspondence - Attached are comments received during the June 3, 2015 hearing, and prior to the issuance of this staff report. In the event additional correspondence is received prior to the hearing, it will be forwarded to the Commission by the Commission's Clerk and made available to all interested parties.

#### **SUPPORTING DOCUMENTS**

- A . Exh. A - Revised Findings
- B . Exh. B - Draft Conditions of Approval
- C . Applicant Proposal - Restoration Plan & Other
- D . Public Comments
- E . Public Comments Received - June 3, 2015
- F . Previous Staff Report - June 3, 2015

Napa County Planning Commission: Approve

Reviewed By: John McDowell



“A”

Revised Findings

## REVISED

### PLANNING COMMISSION HEARING – JUNE 317, 2015 EXHIBIT A – FINDINGS

#### REVERIE ON DIAMOND MOUNTAIN USE PERMIT MODIFICATION #P13-00027-MOD, USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS #P15-00141, & EXCEPTION TO THE NAPA COUNTY ROAD & STREET STANDARDS. 1530 DIAMOND MOUNTAIN ROAD, CALISTOGA, CA APN: 020-440-005

#### ENVIRONMENTAL:

The Planning Commission (Commission) has received and reviewed the proposed Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Planning Commission has read and considered the Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. The Negative Declaration is based on independent judgment exercised by the Planning Commission.
3. The Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
5. There is no evidence, in considering the record as a whole that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
6. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building, and Environmental Services Department, 1195 Third Street, Room 210, Napa, California.

#### EXCEPTION TO ROAD AND STREET STANDARDS:

The Commission has reviewed the attached described Road and Street Standards ([RSS](#)) Exception request in accordance with Road and Street Standards Section 3 and makes the following findings:

7. The exception will preserve unique features of the natural environment which includes, but is limited to, steep slopes, heritage oak trees, or other trees of at least 6"dbh and found by the decision-maker to be of significant importance, but does not include man made environmental features such as vineyards, rock walls, ornamental or decorative landscaping, fences or the like.

Analysis: Although most of the approximately 1,000 ft. long private access road existing ~~either~~ presently meets the 18 ft. with 2 ft. shoulder road width, there are several sections where road width is proposed to remain but is as exists below the standard in order to avoid tree removal and further encroachments within creek setbacks as further set forth in the Department of Public Works Memo dated March 5, 2014 and incorporated here by reference. These exceptions have been reviewed by the County Engineering Services Division and Fire Marshal, and have determined that the requested exception will preserve unique features in the natural environment; thereby recommend approval of this request.

8. Grant of the Road and Street Standards Exception will provide the same overall practical effect as the Standards do in providing defensible space, and does not adversely affect the life, safety, and welfare of the public or persons coming to the property.

Analysis: The existing roadway configuration and proposed improvements in the Request, subject to recommended conditions of approval by Engineering Services and the Fire Marshal, will serve as an alternate method by which adherence to the RSS may be achieved and would provide the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public.

#### **USE PERMIT MODIFICATION FINDINGS:**

The Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code Section 18.124.070 and makes the following findings:

9. The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the property.

Analysis: The project is consistent with AW (Agricultural Watershed) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Sections 18.20.030) are permitted in an AW zoned districts with an approved use permit. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code) as applicable.

10. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code (Use Permits) have been met.

Analysis: The use permit application has been filed, noticed and public hearing requirements have been met. The hearing notice was posted on May 13, 2015, and copies were forwarded to property owners within 1000 feet of the subject parcel. The CEQA public comment period ran from May 14, 2015 to June 2, 2015.

11. The granting of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Various County divisions and departments have reviewed the project and commented regarding water, waste water disposal, access, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the ongoing protection of the public health and safety.

12. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan.

Analysis: The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan. The Winery Definition Ordinance (WDO) was established to protect agriculture and open space and to regulate winery development and expansion in a manner that avoids potential negative environmental effects. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the applicable provisions of the Napa County Zoning Ordinance (Title 18, Napa County Code).

The subject parcel is located on land designated Agricultural Watershed and Open Space (AWOS) on the County’s adopted General Plan Land Use Map. This project is comprised of an agricultural processing facility (winery), along with wine storage, bottling, and other WDO-compliant accessory uses as outlined in and limited by the approved project scope. (See Exhibit ‘B’, Conditions of Approval.) These uses fall within the County’s definition of agriculture and thereby preserve the use of agriculturally designated land for current and future agricultural purposes.

General Plan Agricultural Preservation and Land Use Goal **AG/LU-1** guides the County to, “preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.” General Plan Agricultural Preservation and Land Use Goal **AG/LU-3** states the County should, “support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.”

As approved here, the use of the property for the “fermenting and processing of grape juice into wine” (NCC Section 18.08.640) supports the economic viability of agriculture within the county consistent with General Plan Agricultural Preservation and Land Use Policy **AG/LU-4** (“The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/ open space...”). Policy **AG/LU-8** also states, “The County’s minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units and General Plan Economic Development Policy **E-1** (The County’s economic development will focus on ensuring the continued viability of agriculture...). Approval of this project furthers these key goals.

The General Plan includes two complimentary policies requiring that new wineries, “...be designed to convey their permanence and attractiveness.” (General Plan Agricultural Preservation and Land Use Policy **AG/LU-10** and General Plan Community Character Policy **CC-2**). The proposed winery, to the extent that it will be publicly visible, will convey permanence and attractiveness.

Agricultural Policy **AG/LU-13** of the County General Plan recognizes wineries, and any use clearly accessory to a winery, as agriculture. The Land Use Standards of the General Plan Policy **AG/LU-2** list the processing of agricultural products as one of the general uses recognized by the AWOS and AR land use designations. The proposed project allows for the continuation of agriculture as a dominant land use within the county and is consistent with General Plan Agricultural Policy **AG/LU-13**.

The project is also consistent with General Plan Conservation Policy **CON-53** and **CON-55** which require that applicants, who are seeking discretionary land use approvals, prove the availability of adequate water supplies which can be appropriated without significant negative impacts on shared groundwater resources. As analyzed below, the proposed winery will not interfere substantially with groundwater recharge based on the criteria established by Napa County Public Works Department.

Finally, the "Right to Farm" is recognized throughout the General Plan and is specifically called out in Policy **AG/LU-15** and in the County Code. "Right to Farm" provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa County's adopted General Plan reinforces the County's long-standing commitment to agricultural preservation, urban centered growth, and resource conservation. On balance, this project is consistent with the General Plan's overall policy framework and with the Plan's specific goals and policies.

13. The proposed use would not require a new water system or improvements causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Napa County Code Section 13.15.070 or Section 13.15.080.

Analysis: The subject property is not located in a "groundwater deficient area" as identified in Section 13.15.010 of the Napa County Code. Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is assumed not to have a significant effect on groundwater levels. Based on the submitted *Phase One* water availability analysis, the 39.83 acre hillside parcel has placed water demand for existing uses on the property (a residence, a winery and cave, landscaping and existing vineyard) at 10.21 af/yr. The proposed increase in production, visitation and marketing activities, as well as, the expanded winery size and recognition of the cave place water demand at 10.33 af/yr. Based upon this figure, the project would be well below the established threshold for groundwater use on the property. [According to the applicant's statement, during his 21 year ownership of the property the well has consistently provided adequate water for all the needs on-site without any sign of problems including during the ongoing drought.](#) The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.

**The following findings must be made in order for the Commission to grant and exception to the Conservation regulations in the form of a use permit pursuant to County Code Section 18.108.040 for structural and road development projects.**

14. Roads driveways, buildings and other man-made structures have been designed to complement the natural landform and to avoid excessive grading;

Analysis: The cave portal wall is further away from the blue-line stream than the existing winery and there is an access drive between the portal wall and the stream that existed prior to County required stream setbacks. Although some minor grading may have been done about 15 years ago regarding the mature landscaping and minor improvements, the existing

mature landscaping and minor improvements have stabilized the soil, prevent erosion into Teal Creek, prevent flooding onto the property and the downstream neighbor's property, and protected the historic rock walls that are essential for keeping Teal Creek property channelized. To off-set this creek incursion, an on-site preliminary restoration/conservation plan was submitted on June 5, 2015 by First Carbon Solutions and accepted delineating potential on-site mitigation opportunities that include the preservation and enhancement of existing seasonal wetlands, preservation of existing oak trees, invasive species removal and native plan restoration and planting of native vegetation. A final plan will be implemented in conjunction with authorized changes in winery operation.

15. Primary and accessory structures employ architectural and design elements which in total serve to reduce the amount of grading and earthmoving activity required for the project, including the following elements:
- Multiple floor levels which follow existing, natural slopes,
  - Foundation types such as poles, piles or stepping levels which minimize cut and fill and the need for retaining walls,
  - Fence lines, walls and other features which blend with the existing terrain rather than strike off at an angle against it.

Analysis: This finding is not applicable as the portion of the cave portal wall currently exists within the stream setback.

16. The development minimizes removal of existing vegetation, incorporates existing vegetation into the final design plan, and replacement vegetation of appropriate size, quality and quantity is included to mitigate adverse environmental effects;

Analysis: The area between the cave portal wall and the blue-line stream did not and does not have existing vegetation due to the existence of the access drive and the winery. There are no known sensitive species or habitat identified along these stream corridors, nor are any affected by the asked for exceptions as detailed in the Biological Resources Baseline Conditions Report prepared by First Carbon Solutions, October 2014. As to Teal Creek, the removal of the mature vegetation and minor improvements would result in increased soil disturbance, potential erosion, potential flooding and damage to the existing rock walls.

17. Adequate fire safety measures have been incorporated into the design of the proposed development;

Analysis: This finding is not applicable. However, the project does include proposed fire safety features to bring the cave and portal to current fire safe standards.

18. Disturbance to streams or watercourses shall be minimized and setbacks shall be retained as specified in Section 18.108.025;

Analysis: The project site contains two streams which run adjacent to and through existing site improvements. As discussed in depth in the incorporate biological resource evaluation (Biological Resources Baseline Conditions Report prepared by First Carbon Solutions, October 2014), the stream channels and related top of bank stream corridors have been highly altered both prior to approval of the original winery and as a result of the winery development and other improvements in recent years. Many of these manmade improvements within the stream and top of bank existed likely for decades prior to the

construction of the winery. When the winery was built, the County authorized installation of landscaping and paths within the stream setback. As to Teal Creek, removal of existing mature vegetation and/or man-made improvements would create more potential impacts to Teal Creek than what currently exists, even potentially damaging rock walls within the streambed during seasonally flooding. To off-set this creek incursion, an on-site preliminary restoration/conservation plan was submitted on June 5, 2015 by First Carbon Solutions and accepted delineating potential on-site mitigation opportunities that include the preservation and enhancement of existing seasonal wetlands, preservation of existing oak trees, invasive species removal and native plan restoration and planting of native vegetation. A final plan will be implemented in conjunction with authorized changes in winery operation.

19. The project does not adversely impact threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the County's environmental sensitivity maps;

Analysis: The project does not propose to undertake any work within the stream channel of either creek. There are no known sensitive species or habitat identified along these stream corridors, nor are any affected by the asked for exceptions as detailed in the Biological Resources Baseline Conditions Report prepared by First Carbon Solutions, October 2014.

20. An erosion control plan has been prepared in accordance with Section 18.108.080 and has been approved by the Director of his designee.

Analysis: The functional equivalent of an erosion control plan has been prepared. Project specifications have been submitted and approved by the Engineering Services Division, as conditioned.

**“B”**

**Draft Conditions of Approval**



**REVISED**

**“APPLICANT PROPOSAL”**

**PLANNING COMMISSION TENTATIVE ACTION**

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**PLANNING COMMISSION HEARING – JUNE 317, 2015  
EXHIBIT B – CONDITIONS OF APPROVAL**

**REVERIE ON DIAMOND MOUNTAIN**

**Use Permit Modification #P13-00027-MOD, Use Permit Exception to the Conservation Regulations #P15-00141, & Exception to the Napa County Road & Street Standards.  
1530 Diamond Mountain Road, Calistoga, CA  
APN: 020-440-005**

**1. SCOPE**

The permit shall be limited to:

- A. Subject to Permittee's completion of the restoration plan set forth in Condition of Approval No. 2.K. A Use Permit Exception (#P15-00141) to the Conservation Regulations with regards to retention of the following with a condition on restoration and/or conservation: 1) the portal for the existing wine cave encroaches into the setback for the small tributary creek on the property; and 2) the minor landscaping improvements along a portion of Teal Creek that are within the required setback of that creek. No visitation or marketing activities shall occur within the lawn area.
- B. An Exception to the Napa County Road & Street Standards (RSS) to allow for a reduction in the required 20 foot roadway width to preserve unique features of the natural environment. Access to the project site is from an approximately 1,000 ft. long paved private drive crossing several properties which outlets onto Diamond Mountain Road, a County maintained public right of way. Minor widening will occur on portions of this road on the adjoining property where no mature trees are located and outside of creek setbacks. The RSS exception would apply only to areas where natural features are to be preserved (see RSS exception drawing for details).
- C. Request for approval of a modification to Use Permit #94254-UP, to allow the following:
  1. Recognize and authorize an increase the approved production capacity from 5,000 to 9,200 gallons per year with a condition on estate grown grapes;
  2. Recognize and authorize the 1,460+/- sq.ft. (Second Floor) of the winery building allocated to accessory use;
  3. Recognize and authorize the use of the 4,710 +/-sq.ft. cave for wine production, case storage and wine barrel storage. Visitation and marketing activities are prohibited within the cave and once fire sprinklers are installed

~~use of the cave for tours, tastings and some events (Cave spoils were kept on the property and used to improve the vineyard roads);~~

~~4. Recognize and authorize an increase in the approved "by appointment visitation" of 20 persons per day with an average of 20 per week to a maximum of 40 persons per day with an average of 200 persons per week;~~

~~5. Recognize and authorize expansion of the existing marketing plan from the following: 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons to allow 1) 4 events per year with up to 60 persons; 2) 2 events per year with up to 40 persons; 3) 12 events per year with up to 10 guests; and 4) participation in the wine auction;~~

~~6-4. Recognize and authorize an increase in the approved number of employees from 2 employees plus 1 temporary employee during harvest to a maximum of 5 employees;~~

~~7-5. Recognize and authorize on-premise consumption of the wines produced on-site, consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill) within the winery building and improved lawn areas, and under the mature redwood grove;~~

~~8-6. Recognize and authorize catered food pairings;~~

~~9-7. Abandonment of an existing septic system and the installation of a new code compliant domestic and winery waste system subject to condition of approval 2.J below. ~~Both hold and haul and rapid aerobic treatment with storage are proposed;~~~~

~~10-8. Installation of a new well;~~

~~11-9. Installation of a new automatic storm water diversion valve and a temporary crush pad cover; and~~

~~12-10. Installation of a new ADA compliant parking space.~~

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 (the 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 cave spoils and fire suppression tanks are permitted, subject to review and approval by the Director of Planning, Building, and Environmental Services (the PBES Director), 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, the Project Specific Conditions shall supersede and control.

A. On-Premises Consumption

Consistent with Business and Professions Code §§23358, 23390 and 23396.5 (also known as AB 2004 (Evans 2008) or the Picnic Bill) and the PBES Director's July 17, 2008 memo, "Assembly Bill 2004 (Evans) & the Sale of Wine for Consumption On-Premises," on-premises consumption of wines produced on-site may occur solely within the winery building ~~and improved lawn areas~~ and under the mature redwood grove. Any and all visitation associated with on-premises consumption shall be subject to the ~~40~~ 20 person maximum daily tours and tastings visitation limitation and/or applicable limitations of permittee's marketing plan.

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

1. All exposed surfaces (e.g. parking areas, staging areas, soil piles, grading areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. 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.
6. 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.
7. 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.
8. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person

shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible.

- D. The existing single-family residence are classified for residential purposes only) and cannot be used for commercial purposes or in conjunction with the operation and/or visitation/marketing program for the winery. If the residence is rented, the residence shall only be rented out for periods of 30 days or more, pursuant to Napa County Code Section 18.104.410, Transient Commercial Occupancies of Dwelling Units Prohibited.
  
- E. 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), 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 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 in the event the winery is chosen in the annual audit. The permittee (and their successors) shall be required to participate fully in the audit process.
  
- F. No building, grading, or sewage disposal permit shall be issued, nor shall beneficial occupancy be granted until all accrued planning permit processing fees have been paid in full.
  
- G. Prior to commencing winery production or visitation the permittee shall implement the follow transportation demand management programs, subject to review and approval by the Director of Planning, Building and Environmental Services:
  - 1. Implement 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. Implement measures, such as signage, tasting room information handouts, education of tasting room staff, internet content, etc. to inform/educate/encourage visitors to utilize alternative forms of transportation.
  - 3. Schedule commencement and conclusion of by-appointment visitation to occur outside of peak traffic periods which are between 4:00 p.m. and 6:00 p.m. weekdays, 2:00 p.m. and 4:00 p.m. on Saturdays, and 1:00 p.m. and 3:00 p.m. Sundays.

4. Schedule employee work shifts to commence and conclude outside of peak periods between 4:00 p.m. and 6:00 p.m. weekdays, 2:00 p.m. and 4:00 p.m. on Saturdays, and 1:00 p.m. and 3:00 p.m. Sundays.
5. Schedule marketing event set up, arrival and departure to occur outside of weekday and Saturday peak traffic periods. Peak periods are between 4:00 p.m. and 6:00 p.m. weekdays, 2:00 p.m. and 4:00 p.m. on Saturdays, and 1:00 p.m. and 3:00 p.m. Sundays.

H. Prior to the issuance of a building permit for the cave portal and conversion of the second floor of the winery building (e.g., guest quarters) and/or the increase in wine production, a final conservation and restoration plan shall be submitted for review and approval by the Planning Division. Such plan shall be implemented prior to issuance of a final certificate of occupancy.

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I. The production increase (4,200 gallons per year) shall be restricted to use of of estate grown grapes. The permittee shall keep records of annual production documenting the source of grapes to verify use of estate grown 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 Planning, Building & Environmental Services Department upon request, but shall be considered proprietary information not available to the public for purposes of this Condition. "estate grown grapes" means grapes grown within the 27 acres vineyard located on the subject property.

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J. Hold and Haul Sewage Program shall be restricted to the 2015 winery crush season. Prior to any crushing after 2015, a new on-site sewage treatment system shall be permitted and installed pursuant to ~~conditions of approval set forth by~~ the Environmental Health Division's conditions of approval dated March 21, 2015.

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K. A Restoration Plan substantially in conformance with the First Carbon Solution's letter and report dated June 5, 2015 shall be submitted to the Planning Division for review and approval prior to issuance of building permits for the cave, and the restoration project called for in the approved plan shall be implemented prior to grant of final occupancy for the cave.

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

Project conditions of approval include all of the following County, Divisions, Departments and Agency(ies) 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 March 10, 2015 & March 5, 2014.
- B. Environmental Health Division as stated in their Memorandum dated March 21, 2014.
- C. Fire Department as stated in their Inter-Office Memo dated January 21, 2014 & February 13, 2013.
- D. Building Division as stated in their Memorandum dated February 28, 2013.

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.” Marketing and/or Tours and Tastings are not typically authorized until grant of Final Certificate of Occupancy, but exceptions may be granted where extenuating circumstances exist, subject to review and approval by the County Building Official, County Fire Marshal, and the PBES Director.

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 to document the number of visitors to the winery (be they tours and tastings or marketing event visitors), and the dates of their visit. 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: Daily
- 2. Maximum number of persons per day: ~~40~~ 20
- 3. ~~Maximum Average~~ **[No averages, they are unenforceable, is there a weekly max?]** number of persons per week: ~~200~~ 20
- 4. Hours of operation: 8:00 am to 5:00 pm
- 5. Catered Food Pairings

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

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 County Code 18.20.030(H)(5)(c) – AW Zoning.

**B. MARKETING**

Marketing events are limited to the following:

1. Frequency: ~~4-10~~ times per year  
Number of persons: ~~60-10~~ maximum  
Catered Food Pairings
2. Frequency: ~~2-12~~ times per year  
Number of persons: ~~40-18~~ maximum  
Catered Food Pairings
3. Frequency: ~~12-2~~ times per year  
Number of persons: ~~40-25~~ maximum  
Catered Food Pairings
4. Participation in Auction Napa Valley  
Catered Food Pairings

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"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 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 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. 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 the County of Napa. 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 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 Planning, Building & Environmental Services 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, 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).

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, 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 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. 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.

9. **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 (707-253-4357) shall be notified of all impending deliveries of live plants with points of origin outside of Napa County.

No trees greater than 6" DBH shall be removed, except for those identified on the submitted site 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 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.

10. **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.

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

12. **SITE IMPROVEMENTS AND ENGINEERING SERVICES-SPECIFIC CONDITIONS**

Please contact (707) 253-4417 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. **TRAFFIC**

Reoccurring and scheduled vehicle trips to and from the site for employees, deliveries, and visitors shall not occur during peak (4-6 PM) travel times to the maximum extent possible. 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. 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 Planning, Building & 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 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.

13. **ENVIRONMENTAL HEALTH-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 PBES Director 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 PBES Director 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 PBES Director has provided notice and the opportunity for hearing in compliance with the County Code Section 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 County 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 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, 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.

15. **ADDRESSING**

All project site addresses shall be determined by the PBES Director, and be reviewed and approved by the United States Post Office, prior to issuance of any building permit. The PBES 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 (20) days of the granting of this approval using the Planning, Building and Environmental Services 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 18.107.

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 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.

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 final certificate of occupancy by the County Building Official, which, upon granting, authorizes all use permit activities to commence. The County Building Official is authorized to grant a temporary certificate of occupancy to allow specified limited use of the project, such as commencement of production activities, prior to completion of all project improvements. In special circumstances, departments and/or agencies with jurisdiction over the project are authorized as part of the temporary certificate of occupancy process to require a security deposit or other financial instrument to guarantee completion of unfinished improvements.

“C”

Applicant Proposal – Restoration Plan &  
Other

SCOTT GREENWOOD-MEINERT  
scottgm@dpf-law.com

June 9, 2015

**VIA EMAIL: [John.McDowell@countyofnapa.org](mailto:John.McDowell@countyofnapa.org)**Mr. John McDowell, Deputy Planning Director  
Planning, Building and Environmental Services  
1195 Third Street, Room 210  
Napa CA 94559**Re: Reverie On Diamond Mountain; Major Use Permit Modification  
No. P13-0000237**

Dear John:

Following up on our meeting with you and Ms. Gallina last Thursday, this sets forth our efforts to reach a compromise with you and PBES that addresses the concerns and mixed messages articulated by the Planning Commission on Wednesday. This letter is provided to you in a DRAFT form for discussion purposes. Based on the issues we discussed last Thursday, here are compromises we believe that you and your staff can support, and that we hope the Planning Commission can not only appreciate, but approve.

1. In light of the Planning Commission's apparent consensus on Wednesday to retain the entertainment areas on the west side of Teal Creek, but to seek habitat conservation and restoration on the property in keeping with staff's recommendation, attached is a report from Jeannette Owen, Senior Biologist with First Carbon Solutions, with a diagram that outlines areas for both (i) conservation of oak woodlands and wetlands, and (ii) areas suitable for restoration with native plants (a list of which is also attached to Ms. Owen's report). Ms. Owen literally dropped everything she was working on to assist us in getting this report to you as fast as possible given the tight time lines we must keep to in this matter. Your original staff report stated 15,000 sq. ft. of restoration, but as we discussed yesterday, there are conservation opportunities on this wonderful property, which is why Ms. Owen's report identifies over 70,000 sq. feet of mitigation and preservation opportunities.
2. Reverie also proposes that the maximum annual visitation be modified downward to 6,800 visitors in the first year after approval of the application, with a 1,000 person increase annually thereafter for three years, with the annual increases based on substantial compliance with all other aspects of the approved use permit as evaluated by staff. Please note the visitation charts submitted with this letter, prepared by Reverie, that clearly justify the original visitation request of 10,840 annual visitors. However, it is apparent from the first commission hearing that our original request simply was not acceptable, no matter how thorough and how supportable the facts and analyses are to support the visitation request. So, we submit our even further developed rationale for our original visitation request, we offer this compromise in the hopes of your support and



Mr. John McDowell  
June 9, 2015  
Page 2

the commission's approval. Please note that the original permit's number of 20 visitors a week is not, and has not been for a long time, a number that allows Reverie to survive. The simple fact is, as we discussed, that no owner of Reverie can stay in business at that number, a number that is 20 years old and from a different era of wine marketing.

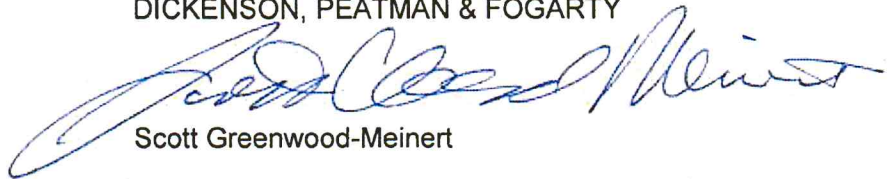
3. Reverie will report its visitation, if the compromise above is approved, for three year after approval.
4. Reverie will agree to an estate fruit designation, subject to being allowed for winemaking purposes to bring in minor amounts of fruit for blending purposes and subject to needing to bring in fruit as necessary to replace lost fruit due to replanting or disease. And of course the WDO would be complied with regarding fruit brought in, just as it would be now.
5. Reverie will agree to a temporary hold and haul program until it gets a "live" system installed. We cannot get a live system installed in time this year.
6. Reverie will agree to modified visitation hours of 10:00 a.m. to 5:00 p.m., instead of the 8:00 a.m. designation in its original permit.

The visitation and marketing analyses provided with this letter are confidential. Our intention is to provide them to staff and to the commission because we believe it is necessary, particularly in light of the demands for justification of our visitation requests by staff and commission. However, we insist that this information remain undiscoverable and undisclosed to the public until such time as we agree otherwise. If this request is challenged by the public, the indemnification of the County that has been signed by Reverie would also apply.

Again, we appreciate your efforts the last few days to meet with us and discuss the significant issues remaining after the hearing on Wednesday. Please contact me at your first opportunity to discuss the contents of this letter so that we can keep the tight timeframes we have for returning to the commission on June 17<sup>th</sup>.

Sincerely,

DICKENSON, PEATMAN & FOGARTY



Scott Greenwood-Meinert

Enclosure

cc: Planning Commissioners  
Norm Kiken, Reverie  
David Gilbreth





June 5, 2015

Scott Greenwood-Meinert  
**DICKERSON PEATMAN & FOGARTY**  
1544 First Street, Suite 301  
Napa, California 94559

**Subject: Reverie Vineyard & Winery: Potential Onsite Mitigation**

Dear Mr. Greenwood-Meinert,

FirstCarbon Solution (FCS) completed A Biological Resources Baseline Conditions Report (2014) and letter report Reverie Vineyard & Winery; Current and Historic Riparian Habitat (2015). Both reports discuss the existing conditions within the project site including the presence of an unnamed drainage located approximately 30 feet east of the existing winery/office building, wine cave and associated facilities. It was determined, through the review of historical aerial imagery, that the unnamed drainage feature does not currently and has not historically supported riparian vegetation.

It is my understanding that the owner/applicant and Napa County staff are working together to mitigate approximately 15,000 square feet (ft<sup>2</sup>) of natural habitat within the existing project parcel. Onsite mitigation opportunities, as shown on Exhibit 1, include preservation and enhancement of the existing seasonal wetlands (5,916 ft<sup>2</sup>), preservation of existing oaks (62,112 ft<sup>2</sup>), invasive species removal and native plant restoration (129 ft<sup>2</sup>), and planting of native vegetation (3,835 ft<sup>2</sup>) at locations that are suitable onsite; however there will be no plantings within the unnamed drainage or Teal Creek. Exhibit 2 is a list of vegetation native to Napa County that can be used as a planting resource.

Please contact Jeannette Owen at 916.447.1100 with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeannette Owen", with a long horizontal flourish extending to the right.

Jeannette Owen  
Senior Biologist/Regulatory Specialist

Enclosures:

- Exhibit 1: Onsite Mitigation Opportunities
- Exhibit 2: Native Vegetation to Napa County

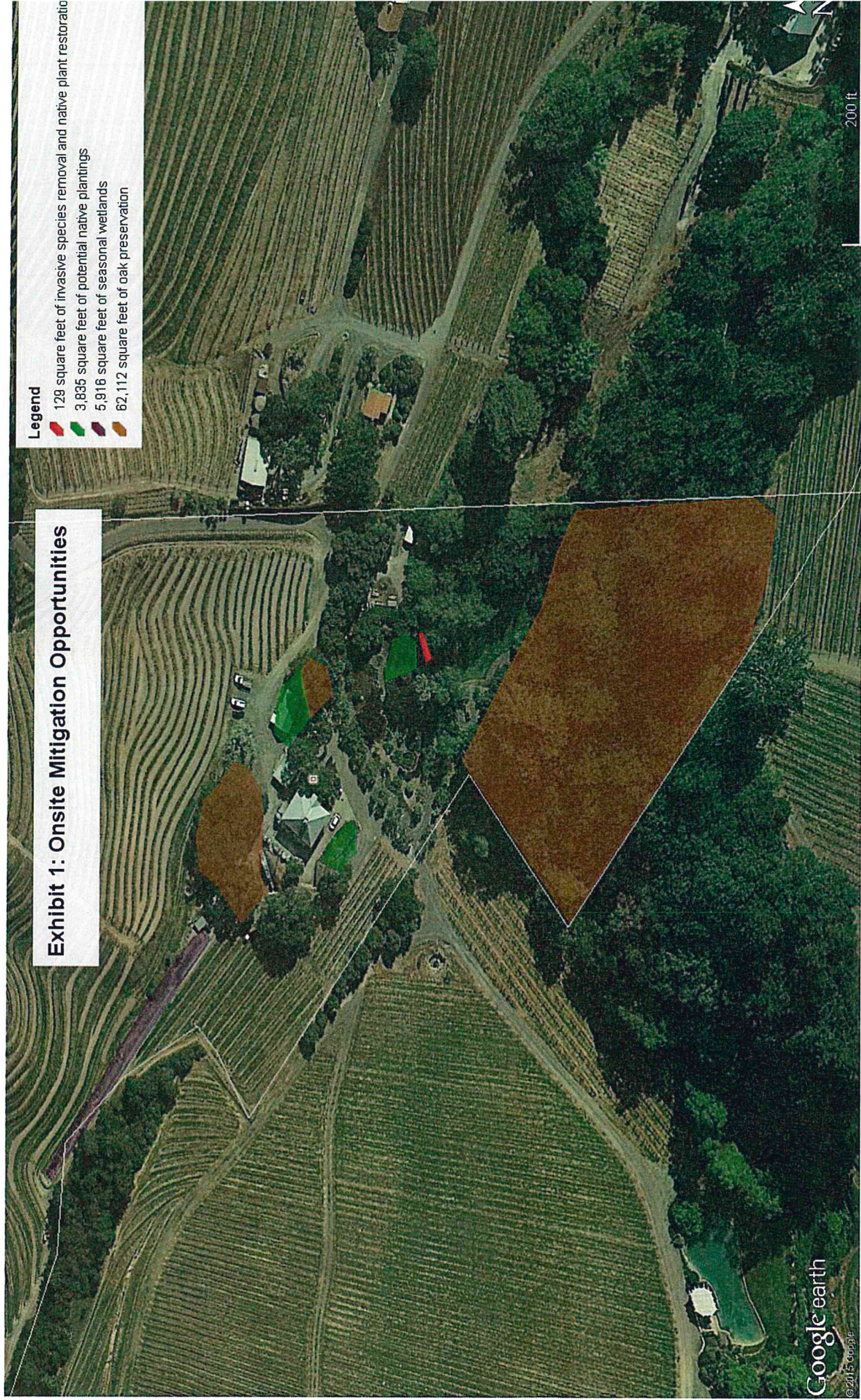
## Enclosures



# Exhibit 1: Onsite Mitigation Opportunities

## Legend

- 129 square feet of invasive species removal and native plant restoration
- 3,835 square feet of potential native plantings
- 5,916 square feet of seasonal wetlands
- 62,112 square feet of oak preservation





## Exhibit 2: Napa County Native Plants

Genus species	Common Name	Plant Community	Genus species	Common Name	Plant Community
<i>Achillea millefolium</i>	common white yarrow	coastal, meadow, chaparral	<i>Iris Pacific Coast Hybrid</i>	Iris Pacific Coast Hybrid mix	coastal, woodland
<i>Achillea various hybrids</i>	red, lilac, yellow yarrow	coastal, meadow, chaparral	<i>Juncus aspid</i>	wire grass	all
<i>Adiantum sp.</i>	maidenhair ferns	redwood, riparian	<i>Linum lewisii</i>	western blue flax	meadow
<i>Asclepias sp.</i>	milkweed	meadow - for monarchs!	<i>Lupinus albifrons</i>	silver bush lupine	coastal, meadow
<i>Arctostaphylos</i>	Manzanita	chaparral	<i>Lupinus arboreus</i>	yellow flower bush lupine	coastal, meadow
A. u. 'Pt Reyes'	Pt. Reyes bearberry	coastal, chaparral	<i>Mimulus aurantiacus</i>	golden sticky monkeyflower	woodland, meadow, chaparral
A. u. 'Radiant'	bearberry	coastal, chaparral	<i>Mimulus cardinalis</i>	red monkeyflower	riparian, woodland, meadow
A. 'Carmel Sur'	Carmel Sur manzanita	coastal, chaparral	<i>Mimulus hybrids</i>	hybrid monkeyflower	riparian, woodland, meadow
A. 'John Dourley'	hybrid manzanita	chaparral	<i>M. guttatus</i>	yellow monkeyflower	riparian, woodland
A. pajaroensis 'Paradise'	Pajaro Manzanita	chaparral	<i>Muhlenbergia rigens</i>	deer grass	meadow
A. 'Sentinel'	Sentinel Manzanita	chaparral	<i>Myrica californica</i>	Pacific wax murtle	coastal, woodland
A. 'Louis Edmonds'	pink manzanita	chaparral	<i>Oenothera</i>	evening primrose	meadow
A. 'Dr Hurd'	Dr Hurd manzanita	chaparral	<i>Oxalis oregana</i>	redwood sorrel	redwoods
<i>Aquilegia formosa</i>	western columbine	redwoods, riparian, woodland	<i>Penstemon azureus</i>	azure penstemon	meadow
<i>Asarum caudatum</i>	wild ginger	redwoods	<i>Penstemon 'Midnight'</i>	purple penstemon	meadow
<i>Aster chilensis</i>	common aster	coastal, riparian, woodland, meadow	<i>Phacelia</i>	western sword fern	meadow, woodland
<i>Baccharis pilularis</i>	coyote brush	coastal, meadow, chaparral	<i>Prunus lyonii</i>	Catalina cherry	chaparral
<i>Blechnum spicant</i>	deer fern	coastal, meadow, chaparral	<i>Polypodium</i>	polypody fern	redwoods, riparian, woodland
<i>Brodiaea laxa</i>	lithurlet's Spear	woodland, riparian	<i>Ranunculus californicus</i>	buttercups	meadow, woodland
<i>Calycanthus occidentalis</i>	spice bush	riparian	<i>Rhamnus californica</i>	coffeeberry	coastal, riparian, wood, chap
<i>Carpenteria californica</i>	bush anemone	chaparral	<i>R. c. 'Eve Case'</i>	coffeeberry	coastal, woodland
<i>Caeanthus</i>	California wild lilac	chaparral	<i>Rhus integrifolia</i>	lemonade berry	coastal, riparian, wood, chap
C. gloriosus porrectus	wild lilac	coastal, chaparral	<i>Ribes sanguineum</i>	pink flowering currant	coastal, riparian, wood, chap
C. g. 'Anchor bay'	wild lilac	coastal, chaparral	<i>Ribes aureum</i>	golden currant	coastal, woodland
C. 'Frosty Blue'	wild lilac	chaparral	<i>Ribes viburnifolium</i>	fuchsia flowering gooseberry	redwoods, riparian, woodland
C. 'Dark Star'	wild lilac	chaparral	<i>Romneya coulteri</i>	Catalina perfume	redwoods, riparian, woodland
C. 'Julia Phelps'	wild lilac	chaparral	<i>Sambucus mexicana</i>	matilija poppy	riparian, woodland
C. 'Concha'	wild lilac	chaparral	<i>Salvia</i>	blue elderberry	chaparral
<i>Caracis occidentalis</i>	western redbud	chaparral, desert	<i>S. apiana</i>	Sage	woodland, riparian
<i>Chilopsis linearis</i>	desert willow	meadow	<i>S. 'Bee's Bliss'</i>	white sage	chaparral
<i>Clarkia</i>	clarkia	chaparral	<i>S. 'Winifred Gilman'</i>	bee's bliss sage	chaparral
<i>Clematis linguisticifolia</i>	western clematis	chaparral	<i>S. 'Whirly Blue'</i>	cleveland sage	chaparral
<i>Clematis lasiantha</i>	clematis	chaparral	<i>S. 'Allen Chickering'</i>	whirly blue sage	chaparral
<i>Dudleya sp.</i>	dudleya	coastal	<i>S. 'Pt Sal dwarf sage'</i>	Pt Sal dwarf sage	chaparral
<i>Encelia californica</i>	brittlebrush	meadow	<i>S. sonomensis</i>	Sonoma sage	chaparral
<i>Eriophyllum stachaeifolium</i>	lizard tail	chaparral	<i>S. spathacea 'Las Pilitas'</i>	hummingbird sage	woodland, chaparral
<i>Epilobium assorted species/cvs</i>	California fuchsia	chaparral, meadow	<i>Sedum species/cvs</i>	bee plant	woodland, riparian
<i>Erigeron glaucus</i>	seaside daisy	coastal, meadow	<i>Sisyrinchium bellum</i>	blue eyed grass	coastal
<i>Eriogonum fasciculatum</i>	California buckwheat	chaparral	<i>Sisyrinchium californicum</i>	yellow-eyed grass	meadow
<i>Eriogonum giganteum</i>	St. Catherine's lace	meadow	<i>Spirea densiflora</i>	mountain spirea	riparian
<i>E. grande rubesens</i>	red buckwheat	coastal, chaparral	<i>Symphoricarpos albus</i>	snowberry	woodland, mountains
<i>Epilobium, various</i>	California fuchsia	chaparral, meadow	<i>Tellima grandiflora</i>	fringe cups	riparian, woodland
<i>Eschscholzia californica</i>	California poppy	meadow	<i>Thermopsis macrophylla</i>	false lupine	riparian, woodland
<i>Euthamia occidentalis</i>	goldenrod	meadow, woodland	<i>Triteleia hyacinthia</i>	redwoods	meadow, woodland
<i>Festuca idahoensis</i>	Idaho fescue grass	meadow, woodland	<i>Vaccinium ovatum</i>	huckleberry	redwoods
<i>Festuca I. 'Siskiyou Blue'</i>	blue Idaho fescue	meadow, woodland	<i>Verbena lilacina 'De La Mina'</i>	lilac verbena	coastal, chaparral
<i>Festuca californica</i>	California fescue	meadow, woodland	<i>Vitis californica 'Roger's Red'</i>	California grape	woodland, riparian
<i>Fragaria sp.</i>	wild strawberry	redwoods, riparian, woodland	<i>Woodwardia fimbriata</i>	fern	woodland, redwoods
<i>Fremontodendron</i>	hybrid flannel bush	chaparral	<i>Wyethia mollis</i>	Mule's ear sunflower	meadow, woodland
<i>Gilia</i>	birdseye	meadow	<i>Zauchneria californica</i>	California fuchsia	chaparral, meadow
<i>Grindellia stricta</i>	gumplant	coastal, meadow			
<i>Heteromeles arbutifolia</i>	toyon	chaparral, woodland			
<i>Heuchera species/cvs</i>	alum root/coral bells	redwoods, woodland			

REVERIE on DIAMOND MOUNTAIN, LLC  
MARKETING PLAN

**CONCLUSION:** The following information and attached calculations support our request for production of 9,200 gallons of wine and daily visitation of a maximum of 40 persons with an average of 200 persons per week (10,400 persons annually.) Such calculations were made based on our existing marketing emphasis of direct consumer sales with special emphasis on wine clubs membership. Our marketing plan also takes advantage of our unique walking tour with tasting that takes utilizes our beautiful gardens and breath taking redwood circle.

Direct-to-consumer marketing and particularly wine clubs are a major source of sales for all wineries and particularly for smaller wineries. The 2014 Wine Business Monthly/Silicone Valley Bank Tasting Room Survey, noted "...the direct to consumer sales channel is more vibrant than ever...." and that "...80% of all wineries now offer [wine]clubs.... Also, it noted that the "average winery saw the ranks of wine club members increase by 20%...."

**HISTORY:** The vineyard was planted in 1989-1990 to three varieties of grapes, Cabernet Sauvignon (about 80%), Cabernet Franc (about 10%) and Merlot (about 10%.) The property was bought in 1993 by Norman and Evelyn Kiken approximately 2 weeks before the first harvest. At that time, Norman, a CPA, was the CFO of a public company that was a major investor in Pine Ridge Winery. Norman served on the Pine Ridge Board and had worked several harvests there. As a super "wine geek" Norman left in 1994 to become the full time winemaker, Manager and (then) sole employee at Reverie. He is still the winemaker and Manager.

The first harvest was very small and the wine was custom crushed. Distribution was to friends and acquaintances and a small amount to New York restaurants. After harvest, a portion of the vineyard was budded over to Petit Verdot and to trial blocks of Barbera, Tempranillo and Malbec (since expanded.)

In 1994-1995, the Kiken's reconstructed a 150 year old barn that was to become the winery building and also served as a temporary residence while the primary home was being constructed elsewhere on the property. A winery permit which has not been modified since was granted in 1995.

The 1994 crop was also custom crushed as well as the 1995 grapes except for the Barbera and Tempranillo which were fermented at Reverie after the permit was obtained.

The original marketing plan was to sell a substantial amount of grapes to other wineries and to estate bottle the balance. As was typical at the time, Reverie utilized distributors and brokers to distribute the bulk of its production. Reverie's experience with this form of distribution was that it required expensive personal visits to the ultimate buyers, generally resulting in single case sales to high end restaurants and collection problems from its distributors. It also became more difficult to find good distributors as there was significant distributor consolidation and increased competition from new brands. Also, even good distributors did not provide adequate attention to small producers as they were under pressure from large wineries to sell their products. As a result, the winery was financially unsuccessful and needed to develop viable alternatives.



Reverie had started to receive individuals who had heard both good things about the wines and the uniqueness of its beautiful property, particularly its redwood "fairy ring." These visits combined with changes in the marketplace led to the conclusion that direct to consumer sales (utilizing only its own estate grown grapes) was the best marketing approach. Also, the low yields and high costs of farming a steep mountain vineyard made sales of grapes a non-viable alternative. Further, the small production varietals Reverie produced, while creating an interesting variety of wines for consumers, were not in demand by other wineries at adequate prices. (For example in 2014 Cabernet Sauvignon production was only 45% of total compared to approximately 80% when the property was acquired.) Eventually, a visitor based sales program with an emphasis on wine club sales was developed and has been very successful.

#### Wine clubs:

The principal advantage of a wine club to a winery is that shipments are automatic, most members remain customers for a period of time and bad debts are eliminated. It also requires personal attention from sales people, generally a discount from posted prices and incurrence of pouring costs. Most significantly, a large percentage of drop outs every year need to be replaced to maintain a static membership.

In implementing the visitation program, Reverie evaluated its assets. Its major asset is of course outstanding wines. However, good wines are the norm in Napa Valley and Reverie needed to separate itself from the many wineries, including the many new showplace wineries also emphasizing visitation program. Its major unique asset was the unusually large and perfect circular stand of majestic redwood trees as well as the gardens created by Evelyn Kiken, a Master Gardiner. Reverie was also producing varietal estate wines that were not widely available in the Napa Valley such as Barbera, Tempranillo, Grenache and Roussanne. (Reverie believes it is producing the only Napa Valley Estate Barbera, one of two producing a 100% Napa Valley Estate Roussanne and one of the few bottling a Napa Valley Estate Petit Verdot as a varietal.) Reverie also found that not having its wines in distribution and therefore being only available from the Winery was important to its sales effort. (See attached calculations.)

Reverie was aware most wineries had an indoor tasting bar or room and/or some outside sitting area with amenities. Reverie decided to use its assets by creating a unique walking tour with tasting along the way. A typical visitor would remain outside throughout the tour. Generally, the visitor will tour the fermentation area to discuss the process, see fermentation tanks, the grape press and pumps and perhaps look at some nearby vines to discuss viticulture with the tour guide. The visitor would observe the barrel storage area leading to a discussion of barrels and ageing and then walk through the beautiful gardens to the redwood area. The tour would finish at several tables where orders were taken. During fermentation, the lucky visitor frequently got to see pumpovers from the top of a fermenting tank, taste new or fermenting grape juice and toss a few clusters into the destemer.

#### Non Wine Club Sales:

A high percentage of visitors who do not join the wine clubs, purchase wine. However the average aggregate sale to these customers is substantially less than to wine club members. (see attached calculations.)

Reverie also distinguishes itself by having an experienced group of tour leaders all of whom have been at Reverie for at least 3 years and includes the owner's son. Being a small hands-on winery, the owner/winemaker frequently meets with visitors. We believe this is a unique and memorable experience for them.

Unlike most Napa Valley wineries, Reverie does not normally charge a tasting or visitation fee.

#### Obtaining Visitors:

The major sources of visitors are referrals from existing customers, including wine club members, private tour drivers, concierges, repeat visitors and travel web sites (such as Trip Advisor), where Reverie has very high consumer satisfaction ratings. Reverie attempts to make itself known to concierges and private tour drivers by staff visits, customer recommendations, tastings and invitations to the winery.

#### Our Visitation Request:

Reverie is basing its request for visitation based on the number of visitors needed to purchase its estate grown production. (See calculations.)

The production limit being requested is 9200 gallons. Based on that amount, approximately 3800 cases would be produced before losses. Based on Reverie's average grape production in the last ten years approximately 3400 cases would be produced. However, during the last 10 years, production has been as great as 30% above the 10 year average as well as above average in each of the last 2 years. As a result of the likelihood of crops above the average, Reverie has requested an additional visitation of noted in the attached calculations (See Note g).

Wine club membership in recent years has been about 2,400 members. However, somewhere between 20% and 28% of Members need to be replaced every year due to lapse of membership. Most visitors to Reverie come as couples. Reverie believes about 15%-20% of visitors (or 30-40% of couples) join one of its wine clubs. A substantial percentage of visitors who do not join the wine clubs purchase wine. However the average aggregate sale to these customers is substantially less than to wine club members.

Reverie offers wine club members a 15% discount from posted prices on both wine club shipments and other wine purchases. Non-club visitors purchasing a case of wine or more receive a 10% discount. Almost all purchases of 6 bottles or more and wine club shipments are shipped by a commercial shipper generally in Spring or Fall as weather permits. Customers pay for shipping and sales taxes, if any. Virtually all sales are paid by credit card.

Sales to restaurants, retailers and on-line are miniscule.

#### Calculation and Conclusion:

Attached is a calculation of required visitation under two scenarios. Based on his experience of over 22 years as a wine maker-winery owner, winery board member, financial executive and (former) CPA, Norman Kiken believes the calculations are reasonable and fully support Reverie's request for visitation of a maximum of 40 persons a day and an average of 200 per week (a total of 10,400 annually).

For 9,232 Visitors

		SENSITIVITY		PEF	
		**		**	
Club	.5 CASES	12%	14%	16%	18%
Bottles	.25 CASES	36%	34%	32%	30%
Total % Buying		48%	48%	48%	48%
CASES SOLD		554	646	739	831
Club	.5 cases	831	785	739	692
Bottles	.25 Cases	305	305	305	305
Samples	305 cases	1,690	1,736	1,782	1,828
Total sold					1,874

\*\* Used in principal analysis





Visitors needed to sell:

3800 cases

**Per Individual**

Visitors %

Wine club	9232	18%
Bottles/cases	9232	30%
No Sale		52%
Samples	9232	100%

**Per Couple**

1/2 of 2 x of  
above Above

Wine club	4616	36%
Bottles/cases	4616	60%
No Sale	4616	4%
Samples	4616	100%

Number of Buyers	Cases per Buyer	Total Cases
1,662	0.500	831
2,770	0.250	692
9,232	0.033	<u>305</u>
		1,828

Number of Buyers	Cases per Buyer	Total Cases
1,662	0.50	831
2,770	0.25	692
0		
4,616	0.066	<u>305</u>
		<u>1,828</u>

“D”

Public Comments

## Gallina, Charlene

---

**From:** Bill Dyer <info@dyerwine.com>  
**Sent:** Thursday, June 11, 2015 9:09 AM  
**To:** Gallina, Charlene  
**Cc:** napacommissioner@yahoo.com; heather@vinehillranch.com; anne.cottrell@lucene.com; tkscottco@aol.com; mattpope384@gmail.com  
**Subject:** Use Permit Modification for Reverie Winery, APN 020-440-005

I am heartened by the Staff Recommendations for the Use Permit Modification. Specifically I like that they recognize the appropriateness of sizing wine production to accommodate the grapes grown on the estate property. Diamond Mountain Rd. is very narrow in some places, including a one-lane bridge, proceeded by very tight (almost blind) turns. Having the grapes all processed on site, matching wine production to vineyard production, should minimize truck traffic on the road during harvest, limiting both the export and the import of grapes. I am also glad to see Staff expressing concern about the impacts of increased visitation, especially those associated with events. The large vehicles often utilized during special events and by commercial tours can dramatically impact the safety of traffic on this road. I am especially concerned that the increased visitation request precedes acquisition of this parcel by the entity developing the adjacent resort, and worry that this may be a prelude to directly connecting the resort with Reverie and Von Strasser wineries, such that activities in the municipal development would direct traffic onto Diamond Mountain Road. I would like to see restrictions to prevent future linkage of the resort to the wineries to the extent it impacts traffic on the County road.

Bill Dyer  
1501 Diamond Mountain Rd.  
Calistoga

George Caloyannidis  
2202 Diamond Mountain Road  
Calistoga, CA 94515  
[gecalo@comcast.net](mailto:gecalo@comcast.net)

June 9, 2015

TO: Napa County Planning Commissioners  
RE: Reverie Winery Major Use-Permit Modification

Dear Commissioners:

In addition to my previously submitted extensive comments and in response to some of the subsequent comments on record and to some of the ones expressed by some of you during the last hearing, I would like to add the following:

Some of the comments and letters of support argued that the Modification should be granted because the applicant's character and behavior as a neighbor are exemplary. I believe that addressing the case on these terms would be immaterial and misguided.

- 1) At issue here is not the character of the applicant. It is whether it is appropriate for the County to reward an operation which has shown disregard for the conditions of its use permit, the numerous grading and building permit code and environmental violations in relation to streams, sewer disposal and water quality while accepting visitors (the detailed list is contained in my previously submitted comments).
- 2) If use permits – the most important instrument available to the County for regulating its economic and environmental vitality and quality of life - are granted in terms of character, then criteria on how to evaluate them ought to be codified standards applied universally. But at this point in time such criteria and standards are not an approved part of the process.

The letters in support by *Solage* or from vendors and practitioners doing business with Reverie must be considered in recognition that these entities will continue to do business with it if they choose to do so regardless of subsequent owners. The issue of increased use permit levels might have had some merit if there was a shortage of wineries. However, at a time when APAC is trying to develop conditions placing limits on the number of potential wineries, this is clearly not the case.

One more letter by *Calistoga Hills* who by all intents and purposes is the prospective buyer of Reverie does not even deserve comment.

The letter by the Reverie attorneys comparing the Reverie post modification size to other operations might have been well taken if a new winery's application was being considered, a metric often applied in many cases in the past. But in view of cumulative effects – as the ones currently reviewed by APAC – indicates that more careful approval standards may be needed at this point in time.

I also agree with the comment by one of you that small wineries deserve the County's support. Sadly, small wineries are a disappearing species. However, this just not warrant the indiscriminate support and the granting of immunity from egregious and consistent disregard of an entire body of regulation.



In addition, you must realize that denying Mr. Kiken the Modification would not preclude his vendors and supporters from continuing doing business with that winery.

However, as Mr. Kiken has reluctantly admitted, he is in the process of selling his winery. The only reason he is seeking the modification is for him to justify an increased sales price. After that, he is not going to be around for all his supporters.

**In effect, approval of this modification is an instrument by which the County will literally be writing a check to Mr. Kiken for several million additional dollars in increased value (twofold production – sixty fivefold visitations) as a direct monetary reward for disregarding the discretionary use the County and the public entrusted him with. This has nothing to do with support of small wineries.**

The serious issue regarding the County's ability to monitor visitation and sales of the winery in view that it will have 1 direct secondary access to the adjoining resort which is within the City of Calistoga jurisdiction needs to be addressed whether the Modification is granted or denied. Sales to visiting customers can be recorded at the resort rather at the winery - all without violating any laws - making monitoring and enforcement by the County structurally impossible.

You as Planning Commissioners are the guardians of the integrity of the use permit process. The granting of any part of this Modification and especially, any failure to impose severe sanctions instead would be a direct disregard of the powers entrusted in you.

The public is mobilizing in serious ways.

Sincerely,

George Caloyannidis

## Gallina, Charlene

---

**From:** McDowell, John  
**Sent:** Thursday, June 11, 2015 12:33 PM  
**To:** Gallina, Charlene  
**Subject:** FW: REVERIE WINERY  
**Attachments:** REVERIE 2nd COMMENTS.docx

---

**From:** CALTI [<mailto:calti@comcast.net>]  
**Sent:** Tuesday, June 09, 2015 12:20 PM  
**To:** PC/ Anne Cottrell; PC/ Heather Phillips; PC/ Matt Pope; PC/ Michael Basayne; PC/ Terry Scott  
**Cc:** C/ 2050 Dan Mufson; McDowell, John  
**Subject:** REVERIE WINERY

Dear County Planning Commissioners,  
Attached, please find my additional comments for your consideration.

George Caloyannidis

CONFIDENTIALITY NOTICE: This email message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If you are not the intended recipient of the message, please contact the sender immediately and delete this message and any attachments. Thank you.



“E”

Public Comments Received –  
June 3, 2015

Planning Commission Mtg.

JUN 03 2015

Agenda Item # 9B

June 2, 2015

SCOTT GREENWOOD-MEINERT  
scottgm@dpf-law.com

RECEIVED

JUN 2 2015

Napa County Planning, Building  
& Environmental Services

Commissioner Heather Phillips (VIA EMAIL: [heather@vinehillranch.com](mailto:heather@vinehillranch.com))  
Commissioner Michael Basayne (VIA EMAIL: [napacommissioner@yahoo.com](mailto:napacommissioner@yahoo.com))  
Commissioner Anne Cottrell (VIA EMAIL: [Anne.cottrell@lucene.com](mailto:Anne.cottrell@lucene.com))  
Commissioner Terry Scott (VIA EMAIL: [tkscott@aol.com](mailto:tkscott@aol.com))  
Commissioner Matt Pope (VIA EMAIL: [mattpope384@gmail.com](mailto:mattpope384@gmail.com))  
Napa County Planning Commission  
1195 Third Street, Room 210  
Napa, CA 94559

VIA EMAIL: [John.McDowell@countyofnapa.org](mailto:John.McDowell@countyofnapa.org)  
Mr. John McDowell, Deputy Planning Director  
Planning, Building and Environmental Services  
1195 Third Street, Room 210  
Napa CA 94559

VIA EMAIL: [Charlene.Gallina@countyofnapa.org](mailto:Charlene.Gallina@countyofnapa.org)  
Ms. Charlene Gallina, Supervising Planner  
Planning, Building and Environmental Services  
1195 Third Street, Room 210  
Napa CA 94559

Re: **Reverie On Diamond Mountain; Major Use Permit Modification No. P13-0000237**

Dear Chairperson Phillips, Commissioners and Staff:

This letter, and its attachments, are submitted on behalf of the applicant in the above-reference matter, Reverie on Diamond Mountain. One attachment is a visitation and marketing analysis prepared by the applicant that explains in further detail why the visitation and marketing increases in the application are absolutely necessary to the business of this estate vineyard and winery operation. On-site direct to consumer sales are essential to Reverie and as its vineyards have become more productive over time, which has led to Reverie's asking for increased production and visitation levels.

Here is a link to an excellent recent webinar put on by Silicon Valley Bank about the importance of Direct to Consumer sales; <http://svbwine.blogspot.com/2015/05/replay-of-2015-dtc-videocast-chat.html>.

Also included is a letter regarding Reverie's business plan from Professor Thach of California State University Sonoma, supporting the calculations in the business plan.

Staff has provided with its staff report a winery comparison table for wineries between 0-10,000 annual gallons (Exhibit F). Eventually this type of table may become a useful tool for staff, the public, the applicant and for the Commission, but until the information in the table is updated and verified as accurate, its usefulness is marginalized. Foremost, the chart does not include the dates that the wineries on it were permitted. There is information here that is stale at best.

For example, the table includes 60 sample winery approvals. We took a sample and just analyzed the 14 wineries listed with production capacities of 5,000 gallons. Of those we found the following discrepancies between the table's information, the information on the County's winery database and our own personal knowledge:

Chateau Chevre: The County database shows 50 visitors per week, not zero.

Mayacamas: The County database shows 50,000 gallons production, not 5,000.

Simone: This winery was never built. The property is now entirely planted in vineyard and is adjacent to and owned by Laird winery.

Pelosi: Allowed 8 visitors per day, 10 per week, not the other way around. This winery has also not been built yet.

In addition, like Simone and Pelosi, we are aware of other wineries listed that have never been built, such as Lindstrom and Shackford. There are probably numerous other ones. The table includes the number of annual events but does not include how many guests may attend these events, and the current policy of the Planning Commission is to combine the guests at events with the maximum allowable visitation to arrive at an annual figure of how many people are coming to the winery. The table includes 11 wineries with the indication that tours and tastings are allowed by appointment, but the daily and weekly visitation number is zero. The staff report states that wineries approved by Small Winery Exemptions were not included in the table because the Exemptions did not allow visitation and staff did not want them to affect the averages, yet Oakville Ranch, Ritchie Creek, Rust Ridge and Simone wineries are all in the main table, as well as the secondary table of wineries approved under the Exemption provisions. These may seem like small errors, but they impugn the accuracy and efficiency of the data.

In order for a table like this to be a useful tool someone needs to review all of the individual files to check the accuracy of the data and to determine whether or not the use permits are still valid. Further, the fact that wine audit information is private means that updated information for this table cannot be used to improve its accuracy.

Additionally, attached is another letter of support we received yesterday from a neighbor, Hal Taylor.

Thank you for your time and consideration of these materials.

Sincerely,

DICKENSON, PEATMAN & FOGARTY



Scott Greenwood-Meinert

Enclosures

REVERIE on DIAMOND MOUNTAIN, LLC  
MARKETING PLAN

**CONCLUSION:** The following information and attached calculations support our request for production of 9,200 gallons of wine and daily visitation of a maximum of 40 persons with an average of 200 persons per week (10,400 persons annually.) Such calculations were made based on our existing marketing emphasis of direct consumer sales with special emphasis on wine clubs membership. Our marketing plan also takes advantage of our unique walking tour with tasting that takes utilizes our beautiful gardens and breath taking redwood circle.

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**HISTORY:** The vineyard was planted in 1989-1990 to three varieties of grapes, Cabernet Sauvignon (about 80%), Cabernet Franc (about 10%) and Merlot (about 10%.) The property was bought in 1993 by Norman and Evelyn Kiken approximately 2 weeks before the first harvest. At that time, Norman, a CPA, was the CFO of a public company that was a major investor in Pine Ridge Winery. Norman served on the Pine Ridge Board and had worked several harvests there. As a super "wine geek" Norman left in 1994 to become the full time winemaker, Manager and (then) sole employee at Reverie. He is still the winemaker and Manager.

The first harvest was very small and the wine was custom crushed. Distribution was to friends and acquaintances and a small amount to New York restaurants. After harvest, a portion of the vineyard was budded over to Petit Verdot and to trial blocks of Barbera, Tempranillo and Malbec (since expanded.)

In 1994-1995, the Kiken's reconstructed a 150 year old barn that was to become the winery building and also served as a temporary residence while the primary home was being constructed elsewhere on the property. A winery permit which has not been modified since was granted in 1995.

The 1994 crop was also custom crushed as well as the 1995 grapes except for the Barbera and Tempranillo which were fermented at Reverie after the permit was obtained.

The original marketing plan was to sell a substantial amount of grapes to other wineries and to estate bottle the balance. As was typical at the time, Reverie utilized distributors and brokers to distribute the bulk of its production. Reverie's experience with this form of distribution was that it required expensive personal visits to the ultimate buyers, generally resulting in single case sales to high end restaurants and collection problems from its distributors. It also became more difficult to find good distributors as there was significant distributor consolidation and increased competition from new brands. Also, even good distributors did not provide adequate attention to small producers as they were under pressure from large wineries to sell their products. As a result, the winery was financially unsuccessful and needed to develop viable alternatives.

Reverie had started to receive individuals who had heard both good things about the wines and the uniqueness of its beautiful property, particularly its redwood "fairy ring." These visits combined with changes in the marketplace led to the conclusion that direct to consumer sales (utilizing only its own estate grown grapes) was the best marketing approach. Also, the low yields and high costs of farming a steep mountain vineyard made sales of grapes a non-viable alternative. Further, the small production varietals Reverie produced, while creating an interesting variety of wines for consumers, were not in demand by other wineries at adequate prices. (For example in 2014 Cabernet Sauvignon production was only 45% of total compared to approximately 80% when the property was acquired.) Eventually, a visitor based sales program with an emphasis on wine club sales was developed and has been very successful.

#### Wine clubs:

The principal advantage of a wine club to a winery is that shipments are automatic, most members remain customers for a period of time and bad debts are eliminated. It also requires personal attention from sales people, generally a discount from posted prices and incurrence of pouring costs. Most significantly, a large percentage of drop outs every year need to be replaced to maintain a static membership.

In implementing the visitation program, Reverie evaluated its assets. Its major asset is of course outstanding wines. However, good wines are the norm in Napa Valley and Reverie needed to separate itself from the many wineries, including the many new showplace wineries also emphasizing visitation program. Its major unique asset was the unusually large and perfect circular stand of majestic redwood trees as well as the gardens created by Evelyn Kiken, a Master Gardiner. Reverie was also producing varietal estate wines that were not widely available in the Napa Valley such as Barbera, Tempranillo, Grenache and Roussanne. (Reverie believes it is producing the only Napa Valley Estate Barbera, one of two producing a 100% Napa Valley Estate Roussanne and one of the few bottling a Napa Valley Estate Petit Verdot as a varietal.) Reverie also found that not having its wines in distribution and therefore being only available from the Winery was important to its sales effort. (See attached calculations.)

Reverie was aware most wineries had an indoor tasting bar or room and/or some outside sitting area with amenities. Reverie decided to use its assets by creating a unique walking tour with tasting along the way. A typical visitor would remain outside throughout the tour. Generally, the visitor will tour the fermentation area to discuss the process, see fermentation tanks, the grape press and pumps and perhaps look at some nearby vines to discuss viticulture with the tour guide. The visitor would observe the barrel storage area leading to a discussion of barrels and ageing and then walk through the beautiful gardens to the redwood area. The tour would finish at several tables where orders were taken. During fermentation, the lucky visitor frequently got to see pumpovers from the top of a fermenting tank, taste new or fermenting grape juice and toss a few clusters into the destemer.

#### Non Wine Club Sales:

A high percentage of visitors who do not join the wine clubs, purchase wine. However the average aggregate sale to these customers is substantially less than to wine club members. (see attached calculations.)

Reverie also distinguishes itself by having an experienced group of tour leaders all of whom have been at Reverie for at least 3 years and includes the owner's son. Being a small hands-on winery, the owner/winemaker frequently meets with visitors. We believe this is a unique and memorable experience for them.

Unlike most Napa Valley wineries, Reverie does not normally charge a tasting or visitation fee.

#### Obtaining Visitors:

The major sources of visitors are referrals from existing customers, including wine club members, private tour drivers, concierges, repeat visitors and travel web sites (such as Trip Advisor), where Reverie has very high consumer satisfaction ratings. Reverie attempts to make itself known to concierges and private tour drivers by staff visits, customer recommendations, tastings and invitations to the winery.

#### Our Visitation Request:

Reverie is basing its request for visitation based on the number of visitors needed to purchase its estate grown production. (See calculations.)

The production limit being requested is 9200 gallons. Based on that amount, approximately 3800 cases would be produced before losses. Based on Reverie's average grape production in the last ten years approximately 3400 cases would be produced. However, during the last 10 years, production has been as great as 30% above the 10 year average as well as above average in each of the last 2 years. As a result of the likelihood of crops above the average, Reverie has requested an additional visitation of noted in the attached calculations (See Note g).

Wine club membership in recent years has been about 2,400 members. However, somewhere between 20% and 28% of Members need to be replaced every year due to lapse of membership. Most visitors to Reverie come as couples. Reverie believes about 15%-20% of visitors (or 30-40% of couples) join one of its wine clubs. A substantial percentage of visitors who do not join the wine clubs purchase wine. However the average aggregate sale to these customers is substantially less than to wine club members.

Reverie offers wine club members a 15% discount from posted prices on both wine club shipments and other wine purchases. Non-club visitors purchasing a case of wine or more receive a 10% discount. Almost all purchases of 6 bottles or more and wine club shipments are shipped by a commercial shipper generally in Spring or Fall as weather permits. Customers pay for shipping and sales taxes, if any. Virtually all sales are paid by credit card.

Sales to restaurants, retailers and on-line are miniscule.

#### Calculation and Conclusion:

Attached is a calculation of required visitation under two scenarios. Based on his experience of over 22 years as a wine maker-winery owner, winery board member, financial executive and (former) CPA, Norman Kiken believes the calculations are reasonable and fully support Reverie's request for visitation of a maximum of 40 persons a day and an average of 200 per week (a total of 10,400 annually).

**CALCULATION OF VISITORS NEEDED**

**Sales and Wine Used Per 100 Visitors:**

	Cases*		Total Cases		(Note)
	Per 100 Visitors	Per Sale	Per 100 Visitors	Bottle Per Sale	
Spouse/Significant Other (a)	50	0	0.0	0	
Join Wine Club (b) (c)	18	0.5	9.0	6	
Not Purchase	2	0	0.0	0	
Buy Bottles/Cases (d)	30	0.25	7.5	3	
Sampling-5-2oz (for all 100)			<u>3.3</u>		
Total	<u>100</u>		<u>19.80</u>		
Sold/Used Per Visitor			<u>0.198</u>		

**Production**

	9200 Gallons	Average (10 Years)
--	-----------------	-----------------------

Case Production	3,800	3,400
Sold to Continuing Wine Club	-1,872	-1,872
Off Site Direct Sales	<u>-100</u>	<u>-100</u>
Needed to Sell and Sample	1,828	1,428
Cases Per Visitor (per above)	0.198	0.198
<b>Visitors Needed(g)</b>	<u><b>9,232</b></u>	<u><b>7,212</b></u>

- (a) The vast majority of visitors are couples only one of whom purchases.
- (b) Equivalent to 36% of couples, believed above industry averages.  
The majority of new members receive only 1 shipment in first year.
- (c) The existing wine clubs in recent years have been about 2,400 members. Approximately 22% drop out annually with approximately 1,872 continuing in the program.
- (d) All other visitors.
- (e) Due to seasonality of visits and emphasis on outdoor tastings, the Winery receives visitors on approximately 228 days. Based on those

days the average visitation would be 39 per day based on 9200 gallon production.

- (f) Production is based on each case being 2.375 gallons and for average each ton producing 140 gallons of wine, an industry standard.
- (g) During the last ten years production has been as high as 30% above the average. Accordingly, the request includes approximately 1168 extra visitors for such contingencies.



**Dr. Liz Thach, MW**

4322 Oakridge Lane, Penngrove, CA 94951, USA

[Liz@lizthach.com](mailto:Liz@lizthach.com) 707.792.2002

6/2/2015

Norman Kiken, Manager  
Reverie on Diamond Mountain, LLC  
1520 Diamond Mountain Road  
Calistoga, CA 94515

Dear Mr. Kiken,

Thank you for the opportunity to review your Marketing Plan for Reverie on Diamond Mountain, LLC ("Reverie") which is part of Reverie's application for a change in its winery operating permit.

In my opinion, based on my extensive experience in the wine business, I believe the assumptions used in the calculations are reasonable.

I have also read the narrative included as part of Reverie's marketing plan. I believe the descriptions of the changes that have occurred in the wine industry as they affect small wineries, particularly the emphasis on direct-to-consumer marketing and wine clubs, are consistent with my knowledge of developments in the wine industry.

As you may know, I am the Professor of Management & Wine Business in the Wine Business Program at Sonoma State University. I also hold the title of Master of Wine, the first woman in California to hold that title. My publications include over 120 wine articles, 7 wine books and 8 book chapters. I am also on the Editorial Board for *The International Journal of Wine Business Research and Wine Economic Policy*. I have lectured throughout the world on wine related topics.

Sincerely,



Dr. Liz Thach, MW

June 1, 2015

Charlene Gallina, Supervising Planner  
Napa County Planning, Building and  
Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559

RE: Norman Kiken and Reverie Winery Use Permit Application

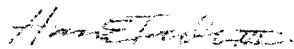
Dear Charlene,

My wife, Maureen, and I reside at 1395 Diamond Mountain Road and have done so since 1998. We have known Norm Kiken and the Reverie wine crew since that time and they have always been considerate neighbors. In addition, Norm and Reverie Winery have, over the years, been extremely generous to our local Calistoga community. They have always supported the many fundraising events that both Maureen and I have been personally involved with.

We whole-heartedly support Norm, and Reverie's right to update their winery permit bringing it into compliance with current standards.

Please feel free to contact me if you have any questions.

Sincerely,



Hal Taylor  
1395 Diamond Mountain Road  
Calistoga, CA 94515  
707-799-4187 cell

## Gallina, Charlene

---

**From:** Barbara Barrera <BBarrera@dpf-law.com>  
**Sent:** Tuesday, June 02, 2015 2:57 PM  
**To:** heather@vinehillranch.com; napacommissioner@yahoo.com; Anne.cottrell@lucene.com; tkscott@aol.com; mattpope384@gmail.com; McDowell, John; Gallina, Charlene  
**Cc:** Scott Greenwood-Meinert  
**Subject:** Reverie on Diamond Mountain - Major U/P Mod No. P13-0000237  
**Attachments:** Reverie Ltr.pdf

Good afternoon – please find attached a letter and attachments from Scott Greenwood-Meinert which he requested I email to you relating to the Reverie on Diamond Mountain matter, Major Use Permit Mod No. P13-0000237.

**BARBARA BARRERA**  
**ASSISTANT TO TOM ADAMS,**  
**SCOTT GREENWOOD-MEINERT,**  
**JOHN TRINIDAD AND JEFFREY T. DODD**  
DICKENSON, PEATMAN & FOGARTY  
1455 FIRST STREET, STE. 301 | NAPA, CA 94559  
T: 707.252.7122 | F: 707.255.6876  
[BBARRERA@DPF-LAW.COM](mailto:BBARRERA@DPF-LAW.COM) | [WWW.DPF-LAW.COM](http://WWW.DPF-LAW.COM)

For current wine law news, visit [www.lexvini.com](http://www.lexvini.com)

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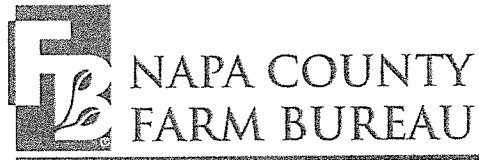
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**From:** Barbara Barrera  
**Sent:** Tuesday, June 02, 2015 2:51 PM  
**To:** Barbara Barrera  
**Subject:** Scanned Document

JUN 03 2015

Agenda Item #

9B



Napa County Farm Bureau, 811 Jefferson Street, Napa, CA 94559  
Telephone: 707-224-5403 FAX: 707-224-7836

June 3, 2015

Napa County Planning Commission  
Chair Heather Phillips and Commissioners

re: Reverie on Diamond Mountain Major Modification P13-00027 / P15-00141

Last Friday, Jim Laube's Wine Spectator blog "Wine Flights" noted that consequences for noncompliance in Napa County are so minimal that "...some vintners are willing to develop properties without permits and pay the fine".

Laube's blog is widely followed. We have worked too hard to protect our land and other resources with carefully-crafted regulations to allow their irrelevance to be our legacy.

Napa County Farm Bureau has repeatedly, both individually and jointly with the Napa Valley Vintners, Grapegrowers and Winegrowers, urged the county to enforce these regulations. The Vintners offer a program to help their members maintain compliance. Enforcement is a critical component for the protection of quality of life and resources as well as for the integrity of our system of governance.

We appreciate that staff is steering the ship in the right direction, as indicated by recent staff reports and recommendations. Requiring demolition of unpermitted structures is appropriate. We also appreciate the willingness to enforce demonstrated recently by this Commission.

We do, however, disagree with staff's recommendation in this case and instead support Option 3, denial - for several reasons, including:

- Staff reports that this application was not filed in response to a code compliance investigation; however, the application was "voluntarily" submitted "...in advance of submitting required information in the Winery Audit process.", in effect pre-empting investigation.
- The property has also recently sold, or is in escrow, so the "blessing" of use permit violations and increased entitlements serve to increase the property value, rewarding non-compliant behavior.
- Staff reports that the applicant is "uninterested" in the opportunity to participate in stream restoration in exchange for approval of some of the unpermitted activities.

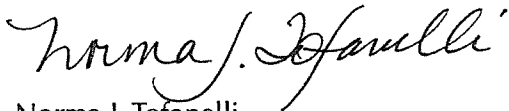
Denial should also include a requirement to prove compliance with the original use permit for a period of time as well as to complete the stream restoration before being allowed to re-apply. Protection of our watersheds is critical and operating within your use permit is not punishment.

Napa County Farm Bureau also opposes any further approval of hold and haul systems and has presented this position for APAC consideration. Hold and haul is not sustainable. As recently reported, thousands of trucks move over our crowded roads, hauling winery waste to Oakland for disposal, increasing our traffic as well as our carbon footprint. Projects that require water to be trucked in and/or waste to be trucked out should not be permitted. They are not appropriate for the site nor beneficial to the community.

Attached is a copy of a letter dated April 29, 2015 and prepared by Abbott & Kindermann, LLP which details the CEQA consequences of processing after-the-fact permits such as this one.

We appreciate the opportunity to comment and thank staff for a thorough report.

Sincerely,

A handwritten signature in black ink that reads "Norma J. Tofanelli". The signature is written in a cursive style with a large, stylized initial 'N'.

Norma J. Tofanelli  
President

Attachment: Abbott & Kindermann, LLP April 29, 2015

April 29, 2015

SENT BY ELECTRONIC MAIL

Chair Diane Dillon and Members of the Board  
of Supervisors  
c/o Gladys Coil  
Napa County Administration Building  
1195 Third Street, Suite 310  
Napa, CA 94559  
[gladys.coil@countyofnapa.org](mailto:gladys.coil@countyofnapa.org)

Chair Heather Phillips and Members of the  
Planning Commission  
c/o Melissa Frost  
Napa County Planning Department  
1195 Third Street, Suite 210  
Napa, CA 94559  
[melissa.frost@countyofnapa.org](mailto:melissa.frost@countyofnapa.org)

Re: Napa County Code Enforcement/Compliance

Dear Chairs Dillion and Phillips and Members of the Board of Supervisors and Planning  
Commission:

Abbott & Kindermann, LLP represents Beckstoffer Vineyards in various land use matters. For the reasons discussed in this letter, Beckstoffer urges the County cease processing after-the-fact permits to bring illegally constructed structures and/or illegally converted winery tasting rooms and event structures into compliance, and further to prohibit the illegal increase in marketing activities, events and employees. Wineries that are out of compliance with their use permits or that are operating without any permits should not be rewarded for such behavior to the detriment of those who do comply. The County's continued willingness to issue after-the-fact permits has spawned excessive noncompliance by various wineries big and small throughout the County. Instead of routinely issuing after-the-fact permits, it is time for the County to commence strict enforcement of existing permits. If, after enforcement citations have been issued, a winery continues to flagrantly violate its existing permit, the County should commence the revocation process.

**Background Facts**

On August 6, 2014, the Napa Valley Register reported that almost half of the wineries randomly audited in 2013 were out of compliance with their use permits. Of the 20 of the wineries audited, eight were out of compliance. That's 40 percent of wineries that were out of compliance. The specific violations noted in the audit included a winery with a cap of 400 weekly visitors hosting 1,400 people in a week. Assuming this only occurred one week out of the year, this might not be deemed an egregious violation, but what if it was happening *every* week? What impact was this having on the neighbors and local roadways? Perhaps an increase of 1,000

people each week at this anonymous winery might not be so impactful alone, but what if there is another winery down the road doing the exact same thing or worse – say holding multiple marketing events at the same time in violation of its permit? (Notably, there were two wineries prohibited from holding marketing events that each held seven and eight marketing events.) Would these violations be cumulatively significant and/or cumulatively considerable? Presumably, the limitations on winery permits are included for a reason: to prevent excessive noise, traffic, and other impacts on the environment, including neighbors and neighborhoods.

Amazingly, if this percentage of non-compliance were extrapolated to the total number of wineries operating in the Valley (approximately 400 wineries), the County would have to presume that upwards of 160 wineries are currently operating out of compliance either by having more events, more visitors, and/or producing more wine than their permits allow.

At the Board of Supervisors and Planning Commission joint workshop held on March 10, 2015, the development of new wineries in Napa County was discussed. The issue of ongoing code violations at existing wineries was also mentioned at this meeting. The Napa Valley Grapegrowers, the Winegrowers of Napa County and the Napa Valley Vintners encouraged the County to enforce its existing regulations and to follow through on its General Plan policies. These groups issued a joint statement, which reads in pertinent part as follows:

“Strict oversight of existing procedures, paired with fewer creative solutions to non-conforming parcels, will go a long way toward diminishing community and industry concerns.”

Beckstoffer Vineyards whole-heartedly embraces this proposed approach. Far too often, the County is apt to allow permit and code violations to continue (sometimes for years) without any serious attempt to bring violators into compliance. Even when the County does issue code enforcement citations, it directs the violators to submit a planning application to amend the existing entitlements (typically a conditional use permit), whereby the violator seeks forgiveness as opposed to having gone through the proper entitlement process to expand its use *before* effectuating the expanded use. The concern is that allowing code violators to come into compliance after perfecting their egregious violations (e.g., exceeding production capacity, erecting structures and/or converting office spaces into tasting rooms without obtaining a building permit, etc.) creates an unfair playing field and penalizes those who comply with the law. In short, the County’s failure to enforce its code, allowing ongoing violations and issuing after-the fact permits, encourages more violations. As discussed in detail below, this process is having the practical effect of allowing these winery owners/operators to skirt CEQA compliance. They do so by claiming that a new and elevated “baseline” - created by the code violations that have been allowed to continue for years at a time – must be considered for purposes of the CEQA analysis of the after-the-fact permit.

### Circumventing CEQA

Any time a non-exempt discretionary project is proposed to an agency, that agency must determine if the project may have a significant effect on the environment. To do this, agencies typically prepare an initial study which considers all phases of project planning, implementation, and operation. An initial study includes a description of the project and an identification of the environmental setting and potential or actual environmental impacts.

The term “environmental setting” is not defined by CEQA; however, CEQA Guidelines section 15360 defines “environment” as follows:

[T]he physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The “environment” includes both natural and man-made conditions.

Section 15125 of the Guidelines discusses the content of an environmental setting section of an EIR, and has been interpreted to apply to negative and mitigated negative declarations as well. Subsection (a) of section 15125 provides that the description of the physical environmental conditions in the vicinity of the project (including the project site), should reflect the state of the environment as it exists at the time environmental analysis is commenced. It further states that the description of the environmental setting *normally* constitutes the baseline physical conditions by which a lead agency determines whether an impact is significant. (Cal. Code Regs. Tit.14, § 15126, subd. (a).)

When the County waits or refuses to timely enforce code violations and then grants violators after-the-fact permits, it not only encourages (rather than discourages) noncompliance, but it can affect the legitimacy of the environmental review conducted for a project because the CEQA baseline can be altered. Regardless of whether this outcome is intended, it is the same – the purpose of CEQA is undermined and circumvented, and many “impacts” go unstudied and unmitigated. Worse yet, the County’s continuous issuance of after-the-fact permits undercuts the cumulative impacts analysis in the County’s General Plan such that the cumulative impacts analysis can no longer be relied upon, and instead, a new cumulative impacts analysis must be conducted for each and every discretionary project review.

By way of example, imagine a winery’s conditional use permit allows for 25 events per year, a maximum of 250 visitors per day, and 25 full time employees. Imagine also that the winery decides it would like to increase its marketing capabilities and revenues and simply starts accepting 400 visitors per day, holding 50 to 100 events per year and increases its number of employees to 75 people. Such arbitrary increases would double the number of events and people



travelling to and from the winery, many times during peak traffic hours. And, depending on the type of events being held, the increase in activity could be having noise, traffic, and other impacts on the environment. Yet, the County might be wholly unaware of this until one or more neighbors (or a competitor winery) complained, or the winery was part of a random audit. Presumably, upon learning of the permit violations, County Code Enforcement would issue a citation and/or the Planning Department would issue a cease and desist order for failure to comply with the permit issued. Instead, what appears to be happening is that a Code Enforcement citation is issued and then the winery is directed to file an application for an after-the-fact permit increasing the limits on events, visitors, and employees to allow the expanded uses. Ironically, the permit application identifies the “existing” expanded use, effectively increasing the baseline of the environmental impacts analysis, and understating the true impacts of the project. In short, unless the County starts considering the after-the-fact applications according to the pre-violation baseline, the County should issue cease and desist orders, requiring violators to stop the activities in excess of their permit allowances and restricting them from applying for their proposed increased operations until at least one year after they have come into compliance.

### **The County Can And Must Enforce Its Code**

Citizens are becoming more vocal in their opposition to the County’s practice of issuing after-the-fact permits. They are confused as to why the County hasn’t done more to address this spiraling problem. The County often defends its consideration of these after-the fact permit approvals on the grounds that Due Process must be observed. The County is correct that it must comply with its ordinances, state statutes, and the state and federal constitutions. However, while County staff must comply with required processes, the County’s appointed and elected officials are not required to bend to the whimsies of wineries under the fabricated threat of the County’s economic ruin should it choose to start making wineries comply. In fact, Chapter 18.144 of the Napa County Code provides the appointed and elected officials with all the ammunition they need to direct their staff and legal counsel to enforce the entitlements issued by the County.

Under Chapter 18.144, the County can revoke permits for non-compliance. To be clear, we are not suggesting revocation would be appropriate for wineries that bring their facilities into compliance within a reasonable time frame (i.e., cease hosting unauthorized marketing events, allowing visitation in excess of permit limits, etc.). However, revoking permits for wineries where the violations are chronic and flagrant is exactly what – and all – the County needs to start doing to send a message to the community and wineries that such violations will not be tolerated and non-compliance will not be rewarded. Importantly, the County does not require additional funds to effectuate this outcome. The County would likely need to only revoke one or two high-profile winery permits to send a message to others that no winery is above the law – no one winery owner is so powerful it can manipulate the law.

Chairs Dillon and Phillip, and Members of the Board of Supervisors and Planning Commission  
Re: Code Compliance Issues  
April 29, 2015  
Page 5

## Conclusion

The County's after-the-fact permitting process encourages non-compliance and unfairly penalizes those who do comply with the permitting process. After-the-fact permitting must stop. Beckstoffer respectfully requests that the County cease processing all after-the-fact permit applications where there have been significant exceedances of marketing events, wine production, and visitation, and order those permits revoked should the wineries fail to come into compliance with their permits. It further requests that you require all wineries that have converted structures to marketing venues without the requisite permits to restore such structures to their original condition or revoke the wineries' permits for non-compliance. The County's continued consideration and approval of after-the-fact permits where egregious non-compliance has occurred is unacceptable and Beckstoffer will exercise the necessary remedies to ensure that such after-the-fact permits are challenged.

Very truly yours,



Katherine J. Hart

cc: David Morrison  
John McDowell

**From:** Yeoryios <yapallas@gmail.com>  
**Sent:** Wednesday, June 03, 2015 7:53 AM  
**To:** john.mcdowell@countyofnapa.org  
**Cc:** 'Heather Phillips'; anne.cottrell@lucerne.com; yca@apallaslawgroup.com  
**Subject:** Reverie Conditional Use Permit Breaches  
Planning Commission Mtg.

**Expires:** Sunday, November 29, 2015 12:00 AM

JUN 03 2015

Agenda Item # 9B

Dear John,

I have read with interest the Reverie staff report, and I must say, that this is a poster child of what is wrong with the permissive nature of the "build it and seek forgiveness" attitude which has for too long been the policy of this county. I see very little distinction between what has occurred at Reverie relative to a number of breaches of county ordinances/codes and violations of use permit conditions, and the recently disposed, although in an anodyne fashion, the Caves Project. Recall that in the latter matter, the PC decided to forego the requirement that the property be restored to a condition consistent with the use permit granted the Caves. Specifically, the PC did not require the removal of the offending tasting pavilion nor the sealing of the cave portal that accessed the tasting pavilion. I think that was the wrong decision but the citizens lost that vote 4 to 1.

Regarding the Reverie Project, I am disappointed to see the staff report recommending the conditional approval of historical breaches of use permit conditions applicable to this property. I shall refrain from engaging in *ad hominem* arguments to burnish my points here but I suppose the blithe disregard of those conditions by the operator certainly opens a window into the moral fiber of an operator of a business enterprise that would engage in so many sustained and long standing violations for which he now seeks "papal absolution". Certainly it was not by accident that a second story was added to the property and certainly it was not by chance or careless error that the visitations and events were exceeded from the numbers approved in the use permit. And of course, one cannot ignore the malfunctioning septic system that has been in use for years. This was volitional action that the county must neither countenance nor approve.

Leaving such points aside, I want to urge the PC to reconsider its promiscuous granting of *ex post facto* approvals of use permit violations. Reading between the lines here, I think this winery probably got caught up in an enforcement action or audit proceeding and thus had to "fess up" and seek retroactive approval of its illegal activities. I point this out to illustrate my point that the "after the fact" county approval of structures or impermissible activities, is a bankrupt and horrid policy. Instead of encouraging compliance *ab initio*, it fosters the view that "I will build beyond my use permit, and if caught (low percentage generally) I will merely seek retroactive approval." We saw that mind set play out in the Caves hearing. One can only speculate as to how many other scofflaws are out there doing the Caves/Reverie *mea culpa* shuffle with a wink, a smile a bag full of money earned through conditional use permit violations. Let's stop this unlawful activity by not falling prey to the "It's easier to ask for forgiveness than permission" business model that may be prevalent in the Valley. And let's not cobble public policy from anecdotal testimonials from neighbors about what a "great person and neighbor" the violator is. This is poor foundation for effective public policy when it comes to enforcement of use permit conditions that are enacted for the public health and welfare of all the citizens of the county.

Unlike the Caves matter where the staff provided the PC a palette of choices from which to craft a cogent and enforceable decision, here I find it extraordinary that you are recommending the very thing that was decided opposite in the Caves. Does not this smack of selective enforcement? Would not the County be found vulnerable to an attack about selective enforcement? How can the Caves be required to stop its operations for 1 year, and yet in Reverie you are recommending retroactive approval (or as you euphemistically call it "recognition") of activities that, but for the sharp eyed audit of this entity, would have gone unnoticed. The County has to tack a consistent course in similarly situated breaches. I see very little difference between what

occurred in the Caves and the breaches that your report seeks to retroactively launder in Reverie. It makes no sense and it is bad public policy. The citizens of this county must know the rules of the game and draw comfort from the fact that such rules will be enforced firmly and appropriately against all who violate them without selectively putting the county's heavy thumb on the scale of justice.

Please reconsider your recommendations and enforce the use permit conditions aggressively and effectively. Doing otherwise would cause the citizens of this county to lose (if not already lost) faith in its policy making processes and those who govern them. And when that faith is lost it is hard to rebuild and recapture.

In sum, I want to remind you of a few equitable principles in the California Civil Code. They go something like "No one can profit from his own wrong" and "Those who seek equity must come to [the county] with clean hands" Civil Code Section 3517 and *Kendall-Jackson Winery Ltd. V. Superior Court* (1999) 76 Cal.App. 4<sup>th</sup>, 970, 978. I am certain that the pending sale of this property to the far east investors which own the adjacent property is conditioned on whitewashing all the use permit violations that exist on this property. I am equally certain that the price has been enhanced with an "as built" compliant property than without. The value of the property through the proffered retroactive approval of these violations will undoubtedly be enhanced. Should not the citizens of this county be able to capture some of this "newly created value" as a stiff sanction to be directed to enhanced code enforcement? And shouldn't the citizens of this county, in the public interest, be compensated for the long term breaches of the use permit conditions? After all how else will you get the scofflaws of this county, of which I am certain there are many, to comply with their conditional use permit? Enhanced enforcement and taking the profit incentive out of the violative behavior will go a long way to returning to conditional use permit compliance and level the playing field for CEQA review and other regulatory oversight. The letter from the Law Firm of Abbott & Kindermann, LLP dated April 29, 2015 and addressed to the Board of Supervisors and the Planning Commission, succinctly stated the confounding problem of retroactive whitewashing of use permit violations: "*In short, the County's failure to enforce its code, allowing ongoing violations and issuing after-the fact [sic] permits, encourages more violations. ...[T]his process is having the practical effect of allowing these winery owners/operators to skirt CEQA compliance. They do so by claiming that a new and elevated 'baseline'—created by the code violations that have been allowed to continue for years at a time—must be considered for purposes of the CEQA analysis of the after-the-fact permit.*"

Allow me to make a modest proposal which I heard recently reverberating around the county halls. Why not simply require all persons found to have violated their conditional use permits in a material way, to revert the property, where practicable, to a state which would comply with historically approved conditional use permit. Such in terrorism ordinance or sanction would certainly focus the citizens' attention to their contractual obligations under their use permits. Such proposal provides clarity, is swift in its application, and encourages compliance, unless, of course, the BoS, in its infinite wisdom botches it by its other promiscuities in granting variance permits. On that, more later.

Finally, I have read with great interest the learned and substantive letter addressed to you by Mr. George Caloyannidis dated May 18, 2015, the contents of which I adopt herein as though fully set forth in this email to you. In addition, I would like to have the above referenced and previously submitted Abbott & Kindermann, LLP letter dated April 29, 2015 and part of the Caves administrative record noticed by the PC under Evidence Code Section 452 et seq. as though fully set forth in this hearing.

With warmest regards,

*Yeoryios C. Apallas*  
*Lawyer and Counselor at Law*  
*(Senior Assistant Attorney General (Ret.))*  
**APALLAS LAW GROUP**  
4054 SILVERADO TRAIL  
NAPA, CA 94558-1119  
(707) 224-1886  
CELL: (707) 320-3806  
[YCA@APALLASLAWGROUP.COM](mailto:YCA@APALLASLAWGROUP.COM)

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## Gallina, Charlene

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**From:** Frank Cafferata <frank.cafferata@gmail.com>  
**Sent:** Wednesday, June 03, 2015 8:29 AM  
**To:** Gallina, Charlene  
**Subject:** Revere permit change

Planning Commission Mtg.

JUN 03 2015

Agenda Item #

*9B*

We support Norm Kiken's application for a permit change and are against the County's intrusive regulations on small business.

Frank and Janie Cafferata  
Calistoga, Ca

**Gallina, Charlene**

---

**From:** McDowell, John  
**Sent:** Wednesday, June 03, 2015 8:17 AM  
**To:** Frost, Melissa; Gallina, Charlene  
**Subject:** FW: Reverie Winery expansion

Planning Commission Mtg.

JUN 03 2015

Agenda Item # 9B

-----Original Message-----

**From:** [tartanredmgb@gmail.com](mailto:tartanredmgb@gmail.com) [mailto:[tartanredmgb@gmail.com](mailto:tartanredmgb@gmail.com)]  
**Sent:** Wednesday, June 03, 2015 8:16 AM  
**To:** McDowell, John  
**Subject:** Reverie Winery expansion

**To:** John McDowell:

I live at 4281 Scott Way, which is in the neighborhood of this winery.

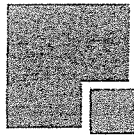
I wish to state that such an expansion of it is not in the interests of the public nor the environment. Diamond Mountain Road and nearby roads are not adequate now, and traffic is already excessive. Ground water is in short supply in this area. I have had wells go dry, and so have three of my neighbors.

Please include me, and my wife as opponents of this project.

Don and Anne Scott

942 0546

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April 29, 2015

**SENT BY ELECTRONIC MAIL**

Chair Diane Dillon and Members of the Board  
of Supervisors  
c/o Gladys Coil  
Napa County Administration Building  
1195 Third Street, Suite 310  
Napa, CA 94559  
[gladys.coil@countyofnapa.org](mailto:gladys.coil@countyofnapa.org)

Chair Heather Phillips and Members of the  
Planning Commission  
c/o Melissa Frost  
Napa County Planning Department  
1195 Third Street, Suite 210  
Napa, CA 94559  
[melissa.frost@countyofnapa.org](mailto:melissa.frost@countyofnapa.org)

Re: Napa County Code Enforcement/Compliance

Dear Chairs Dillon and Phillips and Members of the Board of Supervisors and Planning  
Commission:

Abbott & Kindermann, LLP represents Beckstoffer Vineyards in various land use matters. For the reasons discussed in this letter, Beckstoffer urges the County cease processing after-the-fact permits to bring illegally constructed structures and/or illegally converted winery tasting rooms and event structures into compliance, and further to prohibit the illegal increase in marketing activities, events and employees. Wineries that are out of compliance with their use permits or that are operating without any permits should not be rewarded for such behavior to the detriment of those who do comply. The County's continued willingness to issue after-the-fact permits has spawned excessive noncompliance by various wineries big and small throughout the County. Instead of routinely issuing after-the-fact permits, it is time for the County to commence strict enforcement of existing permits. If, after enforcement citations have been issued, a winery continues to flagrantly violate its existing permit, the County should commence the revocation process.

**Background Facts**

On August 6, 2014, the Napa Valley Register reported that almost half of the wineries randomly audited in 2013 were out of compliance with their use permits. Of the 20 of the wineries audited, eight were out of compliance. That's 40 percent of wineries that were out of compliance. The specific violations noted in the audit included a winery with a cap of 400 weekly visitors hosting 1,400 people in a week. Assuming this only occurred one week out of the year, this might not be deemed an egregious violation, but what if it was happening *every* week? What impact was this having on the neighbors and local roadways? Perhaps an increase of 1,000



people each week at this anonymous winery might not be so impactful alone, but what if there is another winery down the road doing the exact same thing or worse – say holding multiple marketing events at the same time in violation of its permit? (Notably, there were two wineries prohibited from holding marketing events that each held seven and eight marketing events.) Would these violations be cumulatively significant and/or cumulatively considerable? Presumably, the limitations on winery permits are included for a reason: to prevent excessive noise, traffic, and other impacts on the environment, including neighbors and neighborhoods.

Amazingly, if this percentage of non-compliance were extrapolated to the total number of wineries operating in the Valley (approximately 400 wineries), the County would have to presume that upwards of 160 wineries are currently operating out of compliance either by having more events, more visitors, and/or producing more wine than their permits allow.

At the Board of Supervisors and Planning Commission joint workshop held on March 10, 2015, the development of new wineries in Napa County was discussed. The issue of ongoing code violations at existing wineries was also mentioned at this meeting. The Napa Valley Grapegrowers, the Winegrowers of Napa County and the Napa Valley Vintners encouraged the County to enforce its existing regulations and to follow through on its General Plan policies. These groups issued a joint statement, which reads in pertinent part as follows:

“Strict oversight of existing procedures, paired with fewer creative solutions to non-conforming parcels, will go a long way toward diminishing community and industry concerns.”

Beckstoffer Vineyards whole-heartedly embraces this proposed approach. Far too often, the County is apt to allow permit and code violations to continue (sometimes for years) without any serious attempt to bring violators into compliance. Even when the County does issue code enforcement citations, it directs the violators to submit a planning application to amend the existing entitlements (typically a conditional use permit), whereby the violator seeks forgiveness as opposed to having gone through the proper entitlement process to expand its use *before* effectuating the expanded use. The concern is that allowing code violators to come into compliance after perfecting their egregious violations (e.g., exceeding production capacity, erecting structures and/or converting office spaces into tasting rooms without obtaining a building permit, etc.) creates an unfair playing field and penalizes those who comply with the law. In short, the County’s failure to enforce its code, allowing ongoing violations and issuing after-the fact permits, encourages more violations. As discussed in detail below, this process is having the practical effect of allowing these winery owners/operators to skirt CEQA compliance. They do so by claiming that a new and elevated “baseline” - created by the code violations that have been allowed to continue for years at a time – must be considered for purposes of the CEQA analysis of the after-the-fact permit.

## Circumventing CEQA

Any time a non-exempt discretionary project is proposed to an agency, that agency must determine if the project may have a significant effect on the environment. To do this, agencies typically prepare an initial study which considers all phases of project planning, implementation, and operation. An initial study includes a description of the project and an identification of the environmental setting and potential or actual environmental impacts.

The term “environmental setting” is not defined by CEQA; however, CEQA Guidelines section 15360 defines “environment” as follows:

[T]he physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The “environment” includes both natural and man-made conditions.

Section 15125 of the Guidelines discusses the content of an environmental setting section of an EIR, and has been interpreted to apply to negative and mitigated negative declarations as well. Subsection (a) of section 15125 provides that the description of the physical environmental conditions in the vicinity of the project (including the project site), should reflect the state of the environment as it exists at the time environmental analysis is commenced. It further states that the description of the environmental setting *normally* constitutes the baseline physical conditions by which a lead agency determines whether an impact is significant. (Cal. Code Regs. Tit.14, § 15126, subd. (a).)

When the County waits or refuses to timely enforce code violations and then grants violators after-the-fact permits, it not only encourages (rather than discourages) noncompliance, but it can affect the legitimacy of the environmental review conducted for a project because the CEQA baseline can be altered. Regardless of whether this outcome is intended, it is the same – the purpose of CEQA is undermined and circumvented, and many “impacts” go unstudied and unmitigated. Worse yet, the County’s continuous issuance of after-the-fact permits undercuts the cumulative impacts analysis in the County’s General Plan such that the cumulative impacts analysis can no longer be relied upon, and instead, a new cumulative impacts analysis must be conducted for each and every discretionary project review.

By way of example, imagine a winery’s conditional use permit allows for 25 events per year, a maximum of 250 visitors per day, and 25 full time employees. Imagine also that the winery decides it would like to increase its marketing capabilities and revenues and simply starts accepting 400 visitors per day, holding 50 to 100 events per year and increases its number of employees to 75 people. Such arbitrary increases would double the number of events and people

travelling to and from the winery, many times during peak traffic hours. And, depending on the type of events being held, the increase in activity could be having noise, traffic, and other impacts on the environment. Yet, the County might be wholly unaware of this until one or more neighbors (or a competitor winery) complained, or the winery was part of a random audit. Presumably, upon learning of the permit violations, County Code Enforcement would issue a citation and/or the Planning Department would issue a cease and desist order for failure to comply with the permit issued. Instead, what appears to be happening is that a Code Enforcement citation is issued and then the winery is directed to file an application for an after-the-fact permit increasing the limits on events, visitors, and employees to allow the expanded uses. Ironically, the permit application identifies the "existing" expanded use, effectively increasing the baseline of the environmental impacts analysis, and understating the true impacts of the project. In short, unless the County starts considering the after-the-fact applications according to the pre-violation baseline, the County should issue cease and desist orders, requiring violators to stop the activities in excess of their permit allowances and restricting them from applying for their proposed increased operations until at least one year after they have come into compliance.

#### **The County Can And Must Enforce Its Code**

Citizens are becoming more vocal in their opposition to the County's practice of issuing after-the-fact permits. They are confused as to why the County hasn't done more to address this spiraling problem. The County often defends its consideration of these after-the fact permit approvals on the grounds that Due Process must be observed. The County is correct that it must comply with its ordinances, state statutes, and the state and federal constitutions. However, while County staff must comply with required processes, the County's appointed and elected officials are not required to bend to the whimsies of wineries under the fabricated threat of the County's economic ruin should it choose to start making wineries comply. In fact, Chapter 18.144 of the Napa County Code provides the appointed and elected officials with all the ammunition they need to direct their staff and legal counsel to enforce the entitlements issued by the County.

Under Chapter 18.144, the County can revoke permits for non-compliance. To be clear, we are not suggesting revocation would be appropriate for wineries that bring their facilities into compliance within a reasonable time frame (i.e., cease hosting unauthorized marketing events, allowing visitation in excess of permit limits, etc.). However, revoking permits for wineries where the violations are chronic and flagrant is exactly what – and all – the County needs to start doing to send a message to the community and wineries that such violations will not be tolerated and non-compliance will not be rewarded. Importantly, the County does not require additional funds to effectuate this outcome. The County would likely need to only revoke one or two high-profile winery permits to send a message to others that no winery is above the law – no one winery owner is so powerful it can manipulate the law.

change  
mind  
set

Chairs Dillon and Phillip, and Members of the Board of Supervisors and Planning Commission  
Re: Code Compliance Issues  
April 29, 2015  
Page 5

### Conclusion

The County's after-the-fact permitting process encourages non-compliance and unfairly penalizes those who do comply with the permitting process. After-the-fact permitting must stop. Beckstoffer respectfully requests that the County cease processing all after-the-fact permit applications where there have been significant exceedances of marketing events, wine production, and visitation, and order those permits revoked should the wineries fail to come into compliance with their permits. It further requests that you require all wineries that have converted structures to marketing venues without the requisite permits to restore such structures to their original condition or revoke the wineries' permits for non-compliance. The County's continued consideration and approval of after-the-fact permits where egregious non-compliance has occurred is unacceptable and Beckstoffer will exercise the necessary remedies to ensure that such after-the-fact permits are challenged.

Very truly yours,



Katherine J. Hart

cc: David Morrison  
John McDowell

**Gallina, Charlene**

---

**From:** Kathy Noel <kathynoel02@gmail.com>  
**Sent:** Tuesday, June 02, 2015 5:21 PM  
**To:** Gallina, Charlene  
**Subject:** Reverie Winery

Planning Commission Mtg.

JUN 03 2015

Agenda Item # 9B

Charlene Galina, Supervising Planner  
Napa County Planning, Building and Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559

Dear Ms. Galina,

My name is Kathy Noel and I am employed by Solage Calistoga as a Concierge. I am writing this email on behalf of Reverie Winery, in Calistoga. Our resort sends many of our discriminating guests to Reverie Winery, and I am in full support of the permit process that the winery is requesting. This business is such a great and unique resource for the Calistoga/ North Napa County area. I believe that granting the requested updates would have a positive impact on business in our area.

Please contact me should you have questions or concerns on this matter. I can be reached directly at 707.226.0876 or via email: [knoel@solagehotels.com](mailto:knoel@solagehotels.com).

Thank you for your time and attention to this.

Kathy Noel

Charlene.gallina@countyofnapa.org

Dear Sirs or Ms. Gallina

**We understand the County is dealing with the complex issue of sustaining and protecting our agricultural heritage, in the face of dramatic changes in the nature of wine distribution and sales. The matter has become more critical as we begin to suffer from our own success in attracting guests to our world class wine destination.**

**The matter is further complicated in that, no one regulatory interpretation or fix will suffice. It requires a case- by-case assessment to determine if a winery can be economically viable, while providing an authentic educational and wine tasting experiences and while limiting commercialization and protecting our agricultural culture.**

**My wife and I understand the challenge in depth and believe we can speak to the issues with credibility and experience in this matter.**

**We are 20 year residents of the Napa County and have been vineyard owners and own and operate two hospitality related companies based in the County, Designated Drivers, and Behind the Scenes, a boutique Destination management Company. We also have known Norm Kiken, the owner of Reverie Winery and his family since coming to the Napa Valley.**

**Reverie Winery is a valuable resource and its continued economic viability is dependent upon achieving a balance between the economic necessities of direct to consumer sales with sustainable agriculture.**

**Norm Kiken has been an excellent steward of the land. Reverie is a shining example of a wineries ability to balance the challenges of the economic viability of a small family estate winery with the needs of the community at large.**

**We strongly urge the Commission to approve Reverie's requests for the change in its operating permit.**

Very Truly,

**Daniel Marks  
Ona Marks  
2587 Wine Country Ave  
Napa, CA 94558  
707-483-3444**

**RECEIVED**

JUN 2 2015

Napa County Planning, Building  
& Environmental Services



## Gallina, Charlene

---

**From:** dan marks <marksdan@yahoo.com>  
**Sent:** Tuesday, June 02, 2015 12:53 PM  
**To:** Gallina, Charlene  
**Subject:** Reverie Winery  
**Attachments:** dans letter.docx

Attached please find our letter of support for Reverie Winery

**Gallina, Charlene**

---

**From:** Matt Chanoff <mattchanoff@gmail.com>  
**Sent:** Tuesday, June 02, 2015 3:17 PM  
**To:** Gallina, Charlene  
**Subject:** Reverie Winery request for permit changes

Planning Commission Mtg.

JUN 03 2015

Agenda Item # 9B

Dear Ms. Gallina,

I live at 1440 Diamond Mountain Road, and am writing to support the request by Reverie Winery to modify permits, which goes before your committee tomorrow. These seem like perfectly reasonable property improvements to me.

Please feel free to contact me.

Sincerely,

Matthew Chanoff  
415 722-0149

## Gallina, Charlene

---

**From:** Joan Teachworth <joan@nvcab.com>  
**Sent:** Tuesday, June 02, 2015 1:28 PM  
**To:** Gallina, Charlene  
**Subject:** Kiken Permit

Dear Charlene,

I live on Diamond Mountain. I have known Norm Kiken and Reverie for over 20 years. Norm Kiken and Reverie have been an asset to the Napa Valley, Calistoga and Diamond Mountain. I strongly support approval of Reverie's winery permit modification.

Joan Teachworth

4451 St Helena hwy Calistoga,, CA 94515

707-363-6767



Calistoga Chamber  
of Commerce

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JUN 1 2015

Napa County Planning, Building  
& Environmental Services

May 22, 2015

Napa County Planning Commission

c/o John McDowell  
Deputy Planning Director  
1195 Third Street, Suite 210  
Napa, CA 94559

Dear Honorable Members of the Napa County Planning Commission:

The Calistoga Chamber of Commerce would like to voice our support for Reverie Winery and urge you to approve their Use Permit Modification at your June 3rd hearing.

Reverie Winery has been a great business and member of the Calistoga community for many years. As guests from around the world come to visit and seek our guidance on where to go; we enjoy sending them to Reverie to enjoy the wonderful outdoor experience they provide in their unique and dramatic natural setting.

As the Chamber, it's important that our member businesses are a reflection of the service and character we promote as being part of the Calistoga brand in the Napa Valley. Reverie is a fine example of a strong local business and we encourage you to lend your support to their application.

Sincerely,

Chris Canning  
Executive Director  
The Calistoga Chamber of Commerce

## Gallina, Charlene

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**From:** Aaron Harkin <aaronharkin@gmail.com>  
**Sent:** Monday, June 01, 2015 4:59 PM  
**To:** Gallina, Charlene  
**Subject:** Reverie Support letter  
**Attachments:** Reverie Winery Support Letter 05-22-2015.pdf

Charlene-

Please see the attached.

Thank you for your efforts!

Best,  
Aaron

Gallina, Charlene

**RECEIVED**

**From:** Gregory Haas <gregory.haas@aubergeresorts.com>  
**Sent:** Monday, June 01, 2015 4:59 PM  
**To:** Gallina, Charlene; normkiken@gmail.com  
**Subject:** Reverie Winery

JUN 1 2015

Napa County Planning, Building  
& Environmental Services

Good afternoon Ms. Gallina, I am writing to express my support of Reverie Winery and their request to increase their production and visitation.

I have worked very closely with Reverie over the past ten years and Reverie has always been a favorite visit for our guests. Reverie is one of the very best wineries for hospitality and is outstanding at educating our guests in the importance of protecting the culture of the Napa Valley.

Reverie and the Kiken Family have always been a huge support to the community of Calistoga. Reverie is not only a great support to the community of Calistoga but to the larger community of the Napa Valley. Reverie's dedication to the protection, preservation and stewardship of the Napa Valley is truly outstanding.

I strongly recommend allowing Reverie to increase their production and visitation.

Sincerely, Gregory Haas



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**GREGORY HAAS**  
Guest Relations Coordinator

580 Lommel Rd, Calistoga, CA, 94515  
P: 707.254.2808 F: 707.254.2888



[aubergeresorts.com](http://aubergeresorts.com) [gregory.haas@aubergeresorts.com](mailto:gregory.haas@aubergeresorts.com)



## Gallina, Charlene

---

**From:** lemos1518@netzero.net  
**Sent:** Monday, June 01, 2015 1:14 PM  
**To:** Gallina, Charlene  
**Subject:** Reverie on Diamond Mountain Winery Use Permit Modification #P13-00027 and Ue Permit Exception to the Conservation Regulations (P15-00141)

For the Attention of County of Napa Planning Building and Environmental Services Department

Re: Project Title: Reverie on Diamond Mountain Use Permit Modification #P13-00027-MOD, Use Permit Exception for the Conservation Regulations #P15-00141, and an Exception to the Napa County Road and Street Standards (RSS)

\* As a long time resident of Calistoga I am perplexed and bewildered as to why the County of Napa Planning Building and Environmental Services Department would consider authorizing the above permit modification, instead of fining and ordering a motion to cease and desist to Norman Klein for substantially exceeding and violating the preceding permit issued for winery based operations on this property without required County Approvals.

\* The changes to the original permit are not minor, but involve substantial increases in the number and type of marketing events permitted at Reverie, and will result in major increases in terms of numbers of people visiting and working at the premises, with the concurrent impact on traffic in the vicinity. (84% increase in permitted wine production, and well over 100% increase in visitors, events and employees.)

\* At this time of drought, as a valley floor resident, I strongly object to the building of a new well by Reverie. At a time when we are all being asked to conserve, because of the water crisis that California faces, how can anyone authorize the building of a new well, not for sustainability, but merely for profit and business growth. That hillside water is part of our valley aquifer and as such should be protected and not raped for profit. We need to ensure, that although our water table may seem 'adequate' for current uses, it remains that way, and is protected, because there is no replenishment in sight.

\* I am also concerned as to whether the Napa County Planning Building and Environmental Services Department is looking as the 'whole' picture in terms of all the projects planned, or in permit process, for Calistoga and its nearby environs. There needs to be something left to protect!

Yours sincerely,

Josephine Richard  
1518 Myrtle Street,  
Calistoga, CA 94515

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June 1, 2015

Charlene Gallina, Supervising Planner  
Napa County Planning, Building and  
Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559

RECEIVED

JUN 1 2015

Napa County Planning, Building  
& Environmental Services

RE: Norman Kiken and Reverie Winery Use Permit Application


Dear Charlene,

My wife, Maureen, and I reside at 1395 Diamond Mountain Road and have done so since 1998. We have known Norm Kiken and the Reverie wine crew since that time and they have always been considerate neighbors. In addition, Norm and Reverie Winery have, over the years, been extremely generous to our local Calistoga community. They have always supported the many fundraising events that both Maureen and I have been personally involved with.

We whole-heartedly support Norm, and Reverie's right to update their winery permit bringing it into compliance with current standards.

Please feel free to contact me if you have any questions.

Sincerely,



Hal Taylor  
1395 Diamond Mountain Road  
Calistoga, CA 94515  
707-799-4187 cell

**Gallina, Charlene**

---

**From:** Hal Taylor <hal@haltaylorarchitects.com>  
**Sent:** Monday, June 01, 2015 11:42 AM  
**To:** Gallina, Charlene  
**Cc:** Norman Kiken  
**Subject:** Reverie Winery use permit application  
**Attachments:** Reverie Permit ltr 2015.pdf

Charlene,

Please find attached a letter of support for Norm and Reverie winery.

Thanks

**Hal Taylor**  
Build It Green C.G.B.P.  
Taylor Architects  
P.O. Box 384  
Calistoga, CA 94515  
Fax: 707-942-1372  
Cell: 707-799-4187



**RECEIVED**

JUN 1 2015

Napa County Planning, Building  
& Environmental Services

June 1, 2015

Napa County Planning Commission  
c/o John McDowell  
Deputy Planning Director  
1195 Third Street, Suite 210  
Napa, CA 94559

Dear Honorable Members of the Napa County Planning Commission:

This letter is to voice our support for approving the Reverie Winery Use Permit Modification.

As a directly adjacent property owner, we have witnessed the great care and pride in which the Reverie business has conducted its self over the years. They have been thoughtful and attentive neighbors that have been very attentive to any and all concerns.

Their beautiful property is a fine example of being great stewards of the land and protecting the environment. In addition, they are a fine example of a model small winery business that represents the Diamond Mountain District.

Your consideration in a vote of support is appreciated.

Sincerely yours

A handwritten signature in black ink, appearing to read "K. D. Heininger", written in a cursive style.

Karl Daniel Heininger  
President

## Gallina, Charlene

---

**From:** Scott Greenwood-Meinert <scottgm@dpf-law.com>  
**Sent:** Monday, June 01, 2015 8:35 AM  
**To:** Matt Pope; Heather Phillips; napacommissioner@yahoo.com; Anne Cottrell; tkscottco@aol.com  
**Cc:** Gallina, Charlene; McDowell, John  
**Subject:** Letter of Support For Reverie  
**Attachments:** Calistoga Hills - Napa County Planning Commission.pdf

Dear Commissioners and Staff, please see the attached letter of support for Reverie and its use permit modification application which we submit for the record. Thank you.

**SCOTT GREENWOOD-MEINERT**  
707.252.7122 | [SCOTTGM@DPF-LAW.COM](mailto:SCOTTGM@DPF-LAW.COM)

LONNIE'S WINE TOURS & TRANSPORTATION  
TOURS WITH A LOCAL  
2471 SOLANO AVENUE SUITE 221, NAPA, CA 94558  
PHONE: (707) 478-3036  
Email: info@lonnieswinetours.com  
TCP 27492 P

---

RECEIVED

JUN 1 2015

Napa County Planning, Building  
& Environmental Services

May 30<sup>th</sup>, 2015

Dear Charlene Gallina,  
Supervising Planner  
Napa County Planning, Building and Environmental Services  
1195 Third Street, Suite 210  
Napa, CA 94559

RE: Letter of support for Reverie Winery

I Lonnie Smith, the owner of Lonnie's Wine Tours and Transportation, have been bringing visitors to Reverie Winery since 2001. Every person I have ever brought there, has always enjoyed their experience at Reverie Winery.

It would be a great loss to the Community and Napa Valley, if Reverie was not granted the planning permit. Of all the wineries I take visitors to in Napa Valley, Norm Kiken has always kept the same employees working for him. It would be sad to see them lose their jobs.

Sincerely,

Lonnie Smith  
Owner/Operator



## Gallina, Charlene

---

**From:** Lonnie Smith <lonniejsmith@gmail.com>  
**Sent:** Monday, June 01, 2015 11:10 AM  
**To:** Gallina, Charlene  
**Subject:** Letter of support for Reverie Winery  
**Attachments:** Letter of support for Reverie.pdf

Hi Charlene,

This is a support letter for Reverie Winery.

Sincerely,

Lonnie Smith  
Owner/Operator  
Lonnie's Wine Tours and Transportation  
Cell: (707) 478-3036  
lonniejsmith@gmail.com  
www.lonnieswinetours.com  
*Visit and like us on Facebook: www.facebook.com/lonnieswinetoursandtransportation*

## Gallina, Charlene

---

**From:** Lonnie Smith <lonniejsmith@gmail.com>  
**Sent:** Saturday, May 30, 2015 9:06 PM  
**To:** Gallina, Charlene  
**Subject:** Letter of support for Reverie Winery  
**Attachments:** Letter of support for Reverie.pdf

Hi Charlene,

This is a support letter for Reverie Winery.

Sincerely,

Lonnie Smith

Owner/Operator

Lonnie's Wine Tours and Transportation

Cell: (707) 478-3036

[lonniejsmith@gmail.com](mailto:lonniejsmith@gmail.com)

[www.lonnieswinetours.com](http://www.lonnieswinetours.com)

*Visit and like us on Facebook: [www.facebook.com/lonnieswinetoursandtransportation](http://www.facebook.com/lonnieswinetoursandtransportation)*

**“F”**

**Previous Staff Report – June 3, 2015**

**PREVIOUS STAFF REPORT  
FROM PLANNING COMMISSION  
MEETING**

**PROJECT**

**NAME:** Reverie on Diamond Mountain Dairy

**PREVIOUS MEETING**

**DATE:** June 3, 2015

**CONTINUED TO:** June 17, 2015

**FOR ATTACHMENTS OF THIS STAFF REPORT PLEASE  
REFER TO THE PREVIOUS MEETING DATE ABOVE.**



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 6/3/2015

Agenda Placement: 9B

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission

**FROM:** Melissa Frost for David Morrison - Director  
Planning, Building and Environmental Services

**REPORT BY:** John McDowell, Deputy Planning Director - 299-1354

**SUBJECT:** Reverie on Diamond Mountain Winery Use Permit Modification

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### RECOMMENDATION

**REVERIE ON DIAMOND MOUNTAIN WINERY / REVERIE ON DIAMOND MOUNTAIN, LLC. - USE PERMIT MAJOR MODIFICATION NO. P13-00027 and USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS NO. P15-00141**

**CEQA Status:** Consideration and possible adoption of a Negative Declaration. According to the proposed negative declaration, the project would not have any potentially significant environmental impacts. The project site is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**Request:** Request for approval of a modification to Use Permit #94254-UP, a Use Permit Exception to the Conservation Regulations (P15-00141) and an Exception to the Napa County Roads & Street Standards to allow the following: A) Recognize and authorize an increase the approved production capacity from 5,000 to 9,200 gallons per year; B) Recognize and authorize the 1,460 sq.ft. (Second Floor) of the winery building allocated to accessory use; C) Recognize and authorize the use of the 4,710 +/-sq.ft. cave for wine production, case storage and wine barrel storage and once fire sprinklers are installed use of the cave for tours, tastings and some events (Cave spoils were kept on the property and used to improve the vineyard roads); D) Recognize and authorize an increase in the approved "by appointment visitation" of 20 persons per day with an average of 20 per week to a maximum of 40 persons per day with an average of 200 persons per week; E) Recognize and authorize expansion of the existing marketing plan from the following: 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons to allow 1) 4 events per year with up to 60 persons; 2) 2 events per year with up to 40 persons; 3) 12 events per year with up to 10 guests; and 4) participation in the wine auction; F) Recognize and authorize an increase in the approved number of employees from 2 employees plus 1 temporary employee during harvest to a maximum of 5 employees; G) Recognize and authorize on-premise consumption of the wines produced on-site, consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill) within the winery building and improved lawn areas, and under the mature

redwood grove; H) Recognize and authorize catered food pairings; I) Abandonment of an existing septic system and the installation of a new code compliant domestic and winery waste system. Both hold and haul and rapid aerobic treatment with storage are proposed; J) Installation of a new well; K) Installation of a new automatic storm water diversion valve and a temporary crush pad cover; and L) Installation of a new ADA compliant parking space.

The proposal also includes a Use Permit Exception (#P15-00141) to the Conservation Regulations with regards to retention of the following 1) the portal for the existing wine cave encroaches into the 45 ft. creek setback for the small tributary creek on the property; and 2) the minor landscaping improvements along a portion of Teale Creek that are within the required setback of that creek. The proposal also includes an Exception to the Napa County Road & Street Standards (RSS) to allow for a reduction in the required 20 foot roadway width to preserve unique features of the natural environment.

The project is located on a 39.83 acre parcel approximately 1,000 feet west of Diamond Mountain Road and approximately 4,000 feet from its intersection with State Highway 29/128, within the AW (Agricultural Watershed) Zoning District; 1530 Diamond Mountain Road, Calistoga, CA, APN: 020-440-005.

**Staff Recommendation:** Adopt the Negative Declaration and approve the Use Permit Modification, Use Permit Conservation Regulation Exception, and Road & Street Standard Exception request as conditioned.

**Staff Contact:** John McDowell, (707) 299-1354, [john.mcdowell@countyofnapa.org](mailto:john.mcdowell@countyofnapa.org), or Charlene Gallina, (707) 299-1355, [charlene.gallina@countyofnapa.org](mailto:charlene.gallina@countyofnapa.org)

**Applicant Contact:** Scott Greenwood-Meinert, (707) 252-7122, or [ScottGM@dpf-law.com](mailto:ScottGM@dpf-law.com)

## **EXECUTIVE SUMMARY**

### **Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration for the **project** based on Findings 1-6 of Exhibit A; and,
2. Approve an Exception to Road & Street Standards based on Findings 7-8 of Exhibit A, and subject to the Conditions of Approval (Exhibit B)
3. Approve Use Permit Major Modification (P13-00027-MOD) and Conservation Regulation Exception Findings (P15-00141) based on Findings 9-20 of Exhibit A, and subject to the Conditions of Approval (Exhibit B)

### **Discussion:**

On June 21, 1995 the Planning Commission approved the original use permit for the Reverie on Diamond Mountain Winery establishing a 5,000 gallon per year estate winery within a 2,237 sq.ft. portion of an existing 2,951 sq.ft. barn and guest cottage, as well as the addition of a 3,000 sq.ft. crush and tank pad. By appointment visitation and retail sales were set at a maximum of 20 visitors per day with an average of 20 visitors per week. The marketing plan was authorized as follows: 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons. At some point in the late 1990's after the originally approved winery improvements were completed, the permittee constructed a 4,710 sq. ft. cave located adjacent to crush and tank pad and converted the upstairs guest cottage within the winery building to winery office. These improvements were

made without use permit and building permit approval. Also after grant of final occupancy, the permittee began exceeding approved wine production levels purportedly up to 8,400 gallons per year, and increased visitation over approved limits. The current request seeks approval of these existing elements and as augmented in the project description detailed in the preceding section of this report. This application was not filed in respond to a code compliance investigation, but the property had been selected for review in the Wine Audit prior to filing of this application.

The County's long standing procedure for addressing code violations begins with seeking voluntary compliance from property owners. Subsequent progressive steps include citations, civil actions, and referrals to the District Attorney. The voluntary compliance step often results in property owner's exercising their right to file a use permit modification seeking after-the-fact approval of previously unauthorized improvements and/or uses. As with all projects, the Planning Commission's role in reviewing the request is limited to weighing the merits of the proposal for consistency with guiding General Plan policies, and applying the standards and required findings of the Zoning Ordinance for grant of a use permit. It is not the Commission's role to determine punitive measures, or seek restitution for unfair business practices. Likewise, the Commission is in no way obligated to approve the request as submitted.

Staff has reviewed the request from a standpoint as if the improvements had yet to be installed and the expanded uses had yet to be implemented. From that perspective, staff believe that several aspects of the proposal would have been supported but not to the extent requested by the applicant as follows:

- The increased wine production from 5,000 gallons to 9,200 gallons annually is small, and sourced entirely from on the property and would have been supported.
- Construction of a 4,710 sq. ft. cave could have been supported, but the location of the portals in proximity to creek setbacks would not have been supported without some form of commensurate stream restoration project or alternative configuration consistent with the required findings for grant of a Conservation Regulation Use Permit Exception.
- Conversion of the guest quarters to winery use would have been supported.
- Outdoor visitation areas and event space could have be supported, but not within creek setbacks and the extent of that area is quite large when considered in relation to the size of the winery structures.

What remains unresolved for staff is the fact that the Commission has little in the way of flexibility on project design given the improvements already exist and the expanded use is already occurring to a certain degree beyond the permit. In one regard, the Commission has the advantage of seeing how the project would turn out if they were to approve it, but in the other regard, the question cannot be answered if the Commission would have found the existing design acceptable had it been developed in the proper order. It is within that context of this conundrum that staff cannot support the project as proposed and requests that the Commission pursue a reduced development alternative as follows:

- The production increase should be allowed but limited solely to production of wines to grapes that are 100% grown on-site.
- Visitation and marketing levels should not increase from originally approved levels, but the use permit conditions should be updated to reflect current condition language.
- Conversion of the second story guest cottage space to winery offices (only) should be permitted.
- In lieu of removing and replacing the eastern cave portal and unauthorized visitation areas on the west side of



Teal Creek, the property owner should implement a stream corridor restoration project on the south side of Teal Creek converting much of the unauthorized outdoor tasting areas.

In moving forward, the Commission has four general decision making options as follows and as detailed in the main body of this report: 1) Approve the project as requested by the applicant; 2) approved some level of down-scaled/reduced development alternative as recommended by staff; C) denial of the request; and D) denial of the request and commencement of revocation or suspension of the underlying use permit. Revocation would need to be agendaized for a future meeting.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

According to the proposed Negative Declaration, the proposed project would have no potentially significant environmental impacts. This project site is not on any of the lists of hazardous waste enumerated under Government Code Section 65962.5.

This request primarily involves recognition of improvements and activities that are already occurring, including recognition of a cave and associated improvements, conversion of an existing second story guest cottage with winery offices, and visitation and wine production levels exceeding the current permit. New aspects of the project are limited to installation of a replacement septic system with hold and haul for wine process waste, and minor widening to the private access road.

### **BACKGROUND AND DISCUSSION**

**Owner / Applicant:** Norman Kiken, Reverie on Diamond Mountain, LLC., 1520 Diamond Mountain Road, Calistoga, CA 94515

**Representative:** Scott Greenwood-Meinert, 1455 First Street Suite 301, Napa, CA 94559, (707)252-7122, ScottGM@dpf-law.com

**Zoning District:** Agricultural Watershed (AW)

**General Plan Designation:** Agriculture, Watershed and Open Space (AWOS)

**Parcel Size:** 39.83 acres

**Vineyard Acreage (Approved and Existing):** ± 27 acres

**Vineyard Acreage (Proposed):** ± 27 acres

### **Winery Characteristics:**

**Winery Size (Approved):** ±5,236 sq. ft. (2,237 sf building only)

**Winery Size (Existing and Proposed):** ±10,661sq. ft. (2,951 sf building only)

**Production Capacity (Approved):** 5,000 gallons annually  
**Production Capacity (Existing):** 8,400 gallons annually  
**Production Capacity (Proposed):** 9,200 gallons annually

**Winery Coverage (Approved):** approximately 7,000 sq. ft., or .02%  
**Winery Coverage (Existing and Proposed):** approximately 650 sq. ft. larger, or 7,650 sq. ft., or .02%  
(Maximum 25% or 15 acres)

**Accessory/Production Ratio (Approved):** ±714 sq.ft. accessory/4,511 sq.ft. production; approximately 16% (not including the 714 sq. ft. guest cottage within winery building)

**Accessory/Production Ratio (Existing and Proposed):** ±1,440 sq.ft. accessory/9,221 sq.ft. production; approximately 16%  
(Maximum 40% allowed)

**Outdoor areas to be utilized for tasting and marketing activities:** approximately 100 ft. by 150 ft., or 15,000 sq. ft. lawn, redwood grove and graveled area with small gazebo across creek (this does not include approximately 100 ft. by 50 ft., or 5,000 sq. ft. garden with pathways located between winery and redwood grove)

**Number of Employees (Approved):** 2 full-time and 1 part-time employees  
**Number of Employees (Proposed):** 5 employees

**Visitation (Approved):** Maximum of 20 visitors per day, and average of 20 visitors per week (by appointment only)  
**Visitation (Proposed):** Maximum 40 visitors per day; Average of 200 per week (by appointment only)

**Marketing Program (Approved):** 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons.

**Marketing Program (Proposed):** 1) 4 events per year with up to 60 persons; 2) 2 events per year with up to 40 persons; 3) 12 events per year with up to 10 guests; and 4) participation in the wine auction;

**Days and Hours of Operation (Approved and Existing):** 8 am-5 pm, daily  
**Days and Hours of Operation (Proposed):** no change

**Parking (Existing):** 5 parking spaces  
**Parking (Proposed):** 6 parking spaces, addition of 1 Americans with Disabilities space

**Adjacent General Plan Designation/Zoning District/Land Use:**

**North:**

City of Calistoga – Vacant hillside property approved for Enchanted Hills Resort Project

**South:**

AWOS General Plan Designation, AWP Zoning – Diamond Creek Vineyards Winery with residence and vineyards

**West:**

AWOS General Plan Designation, AW Zoning – 3 hillside parcels containing residences ranging in size from 5 to 7 acres each

**East:**

AWOS General Plan Designation, AW Zoning – Von Strasser Winery with residence and vineyards

**Wineries in Vicinity (located within 1 mile of the projet)**

## Nearby Wineries

Von Strasser -- 1510 Diamond Mountain Rd -- 4,400sf -- 25,000 gal/yr -- 20 average visitors/wk -- 18 events/yr -- 4 employees  
Diamond Creek --1500 Diamond Mountain Rd --9,000sf -- 10,000 gal/yr -- 10 average visitors/wk -- 5 events/yr -- 5 employees  
Wallis Family Estate -- 1670 Diamond Mountain Rd -- 11,711sf -- 30,000 gal/yr -- 108 average visitors/wk -- 3 events/yr -- 4 employees  
Teachworth Winery -- 4451 N. St. Helena Hwy -- 800sf -- 5,000 gal/yr -- 2 average visitors/wk -- 2 events/yr -- 0 employees  
Diamond Mountain --2121 Diamond Mountain Rd -- 1,408sf -- 10,000 gal/yr -- 25 average visitors/wk -- 16 events/yr -- 2 employees  
Joseph Cellars -- 4455 N. St. Helena Hwy -- 4,941sf -- 30,000 gal/yr -- 525 average visitors/wk -- 106 events/yr -- 6 employees  
Twomey Cellars -- 1183 Dunaweal Ln -- 18,940sf -- 81,500 gal/yr -- 530 average visitors/wk -- 5 events/yr -- 4 employees  
T-Vine Cellars -- 810 Foothill Blvd, Calistoga -- 3,300 sf -- 6,000 gal/yr -- Open to the Public -- Events restricted to 24 people

**Property History:**

1993 - The property was purchased by the Kiken's. At the time of Kiken's purchase the 39 acre property contained 27 acres of vineyards and the 2,951 sq. ft. barn with upstairs cottage. This structure is evident on the 1940 aerial photograph but had apparently been substantially altered before 1993 and did not qualify as a historic structure. Prior to the installation of the vineyards, purportedly in the late 1980's, the property contained a mix of natural vegetation and remnant orchards which dated back to at least 1940.

August 1994 - Erosion Control Plan #93391-ECPS was administratively approved authorizing the construction of a 2,000+/- ft. access drive, an approximately 5,000 sq.ft. single residence, pool and on-site septic waste water system on slopes averaging 20%. Building Permit #55073 was issued for this residence on August 11, 1994 and finalized on July 14, 1995.

June 1995 - Use Permit #94254-UP was approved by the Planning Commission on June 21, 1995 authorizing the establishment of a 5,000 gallon per year estate winery through the conversion of 2,237 sq.ft. of an existing 2,951 sq.ft. barn, and the addition of a 3,000 sq.ft. crush and tank pad. By appointment visitation and retail sales were set at 20 visitors per day with an average of 20 visitors per week. The marketing plan was authorized as follows: 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons. Hours of operation was set at 8 am-5 pm, daily. The number of employees was set at 2 full-time plus 1 temporary employee during harvest. Parking was limited to five (5) spaces. The guest cottage within the winery was deemed accessory to the residence and was prohibited from having any connection to the winery or used for marketing or other winery activities. A Variance (#94255-VAR) to allow the winery to be within the 300 foot setback from a minor private road was also submitted; however, the Planning Commission found the road to not serve the public because it was a secondary access and, therefore, the variance request was officially withdrawn at the public hearing. Building permits for such approval was obtained from the County of Napa.

Late 1990's - Over time, the entire second floor was converted for winery purposes without obtaining a use permit

modification and building permit. Presently, no residential use remains within the former barn/guest cottage. A 4,710+/- cave was also excavated in the hillside immediately adjacent to the winery/barn without obtaining a use permit modification, building permit and/or grading permit. According to Rick Stone of Nordby Wine Cave, the cave excavator, the cave was constructed in accordance with accepted industry standards at the time, and the cave spoils were disposed on site and used to improve vineyard roads.

July 2012 - The property was selected to participate in the 2012 Wine Audit which was conducted at the conclusion of the 2012 with results reported in July 2013.

February 4, 2013 - Use Permit Major Modification P13-00027 was voluntarily submitted by the property owner, as well as in advance of submitting required information in the Winery Audit process. The request seeks approval of the cave and other existing winery-related site improvements improved without benefit of permit as well as authorization of wine production and visitation/marketing exceeding levels contemplated in the original use permit entitlement. Processing of the application has been delayed by several factors including availability of staff and applicant driven changes to the project description. The original staff planner assigned to the project went out on a leave of absence and eventually left employment with the County. Upon taking over the project, the new staff planner worked with the applicant on developing substantial amounts of background study work on roadway engineering, water availability, biological analysis, traffic analysis and other project details.

August 20, 2014 - Demolition Permit B14-01281 was administratively approved authorizing the demolition of a 540 sq.ft. vineyard material storage building and 400 sq.ft. vineyard equipment shop building located within the stream setback of a small tributary flowing into Teale Creek. It should be noted that such buildings existed before adoption of the Conservation Regulations in 1991 and the establishment of stream setbacks, however, these structures had been modified/expanded and/or replaced at some point after 1991 and prior to submittal of Major Modification P13-0027. As indicated, the applicant expanded and partially enclosed one of the buildings that spanned the stream and constructed another. Demolition of the buildings resolved that portion of the code violation.

#### **Code Compliance:**

As noted in the project description and property history section above, there have been several violations associated with the winery and adjacent vineyard management buildings. The violations on the vineyard management buildings were resolved in 2014. Resolution of the winery-related violations is dependent upon the outcome of this use permit process. In March 2015 the Board of Supervisors and Planning Commission requested that staff commence an update to code enforcement practices and regulations to potentially increase penalties and/or consequences for code violations. As with any use permit, the Planning Commission's role remains to consider the merits of the use permit request and not to apply punitive measure in response to the code violations.

Civil penalties and/or fines are applied by the Building Official, Code Enforcement Division and County Counsel's Office. This project will be subject to after-the-fact building permit fees, which are double standard building permit fees plus payment of all staff costs. Citations and/or court-ordered civil penalties are not being pursued at this time, as the property owner has been diligent in responding to County demands placed upon them. As noted above, processing of the use permit modification, which started in February 2013 was delayed. County Code Section 1.28 sets infraction citation levels at \$100 a day for a first infraction for a maximum period of 1 year. Citation levels increase to \$200 a day and \$500 a day if property owners fail to comply with orders. If the County elevates the case to a civil action, court-ordered civil penalties are up to \$1,000 a day for a maximum period of 1 year plus recovery of County costs.

#### **Discussion Points:**

Staff Recommendation - Staff strives to find a balance between applicant objectives, County objectives, and the

various objectives of all who may be interested in the project. In this case however, staff expects that it will not be possible to find balance on meeting all competing objectives. Consequently, formulating a recommendation on this project has been difficult and as a result the recommendation has only been finalized concurrent with the release of this staff report. As such, the applicant may have some level of frustration with staff detailing points in this report that have not been fully vetted with them beforehand. Likewise, it is anticipated that neighbors and/or other interested members of the public who are expressing concerns about the proposal, may have similar concerns with both staff's recommendation and the fact the recommendation was not vetted with them before release of this staff report. Regarding objectives, the County General Plan supports reasonable levels of additional winery development, which aspects of this project clearly contain. On the other hand, the Board of Supervisors and Planning Commission have expressed increased reluctance to reward illegal behavior with an after-the fact approval, which aspects of this project clearly contain.

Considering these objectives equally, staff does not feel it is appropriate to endorse the applicant's proposal as proposed as it is unclear how this proposal meets Board direction to avoid rewarding violators with after-the-fact approvals. Conversely, staff does not support project denial because there are substantive elements of the underlying original approval that are problematic and need to be addressed. Therefore, staff is recommending that certain aspects of the project be approved after-the-fact, but contingent wholly upon timely implementation of an off setting restoration plan to return a substantial portion of the property to a natural state to address required findings for grant of a conservation regulation use permit exception. Absent some form of commensurate trade off for the County granting after-the-fact approval of incursions into creek setbacks, staff cannot support the proposal. This concept was suggested to the applicant on several occasions over the last several months but to date the applicant has not expressed an interest in moving forward in this direction.

Staff believe the only way to objectively consider the various components of an after-the-fact entitlement request is to evaluate the proposal from the perspective as if they had yet to be implemented, and determine if support would have been otherwise given. The scope of discretion before the Planning Commission is limited to determining if the request merits approval, either as proposed or amended, or should be denied. In addition, the Commission has the authority to commence a process for revocation or suspension of the existing use permit if the Commission believes the violations rise to a level where the required findings for revocation or suspension apply. Staff's analysis of the individual components of the request are detailed as follows:

Wine Production - The approved use permit allows 5,000 gallons of annual wine production. The applicant has indicated that current production is at 8,400 gallons annually, and 9,200 gallons of annual production is requested with this permit. County evaluation of wine production is conducted on a three year rolling average. Therefore, it is theoretically possible that the permittee can comply with the 5,000 gallon annual limit if subsequent years to the average are commensurately under the allowed production.

Staff believe it is reasonable to grant the additional production for the following reasons: 1) the grapes are being sourced from an on-site vineyard which existed prior to the approval of the winery. Hind sight being what it is, it is unclear why only 5,000 gallons of annual production was entitled for a estate-sourced winery that had 27 acres of vineyards, even in a hillside setting. At 27 acres, any grape yields over 1.23 tons per acre would produce over 5,000 gallons of juice. 2) Whether the production increase is granted or not, the 27 acres of vineyards will continue to produce more than 5,000 gallons of juice annually, meaning that fruit will be off-hauled if not produced here. This is not a major factor one way or the other, because the volume of wine is quite minor, but staff is supportive of processing grapes on-site. 3) The amount of overall production, both previously approved and proposed, is quite small.

Cave Status - Caves are common features in wineries and generally supported by staff. Issues on cave design at wineries generally pertain to 1) visibility/setbacks of portals and work areas; 2) size of the cave in relation to the amount of wine being made; 3) location of cave spoils; 4) amount of cave space dedicated to accessory uses; and 5) cave construction type as it relates to visitors. In this case, some aspects of the cave would have been

supported by staff if it were being proposed new today including its overall size in relation to production, cave type, and visibility.

At issue is the portal placement and access road in the creek setback, the use of the cave for visitation, and the inconclusive final resting places of the cave spoils. In response to the cave spoils, the applicant provided a testimonial from the cave driller stating that spoils were deposited in the vineyards on the property. Staff can neither confirm or reject this assertion as it occurred over 15 years ago and the only evidence provided came from the contractor who did the unpermitted work. It is noted that at the time the cave was drilled, the County did not require permits to dig the cave, but the contractor violated both local and state laws by completing finishing work at the cave without permits and thus it seems hypocritical to accept that contractor's testimonial as hard evidence. To some degree the final location of the cave spoils is moot since it happened years ago, but staff believe it has some bearing on the issue of the cave portal within the creek setback.

Staff's position is that the after-the-fact Conservation Regulation Use Permit Exception should only be granted if the project contains a commensurate offsetting benefit to the stream corridor that the cave and road are encroaching within. As noted in the biological report prepared for this project (attached), the creek channels on the subject property have been highly altered and evidence suggests strongly that they most of the creek zones were highly altered for some considerable period prior to the applicant's acquisition of the property. Photographs of the winery structure in 1995 (attached) provide some evidence of the level of disturbance to the creek channels before the cave portal and access road were built in these areas. This evidence suggests that the impacts to the creek zone from the cave did not result in substantial changes.

However, construction of the cave portal, access road and the unauthorized reconstruction/rehabilitation of the vineyard management building in the creek setbacks did result in some unknown level of new earth disturbance within the creek setbacks. It possible that a portion of the cave spoils were spread within creek setbacks not only adjacent to the winery and vineyard buildings but also in the vineyard roads elsewhere on the property. As such, staff sees only two options for supporting retention of the cave as built. One would be removal of the portal and access road from the creek setback and installation of a new portal (two portals are required for winery caves) outside of setbacks. This appears possible on the south side of the property where the original septic system had been placed but staff has not pursued this concept with the applicant as it seems environmentally superior to leave the cave as it is than to embark on a new construction project. Therefore, Staff has focused on the option of retaining the creek setback portal, but to require the property owner to restore a substantial amount of creek setback zone elsewhere on the site in turn for allowing the encroachment. Staff has suggested that the applicant offer up some form of attenuating off set for the creek incursion, but to date the applicant has not expressed an interest in pursuing this concept. As such, in arriving at a recommendation for this project, staff opted to suggest restoration in the area south of Teale Creek in lieu of any other measures being put forth by the applicant. This concept would require substantial further development if the Commission wish to take matters in this direction. Without laying out a concept, it appears that at least 15,000 sq. ft. of restoration area would be needed dependent upon the replacement ratio chosen by the Commission. Lastly, retention of the existing portal is arguably environmentally superior to denying the application and requiring the applicant to fill the cave in, as the property owner would only be required to return the area to the way it was before the violation, which was far from a native state. If a restoration project is not possible though, staff would withdraw support for retaining the cave. Removal is preferred to retention without a restoration component.

If the cave is to be retained, it should be used. However, use of the cave for tours and tastings is not supported by staff. After-the-fact approval of the caves is only reluctantly supported because the cave is a reasonably sized storage/wine production component to a winery designed to support the production of grapes grown on-site. Tours and tasting are an accessory use to wine production, and for Staff, the rational for retaining the cave does not apply if it is to be for accessory uses. The applicant has not provided rational why visitation is needed in the caves in order to sell the wines made at the facility.

Second Floor Office Conversion from Guest Quarters - In the original approval, the guest quarters were not allowed to internally connect with the adjacent winery offices and could not be used for winery related purposes. Including non-winery facilities within a winery is generally problematic not only from a zoning/land use perspective, but from a Building Code perspective as well. Residential occupancies must have area separation walls and other delineators from commercial, agricultural and industrial occupancies. Conversion of the residential space to winery office space is highly preferred by staff to the originally approved configuration. Zoning requires guest cottages to be clearly incidental to the primary residential use on the property, which in this case is 1,300 ft. away and up the hill. Guest cottages are meant to function as part time sleeping accommodations for family members and non paying guests of the residence. Having the guest quarters as part of the winery and completely removed from the residence compromises the integrity of the use.

Visitation and Marketing Levels - Staff cannot support expansion of the visitation and marketing program for this facility. The applicant's purported need for the additional visitation and marketing is to meet market challenges resulting from the growing trend of direct-to-consumer marketing. Although staff acknowledges the competitive business pressures faced by small wineries, and accepts that small wineries need to be able to sell their wines directly to customers, staff do not feel that the applicant has made a compelling case why their existing levels of visitation are insufficient. In fact, the property is either in contract to be sold or has sold to a new owner, and it appears likely that the level of visitation and marketing requested relate more to property valuation than to the current operator's functional needs.

Staff supports reworking the visitation and marketing program to correspond with the current conditioning method that places maximum daily and weekly visitors, and maximum number and size of events, as opposed to relying on averages. Applying the Commission's currently evolving visitation matrix methodology, the applicant's proposed level of visitation and marketing is far above its peers (see attached spreadsheet). The spreadsheet has omitted the 20,000 gallon per year Small Winery Exemptions because these permit types (issued in the 1980's) did not allow visitation or marketing and would paint a much lower average and median visitation level if included. Only small wineries with use permits were included as comparison facilities. Small Winery Exemptions were administrative permits based on set ministerial criteria similar to Home Occupation and Cottage Food administrative permits although somewhat larger in overall scale.

Outdoor Visitation and Marketing Areas - The applicant is proposing that tastings and marketing events be permitted in the redwood grove, lawn area and gazebo located on the south side of Teale Creek. Tasting and marketing events have occurred in these areas in the past without record of neighbor complaint or objection although not authorized in the existing use permit. Outdoor visitation areas are common at wineries, and are not counted to the amount of accessory space at wineries. Those factors lend support toward now authorizing these areas for accessory use. However, relating these areas to resolution of the unauthorized cave construction as well as the unauthorized visitation that has occurred in these areas, staff believe it is more appropriate that this portion of the property be converted to a natural area as part of the stream restoration project staff believes is necessary to meet the required findings for grant of an exception for the creek setback incursions. Staff would support small areas of the south side of the creek being used for tastings/marketing within the restoration area, such as a path to the redwood grove from the existing decades old bridge. Removal of the lawn area and gazebo and replacement with native vegetation could qualify for offsetting the encroachments that have occurred elsewhere. The final design of the restored area could have components allowing human interaction.

Septic System & Hold and Haul – The existing septic system is located in close proximity to and above the cave and must be relocated to meet health code requirements. The applicant's engineer has designed a new domestic waste system that will be located across Teale Creek with the sewage line crossing the creek at the existing bridge which is allowed by standards. Other than the new transmission line to access the septic field, all other new septic system improvements will be installed outside of creek setbacks. The applicant is proposing the winery waste be converted to a hold and haul system. Current regulations allow hold and haul systems, although there has been some more recent public concerns raised about the sustainability of allowing hold and haul at



wineries. At 9,200 gallons of wine production, the scale of the hold and haul system is comparatively quite small to other hold and haul entitlements. Staff has no objection to implementing a hold and haul system.

Private Road Improvements, Traffic and Parking – An exception to the Road and Street Standards is proposed and supported by the Fire Marshal and Engineering Division. The existing private access road connects with Diamond Mountain Road through several properties generally east of the subject property. The applicant is required to widened sections of the road, as shown the attached project plans, but is requesting an exception in areas to retain vegetation and limit work within creek setback zones. Staff believe the project as designed can meet the required findings for grant of a road exception. The first findings is that there are substantive trees and/or terrain features that would be removed or damaged by widening roads to the full standard, and the second finding is that the alternative design contains features that meets the same overall practical effect as meeting the full standard. In this case, the Fire Marshal and Engineering Division support the design as now put forward by the applicant. The design went through several iterations before being determined to meet the same overall practical effect finding.

Public Comments - As of printing of this staff report several letters from interested third parties have been submitted and are attached. It is anticipated that additional correspondence will be received prior to the hearing and will be distributed by the Commission Clerk at the earliest available opportunity.

### **Decision Making Options**

#### Option 1- Approve Applicant's Proposal

This option would result in approval of the project essentially as it exists today with the inclusion of minor site and facility improvements. Subsequent to approval, the permittee would need to obtain building permits for all previously unpermitted work. Visitation and marketing levels would be increased and could commence once retroactive building permit work was granted a final occupancy, including installation of the new septic system facilities. The attached proposed conditions of approval are written to reflect the applicant's proposal. Highlighted areas on these conditions would need to be revised in the event the Commission wishes to pursue a reduced development option.

Action Required - Follow proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at the time the motion is made.

#### Option 2 - Reduced Development Alternative (Staff Recommendation)

This option would allow the property owner to retain the majority of previously unpermitted improvements including the cave and access road/cave portal within the creek setback and would allow wine production to increase as proposed, but visitation and marketing levels would not be increased and a stream restoration project would be required to offset the encroachments within creek setbacks. The Commission could assign the restoration project to any portion of the property but staff is recommending that it encompass the south side of the Teale Creek. The Commission also has flexibility to adjust visitation and marketing levels.

Action Required - Take a tentative action to approve the CEQA document and project, and remand the item to Staff for preparation of findings and revised conditions of approval. Final approval of this alternative and adoption of the revised conditions could occur at the next Commission meeting.

#### Option 3 - Deny Proposed Modification

In the event the Commission determines that the project does not, or cannot meet the required findings for grant of a use permit modification, Commissioners should articulate what aspect or aspects of the project are in conflict with required findings. In a similar fashion to use permit approvals, State law requires the Commission to adopt findings based substantial evidence, setting forth why the proposed use permit is not consistent with the General Plan and/or County Code and therefore is being denied. Based on the administrative record as of the issuance of

this staff report, staff believe it would be more appropriate to approve a downscaled project then do deny the proposal outright. Denial of the project would result in the project being remanded to the Code Enforcement Division to work with the property owner to remove all unpermitted construction and return winery production and visitation levels down to originally permitted levels. Outdoor visitation areas could not be used.

Action Required - By simple motion the Commission would adopt a tentative motion of intent to deny the project and remand the matter to staff for preparation of required findings to return to the Commission on a specified date for formal adoption.

#### Option 4 - Use Permit Revocation

Pursuant to County Code Section 18.124.120, the Planning Commission has the authority to revoke, suspend or modify an existing use permit entitlement if after conducting a multi-step noticed public hearing process to expressly consider such actions, the Commission finds one or more of the following findings (paraphrased) applies: Approval was obtained by fraud or misrepresentation; violation of conditions; use being conducted contrary to terms of the permit; use is detrimental to public health, safety or welfare; use constitutes a public nuisance; and/or use has ceased for a period of five years or longer. Generally, this process is only pursued on the most egregious cases where permittee repeatedly demonstrates an inability to comply leaving the local agency with no other reasonable course of action to compel compliance. Staff is not recommending that this action be pursued at this time. The applicant expressed an intent to comply with the code and followed the use permit modification process to request approval of previously unauthorized improvements.

Action Required - Separate from action on the proposed use permit modification, the majority of the Commission by minute order would direct staff and County Counsel to begin processing.

#### Continuance Option

The Commission may continue an item to a future hearing date at its own discretion.

### **SUPPORTING DOCUMENTS**

- A . Draft Findings
- B . Draft Conditions of Approval
- C . Department Comments
- D . Original Use Permit Approval
- E . Proposed Negative Declaration
- F . Winery Comparison Chart
- G . Public Comments
- H . Application Packet
- I . Conservation Regulation Exception Request
- J . Road Exception Request
- K . Water Availability Analysis
- L . Traffic Study
- M . Stormwater Management Analysis
- N . Septic Analysis
- O . Septic Cave Setback Analysis

P . Biological Report

Q . Graphics

R . Correspondence received after the packet mail out (Added after meeting)

Napa County Planning Commission: Approve

Reviewed By: Melissa Frost

**“G”**

**Correspondence Received After Packet  
Mail Out or at the Meeting**

JUN 17 2015

Agenda Item # 9B

REVISED

**“APPLICANT PROPOSAL”**

**PLANNING COMMISSION TENTATIVE ACTION**

PLANNING COMMISSION HEARING – JUNE 317, 2015  
EXHIBIT B – CONDITIONS OF APPROVAL

REVERIE ON DIAMOND MOUNTAIN

Use Permit Modification #P13-00027-MOD, Use Permit Exception to the Conservation Regulations #P15-00141, & Exception to the Napa County Road & Street Standards.  
1530 Diamond Mountain Road, Calistoga, CA  
APN: 020-440-005

1. SCOPE

The permit shall be limited to:

- A. Subject to Permittee's completion of the restoration plan set forth in Condition of Approval No. 2.KH. A Use Permit Exception (#P15-00141) to the Conservation Regulations with regards to retention of the following with a condition on restoration and/or conservation: 1) the portal for the existing wine cave encroaches into the setback for the small tributary creek on the property; and 2) the minor landscaping improvements along a portion of Teal Creek that are within the required setback of that creek. No visitation or marketing activities shall occur within the lawn area.
- B. An Exception to the Napa County Road & Street Standards (RSS) to allow for a reduction in the required 20 foot roadway width to preserve unique features of the natural environment. Access to the project site is from an approximately 1,000 ft. long paved private drive crossing several properties which outlets onto Diamond Mountain Road, a County maintained public right of way. Minor widening will occur on portions of this road on the adjoining property where no mature trees are located and outside of creek setbacks. The RSS exception would apply only to areas where natural features are to be preserved (see RSS exception drawing for details).
- C. Request for approval of a modification to Use Permit #94254-UP, to allow the following:
  1. Recognize and authorize an increase the approved production capacity from 5,000 to 9,200 gallons per year with a condition on estate grown grapes;
  2. Recognize and authorize the 1,460+/- sq.ft. (Second Floor) of the winery building allocated to accessory use;
  3. Recognize and authorize the use of the 4,710 +/-sq.ft. cave for wine production, case storage and wine barrel storage. Visitation and marketing activities are prohibited within the cave ~~and once fire sprinklers are installed~~



~~use of the cave for tours, tastings and some events (Cave spoils were kept on the property and used to improve the vineyard roads);~~

~~4. Recognize and authorize an increase in the approved "by appointment visitation" of 20 persons per day with an average of 20 per week to a maximum of 40 persons per day with an average of 200 persons per week;~~

~~5. Recognize and authorize expansion of the existing marketing plan from the following: 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons to allow 1) 4 events per year with up to 60 persons; 2) 2 events per year with up to 40 persons; 3) 12 events per year with up to 10 guests; and 4) participation in the wine auction;~~

~~6.4. Recognize and authorize an increase in the approved number of employees from 2 employees plus 1 temporary employee during harvest to a maximum of 5 employees;~~

~~7.5. Recognize and authorize on-premise consumption of the wines produced on-site, consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill) within the winery building and improved lawn areas, and under the mature redwood grove;~~

~~8.6. Recognize and authorize catered food pairings;~~

~~9.7. Abandonment of an existing septic system and the installation of a new code compliant domestic and winery waste system subject to condition of approval 2.J below. ~~Both hold and haul and rapid aerobic treatment with storage are proposed;~~~~

~~10.8. Installation of a new well;~~

~~11.9. Installation of a new automatic storm water diversion valve and a temporary crush pad cover; and~~

~~12.10. Installation of a new ADA compliant parking space.~~

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 (the 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 cave spoils and fire suppression tanks are permitted, subject to review and approval by the Director of Planning, Building, and Environmental Services (the PBES Director), 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, the Project Specific Conditions shall supersede and control.

A. **On-Premises Consumption**

Consistent with Business and Professions Code §§23358, 23390 and 23396.5 (also known as AB 2004 (Evans 2008) or the Picnic Bill) and the PBES Director's July 17, 2008 memo, "Assembly Bill 2004 (Evans) & the Sale of Wine for Consumption On-Premises," on-premises consumption of wines produced on-site may occur solely within the winery building ~~and improved lawn areas and~~ under the mature redwood grove. Any and all visitation associated with on-premises consumption shall be subject to the ~~40~~ 20 person maximum daily tours and tastings visitation limitation and/or applicable limitations of permittee's marketing plan.

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

1. All exposed surfaces (e.g. parking areas, staging areas, soil piles, grading areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. 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.
6. 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.
7. 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.
8. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person

shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible.

- D. The existing single-family residence are classified for residential purposes only) and cannot be used for commercial purposes or in conjunction with the operation and/or visitation/marketing program for the winery. If the residence is rented, the residence shall only be rented out for periods of 30 days or more, pursuant to Napa County Code Section 18.104.410, Transient Commercial Occupancies of Dwelling Units Prohibited.
- E. 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), 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 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 in the event the winery is chosen in the annual audit. The permittee (and their successors) shall be required to participate fully in the audit process.
- F. No building, grading, or sewage disposal permit shall be issued, nor shall beneficial occupancy be granted until all accrued planning permit processing fees have been paid in full.
- G. Prior to commencing winery production or visitation the permittee shall implement the follow transportation demand management programs, subject to review and approval by the Director of Planning, Building and Environmental Services:
1. Implement 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. Implement measures, such as signage, tasting room information handouts, education of tasting room staff, internet content, etc. to inform/educate/encourage visitors to utilize alternative forms of transportation.
  3. Schedule commencement and conclusion of by-appointment visitation to occur outside of peak traffic periods which are between 4:00 p.m. and 6:00 p.m. weekdays, 2:00 p.m. and 4:00 p.m. on Saturdays, and 1:00 p.m. and 3:00 p.m. Sundays.



4. Schedule employee work shifts to commence and conclude outside of peak periods between 4:00 p.m. and 6:00 p.m. weekdays, 2:00 p.m. and 4:00 p.m. on Saturdays, and 1:00 p.m. and 3:00 p.m. Sundays.
5. Schedule marketing event set up, arrival and departure to occur outside of weekday and Saturday peak traffic periods. Peak periods are between 4:00 p.m. and 6:00 p.m. weekdays, 2:00 p.m. and 4:00 p.m. on Saturdays, and 1:00 p.m. and 3:00 p.m. Sundays.

H. Prior to the issuance of a building permit for the cave portal and conversion of the second floor of the winery building (e.g., guest quarters) and/or the increase in wine production, a final Conservation and Restoration Plan substantially in conformance with the First Carbon Solution's letter and report dated June 5, 2015 shall be submitted for review and approval by the Planning Division. ~~Such plan~~ The restoration project called for in the approved plan shall be implemented prior to issuance of a final certificate of occupancy.

I. The production increase (4,200 gallons per year) shall be restricted to use of of estate grown grapes. The permittee shall keep records of annual production documenting the source of grapes to verify use of estate grown 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 Planning, Building & Environmental Services Department upon request, but shall be considered proprietary information not available to the public for purposes of this Condition, "estate grown grapes" means grapes grown within the 27 acres vineyard located on the subject property.

J. Hold and Haul Sewage Program shall be restricted to the 2015 winery crush season. Prior to any crushing after 2015, a new on-site sewage treatment system shall be permitted and installed pursuant to ~~conditions of approval set forth by the~~ Environmental Health Division's conditions of approval dated March 21, 2015.

~~K. A Restoration Plan substantially in conformance with the First Carbon Solution's letter and report dated June 5, 2015 shall be submitted to the Planning Division for review and approval prior to issuance of building permits for the cave, and the restoration project called for in the approved plan shall be implemented prior to grant of final occupancy for the cave.~~

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

Project conditions of approval include all of the following County, Divisions, Departments and Agency(ies) 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 March 10, 2015 & March 5, 2014.
- B. Environmental Health Division as stated in their Memorandum dated March 21, 2014.
- C. Fire Department as stated in their Inter-Office Memo dated January 21, 2014 & February 13, 2013.
- D. Building Division as stated in their Memorandum dated February 28, 2013.

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." Marketing and/or Tours and Tastings are not typically authorized until grant of Final Certificate of Occupancy, but exceptions may be granted where extenuating circumstances exist, subject to review and approval by the County Building Official, County Fire Marshal, and the PBES Director.

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 to document the number of visitors to the winery (be they tours and tastings or marketing event visitors), and the dates of their visit. 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: Daily
- 2. Maximum number of persons per day: ~~40~~ 20

- 3. ~~Maximum Average~~ [No averages, they are unenforceable, is there a weekly max?] number of persons per week: ~~200~~ 20 Average
- ~~3.4.~~ Yearly Maximum: 1040
- ~~4.5.~~ Hours of operation: 8:00 am to 5:00 pm
- ~~5.6.~~ Catered Food Pairings

“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.)

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 County Code 18.20.030(H)(5)(c) – AW Zoning.

**B. MARKETING**

Marketing events are limited to the following:

- 1. Frequency: ~~4~~ 10 times per year  
 Number of persons: ~~60~~ 10 maximum  
 Catered Food Pairings
- 2. Frequency: ~~2~~ [?] times per year  
 Number of persons: ~~40~~ 18 maximum  
 Catered Food Pairings
- 3. Frequency: ~~12~~ 2 times per year  
 Number of persons: ~~10~~ 25 maximum  
 Catered Food Pairings
- 4. Participation in Auction Napa Valley  
 Catered Food Pairings

"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 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 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. 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 the County of Napa. 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 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 Planning, Building & Environmental Services 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, 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).

**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, 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 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. 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.

9. **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 (707-253-4357) shall be notified of all impending deliveries of live plants with points of origin outside of Napa County.

No trees greater than 6" DBH shall be removed, except for those identified on the submitted site 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 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.

10. **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.

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

12. **SITE IMPROVEMENTS AND ENGINEERING SERVICES-SPECIFIC CONDITIONS**

Please contact (707) 253-4417 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. **TRAFFIC**

Reoccurring and scheduled vehicle trips to and from the site for employees, deliveries, and visitors shall not occur during peak (4-6 PM) travel times to the maximum extent possible. 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. 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 Planning, Building & 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 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.

**13. ENVIRONMENTAL HEALTH-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 PBES Director 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 PBES Director 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 PBES Director has provided notice and the opportunity for hearing in compliance with the County Code Section 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 County 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 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.

**15. ADDRESSING**

All project site addresses shall be determined by the PBES Director, and be reviewed and approved by the United States Post Office, prior to issuance of any building permit. The PBES 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 (20) days of the granting of this approval using the Planning, Building and Environmental Services 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 18.107.

**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 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.

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 final certificate of occupancy by the County Building Official, which, upon granting, authorizes all use permit activities to commence. The County Building Official is authorized to grant a temporary certificate of occupancy to allow specified limited use of the project, such as commencement of production activities, prior to completion of all project improvements. In special circumstances, departments and/or agencies with jurisdiction over the project are authorized as part of the temporary certificate of occupancy process to require a security deposit or other financial instrument to guarantee completion of unfinished improvements.

**Gallina, Charlene**

Planning Commission Mtn

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**From:** Peter Thompson <peterthompson@mindspring.com>  
**Sent:** Tuesday, June 16, 2015 12:16 PM  
**To:** Gallina, Charlene  
**Subject:** Reverie Winery Use Permit Modification #P13-0027MOD

JUN 17 2015

Agenda Item # 9B

Dear Ms. Gallina,

I own the property located at 1769 Diamond Mountain Road, near the end of the south fork of Diamond Mountain Road. I have owned the property since 1995. I drive to the property from my home in St. Helena at least daily. I am familiar with Reverie Winery as I have visited the property many times throughout the last 20 years. I am fully in support of the Use Permit Modification being requested by Reverie Winery. I urge the Planning Commission to grant the requested Modifications. I am confident that Mr. Kiken will undertake with great care any structural or site construction necessary to support the modifications he is requesting.

Sincerely,

Peter Thompson  
836 Chiles Avenue  
St. Helena, CA 94574  
619-954-8687 cell

**Gallina, Charlene**

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**From:** Marcia Goldstein <goldstein.marcia@yahoo.com>  
**Sent:** Friday, June 12, 2015 11:20 AM  
**To:** Gallina, Charlene  
**Subject:** Reverie Winery

Planning Commission Mtg.

JUN 17 2015

Agenda Item #

9B

My name is Marcia Goldstein and I live at 1450 Diamond Mountain Road. I would like to confirm my support of the application by Reverie Winery to modify it's use permit. My husband and I were fans and members of the winery before we purchased our property on Diamond Mountain. The owners and staff are warm, friendly people who provide an exceptional tasting experience. Since moving to Diamond Mountain we have not noticed any negative effects from Reverie's production or tasting room. Therefore, I support the permit modification application to legalize the winery's current production and visitation.

Sincerely,  
Marcia Goldstein  
707-942-1241

## Gallina, Charlene

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**From:** Scott Greenwood-Meinert <scottgm@dpf-law.com>  
**Sent:** Monday, June 15, 2015 3:51 PM  
**To:** Gallina, Charlene  
**Subject:** FW: Reverie  
**Attachments:** Planning Commission Mtg - 6.3.15.doc

Planning Commission Mtg.

JUN 17 2015

Agenda Item # 9B

SCOTT GREENWOOD-MEINERT  
707.252.7122 | [SCOTTGM@DPF-LAW.COM](mailto:SCOTTGM@DPF-LAW.COM)

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**From:** Barbara Barrera  
**Sent:** Monday, June 15, 2015 3:50 PM  
**To:** Scott Greenwood-Meinert  
**Subject:** Reverie

BARBARA BARRERA  
ASSISTANT TO TOM ADAMS,  
SCOTT GREENWOOD-MEINERT,  
JOHN TRINIDAD AND JEFFREY T. DODD  
DICKENSON, PEATMAN & FOGARTY  
1455 FIRST STREET, STE. 301 | NAPA, CA 94559  
T: 707.252.7122 | F: 707.255.6876  
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For current wine law news, visit [www.lexvini.com](http://www.lexvini.com)

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**NAPA COUNTY PLANNING COMMISSION MEETING  
June 3, 2015**

**Reverie on Diamond Mountain**

PHILLIPS: Commissioner Cottrell.

COTTRELL: Thank you. Yeah, I think it is challenging to um, you know, to Commissioner Scott's point to have something that requires further review, investigation, negotiation. I do think this component is one of several components of a decision by this Commission so I would agree with Commissioner Basayne that we could ask for a speedy turnaround but I really do think this is an opportunity for staff to work with other County departments and have the applicant work with them too to say let's come up with some assessment of some – we can't ever know what the impacts are be they large or small but I think it offers an opportunity for County environmental staff to have some input here to come up with some project that would benefit the local streambed.

MORRISON: Madam Chair – for clarification given I understand the time constraints on Commissioner Cottrell. I've heard concerns expressed about estate grapes, about the level of visitation, about creek restoration and the hold and haul. Is staff to assume that the Commission has no concerns regarding the restoration of the second floor of the building or the existence of the caves the production increase just so when we bring back a package we can make sure we address all the Commission's concerns.

PHILLIPS: I heard no objections to the guest quarters so winery use and I have heard the caves supported with creek restoration and project to PVD and that no marketing and entertaining with the staff recommendation on the caves. I've heard on visitation we've heard mixed and on outdoor visitation we haven't heard any feedback on terms of removing the grass area.

MORRISON: I would agree that the production I didn't hear any objection to the increase in production either. Or is that tied to the estate grape issue?

PHILLIPS: I would say it was part of the estate grape.

SCOTT: I have no objection to the increase in production.

BASAYNE: Nor do I.

PHILLIPS: And with the reduction being tied to estate only.

SCOTT: I have a concern with that because if in fact we're talking about this is a use permit that goes with the land and maybe the current applicant has no desire to make a blended wine or some kind of a blend that would require grapes that he doesn't have on his property but if in fact he did, I wouldn't want to say he couldn't use any other grapes if he needed, you know, 10% of a Bordeaux blend to come from somebody else to make a product. I don't want to get into that. I think we're telling them how to run their business and I'm not comfortable with that.

PHILLIPS: Agreed but the whole premise of what they presented to us is that it's an estate program so . . .

SCOTT: But again, the use permit goes with the land not with the owner.

POPE: Well I think that would be a question for a future permit modification if they wanted to increase production again to start bringing outside grapes.

SCOTT: So you're proposing that it do go with the owner?

POPE: Yeah, I would propose that we keep it to the estate.

SCOTT: I would submit that's a policy decision, not within our purview.

COTTRELL: Chair Phillips?

PHILLIPS: Commissioner Cottrell.

COTTRELL: I did have a brief conversation with the applicant about this and one of the interesting things about the parcel is that right now he does have a few different varieties planted there and when I asked about this condition it seemed to now cause consternation. We could, you know, it looks like we're heading towards getting some more information and having more conversations with the applicant. You know, I still stand in support of an estate grown condition of approval but I think it's worth having this discussion with the applicant.

PHILLIPS: Well now I'm falling into Terry's camp where that our process seems to be broken. Where we have I feel a very, very thoughtful and well thought recommendation by staff and that we cannot even seem that it becomes so difficult that we don't seem to be working efficiently. So, um . . .

COTTRELL: Chair Phillip's – well should we try to make a motion addressing the issues that we feel that we have reached resolution on?

PHILLIPS: So we have the – do we do them separately to give direction to staff so the 5,000 to 9,200 gallons – having it be estate grown?

SCOTT: Again, we're setting policy. That's not our job. It is not our job. That comes from the Board of Supervisors.

PHILLIPS: Well Laura – do you feel comfortable?

ANDERSON: I think it's the under purview that \_\_\_\_\_ of - Commissioner Pope pointed out if a future owner wants to have the flexibility they'd have to come in for a use permit mod.

PHILLIPS: So I appreciate Terry that you don't want to overstep our bounds but, I – Laura says it is permissible.

POPE: I think given the eccentricities of this particular project and application, I think it's reasonable in this case and doesn't necessarily have to set precedent for every single issue that we discuss after that.

SCOTT: But it does set precedent.

POPE: It doesn't remove our discretionary authority in the future.

SCOTT: And then I would state it sets an initial precedent. Never been done before.

POPE: No – that's the grave new world we're in now.

SCOTT: Yeah.

PHILLIPS: But next time you accuse me of using – setting a precedent Terry, I'm gonna say "well, yay."

COTTRELL: Chair Phillips are you asking for our motion on -

PHILLIPS: Exactly.

COTTRELL: I move that we approve a production level increase with the condition of approval that the grapes are estate grown.

PHILLIPS: All in favor.

COTTRELL: Aye.

POPE: Aye.

SCOTT: I'm gonna oppose that one.

PHILLIPS: Okay, so . . . . .

McDOWELL: If I could dive in on the motion and get some understanding intent from the Commission. Are you making a tentative motion in regard to the various aspects of the project in advance of taking a formal action on this project?

SCOTT: We're trying to give staff direction I think and let you know.

POPE: I recommend that we make a collective motion on all the items listed there.

McDOWELL: Guidance as well on the CEQA documents.

PHILLIPS: So I guess then that is really what we are doing is just giving staff direction so, there was that item and the cave supported we have two people support the cave and would that include the creek restoration and no marketing or entertaining with the cave?

POPE: Yes.

COTTRELL: Yes.

PHILLIPS: Yes

BASAYNE: Yes, with options from my perspective as well in terms of the creek restoration.

PHILLIPS: The guest quarters to winery use.

POPE: Yes.

COTTRELL: Yes.

SCOTT: Yes.

BASAYNE: Yes.

PHILLIPS: Outdoor visitation to remove the grass barbeque area.

SCOTT: No.

BASAYNE: No.

COTTRELL: Yes.



PHILLIPS: The visitation remaining as permitted per the staff recommendation.

BASAYNE: Option Two?

PHILLIPS: Um hum.

BASAYNE: Yes.

COTTRELL: I'm sorry. Can you repeat that?

PHILLIPS: The visitation per the staff recommendation.

BASAYNE: Visitation would not be increased.

PHILLIPS: Visitation would not be increased.

COTTRELL: Yes, I'm in favor of that.

BASAYNE: Yes.

PHILLIPS: Yes.

SCOTT: No.

POPE: No.

SCOTT: I'm supportive of the visitation levels as presented in Option One.

PHILLIPS: So based on this direction, the visitation would not be increased, the outdoor visitation they would not be required to remove the grass or barbeque area and restore the restoration project. The guest quarters could be moved to the winery use and the caves would explore the restoration project and there is no marketing or entertaining and there is an increase from 5,000 to 9,2000 gallons of estate grapes.

SCOTT: No marketing or entertaining?

\_\_\_\_\_: In the caves.

PHILLIPS: In the caves.

BASAYNE: Okay.

MORRISON: I appreciate the thoroughness with which the Commission's delved through these various issues. Could we also get a temperature on the hold and haul?

PHILLIPS: No. Hold and haul.

POPE: Yeah, I think there's general support for the alternative system as opposed to hold and haul.

BASAYNE: And just to express my comments, I think there was some important compelling thoughts expressed by the Commission members with regard to hold and haul. I'd like to look at, and quite frankly I know that it isn't necessary our area of purview to look at the cost benefit analysis for the applicant but I'd just like to get an understanding of what the impact of an engineered septic system would be or a live system relative to a hold and haul and I absolutely agree that we don't want to put more vehicles than we have to on the road but again, its incremental impact that does add up down the road but I'd like to get a better understanding of what an engineered or live system would . . . .

PHILLIPS: In the context of this permit or . . . .

BASAYNE: Yes.

PHILLIPS: Well I'm sorry but technically we had three commissioners say that they support it.

BASAYNE: Okay. So I'm just . . . .

PHILLIPS: So it might be just in terms of forward but . . .

BASAYNE: I'm spinning my wheels here.

POPE: 92 parcels and answers as well. We're focused on the outdoor visitation and the barbeque and the grass area. I was not looking at the fact at the moment that we did talk about the grass area removal as part of the restoration efforts. It kind of divides it but I am supportive of the barbeque area is fine, the redwood ring is fine, but I am in support of looking at that grass area in terms of restoration so . . . I guess I would join Commissioners Cottrell and Phillips on that one.

SCOTT: I have a question of \_\_\_\_\_. When you say restoration to what dirt rock, what?

PHILLIPS: I think that's what they're going to work and come back with the options. It's not dirt and rocks. There would be a natural habitat and . . . .

McDOWELL: That would be the intent in turn for allowing an encroachment into the creek setbacks to have some portion of the property have some natural environmental setting.

SCOTT: Having the property I strongly oppose that. I can't go there.

BASAYNE: Well and I think, if I may interject, I think it gets back to that old notion of how long a restoration or how extensive a restoration project are we looking at and if it's something that should be 600 or 700 feet rather than 1,500 feet or 2,000 feet or a 900 square foot area relative to lawn versus a half acre area and I'd just like to see options.

PHILLIPS: I think that's where we all have run into some frustration that we're not sure what that means or what that would look like and that's not something that necessarily staff can do on their own. I would think we'd talk to DFG and to the Conservation Department to see what . . . I think that's part of the frustration that it's adding on another component unknown to us so, but in concept I think it was supporting it.

POPE: And so if the grass area remains does not automatically invalidate the idea of any sort of restoration?

McDOWELL: There's possibly other areas on the property.

POPE: I mean I would be in support if its possibly more open ended. There sounds like there's going to be some ongoing dialog here, maybe find other options for restoration not necessarily centered on that one area and if sufficient restoration can be found elsewhere on the property that perhaps doesn't necessarily need to come out.

SCOTT: I would be supportive of that as well. I think the grassy are is in my mind that they represent kind of the crown jewel of the property and to just throw away crown jewels doesn't seem to be very efficient. I would like to see restoration in other areas, certainly in the creek but I think we need some more guidelines or guidance from the County other departments as to how much of that is appropriate or whether or not it would be appropriate in other areas.

POPE: Would there be any mitigating factor in perhaps preserving that area for visitation but offsetting – you know, it's one issue with grass but of course these days a lot of people are saying get rid of grass you know, can we take some of the turf out and find maybe some semi-permeable surfaces that . . . .

PHILLIPS: Well I think it's part of what, you know, the health – one reason why you do a restoration is the health of the creeks so I think part of it is getting a,

you know, an expert's analysis on what would be the most beneficial to the creek and maybe having the grass right there isn't the best thing or you know, so . . .

COTTRELL: Yeah, Chair Phillips, I would agree. I think it's important to reiterate that the point here is what kind of restoration project could give the most positive impact to the creek, not the one that causes the most heartache. So, I think with that focus in mind we will hear from you know, streambed restoration professionals who will be able to assess the parcel and the creeks in the neighborhood.

BASAYNE: I think that if we are prohibiting visitation in the caves which heretofore has occurred, then that would cause the flow of traffic to go to the half lawn area and perhaps the redwood grove as well. You take away the lawn area or you create a whole new stream that hasn't existed there for ten years or you make an even bigger stream, then ham stringing the applicant in terms of trying to figure out where they're going to put the visitors and so to your point Commissioner Cottrell, I think that we just again, we need to look at options in favor of the perfect restoration.

PHILLIPS: Does staff feel that this is enough direction at this time?

McDOWELL: Yes.

PHILLIPS: Do we need to make this an official motion or I guess it would just be the continuation . . .

COTTRELL: Yes, a continuance.

POPE: And are we continuing this to a date certain?

SCOTT: What are you comfortable with John, in terms of continuation?

McDOWELL: I'm not going to be available for the meetings in July but Charlene would be available for the meetings in July. The next available meeting is June 17<sup>th</sup> but the amount of material that we could bring back on June 17<sup>th</sup> is rather limited, I think we could show some options on where restoration work could be performed and perhaps reach some level of agreement with the applicant but I don't think we have really an detail on the scope of that if that's indeed what you desire of seeing. I guess what my recommendation would be is to continue it to June 17<sup>th</sup> and then give staff and the applicant a chance to try to perform and if we can't then at that point on the 17<sup>th</sup> potentially continue it further if we haven't made enough headway.

POPE: It would be appropriate to ask the applicant how much time they need.

PHILLIPS: Well I think in some ways June 17 would be the soonest that we could do it so that would make sense.

McDOWELL: I think the sooner the better, not that we want to get close to a decision but I would think that June 17 would be the soonest.

PHILLIPS: Correct. So I would entertain the motion to continue this matter until the June 17<sup>th</sup> meeting to give the opportunity with direction.

BASAYNE: Second.

PHILLIPS: All in favor.

BASAYNE: Aye.

POPE: Aye.

PHILLIPS: Opposed? The continuation passes unanimously.

**DAVID B. GILBRETH**

Attorney at Law  
1152 Hardman Avenue  
Napa, CA 94558  
(707) 337-6412

Planning Commission Mtg.

JUN 17 2015

Agenda Item # 9B

June 16, 2015

Napa County Planning Commission  
Heather Phillips, Chair  
1195 Third Street, 2<sup>nd</sup> Floor  
Napa, CA 94559

Re: Norm Kiken/Reverie Winery Use Permit Modification

Dear Ms. Phillips and Commissioners:

The Norm Kiken/Reverie Winery Use Permit Modification complies with CEQA and the staff recommended Negative Declaration, and is consistent with the General Plan, Zoning and applicable Napa County regulations and has been voluntarily submitted pursuant to the long-standing and presently existing Napa County policy of voluntary compliance and it certainly is reasonable to approve it.

The voluntary Use Permit Modification application consists of a very thorough environmental review, including the staff recommended Negative Declaration and comprehensive reports and analyses by CAB Consulting Engineers related to the Roads, Storm Water Run-off Management Plan, and Septic System Feasibility Report; First Carbon Solutions (original report and riparian addendum); and WTrans (traffic), all of which have been reviewed and essentially approved by staff.

As a result there is no question whatsoever that there are no remaining environmental issues regarding the proposed voluntary Use Permit Modification application. The general opposition comments have cited no contrary meritorious facts or scientific information.

The attached Historical Approvals and Permits demonstrate that Norm Kiken has sought and obtained a Winery Use Permit including a Negative Declaration and, Landscaping Plan and separately an Erosion Control Plan related to the Residence including another Negative Declaration and a sampling of Building Permits. These historical approvals and permits demonstrate that Norm has been a responsible citizen.

The attached Historical Information and Permits, sets for the State of California Cave Permit and also reviews the historical information and permits and information and biological report confirming no change related to the riparian corridor vegetation related

Letter to Napa County Planning Commission  
June 16, 2015  
Page 2

to the unnamed watercourse (essentially a ditch). This information is verified by Mr. Cassayre's site visit and related letter and FirstCarbon Solutions' letter and the historical West Elevation photograph which was actually taken in approximately 1995 as work commenced on the approved Winery Use Permit. The photograph, although dated currently, as is customary by the staff, shows the state of the land in 1995 well prior to the construction of the cave and clearly shows no riparian corridor vegetation and that the land was flat.

The attachment also refers to the Board Agenda letter regarding the long-standing and presently existing policy of voluntarily compliance regarding Use Permits. Norm has complied with the voluntary policy and worked diligently with staff for over 2 years! (in conjunction with Norm and his counsel I have also worked with staff for over 2 years) in a good-faith effort to review all issues and bring them voluntarily to the Planning Commission. No enforcement action was ever undertaken by Napa County. The general opposition comments are simply in error.

In response to the staff report, Norm Kiken has included in the Norm Kiken/Reverie Winery Use Permit Modification application a reasonable Marketing Plan which has been reviewed and approved by Professor, Dr. Liz Thach, MW, who is very knowledgeable on these topics. Even though Norm Kiken submitted the Marketing Plan, in his opinion as a result of the staff report, I would, respectfully, request that the Planning Commission, as a matter of good government and policy, consider whether or not the Planning Commission should be involved in critiquing Mr. Kiken's business decisions including marketing. Especially since this application is in compliance with CEQA, and the staff recommended Negative Declaration, and is consistent with the General Plan, Zoning and applicable Napa County regulations and Mr. Kiken's voluntary submittal pursuant to the long-standing and presently existing Napa County policy of voluntary compliance.

Accordingly, respectfully, I believe that it is reasonable for the Planning Commission to approve the application since it is consistent with CEQA, the General Plan, Zoning and applicable Napa County regulations and has been voluntarily submitted pursuant to the long-standing and presently existing Napa County policy of voluntary compliance.

Very truly yours,

David B. Gilbreth

NORM KIKEN/REVERIE WINERY  
1520 Diamond Mountain Road  
Napa County Assessor Parcel No. 020-440

**I. HISTORICAL APPROVALS AND PERMITS**

- 1) Winery Use Permit No. 94254-UP Approval Letter dated 6/21/95
- 2) Negative Declaration, Reverie on Diamond Mountain LLC Winery/Kiken dated 6/21/95
- 3) Reverie Winery Landscaping Approval on 12/14/95
- 4) Erosion Control Plan for Kiken Residence and Access Approval Letter dated 8/9/94
- 5) Negative Declaration, Norman Kiken Grading Permit dated 8/5/94
- 6) Napa County Building Permits:
  - No. 0056655, Convert Barn to Winery dated 12/14/95
  - No. 0055127, Convert Storage to Guest House dated 8/30/94
  - No. 0054925, Convert Barn to Office and Storage dated 7/7/94
  - No. 0055744, Install 10,500 Gallon Water Tank dated 3/31/95
  - No. 0055073, Dwelling dated 8/11/94
  - No. 0055328, Swimming pool dated 11/1/94
- 7) Underground (Cave) Classification dated 6/16/2008 (State of California Permit)

**II. INFORMATION AND BIOLOGICAL REPORT CONFIRMING NO RIPARIAN PLANTS OR CHANGE IN TERRAIN RELATED TO THE UNNAMED WATERCOURSE (DITCH)**

- 8) Report by James L. Cassayre dated 6/15/2015
- 9) Reverie Winery West Elevation dated 5/22/2015
- 10) First Carbon Solutions – Reverie Vineyard & Winery: Current and Historic Riparian Habitat dated 3/18/15

**III. BOARD AGENDA LETTER DATED AUGUST 6, 2014 SETTING FORTH THE LONG-STANDING AND PRESENTLY EXISTING VOLUNTARY COMPLIANCE OPTION.**





# NAPA COUNTY

## CONSERVATION -- DEVELOPMENT AND PLANNING COMMISSION

**JEFFREY REDDING**  
Secretary-Director

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092  
AREA CODE 707/253-4416

June 21, 1995

Assessor's Parcel #20-440-05

Norman and Evelyn Kiken  
1520 Diamond Mountain Road  
Calistoga, CA 94515

Dear Mr. and Mrs. Kiken:

Please be advised that Use Permit Application # 94254-UP has been approved by the Napa County Conservation, Development and Planning Commission based upon the following conditions. (SEE ATTACHED LIST OF CONDITIONS OF APPROVAL)

**APPROVAL DATE: June 21, 1995**

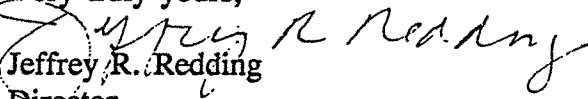
**EXPIRATION DATE: July 5, 1996**

The use permit becomes effective ten (10) working days from the approval date unless an appeal is filed with the Napa County Board of Supervisors pursuant to Chapter 2.88 of the Napa County Code. You may appeal the conditions of approval. In the event an appeal is made to the Board by another, you will be notified.

Pursuant to Section 18.124.080 of the Napa County Code, the use permit must be activated within one (1) year and ten (10) calendar days from the approval date or the use permit shall automatically expire and become void. A one-year extension of time in which to activate the use permit may be granted by the County provided that such extension request is made thirty (30) days prior to the expiration date and provided that any modification of the permit has become final. A request for an extension of time is subject to payment of the filing fee in effect at the time the request for an extension is made.

This letter serves as the only notice you will receive regarding the expiration date of your permit or procedures for extensions. Please note that additional fees will be assessed if a landscape plan or erosion control plan is required by this approval.

Very truly yours,

  
Jeffrey R. Redding  
Director

cc: John Tuteur, County Assessor  
Gary Brewen, Building Codes Administrator  
Richard Mendelson, Esquire

**CONDITIONS OF APPROVAL**  
**Norman and Evelyn Kiken**  
**94254-UP**

1. The Use Permit shall be limited to the establishment of a 5,000 gallon per year estate winery with the conversion of 2,237 sq.ft. of an existing 2,951 sq.ft. barn and the addition of a 3,000 sq.ft. crush and tank pad, and a variance to allow the winery to be within the 300 foot setback from a minor private road. The project shall conform to the approved site plan, floor plan and elevations. Any expansion of production capacity, changes in use, construction or design shall be subject to the approval of the Planning Director, or if deemed necessary, the County Planning Commission.
2. Retail sales shall be limited to only those persons visiting by prior appointment. No drop-in retail sales shall be permitted.
3. The applicant shall comply with all applicable building codes, and requirements of various County departments and agencies, including those of the Department of Public Works dated Mar. 21, 1995, the Department of Environmental Management dated Mar. 14, 1995, the Building Division dated Mar. 9, 1995, the Airport Land Use Commission dated Mar 23, 1995 and the County Fire Dept. dated Apr. 6, 1995.
4. At least 75% of the grapes used to make the winery's still wine shall be grown within the County of Napa. The applicant shall report to the Department on an annual basis the source of his grapes verifying that 75% of his approved production is from Napa County grapes. The report shall include the Assessor's Parcel Number and the grape tonnage. That report shall be proprietary and not available to the public. For the public record, the applicant shall annually submit to the Department for the file a statement regarding compliance with the sourcing requirement and indicating the percentage of Napa County grapes utilized.
5. Plans for any outdoor signs shall be submitted to the Planning Department for administrative review and approval. A sign shall be placed at the property entrance reading "Tours, tasting and retail sales by prior appointment only" if any winery identification sign is installed. The only off-site signs allowed shall be in conformance with the County Code.
6. During winery construction, all construction equipment muffling and hours of operation shall be in compliance with the County Code section regarding noise, Chapter 8.16.
7. The marketing events shall not exceed the three different types of events approved:
  - a. Tours and tasting for wine trade personnel - 10 per year with 5 to 10 (ave. 6) persons per event.

June 21, 1995  
Conditions of Approval  
94254-UP (Continued)

- b. Private promotional dinners - 4 per year with 6 to 18 (ave. 12) persons per event.
  - c. Wine auction related events such as barrel tasting and auctions - 2 per year with an average attendance of 25 persons.
8. A detailed landscaping plan shall be submitted to the Department for review and approval indicating names and locations of plant materials along with the method of maintenance prior to the issuance of any building permits for the winery crush/tank pad. To the greatest extent possible the plant materials shall be the same native plants found on the adjoining hillside. Landscaping shall be completed prior to final occupancy, and shall be permanently maintained in accordance with the approved landscaping plan.
9. Any exterior lighting shall be the minimum necessary for operational and security needs only. All light fixtures shall be kept as low as possible and shall be designed to deflect light down and away from adjacent properties and roadways.
10. The parking spaces shall be limited to the five proposed, and parking shall not be allowed along access roads or in any other location, except during the limited approved marketing events.
11. All mechanical and electrical equipment and storage areas shall be screened from view.
12. Cut and fill slopes shall be graded to blend into the adjoining natural hillside.
13. If a gated entrance is used, it shall include a turn around area to allow a large vehicle (such as a motorhome) to turn around if the gate is closed.
14. The guest cottage within the same structure is accessory to the residence and shall have no connection to the winery, nor shall it be used for marketing or other winery activities.

**NEGATIVE DECLARATION**

The Conservation, Development and Planning Director of Napa County has tentatively determined that the following project would not have a significant effect on the environment. Documentation supporting this determination is on file for public inspection at the Napa County Conservation, Development and Planning Department Office, 1195 Third St., Room 210, Napa, California 94559. For further information call (707) 253-4416.

**Reverie on Diamond Mountain, LLC Winery / Kiken**

**94254-UP & 94255-VAR**

**PROJECT DESCRIPTION:**

A request to convert 2,237 sq.ft. of an existing 2951 sq.ft. barn and guest quarters to a 5,000 gal. per year winery and add 3,000 sq.ft. of crush and tank pad, and a variance request to allow the winery to be within the 300 ft. winery setback from a private road, on a 39.83 acre parcel located approximately 1,000 feet west of Diamond Mountain Road approximately 4,000 feet from its intersection with State Highway 29 within an AW:AC (Agricultural Watershed/Airport Combining) zoning district.  
(APN 20-440-005)

**WRITTEN COMMENT PERIOD: June 1 to June 20, 1995**

**DATE: June 21, 1995**

**BY THE ORDER OF**

**JEFFREY REDDING**

**Director**

**Napa County Conservation, Development and Planning Department**

# REVERIE WINERY

SCALE 1"=16'

LEACH FIELD AREA PLANTED WITH CALIFORNIA POPPIES AND MIXED PERENNIAL GRASSES

EXISTING GROVE OF NATIVE OAKS (blue oaks predominantly, all pruned for fitness by owners summer 1995, understory left in natural state, with mixed endemic perennials and annuals)

GROVE OF NATIVE OAKS (blue oaks predominantly, all pruned for fitness by owners summer 1995, understory left in natural state, with mixed endemic perennials and annuals)

GROVE OF NATIVE OAKS (blue oaks predominantly, all pruned for fitness by owners summer 1995, understory left in natural and nonirrigated state, with mixed endemic perennials and annuals)

SEE ARCHITECT'S PLAN FOR WINERY DETAILS

WINERY

ORCHARD

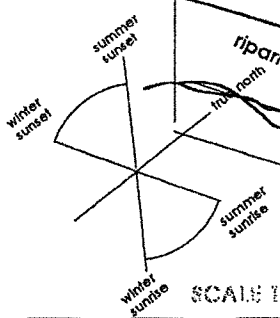
HERB GARDEN

ORCHARD

VEGETABLE GARDEN

riparian corridor

NOTE: garden on the side of road existing, detailed in section, with earlier model



SCALE 1"=16'0"

50'



Landscaping Approved per Use Permit 94254



# NAPA COUNTY

## CONSERVATION -- DEVELOPMENT AND PLANNING DEPARTMENT

JEFFREY REDDING  
Director

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092  
AREA CODE 707/253-4416

August 9, 1994

Norman Kiken  
22 Robin Road  
Warren, NJ 07059

Re: Erosion Control Plan for Kiken Residence and Access,  
File # 93391-ECPS, AP # 20-440-05

Dear Mr. Kiken:

The above-referenced application, for erosion control associated with construction of a 2000+/- ft. access drive, residence, pool and onsite septic waste system, located at 1520 Diamond Mountain Road, has been reviewed by Napa County pursuant to the standards of Ordinances #991 and #1062, and is hereby **APPROVED**. The County Erosion Control Fee of \$ 1600.00 has been paid.

The approved Erosion Control Plan is composed of a 6 page full scale plan prepared by James Cassayre dated received February 25, 1994. Each page is stamped "APPROVED." You are responsible for acquiring a building permit and any other necessary permissions for the activity that is subject to the erosion control plan. Please note that this letter does not constitute approval to commence any work.

In order to facilitate timely inspection, please notify Douglas Nix at (415) 573-8733 three (3) days prior to commencement of clearing, grading, or construction. You must maintain the Approved Plan or a copy thereof on the site at all times during grading, clearing, and construction.

Sincerely,

*Therese Garbarino*

Therese Garbarino  
Planner II

cc. Gary Brewen, Building Codes Administrator (with Plan)  
Bill Bickell, Public Works Director (with Plan)  
Douglas Nix (with Plan)  
Kay Doughty, Eberlin Construction (with Plan)

*8-10-94*

*Dee Plans*

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

INITIAL STUDY

PROJECT NAME: NORMAN KIKEN GRADING PERMIT  
 FILE NO: #94017-ENVR

PROJECT DESCRIPTION: GRADING ACTIVITY #94017-ENVR OF NORMAN KIKEN for a grading permit application for the reconstruction of a 2000 foot access drive and construction of a residence with approximately 4,400 cubic yards of excavation and 3400 cubic yards of fill located on a 39.83 acre parcel (Assessor's Parcel #20-440-05) north of Diamond Mountain Road, adjacent to the Calistoga City Limits within an AW:AC (Agricultural Watershed with an Airport Compatibility Combination) Zoning District.

JURISDICTIONAL BACKGROUND:  
 Public Plans and Policies

Based on an initial review, the following findings have been made for the purpose of the Initial Study and do not constitute a final finding by the County in regard to the question of consistency.

	YES	NO	N/A
Is the project consistent with:			
a) Regional and Subregional Plans and Policies?	<u>X</u>	—	—
b) LAFCOM Plans and Policies?	—	—	<u>X</u>
c) The County General Plan?	<u>X</u>	—	—
d) Appropriate City General Plans?	—	—	<u>X</u>
e) Adopted Environmental Plans and Goals of the Community?	<u>X</u>	—	—
f) Pertinent Zoning?	<u>X</u>	—	—

Responsible (R) and Trustee (T) Agencies  
 none

Other Agencies Contacted

ENVIRONMENTAL SETTING: Steeply to moderately sloping area (slopes typically 5-50%) with the building site on a relatively flat knoll elevation 560 to 800 MSL north of Diamond Mountain Road on the south facing hillside approximately 2000 feet south of the City of Calistoga. Foundation material consists of Sonoma Volcanics (primarily rhyolitic lava flows) with the majority of the site overlain by Class VI soils of the Boomer-Forward-Felta Complex. Runoff is rapid, and erosion hazard slight on the Boomer soils and severe on the Forward and Felta soils. Existing land use is vineyard. Surrounding land uses include open space and limited residential.

**ENVIRONMENTAL EFFECTS:**  
**Normally Significant Individual Impacts**

YES NO

(Geology)

- X 1. Exposure of new site users to substantial life and/or property hazards from geologic processes (e.g., severe settlement, sliding, faulting, intense seismically induced ground shaking, seismically-induced ground failures, etc.).
- X 2. Exposure of existing area occupants to substantially increased life and/or property hazards from geologic processes.
- X 3. Damage, destruction or burial of any unique or scientifically important geologic or geomorphologic feature.

(Meteorology)

- X 4. Substantial modification of climatic or microclimatic conditions (e.g., temperature, rainfall, wind, shadow patterns, etc.).

(Hydrology)

- X 5. Exposure of new site users to substantial life and/or property hazards from flooding (e.g., stream flooding, tsunamis, seiches, dam or levee failure, etc.).
- X 6. Exposure of existing area occupants to substantially increased life and/or property hazards from flooding.
- X 7. Substantial temporary construction period increase in erosion and/or sedimentation.
- X 8. Substantial permanent increase in erosion and/or sedimentation.
- X 9. Substantial depletion of groundwater resources or significant interference with groundwater recharge.

(Water Quality)

- X 10. Substantial degradation of the quality of waters present in a stream, lake, or pond.
- X 11. Substantial degradation of the quality of groundwater supplies.
- X 12. Substantial contamination of a public or private water supply.

(Air Quality)

- X 13. Exposure of new site users to substantial health hazards from breathing polluted air.
- X 14. Exposure of existing area occupants to substantially increased health hazards from breathing polluted air.
- X 15. Substantial degradation of local or regional air quality.
- X 16. Exposure of new site users or existing area occupants to annoyance from dust and/or highly objectionable odors.

(Noise)

- X 17. Exposure of new site users to health hazards from noise levels in excess of those recognized as necessary to protect public health and welfare.
- X 18. Exposure of existing area occupants to health hazards from noise levels in excess of those recognized as necessary to protect public health and welfare.
- X 19. Exposure of people to high construction noise levels for substantial periods of time.
- X 20. Exposure of existing area occupants to annoyance from substantially increased ambient noise levels.

\* Mitigable (see Mitigation Measures below)

° Cumulatively Significant Only



YES NO

(Ecosystem)

- 21. Substantial reduction in the number of a rare or endangered species of plant or animal or damage or restriction of the habitat of such a species.
- 22. Destruction of or substantial damage to a unique, scarce, or particularly productive biological area (e.g., marshes, riparian galleries, vernal pools, etc.).
- 23. Substantial reduction in habitat for plants, fish, and/or wildlife.
- 24. Substantial modification in the number or diversity of plant or animal species present.
- 25. Substantial interference with the movement of a resident or migratory fish or wildlife species.

(Social)

- 26. Disruption or division of an established community.
- 27. Displacement of a large number of people.

(Aesthetic)

- 28. Blockage or substantial degradation of important public or private views.
- 29. Exposure of new site users or existing area occupants to annoyance from increased nighttime light levels or glare.
- 30. Creation of a litter problem.

(Cultural)

- 31. Destruction of or substantial damage to a recognized archaeological site.
- 32. Destruction of or substantial damage to the historical character of a recognized historical structure, facility, or feature.
- 33. Elimination of or conflict with the established recreational, educational, religious, or scientific uses of the project site or surrounding properties.

(Traffic)

- 34. Exposure of new site users to substantial life and/or property hazards from traffic accidents.
- 35. Exposure of the existing users of the roads providing access to the project site to substantially increased life and/or property hazards from traffic accidents.
- 36. Exposure of the users of the roadways providing access to the project site to annoyance from noticeably increased traffic congestion.
- 37. Increase in traffic on the roadways providing access to the project site which is substantial in relation to the existing traffic load and capacity of the street system.
- 38. Creation of a substantial local parking problem.

(Energy)

- 39. Increase in the demand for energy which is substantial in relation to the existing energy demands of the area.
- 40. Creation of a facility or development which will use fuel or energy in a wasteful manner.
- 41. Creation of a facility or development which will use substantially higher than average amounts of fuel or energy for transportation purposes.

(Public Health)

- 42. Exposure of new site users to substantial health hazards from contaminated drinking water, inadequately treated sewage and/or insect or rodent pests.
- 43. Exposure of existing area occupants to substantially increased health hazards from contaminated drinking water, inadequately treated sewage and/or insect or rodent pests.
- 44. Exposure of new site users to substantial life and/or property hazards from fire.
- 45. Exposure of existing area occupants to substantially increased life and/or property hazards from fire.

\* Mitigable (see Mitigation Measures below)

° Cumulatively Significant Only

YES NO

(Public Health)

- 46. Exposure of new site users to substantial life and/or property hazards from air crashes.
- 47. Exposure of existing area occupants and/or existing air or heliport users to substantially increased life and/or property hazards from air crashes.
- 48. Exposure of new site users or existing area occupants to substantial annoyance from insect or rodent pests.

(Community Services)

- 49. Increase in the demand for a community service (e.g., sewer, water, fire protection, schools, etc.) which is substantial in relation to the currently existing uncommitted capacity of the agency involved to provide such a service.

(Commercial Resources)

- 50. Preclusion of the development of aggregate, rock product, or mineral resources of current or potential importance.
- 51. Removal of a substantial amount of agricultural or grazing land from current or potential production.

(Fiscal)

- 52. Creation of a development to which it would cost the community substantially more to provide services than it would return in taxes.

(Growth Inducement)

- 53. Inducement of substantial residential, commercial, or industrial development.

Mandatory Findings of Significance

Does the project:

- |  | YES | NO                                  |
|--|-----|-------------------------------------|
| a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | —   | <input checked="" type="checkbox"/> |
| b) Have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?  | —   | <input checked="" type="checkbox"/> |
| c) Have possible environmental effects which are individually limited but cumulatively considerable?   | —   | <input checked="" type="checkbox"/> |
| d) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?   | —   | <input checked="" type="checkbox"/> |

\* Mitigable (see Mitigation Measures below)  
° Cumulatively Significant Only

**Impact Discussion**

The project area is approximately 2 acres of a 39.8 acre parcel. No sensitive areas have been identified on the site. The access road is an existing agricultural road for the vineyards on site. The building site is on top of a knoll and surrounded by vineyard and dense forests. The proposed residence is a single-story structure, and while the structure will be located on the knoll, the visual impact should be limited due to surrounding topography and forest area. Restructuring of the existing road will require grading through a portion of a wooded area which will necessitate new cut slopes and removal of approximately 33 trees most of which are less than 12 inches dbh. One 30 inch oak may be removed along the northern boundary. Because of the location of the trees, their removal should not result in a significant visual impact. All grading and vegetation removal will require compliance with the County's Conservation Regulations which regulate grading on slopes greater than 5%. All potential impacts of erosion and sedimentation will be addressed in the erosion control measures implemented through the Conservation Regulations.

**MITIGATION MEASURES:**

- None Required
- Identified By This Study - Unadopted (see attached Draft Project Revision Statement)
- Included By Applicant As Part of Project (see attached Project Revision Statement)
- Recommended For Inclusion As Part of Public Project (see attached Recommended Mitigation Measure List)

**BASIS OF CONCLUSIONS:**

The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice. They are based on a review of the Napa County Environmental Sensitivity Maps, the other sources of information listed in the file, and the comments received, conversations with knowledgeable individuals; the preparer's personal knowledge of the area; and, where necessary, a visit to the site. For further information, see the Environmental Background Information Form contained in the permanent file on this project.

**AGENCY STAFF PARTICIPATING IN THE INITIAL STUDY:**

Resource Evaluation:	<u>B. Abate</u>	Date: <u>7-12-94</u>
Site Review:	_____	Date: _____
Planning/Zoning Review:	<u>B. Abate</u>	Date: <u>7-12-94</u>

**PRELIMINARY DETERMINATION:**

- No reasonable possibility of environmental effect has been identified, and a Negative Declaration should be prepared.
- A Negative Declaration cannot be prepared unless all identified impacts are reduced to a level of insignificance or avoided.

DATE: July 14, 1994

BY: Barbara Abate

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**FINAL DETERMINATION:**

**On the basis of this preliminary evaluation:**

I find that the project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** should be approved.

— I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **NEGATIVE DECLARATION** should therefore be approved.

— I find the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** would be required:

— Mitigation measures to reduce all impacts to levels of insignificance or to avoid such impacts have been identified and may be adopted as part of the project.

— A previously-certified Environmental Impact Report will fully address the impacts of the project, supplemented as necessary for public projects by additional mitigation recommended as part of the project.

— A new, Subsequent or Supplemental Environmental Impact Report is appropriate for the project.

DATE:

August 5, 1994

BY:

Michael Miller  
ZONING ADMINISTRATOR



# NAPA COUNTY

CONSERVATION DEVELOPMENT AND PLANNING DEPARTMENT  
JEFFREY R. REDDING  
DIRECTOR

BUILDING DIVISION

GARY W. BREWEN  
BUILDING CODES ADMINISTRATOR

OFFICE COPY

## CONSTRUCTION APPLICATION AND PERMIT

### OWNER - BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).):

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or herself or through his or her own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.)

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractors License Law.)

I am exempt under Sec. \_\_\_\_\_, B.&P.C. for this reason \_\_\_\_\_  
Date \_\_\_\_\_ Owner \_\_\_\_\_

### WORKERS' COMPENSATION DECLARATION

By affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier \_\_\_\_\_

Policy NO. \_\_\_\_\_

(This section need not be completed if the permit is for one hundred dollars (\$100) or less). I certify that in the performance of the work for which this permit is issued, I shall not employ any person who is not licensed as to become subject to the workers' compensation laws of California, and agree that I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall comply with those provisions.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

### LICENSED CONTRACTOR DECLARATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

Lic. Class B Lic. No. 264633 (SCL)  
Date 12/14/95 Contractor [Signature]

### CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name \_\_\_\_\_  
Lender's Address \_\_\_\_\_

Building Address	1530 DIAMOND MOUNTAIN RD
Owner	REVERIE VINEYRDS WINERY
Phone	707-942-6800
Mailing Address	1520 DIAMOND MOUNTAIN RD
Address	CALISTOGA, CA 94515

### DEPARTMENT USE ONLY

PERMIT NO.	0056655
PARCEL NO.	020-440-0500
DATE ISSUED	12/14/95
VALUATION \$	15,500
VALIDATED BY	cb
RECEIPT NO	2359

CONTRACTORS		LIC. NO./PHONE
General Address	EBERLIN CONSTRUCTION 1320 SPRUCE STREET NAPA, CA 94559	707-224-2004 264633 (SCL)

### DESCRIPTION OF WORK

WORK:	CONVERSION
PERMIT:	WINERY
CATEGORY:	COMBINATION CONVERT BARN TO WINERY WITH GUESTHOUSE ABOVE

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required			
Plans Received	FRE	10/04/95	ADDRESS 10/16/95 BUILDING DEPT 11/28/95 ENVIRON MNGMT 11/29/95 CALIST SCH DIST 12/04/95 PUBLIC WORKS 12/07/95 PLANNING DEPT 12/14/95
Site Checked			
Plans Reviewed			
Application Approved			

ZONING	AW: AC	SIZE SQ. FT.	39,83A
PROPOSED USE	INDUSTRIAL BUILDINGS		
OCCUPANCY GROUP	B2		
TYPE OF CONSTRUCTION	V - No. of STORIES 0		
SIZE OF ELECTRICAL SERVICE			

REQUIRED INSPECTION CODES					FEES		FEES	
010	030	050	060	061	Building	234.00	Electrical	75.00
210	220	230	250	260	Issuance	15.00	Mechanical	31.80
280	290	440	450	460	Plumbing	51.00	Plan Review	152.10
470	480	490	520	540	Micro-Filming	9.60	Housing Impact	1,781.00
550	570				Strong Motion Tax	4.75		
							<b>TOTAL FEES</b>	<b>2,354.25</b>

CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE INFORMATION GIVEN IS TRUE AND CORRECT. I AGREE TO COMPLY WITH ALL LOCAL ORDINANCES AND STATE LAWS RELATING TO BUILDING CONSTRUCTION AND I MAKE THIS STATEMENT UNDER PENALTY OF LAW. I HEREBY AUTHORIZE REPRESENTATIVES OF THIS COUNTY TO ENTER UPON THE ABOVE MENTIONED PROJECT FOR INSPECTION PURPOSES. NOTICE: THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK IS NOT STARTED IN 180 DAYS OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS. A REQUEST FOR AN EXTENSION OF TIME MUST BE SUBMITTED IN WRITING TO THE BUILDING CODE ADMIN. WITHIN THE FIRST 180 DAYS.

Agent for  Contractor  Owner I (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, cost and expenses which may in any way accrue against said County in consequence of the granting of this permit.



# NAPA COUNTY

CONSERVATION DEVELOPMENT AND PLANNING DEPARTMENT  
JEFFREY R. REDDING  
DIRECTOR

BUILDING DIVISION

GARY W. BREWEN  
BUILDING CODES ADMINISTRATOR

OFFICE COPY

## CONSTRUCTION APPLICATION AND PERMIT

OWNER - BUILDER DECLARATION

**CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE**  
(This section need not be completed if the permit is for three hundred dollars (300) or less).  
I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

Applicant \_\_\_\_\_ Date \_\_\_\_\_

NOTICE TO APPLICANT: If, after making the Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

### WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance or a certified copy thereof.

Policy No. WCP 80571623  
Expiration Date 5/30/94 Company TRANSAMERICA INS. GROUP

Certified copy is hereby furnished  
 Certified copy is filed with the county building inspection department or county \_\_\_\_\_ department.  
Applicant [Signature] Date 8/30/94

### LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class B License Number 264633 (SCL)  
Contractor [Signature]

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law Chapter 9 (commencing with Sec. 7000) of Division 3 of the Business and Professions Code, or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than \$500):

- I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not intended or offered for sale. If however, the building or improvement is sold within one year of completion, the owner - builder will have the burden of proving that he did not build or improve for the purpose of sale).
- I, as owner of the property, am exempt from the sale requirements of the above due to: (1) I am improving my principal place of residence or appurtenances thereto, (2) the work will be performed prior to sale, (3) I have resided in the residence for the 12 months prior to completion of the work, and (4) I have not claimed exemption in this subdivision on more than two structures more than once during any three-year period. (Sec. 7044, Business and Professions Code).
- I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law).
- I am exempt under Sec. \_\_\_\_\_ B&P.C. for this reason \_\_\_\_\_

Signature of Owner or Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

### CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name \_\_\_\_\_  
Lender's Address \_\_\_\_\_

Building Address 520 DIAMOND MOUNTAIN RD  
Owner NORMAN KIKEN Phone 707-963-1563  
Mailing Address 22 ROBIN ROAD  
Address WARREN, NJ 07058

### DEPARTMENT USE ONLY

PERMIT NO. 0055127  
PARCEL NO. 020-440-0500  
DATE ISSUED: 08/30/94  
VALUATION \$ 29,000  
VALIDATED BY [Signature]  
RECEIPT NO. 57479

**CONTRACTORS** LIC. NO./PHONE  
EBERLIN CONSTRUCTION 707-255-8968  
General Address 95 DUBLIN DRIVE  
PLEASANT HILL, CA 94523  
Electrical \_\_\_\_\_  
Plumbing \_\_\_\_\_  
Mechanical \_\_\_\_\_  
Architect Address \_\_\_\_\_  
Engineer Address \_\_\_\_\_

### DESCRIPTION OF WORK

WORK: ADDITION  
PERMIT: GUEST COTTAGE  
CATEGORY: COMBINATION  
CONVERT STORAGE TO GUESTHOUSE

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required			BUILDING DEPT 08/29/94 ENVIRON MNGMT 08/30/94
Plans Received	FRE	08/23/94	
Site Checked			
Plans Reviewed			
Application Approved			VARIANCE NO. _____ USE PERMIT NO. _____

ZONING AR:AC 39 3251A  
PROPOSED USE ADDN, ALTER, CONV. RESIDENTIAL  
OCCUPANCY GROUP 3  
TYPE OF CONSTRUCTION N NO. OF STORIES \_\_\_\_\_  
SIZE OF ELECTRICAL SERVICE \_\_\_\_\_

REQUIRED INSPECTION CODES	FEE	FEE
030 140 210 220 221	Building 278.00	Electrical 43.80
230 240 241 260 270	Building Issuance 15.00	Plumbing 51.00
271 280 290 440 450		
460 470 480 500 510	Plan Review 180.70	Strong Motion Tax 2.90
530 540 550 570 610		
TOTAL FEES		571.40

I CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE INFORMATION GIVEN IS TRUE AND CORRECT. I AGREE TO COMPLY WITH ALL LOCAL ORDINANCES AND STATE LAWS RELATING TO BUILDING CONSTRUCTION AND I MAKE THIS STATEMENT UNDER PENALTY OF LAW. I HEREBY AUTHORIZE REPRESENTATIVES OF THIS COUNTY TO ENTER UPON THE ABOVE MENTIONED PROPERTY FOR INSPECTION PURPOSES. NOTICE: THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK IS NOT STARTED IN 180 DAYS OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS. A REQUEST FOR AN EXTENSION OF TIME MUST BE SUBMITTED IN WRITING TO THE BUILDING CODES ADMINISTRATOR.

Agent for  Contractor  Owner I (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, cost and expenses which may in any way accrue against said County in consequence of the granting of this permit.



# NAPA COUNTY

CONSERVATION DEVELOPMENT, JEFFREY R. REDDING  
 AND PLANNING DEPARTMENT DIRECTOR  
 BUILDING DIVISION  
 GARY W. BREWEN  
 BUILDING CODES ADMINISTRATOR

OFFICE COPY

## CONSTRUCTION APPLICATION AND PERMIT

OWNER - BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law Chapter 9 (commencing with Sec. 7000) of Division 3 of the Business and Professions Code, or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than \$500):

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not intended or offered for sale. If however, the building or improvement is sold within one year of completion, the owner - builder will have the burden of proving that he did not build or improve for the purpose of sale).

I, as owner of the property, am exempt from the sale requirements of the above due to: (1) I am improving my principal place of residence or appurtenances thereto, (2) the work will be performed prior to sale, (3) I have resided in the residence for the 12 months prior to completion of the work, and (4) I have not claimed exemption in this subdivision on more than two structures more than once during any three-year period. (Sec. 7044, Business and Professions Code).

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law).

I am exempt under Sec. \_\_\_\_\_ B&P. C. for this reason \_\_\_\_\_

**CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE**  
 Section need not be completed if the permit is for three hundred dollars (\$300) or less.  
 certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

Applicant \_\_\_\_\_ Date \_\_\_\_\_

**NOTICE TO APPLICANT:** If, after making the Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

### WORKERS' COMPENSATION DECLARATION

hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance or a certified copy thereof.

Policy No. MCP 80554123  
 Expiration Date 930722 Company TRANSAMERICA INS. GROUP

Certified copy is hereby furnished  
 Certified copy is filed with the county building inspection department or county \_\_\_\_\_ department.

Applicant [Signature] Date 7-7-94

### LICENSED CONTRACTORS DECLARATION

hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class B License Number 244633 (SCL)  
 Contractor [Signature]

Signature of Owner or Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

### CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name \_\_\_\_\_  
 Lender's Address \_\_\_\_\_

Building Address 1520 DIAMOND MOUNTAIN RD  
 Owner NORMAN KIKEN Phone 707-963-1563  
 Mailing Address 22 ROBIN ROAD  
WARREN, NJ 07058

### DEPARTMENT USE ONLY

PERMIT NO. 0054925  
 PARCEL NO. 020-440-0500  
 DATE ISSUED 07/07/94  
 VALUATION \$ 156,000  
 VALIDATED BY [Signature]  
 RECEIPT NO. 5-7022

### CONTRACTORS

LIC. NO./PHONE

General Address 95 DUBLIN DRIVE 707-255-8969  
 Electrical PLEASANT HILL, CA 94523 264633 (SCL)  
 Plumbing \_\_\_\_\_  
 Mechanical \_\_\_\_\_  
 Architect \_\_\_\_\_  
 Engineer \_\_\_\_\_

### DESCRIPTION OF WORK

WORK: NEW  
 PERMIT: OFFICE BUILDING  
 CATEGORY: COMBINATION  
CONVERT BARN TO OFFICE  
AND STORAGE

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required			
Plans Received	FRE	05/11/94	DEPT FORESTRY 05/18/94 CALIST SCH DIST 07/01/94 BUILDING DEPT 07/06/94 ALUC-PLANNING 07/06/94 ADDRESS 07/06/94 USE PRMT COND 07/06/94 ENVIRONMENTAL OCCUPANCY CLEARANCE 06/94
Site Checked			
Plans Reviewed			
Application Approved			VARIANCE NO. _____ USE PERMIT NO. _____

ZONING AW:AC 39-83A  
 PROPOSED USE NEW NON-RESIDENTIAL BLDGE  
 OCCUPANCY GROUP B2-M1  
 TYPE OF CONSTRUCTION U-M  
 SIZE OF ELECTRICAL SERVICE \_\_\_\_\_

REQUIRED INSPECTION CODES	FEE	FEE
010 030 050 060 061	Building 835.50	Electrical 61.50
070 110 130 140 190	Building Issuance 15.00	Mechanical 57.30
210 220 221 230 240	Plumbing 50.50	Plan Review-Energy 83.55
241 260 270 271 280	Plan Review 543.08	Housing Impact 604.00
290 440 450 460 470	Strong Motion Tax 32.76	
480 500 510 530 540		
550 570 610		
<b>TOTAL FEES</b>		<b>2,283.19</b>

CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE INFORMATION GIVEN IS TRUE AND CORRECT. I AGREE TO COMPLY WITH ALL LOCAL ORDINANCES AND STATE LAWS RELATING TO BUILDING CONSTRUCTION AND I MAKE THIS STATEMENT UNDER PENALTY OF LAW. I HEREBY AUTHORIZE REPRESENTATIVES OF THIS COUNTY TO ENTER UPON THE ABOVE MENTIONED PROPERTY FOR INSPECTION PURPOSES. NOTICE: THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK NOT STARTED IN 180 DAYS OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS. A REQUEST FOR AN EXTENSION OF TIME MUST BE SUBMITTED IN WRITING TO THE BUILDING CODE ADMINISTRATOR WITHIN THE PERIOD OF TIME.

Agent for  Contractor  Owner I (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, costs and expenses which may in any way accrue against said County in consequence of the granting of this permit.



# NAPA COUNTY

CONSERVATION DEVELOPMENT AND PLANNING DEPARTMENT  
JEFFREY R. REDDING  
DIRECTOR

BUILDING DIVISION

GARY W. BREWEN  
BUILDING CODES ADMINISTRATOR

OFFICE COPY

## CONSTRUCTION APPLICATION AND PERMIT

OWNER - BUILDER DECLARATION

### CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

Application need not be completed if the permit is for three hundred dollars (300) or less.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

Applicant \_\_\_\_\_ Date \_\_\_\_\_

NOTICE TO APPLICANT: If, after making the Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

### WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance or a certified copy thereof.

Policy No. W947104910  
Expiration Date 950701 Company CALIFORNIA COMP

- Certified copy is hereby furnished  
 Certified copy is filed with the county building inspection department or county \_\_\_\_\_ department.

Applicant Gary W. Brewen Date \_\_\_\_\_

### LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class B License Number 373850 (SCL)  
Contractor Gary W. Brewen

Signature of Owner or Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

### CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name \_\_\_\_\_  
Lender's Address \_\_\_\_\_

Building Address 1520 DIAMOND MOUNTAIN RD  
Owner NORMAN KIKEN Phone 707-963-1563  
Mailing Address 1520 DIAMOND MOUNTAIN RD  
CALISTOGA, CA 94515

DEPARTMENT USE ONLY  
PERMIT NO. 0055744  
PARCEL NO. 020-440-0500  
DATE ISSUED 03/31/95  
VALUATION \$ 4,950  
VALIDATED BY cb  
RECEIPT NO. 00257

CONTRACTORS LIC. NO./PHONE  
GLAZIER & GLAZIER INC 373850 (SCL)  
General Address \_\_\_\_\_  
Electrical \_\_\_\_\_  
Plumbing \_\_\_\_\_  
Mechanical \_\_\_\_\_  
Architect Address \_\_\_\_\_  
Engineer Address \_\_\_\_\_

DESCRIPTION OF WORK  
WORK: NEW  
PERMIT: WATER TANK  
CATEGORY: BUILDING  
10500 GALLON CONCRETE  
WATER TANK

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required	FRE	03/31/95	BUILDING DEPT EROSION CONTRL
Plans Received			03/31/95 03/31/95
Site Checked			
Plans Reviewed			(*FINAL OCCUPANCY CLEARANCE)
Application Approved	FRE	03/31/95	VARIANCE NO. USE PERMIT NO.

ZONING ANIAC SIZE SQ. FT. \_\_\_\_\_  
PROPOSED USE DISC. PERMITS  
OCCUPANCY GROUP \_\_\_\_\_  
TYPE OF CONSTRUCTION \_\_\_\_\_ NO. OF STORIES \_\_\_\_\_  
SIZE OF ELECTRICAL SERVICE \_\_\_\_\_

REQUIRED INSPECTION CODES	FEE	FEE
010 060 061 071 080	Building 117.00	Building Issuance 15.00
090 100 440	Strong Motion Tax .99	

INSPECTION REQUESTS ARE REQUIRED 24 HOURS IN ADVANCE OF THIS INSPECTION

TOTAL FEES 132.99

I CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE INFORMATION GIVEN IS TRUE AND CORRECT. I AGREE TO COMPLY WITH ALL LOCAL ORDINANCES AND STATE LAWS RELATING TO BUILDING CONSTRUCTION AND I MAKE THIS STATEMENT UNDER PENALTY OF LAW. I HEREBY AUTHORIZE REPRESENTATIVES OF THIS COUNTY TO ENTER UPON THE ABOVE MENTIONED PROPERTY FOR INSPECTION PURPOSES. NOTICE IF THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK IS NOT STARTED IN 180 DAYS OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS. A REQUEST FOR AN EXTENSION OF TIME MUST BE SUBMITTED IN WRITING TO THE BUILDING CODE AD-

Agent for  Contractor  Owner I (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, cost and expenses which may in any way accrue against said County in consequence of the granting of this permit.  
Gary W. Brewen





**NAPA COUNTY**  
 CONSERVATION DEVELOPMENT AND PLANNING DEPARTMENT  
 JEFFREY R. REDDING  
 DIRECTOR  
 BUILDING DIVISION  
 GARY W. BREWEN  
 BUILDING CODES ADMINISTRATOR

OFFICE COPY

**CONSTRUCTION APPLICATION AND PERMIT**  
 OWNER - BUILDER DECLARATION

**CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE**  
 Application need not be completed if the permit is for three hundred dollars (300) or less.  
 I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

Applicant \_\_\_\_\_ Date \_\_\_\_\_

**NOTICE TO APPLICANT:** If, after making the Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

**WORKERS' COMPENSATION DECLARATION**

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance or a certified copy thereof.

Policy No. WCP80553123  
 Expiration Date 8/30/92 Company TRANSAMERICA INS. GROUP

Certified copy is hereby furnished  
 Certified copy is filed with the county building inspection department or county \_\_\_\_\_ department  
 Applicant [Signature] Date 8/11/94

**LICENSED CONTRACTORS DECLARATION**

I hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class B License Number 264633 (SCL)  
 Contractor [Signature]

Building Address 1520 DIAMOND MOUNTAIN RD

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law Chapter 9 (commencing with Sec. 7000) of Division 3 of the Business and Professions Code, or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than \$500):

- I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not intended or offered for sale. If however, the building or improvement is sold within one year of completion, the owner - builder will have the burden of proving that he did not build or improve for the purpose of sale).
- I, as owner of the property, am exempt from the sale requirements of the above due to: (1) I am improving my principal place of residence or appurtenances thereto, (2) the work will be performed prior to sale, (3) I have resided in the residence for the 12 months prior to completion of the work, and (4) I have not claimed exemption in this subdivision on more than two structures more than once during any three-year period. (Sec. 7044, Business and Professions Code).
- I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law).
- I am exempt under Sec. \_\_\_\_\_ B&P.C. for this reason \_\_\_\_\_

Signature of Owner or Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

**CONSTRUCTION LENDING AGENCY**

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name \_\_\_\_\_  
 Lender's Address \_\_\_\_\_

Owner NORMAN KIKEN Phone 707-263-1563  
 Mailing Address 22 ROBIN ROAD  
WARREN, N.J. 07058

**DEPARTMENT USE ONLY**

PERMIT NO. 0055073  
 PARCEL NO. 020-440-0500  
 DATE ISSUED 08/11/94  
 VALUATION \$ 522,000  
 VALIDATED BY cf  
 RECEIPT NO. 57332

**CONTRACTORS**

**EBERLIN CONSTRUCTION**  
 95 DUBLIN DRIVE  
 PLEASANT HILL, CA 94523  
 LIC. NO./PHONE 707-255-8969  
264633 (SCL)

**DESCRIPTION OF WORK**

WORK: NEW  
 PERMIT: DWELLING (ONE-FAMILY)  
 CATEGORY: COMBINATION  
NEW DWELLING WITH  
BASEMENT

ZONING AM:AC SIZE 500-834  
 PROPOSED USE One-family houses, detached  
 OCCUPANCY GROUP R3-M1  
 TYPE OF CONSTRUCTION U-N No. of STORIES  
 SIZE OF ELECTRICAL SERVICE \_\_\_\_\_

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required			
Plans Received	<u>FRB</u>	<u>02/25/94</u>	DEPT FORESTRY <u>03/07/94</u> BUILDING DEPT <u>06/23/94</u> ENCRO/SETBACKS <u>06/29/94</u> CALIST SCH DIST <u>07/01/94</u> ENVIRON MNGMT <u>07/06/94</u> EROSION CONTRL <u>08/09/94</u>
Site Checked			
Plans Reviewed			
Application Approved			VARIANCE NO. _____ USE PERMIT NO. _____

REQUIRED INSPECTION CODES	FEE\$
010 030 060 061 070	Building 2,105.50
071 080 100 110 120	Building Issuance 15.00
130 140 150 160 170	Plumbing 154.00
180 190 191 192 210	Plan Review 1,579.13
220 221 230 240 241	Strong Motion Tax 52.20
260 270 271 280 300	
310 320 330 440 450	
460 470 480 490 500	
510 530 540 550 570	

FEE\$
Electrical 258.90
Mechanical 128.40
Plan Review-Energy 210.55
Housing Impact 10,440.00
<b>TOTAL FEES 14,943.68</b>

CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE INFORMATION GIVEN IS TRUE AND CORRECT. I AGREE TO COMPLY WITH ALL LOCAL ORDINANCES AND STATE LAWS RELATING TO BUILDING CONSTRUCTION AND I MAKE THIS STATEMENT UNDER PENALTY OF LAW. I HEREBY AUTHORIZE REPRESENTATIVES OF THIS COUNTY TO ENTER UPON THE ABOVE MENTIONED PROPERTY FOR INSPECTION PURPOSES. NOTICE IF THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK IS NOT STARTED IN 180 DAYS OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS. A REQUEST FOR AN EXTENSION OF TIME MUST BE SUBMITTED IN WRITING TO THE BUILDING CODE ADMINISTRATOR WITHIN THE FIRST 180 DAYS OF THE PERMIT.

Agent for  Contractor  Owner (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, cost and expenses which may in any way accrue against said County in consequence of the granting of this permit.  
 Signature of Applicant [Signature] Date 8/11/94



**NAPA COUNTY**  
 CONSERVATION DEVELOPMENT AND PLANNING DEPARTMENT  
 JEFFREY R. REDDING DIRECTOR  
 BUILDING DIVISION  
 GARY W. BREWEN  
 BUILDING CODES ADMINISTRATOR

OFFICE COPY

**CONSTRUCTION APPLICATION AND PERMIT**

OWNER - BUILDER DECLARATION

**CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE**  
 A certificate of exemption from workers' compensation insurance need not be completed if the permit is for three hundred dollars (\$300) or less. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

Applicant \_\_\_\_\_ Date \_\_\_\_\_

**NOTICE TO APPLICANT:** If, after making the Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

**WORKERS' COMPENSATION DECLARATION**

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance or a certified copy thereof.

Policy No. 471-94 0000232  
 Expiration Date 951001 Company STATE FUND

- ( ) Certified copy is hereby furnished
- ( ) Certified copy is filed with the county building inspection department or county \_\_\_\_\_ department.

Applicant Raez william Date 11/1/94

**LICENSED CONTRACTORS DECLARATION**

I hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class B License Number 467427 (SCL)  
 Contractor Raez william

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law Chapter 9 (commencing with Sec. 7000) of Division 3 of the Business and Professions Code, or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than \$500):

- I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not intended or offered for sale. If however, the building or improvement is sold within one year of completion, the owner - builder will have the burden of proving that he did not build or improve for the purpose of sale).
- I, as owner of the property, am exempt from the sale requirements of the above due to: (1) I am improving my principal place of residence or appurtenances thereto, (2) the work will be performed prior to sale, (3) I have resided in the residence for the 12 months prior to completion of the work, and (4) I have not claimed exemption in this subdivision on more than two structures more than once during any three-year period. (Sec. 7044, Business and Professions Code).
- I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law).
- I am exempt under Sec. \_\_\_\_\_ B&P. C. for this reason \_\_\_\_\_

Signature of Owner or Authorized Agent \_\_\_\_\_ Date \_\_\_\_\_

**CONSTRUCTION LENDING AGENCY**

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name \_\_\_\_\_  
 Lender's Address \_\_\_\_\_

Building Address 1520 DIAMOND MOUNTAIN RD

Owner NORMAN KIRAN Phone 707-943-1563  
 Mailing Address 1520 DIAMOND MOUNTAIN RD  
 Address CALISTOGA, CA 94515

**DEPARTMENT USE ONLY**

PERMIT NO. 0055328  
 PARCEL NO. 020-440-0500  
 DATE ISSUED 11/01/94  
 VALUATION \$ 24,400  
 VALIDATED BY [Signature]  
 RECEIPT NO. 58946

**CONTRACTORS**

General Address PARADISE POOLS  
P.O. BOX 4342  
NAPA, CA 94558

LIC. NO./PHONE 467427 (SCL)  
707-257-0774

Electrical \_\_\_\_\_  
 Plumbing \_\_\_\_\_  
 Mechanical \_\_\_\_\_  
 Architect Address \_\_\_\_\_  
 Engineer Address \_\_\_\_\_

**DESCRIPTION OF WORK**

WORK: NEW  
 PERMIT: SWIMMING POOL  
 CATEGORY: COMBINATION  
HEATED SWIMMING POOL  
W/AUTOMATIC POOL COVER  
(16X40)

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required			
Plans Received	FRE	10/27/94	ENVIRON MNGMT 10/24/94 BUILDING DEPT 10/31/94 EROSION CNTRL 10/31/94
Site Checked			
Plans Reviewed			(*FINAL OCCUPANCY CLEARANCE)
Application Approved			VARIANCE NO. _____ USE PERMIT NO. _____

ZONING AW1AC SIZE SQ. FT. \_\_\_\_\_  
 PROPOSED USE OTHER THAN BLDGS.  
 OCCUPANCY GROUP \_\_\_\_\_  
 TYPE OF CONSTRUCTION \_\_\_\_\_ NO. OF STORIES \_\_\_\_\_  
 SIZE OF ELECTRICAL SERVICE \_\_\_\_\_

REQUIRED INSPECTION CODES	FEE	FEE
360 370 371 372 380	Building 252.00	Electrical 35.00
390 400 401	Building Issuance 15.00	Plumbing 40.00
	Strong Motion Tax 2.46	
<b>TOTAL FEES</b>		<b>344.46</b>

I CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE INFORMATION GIVEN IS TRUE AND CORRECT. I AGREE TO COMPLY WITH ALL LOCAL ORDINANCES AND STATE LAWS RELATING TO BUILDING CONSTRUCTION AND I MAKE THIS STATEMENT UNDER PENALTY OF LAW. I HEREBY AUTHORIZE REPRESENTATIVES OF THIS COUNTY TO ENTER UPON THE ABOVE MENTIONED PROPERTY FOR INSPECTION PURPOSES. NOTICE II THIS PERMIT WILL EXPIRE BY LIMITATION IF WORK NOT STARTED IN 180 DAYS OR IF WORK IS ABANDONED FOR MORE THAN 180 DAYS. A REQUEST FOR AN EXTENSION OF TIME MUST BE SUBMITTED IN WRITING TO THE BUILDING CODE ADMINISTRATOR WITHIN THE FIRST 180 DAYS OF THE PERMIT.

Agent for  Contractor  Owner I (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, costs and expenses which may in any way accrue against said County in consequence of the granting of this permit.

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT2771 Park Towne Circle, Suite 2  
Sacramento, California 95825Telephone (916) 574-2540  
FAX (916) 574-2542

June 16, 2008

Nordby Wine Caves  
1550 Airport Blvd, Suite 201  
Santa Rosa, California 95403RECEIVED  
JUN 19 2008  
Nordby Construction

Attention: John C. Shook, General Manager

Subject: Underground Classification No. C230-055-08T  
Reverie Vineyard Wine Cave Expansion

Owner: Reverie On Diamond Mountain, LLC  
1520 Diamond Mountain Road  
Calistoga, California 94515

Mr. Shook:

The information provided to this office relative to the above project has been reviewed. On the basis of this analysis, an Underground Classification of "Nongassy" With Special Conditions has been assigned to the underground complex identified on your submittal. Please forward the original Classification to the Owner, and retain a copy for your records, and for posting at the job site.

Please advise this office to schedule the mandated Prejob Conference with the Division prior to commencing any activity associated with construction of the underground complex.

During excavation, construction, alteration, repair, renovation and demolishing of the tunnel (a.k.a., Wine Cave), the provisions of the Tunnel Safety Orders apply. Thus, during these activities, each contractor must have a copy of the Classification posted, a Pre-job Conference, ventilation for their personnel, a Diesel Permit and Certified Gas Tester (if diesel equipment is operated underground), a Certified Underground Safety Representative, an effective Emergency Plan, and follow the other provisions of the Tunnel Safety Orders.

If you have any questions on this subject, please contact this office at your earliest convenience.

Sincerely,

A handwritten signature in black ink that reads "John R. Leahy".

John R. Leahy  
Senior Engineercc: Doug Patterson  
File



State of California

Department of Industrial Relations

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT

# Underground Classification

C230-055-08T

REVERIE ON DIAMOND MOUNTAIN, LLC

(NAME OF TUNNEL OR MINE AND COMPANY NAME)

1520 Diamond Mountain Road, Calistoga, California 94515

of

(MAILING ADDRESS)

REVERIE VINEYARD WINE CAVE EXPANSION

at

(LOCATION)

\*\*\* NONGASSY with Special Conditions\*\*\*

has been classified as

(CLASSIFICATION)

as required by the California Labor Code Section 7955.

The Division shall be notified if sufficient quantities of flammable gas or vapors have been encountered underground. Classifications are based on the California Labor Code Part 9, Tunnel Safety Orders and Mine Safety Orders.

### \*\*\*SPECIAL CONDITIONS\*\*\*

1. Positive mechanical ventilation shall be provided at any time a person is required, or allowed, to enter the tunnel, and at any other location where it is required for employee safety or health.
2. Ventilation velocity and air quality to be checked at least every 4 hours.

The 100 lineal feet of 10 feet high by 13 feet wide horseshoe-shaped tunnels constituting the 2,000 square foot Reverie Vineyard Wine Cave expansion located at 1520 Diamond Mountain Road, Calistoga, Napa County.

This classification shall be conspicuously posted at the place of employment.

June 16, 2008

Date

(SENIOR ENGINEER)

John R. Leahy

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT

2211 Park Towne Circle, Suite 2  
Sacramento, California 95825



Telephone (916) 574-2540  
FAX (916) 574-2542

June 17, 2008

Nordby Wine Caves Inc  
1550 Airport Blvd, Ste 202  
Santa Rosa, California 95403

Attention: John Shook

Subject: Diesel Permit No. D025-055-08T  
Reverie Vineyard Wine Cave

Owner: Reverie On Diamond Mountain LLC  
1520 Diamond Mountain Rd  
Calistoga, CA 94515

Mr. Shook:

This office has reviewed your application to obtain a Permit to Use Diesel Equipment Underground. On the basis of this review, a Permit to Use Diesel Engines Underground is hereby issued. Please post the Permit where employees have unrestricted access to the information and conditions contained therein.

If you have any questions in this matter, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "John Leahy".

John Leahy  
Senior Engineer

cc: Doug Patterson  
File



## CONDITIONS TO USE DIESEL ENGINES UNDERGROUND

The following is a list of conditions under which diesel powered equipment will be permitted to operate underground and are those believed necessary for the protection of workers. If experience indicates that any of the conditions are inadequate or unnecessary, the Division of Occupational Safety and Health – Mining and Tunneling Unit may revise this permit in the light of such experience.

1. Before any diesel engine is permitted underground, the employer shall make sure that it is in good operating condition.
2. The diesel exhaust shall pass through the approved scrubber which shall be installed and maintained in strict conformance with the manufacturer's instructions. The exhaust shall be directed away from employees breathing zones.
3. The diesel fuel shall not contain in excess of 0.35% of sulfur.
4. Each diesel unit shall be equipped with a fire extinguisher or fire suppression system suitable for control of oil fires.
5. Before any diesel engine is permitted underground, mechanical ventilation, reversible from the surface shall be provided and maintained as long as any diesel equipment is operating.
6. The flow of fresh air in any air course shall never be less than 100 cubic feet of air per minute per brake horsepower of the aggregate diesel equipment operating in such air course, plus 200 cubic feet of air per minute for each employee. The linear velocity of air flow shall never less than 60 ft. per minute.
7. Instructions shall be issued to all employees that all diesel equipment underground shall be shut down immediately should the air flow stop, and shall remain shut down until the airflow is resumed.
8. During each shift, a qualified person will conduct air quality tests for nitrogen dioxide, carbon monoxide and carbon dioxide at the peak of diesel operations. Results of such tests shall be kept with the daily diesel engine records. Diesels shall be shut down or ventilation increased if contaminant levels exceed the (PEL) Permissible Exposure Levels.
9. The Permit to use Diesel Engines Underground may be revoked or suspended for failure to comply with any of the above conditions and/or other condition herein described.
10. Any changes in the diesel equipment or ventilation from the condition of this permit shall not be made until an amended permit is applied for and obtained from the Division.

### Special Conditions:

This permit and the conditions specified by the Division of Occupational Safety and Health shall be conspicuously POSTED at the place of employment.

  
Senior Engineer Date 6/17/08

June 15, 2015

David Gilbreth  
1152 Hardman Ave.  
Napa, CA 94558

Subject: Reverie Winery Site

Dear David:

I have researched the drawings and records I kept on file for Reverie Winery. I prepared a parking and access plan in 1995. The plan proposed an overlay on top of an existing graded site with base rock and paving to provide for the necessary parking and access to the winery, but did not include the winery construction. I believe the plans were approved and conformed to County requirements.

At your request, while visiting the site today I compared the terrain and the vegetation in the vicinity of the unnamed watercourse to my old plans and to the Napa County Planning Exhibit, Reverie Winery Use Permit Major Modification dated 5-22-2015. I see very little alteration to the site except for the cave portal near the winery production area. I also observed that this cave portal is farther away from the unnamed watercourse (which appears to be a ditch in this area) than the approved perimeter of the production area appearing in the planning exhibit.

I also noticed the tree canopy is essentially unchanged except for one gap. It is my understanding the gap was due to the removal of a tree that died. The addition of gravel to the north of the unnamed water course is a change from 1995, but the shape of the terrain does not appear to be altered.

If you need any additional information, please let me know.

Very truly yours,



James L. Cassayre  
RCE 17552 expires 6-30-17







REVERIE WINERY



West Elevation per Use Permit 94254

05-22-2015 10B MOD

1/1

Napa County Conservation  
Development and Planning Department

Reverie\_P13-00 mod.cdr



March 18, 2015

Scott Greenwood-Meinert  
**DICKERSON PEATMAN & FOGARTY**  
1544 First Street, Suite 301  
Napa, California 94559

**Subject: Reverie Vineyard & Winery: Current and Historic Riparian Habitat**

Dear Mr. Greenwood-Meinert,

At the request of the Reverie Vineyard & Winery, FirstCarbon Solutions conducted a review of historic and existing conditions at the Reverie Winery with special emphasis on riparian vegetation. The purpose of the review is to determine if riparian vegetation has been altered or removed during on-site improvements associated with construction of the wine cave and associated facilities.

**Methods**

Historic and current aerial photography was reviewed using Google™ earth imagery. Starting with the most current aerial imagery available, FCS digitally mapped known locations of facility locations within the Reverie Vineyard & Winery including a wine garden, winery/office building, wine cave, and an unnamed drainage which is located approximately 30 feet east of the winery/office building. These feature locations were digitally mapped on aerials dating 1993, 2003, 2004, 2007, 2008, and 2014 as demonstrated in Attached A.

In addition, a site visit was conducted by FCS biologist on March 9, 2015, and a review of the County approved Reverie Vineyard & Winery Landscape Plan (1995) was conducted to assess planned, approved and implemented landscape design as it pertains to riparian vegetation.

**Findings**

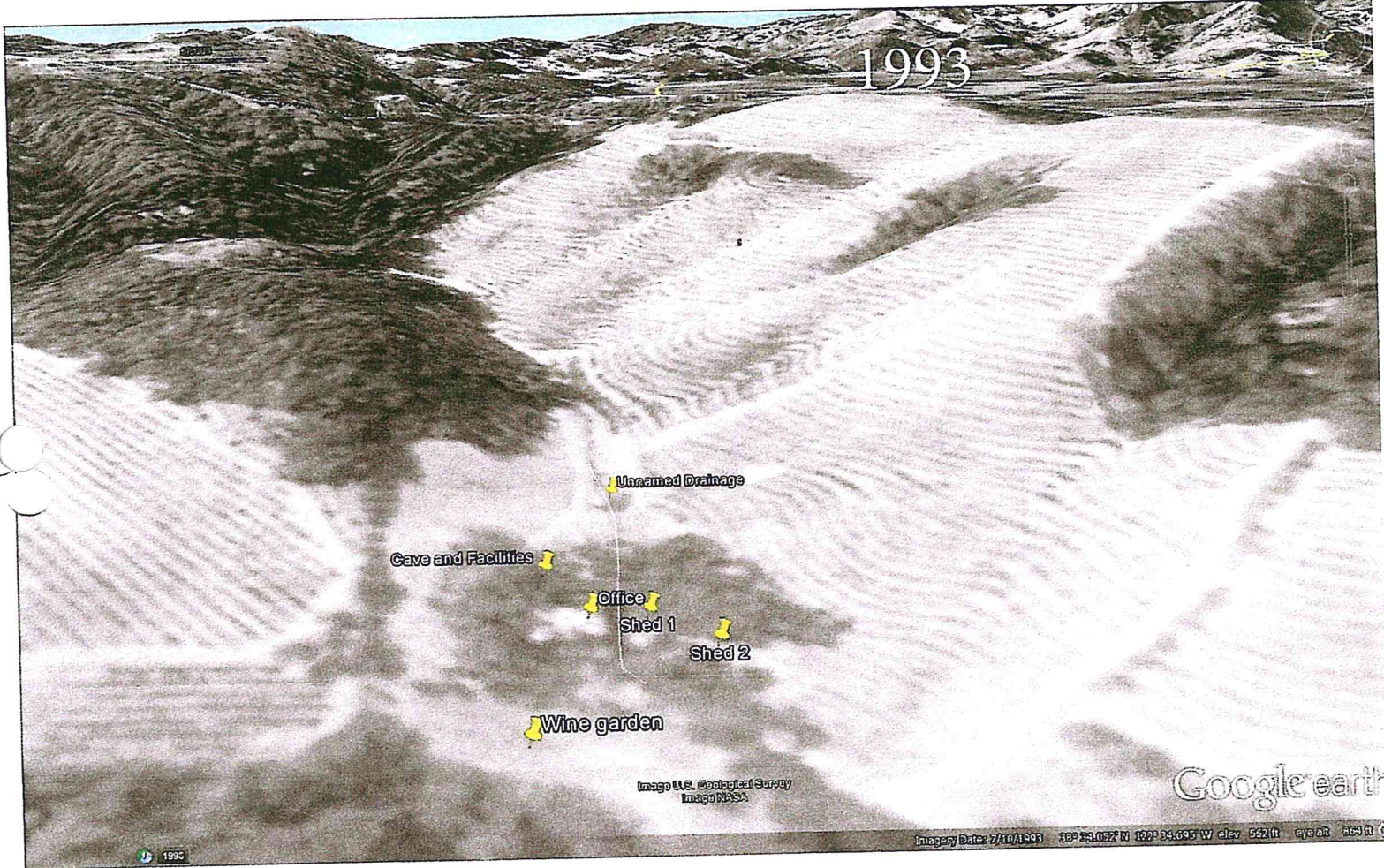
An unnamed drainage is located approximately 30 feet east of the existing winery/office building, wine cave and associated facilities. This feature is approximately 200 feet long and approximately 3 feet wide at the ordinary high water mark. The drainage has an earthen bottom with sparse vegetation and the steep banks are composed of river-rock and mud (presumably to reduce erosion during high flow events). This drainage is ephemeral in nature, only flowing after storm events. This drainage flows onto a dual piped culvert under the entrance road to the winery facility and eventually flows into Teal Creek near the southern limits of the site.

Based on a review of historical aerial imagery, the approved landscape design plan, and existing site conditions, the unnamed drainage feature does not now and has not historically supported riparian vegetation or a riparian corridor.

Please contact Jeannette Owen at 916.447.1100 with any questions or concerns.

## Attachment A





1993

Unnamed Drainage

Cave and Facilities

Office

Shed 1

Shed 2

Wine garden

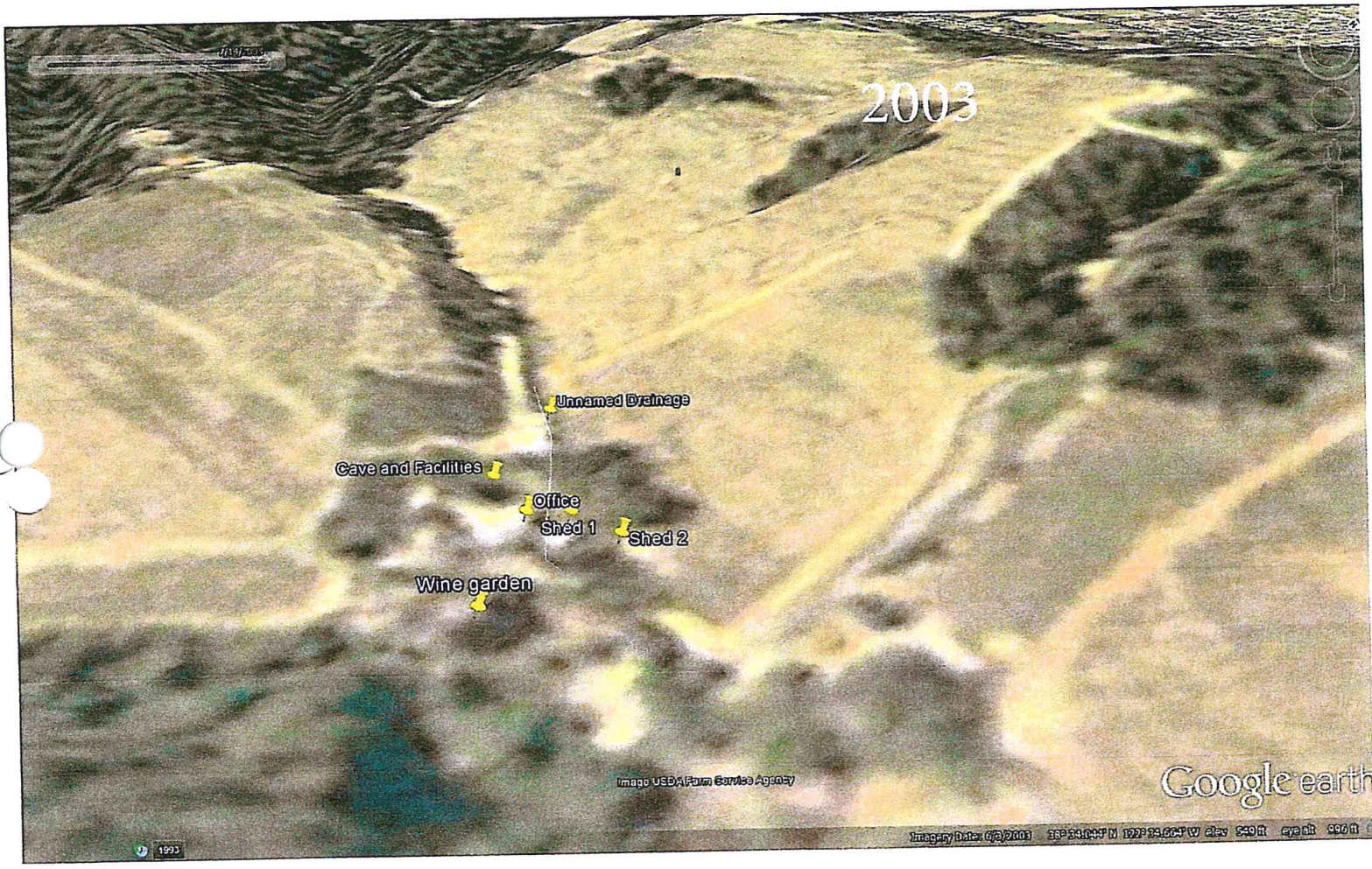
Imagery U.S. Geological Survey  
Imagery NASA

Google earth

Imagery Date: 7/10/1993 38° 59.092' N 102° 54.695' W elev 562 ft eye alt 254 ft

1993





2003

Unnamed Drainage

Cave and Facilities

Office

Shed 1

Shed 2

Wine garden

Image: USDA Farm Service Agency

Google earth

Imagery Date: 4/5/2003 35° 34.047' N 122° 34.664' W elev 540 ft eye alt 550 ft

1993





2004

Unnamed Drainage

Cave and Facilities

Office

Shed 1

Shed 2

Wine garden

Google earth

Image © 2015 DigitalGlobe

Imagery Date: 8/11/2014 38° 54.043' N 122° 51.606' W elev: 548 ft eye alt: 969 ft

1993



Cave and Facilities

Unarmed Drainage

Office

Shed 1

Shed 2

Wine garden

Google earth

Image © 2008 Earthstar

Imagery date: 12/25/2007 33° 24'0.92" N 122° 33'16.81" W elev: 620 ft quad: 4621

12 1992



2008

Unnamed Drainage  
Cave and Facilities  
Office  
Shed 1, Shed 2  
Wine garden

Google earth

Imagery Date: 12/12/2008 28° 34' 47" N 125° 04' 43" W, elev: 550 ft eye: 41 987 ft

1993



2014



Google earth

Image NASA  
Image © 2015 DigitalGlobe

Imagery Date: 5/30/2014 38° 34.048' N 122° 34.694' W elev 554 ft eye alt 648 ft

1993



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 8/6/2014  
Agenda Placement: 10B

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** Charlene Gallina for David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** Linda St. Claire, Planner III Code Enforcement Officer - 707.299.1348  
**SUBJECT:** 2013 Winery Production Review

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### RECOMMENDATION

#### **2013 WINERY PRODUCTION AUDIT**

**CEQA Status:** The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**Request:** Presentation, discussion and direction to staff regarding the outcome of a confidential review of wine production and visitation at wineries selected randomly by the Planning Commission in 2013, followed by selection of 2014 audit participants.

**Staff Recommendation:** Review and comment on the results of the 2013 winery use permit monitoring program and select 2014 participants.

**Staff Contact:** Linda St. Claire, 299-1348; [Linda.StClaire@countyofnapa.org](mailto:Linda.StClaire@countyofnapa.org)

### EXECUTIVE SUMMARY

#### **Proposed Actions:**

That the Commission:

- 1) Receive the audit results and direct staff to work with wineries to achieve compliance if their wine production, visitation, or grape sourcing exceed amounts specified in their use permit; and
- 2) Select new participants for the 2014 review.

- Two wineries (N & P) were found in compliance for production after averaging of two years of data. Winery N is currently in for a modification to their use permit. The remaining winery out of compliance for production (D) has not produced any wine for the past nine years. They understand that their use permit is in jeopardy for possible revocation. They will be included in the 2014 Audit.
- One column was modified this year to show only the percentage of actual production in comparison to the approved production of each winery. Actual production ranged from 0% to 100% of the permitted production.
- In addition to the twenty wineries in the 2013 audit, staff reevaluated the wineries from the 2012 audit that were found out of compliance. With this reevaluation, one winery (M) continued to be over production even after averaging three to five years of production records. The two remaining wineries are in for modifications to their use permits.

#### Visitation (see Attachment G)

- Eight wineries were found to be out of compliance for visitation. Six wineries were found to be out of compliance for Tours and Tastings, four wineries were found to be out of compliance for Marketing, and two of the eight wineries were found to be out of compliance for both Tours & Tastings and Marketing.
- All of the wineries maintained adequate records.
- Of the twenty wineries, five are pre-WDO (Winery Definition Ordinance) and three of them are allowed to conduct public tours & tastings with no set limits on the number of visitors.
- Twelve wineries are allowed tours and tasting "By Appointment Only." Two are Pre-WDO wineries. The remaining one winery does not have authorization to conduct tours and tastings and two wineries do not have approved marketing plans.
- Of the seven non-compliant wineries from the 2012 audit, three have or will apply to modify their use permits. The remaining four non-compliant wineries (F, H, Q & T) have agreed to reduce their visitation or modify their use permits. Averaging is not an option due to the potential impacts of traffic, as well as, impacts on septic systems that have been sized to the number of approved visitors.

Staff was also directed to visit the wineries participating in the audit and observe the items for sale in the tasting rooms to determine if the items met the general definition in Napa County Code Sections 18.16.030 & 18.20.030, which state that all products for sale at the winery must be wine related. Staff conducted a visual inspection and found products in the tasting rooms generally meet the Ordinance's "wine related" requirement.

#### Grape Sourcing (see Attachment F)

- There are five Pre-WDO wineries in the 2013 audit which are not subject to the 75% rule.
- The remaining wineries were evaluated and all but one were found compliant. Winery O was only 52% compliant, and purchased the remaining 48% of their grapes from District 3 (Sonoma and/or Marin Counties). Winery O is currently in the process of modifying their use permit. They will be included in the audit next year in hopes that compliance will be reached.

#### **Staff Recommendation:**

As in previous years, staff will follow up with all wineries which exceed their production, visitation, and/or comply with the seventy-five percent rules. Each winery will receive a letter from staff indicating the audit results and discussing their options to comply with their use permit conditions. In regards to production and visitation, a winery has two options. They can either modify their use permit or return to the allowed levels. The seventy-five percent rule does not offer any options. All of the wineries which exceed their conditions (and have not entered into a modification process) will be required to submit 2014 production, visitation and grape sourcing data to ensure compliance has been met. At this time, staff is recommending that the Commission discuss the audit results