

**PLANNING COMMISSION BOARD OF SUPERVISORS**  
**APPEAL HEARING – ~~APRIL 19, 2017~~ FEBRUARY 27, 2018**  
**~~FINAL~~ MODIFIED CONDITIONS OF APPROVAL**

**The Caves at Soda Canyon Use Permit Number P16-00106**  
**2275 Soda Canyon Road**  
**APN 039-640-013**

This permit encompasses and shall be limited to the project commonly known as The Caves at Soda Canyon, located at 2275 Soda Canyon Road. Part I encompasses the Project Scope and general conditions pertaining to statutory and local code references, project monitoring, and the process for any future changes or activities. Part II encompasses the ongoing conditions relevant to the operation of the project. Part III encompasses the conditions relevant to construction and the prerequisites for a Final Certificate of Occupancy. It is the responsibility of the permittee 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.

Where conditions are not applicable or relevant to this project, they shall be noted as “Reserved” and therefore have been removed.

When modifying a legally established entitlement related to this project, these conditions are not intended to be retroactive or to have any effect on existing vested rights except where specifically indicated.

**PART I**

**1.0 PROJECT SCOPE**

This permit encompasses and shall be limited to:

- 1.1 Approval of an Exception to the Napa County Road and Street Standards to allow a roadway width of less than 22-feet and an exception to the minimum horizontal inside radius of 50-feet as detailed in the Engineering Services Division approval memorandum dated December 22, 2016.
- 1.2 Approval of a Use Permit Modification to modify an existing 30,000-gallon per year winery previously approved under Use Permit Nos. P05-0391, P06-01008, P08-00527, and P13-00048 to allow the following:
  - a. ~~Increase~~ An increase in annual production from 30,000 to 60,000 gallons; which shall be phased as set forth in Condition of Approval (COA) No. 4.20 (c);
  - b. Construction of an approximately 2,400 square feet cover over an existing outdoor paved area;
  - c. Use of an existing private patio terrace (no construction) for daily tastings, marketing activities, and on-site consumption; subject to satisfaction of the requirements set forth in COA No. 4.20 (c)(2);
  - d. Removal of the internal cave wall to open access from the fourth portal to the patio terrace (wall installed under B15-01427 according to action by the Planning Commission) subject to verification of a contract for

- [permanent power and installation of screening trees as set forth in COA No.4.20 \(c\)\(2\);](#)
- e. Conversion of approximately 400 square feet of approved cave area to a kitchen (for the storage of refrigerated food and plating of food prepared off site by caterers);
  - f. Change the hours of operation for production activities from the existing 8:00 a.m. – 6:00 p.m. to 7:00 a.m. – 6:00 p.m. [subject to the restrictions contained in COA No.4.20 \(e\);](#)
  - g. On-premises consumption of wine as set forth in ~~Condition of Approval~~ [COA No. 4.4](#) below;
  - h. Installation of a wastewater system and discontinue use of hold and haul; ~~and~~
  - i. Improvements to the existing road as detailed in the Engineering Services Division Exception to the Napa County Road and Street Standards approval memorandum dated December 22, 2016~~---~~;
  - [j. Replacement of the winery's existing generator\(s\) as its primary power source with installation of either a solar energy system or by connection to the grid via PG&E \(or other utility\), or both as set forth in COA No. 4.20;](#)
  - [k. Use of a backup generator per Section 446.12.2 of the California Building Code requirements to provide temporary power in the event of a power outage or emergency; and](#)
  - [l. Recognize the use of temporary tasting area\(s\) in the completed Phase 1 area of the cave, until such time as the tasting room in Phase 2 of the cave is operational; all accessory uses in Phase 1 of the cave shall not exceed the maximum permitted Accessory to Production Ratio.](#)

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 permittee 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 change in winery use or alternative locations for fire suppression or other types of water tanks shall be approved in accordance with the County Code and may be subject to the permit modification process.

## 2.0 STATUTORY AND CODE SECTION REFERENCES

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

## 3.0 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 of approval 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 property owner or permittee. 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 issuance of a 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 a compliance deficiency is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the program at the applicant's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if so warranted, to commence revocation proceedings in accordance with the County Code.

## PART II

### 4.0 OPERATIONAL CHARACTERISTICS OF THE PROJECT

Permittee shall comply with the following during operation of the winery:

#### 4.1 GENERAL PROVISIONS

Consistent with the County Code, tours and tastings and marketing 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."

Tours and tastings (defined below) 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.

Retail sales of wine shall be permitted as set forth in the County Code.

#### 4.2 TOURS AND TASTINGS/VISITATION

Tours and tastings shall be by appointment only and shall be limited to the following:

- a. Frequency: 7 days per week, Monday through Sunday
- b. Maximum number of persons per day: 20
- c. Maximum number of persons per week: 140
- d. Hours of visitation: 9:00 a.m. to 4:00 p.m.
- e. Retail sale of wine shall be completed by 4:30 p.m.
- f. Tours and tastings may occur in the tasting room, on the areas in front of portal 2, the patio terrace and on the two outdoor areas on the ridgeline. Use of the patio terrace may only occur after permittee's completion of the Phase B requirements set forth in COA No. 4.20 (c)(2).
- g. The permittee shall take reasonable precautions to keep sound levels in the winery cave and on the outdoor patio terrace to a minimum, particularly after sunset.

"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. To the maximum extent feasible, scheduling

of visitors shall not occur during peak travel times (8:00 a.m. to 9:00 a.m. and 4:30 p.m. to 5:30 p.m. weekdays; 4:00 p.m. to 5:00 p.m. on Saturdays; and 4:00 p.m. to 5:00 p.m. on Sundays).

A log book (or similar record) shall be maintained to document the number of visitors to the winery (for either tours and tastings or marketing events), and the dates of the visits. This record of visitors shall be made available to the Planning, Building and Environmental Services (PBES) Department upon request.

#### 4.3 MARKETING

Marketing events shall be limited to the following:

- a.      [Small](#) private wine and food events for wine trade personnel
  1.      Frequency: Six (6) per year
  2.      Maximum number of persons: 20
  3.      Time of Day: 12:00 noon to 4:00 p.m. or 6:00 p.m. to 11:00 p.m.
  
- b.      Private wine and food events
  1.      Frequency: 10 times per year
  2.      Maximum number of persons: 100
  3.      Time of Day: 12:00 noon to 4:00 p.m. or 6:00 p.m. to 11:00 p.m.
  
- c.      Private harvest event
  1.      Frequency: 1 per year
  2.      Maximum number of persons: 200
  3.      Time of Day: 12:00 noon to 4:00 p.m. or 6:00 p.m. to 11:00 p.m.
  
- d.      Open house during Auction Napa Valley ([ANV](#)) for auction ticket holders
  1.      Frequency: 1 per year
  2.      Maximum number of persons: No maximum listed
  3.      Time of Day: 11:00 a.m. to 5:00 p.m. during the Auction week.
  
- e.      [Additional restrictions applicable to all marketing events:](#)
  1.      [The marketing events will occur in designated areas on the winery premises, both inside and outside the cave. Locations inside the cave are limited to the approved tasting area\(s\). Outdoor locations are limited to the paved area in front of the cave portals, the patio terrace, and the two outdoor areas on the ridgeline. All event areas must be in compliance with the California Building Code. Upon providing verification of the signed contract and upon installation of the screening trees required pursuant to COA No. 4.20\(c\)\(2\), the winery may host three of its marketing events per year \(at least one shall be a small private marketing event\) between noon and 9:30 p.m. on the ridgeline subject to having provided at least 30 days prior notice by email to contiguous property owners of such event. The permittee shall provide a copy of the notice sent to contiguous property owners to the PBES Department.](#)
  2. Events may include food service catered by an off-site service
  3. Parking will be provided on-site or at an approved off-site location with a shuttle service.

4. Marketing events are all by invitation only.
5. Start and finish times of activities shall be scheduled to minimize vehicles arriving or leaving between 4:00 p.m. and 5:30 p.m..
6. Evening marketing events shall cease by 11:00 p.m. with personnel involved with the event off the premises by midnight.
7. No amplified sound may occur on the ridgeline during marketing events.
8. The permittee shall take reasonable precautions to keep sound levels in the winery cave, on the outdoor patio terrace and on the ridgeline to a minimum, particularly after sunset.

"Marketing of wine" means any activity of a winery which is conducted at the winery on a prearranged basis for the education and development of customers and potential customers with respect to wine which can be sold at the winery on a retail basis pursuant to the County Code. 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. 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 cost recovery, 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).

All marketing event activity, excluding quiet clean-up, shall cease by 11:00 p.m. or as noted above in COA No. 4.3(e)(1). 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 not be limited to, valet service or off-site parking and shuttle service to the winery.

Auction Napa Valley (ANV) events need not be included in a participating winery's marketing plan because they are covered by ANV's Category 5 Temporary Permit. The winery may utilize any ANV event authorized in this permit for another charitable event of similar size.

#### 4.4 ON-PREMISES CONSUMPTION

In accordance with State law 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 wine produced on-site and purchased from the winery may occur solely in the tasting room and on the areas in front of portal 2,

the patio terrace, and the two outdoor areas: [on the ridgeline](#). Any and all visitation associated with on-premises consumption shall be subject to the maximum per person weekday and weekend daily tours and tastings visitation limitation and/or applicable limitations of permittee's marketing plan set forth in ~~Permits No. P05-0391 and No. P06-01008 (See Exhibit A)~~, [COA Nos. 4.2 and 4.3](#).

4.5 RESIDENCE OR NON-WINERY STRUCTURES **[RESERVED]**

4.6 GRAPE SOURCE

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

4.7 COMPLIANCE REVIEW

Permittee shall obtain and maintain all permits (use permits and modifications) and licenses from the California Department of Alcoholic Beverage Control (ABC) and United States Tax and Trade Bureau (TTB), and California Department of Food and Agriculture (CDFA) Grape Crush Inquiry data, all of which are required to produce and sell wine. In the event the required ABC and/or TTB permits and/or licenses are suspended or revoked, permittee shall cease marketing events and tours and tastings until such time as those ABC and/or TTB permits and licenses are reinstated.

Visitation log books, visitor reports, custom crush client records, and any additional documentation determined by Staff to be necessary to evaluate compliance may be requested by the County for any code compliance. The permittee (and their successors) shall be required to participate fully in the winery code compliance review process.

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

4.9 GROUND WATER MANAGEMENT - WELLS

This condition is implemented jointly by the Public Works and PBES Departments:

The permittee shall be required (at the permittee's expense) to record well monitoring data (specifically, static water level no less than quarterly, and the volume of water no less than monthly). Such data will be provided to the County,

if the PBES Director determines that substantial evidence<sup>1</sup> indicates that water usage at the winery is affecting, or would potentially affect, groundwater supplies or nearby wells. If data indicates the need for additional monitoring, and 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. Water usage shall be minimized by use of best available control technology and best water management conservation practices.

In order to support the County's groundwater monitoring program, well monitoring data as discussed above will be provided to the County if the Director of Public Works determines that such data could be useful in supporting the County's groundwater monitoring program. The project well will be made available for inclusion in the groundwater monitoring network if the Director of Public Works determines that the well could be useful in supporting the program.

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 County Code and to protect public health, safety, and welfare.

#### 4.10 AMPLIFIED MUSIC

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

#### 4.11 TRAFFIC

To the maximum extent feasible, scheduling of reoccurring vehicle trips to and from the site for employees and deliveries shall not occur during peak travel times (8 a.m. to 9 a.m. and 4:30 p.m. to 5:30 p.m. weekdays; 4 p.m. to 5 p.m. on Saturdays; and 4 p.m. to 5 p.m. on Sundays). 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.

#### 4.12 PARKING

The location of 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.

#### 4.13 BUILDING DIVISION – USE OR OCCUPANCY CHANGES

Please contact the Building Division with any questions regarding the following:

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<sup>1</sup> Substantial evidence is defined by case law as evidence that is of ponderable legal significance, reasonable in nature, credible and of solid value. The following constitute substantial evidence: facts, reasonable assumptions predicated on facts; and expert opinions supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or clearly inaccurate or erroneous information do not constitute substantial evidence.

In accordance with the California Building Code (CBC), no change shall be made in the use of occupancy of an existing building unless the building is made to comply with the requirements of the current CBC for a new building.

4.14 FIRE DEPARTMENT – TEMPORARY STRUCTURES

Please contact the Fire Department with any questions regarding the following:

The permittee and/or designee shall obtain a tent permit from the Fire Department for any temporary structures utilized for authorized marketing events ~~Permit Nos. P05-0391 and P06-01008~~ [as set forth in COA No. 4.3](#).

4.15 NAPA COUNTY MOSQUITO ABATEMENT PROGRAM **[RESERVED]**

4.16 GENERAL PROPERTY MAINTENANCE – LIGHTING, LANDSCAPING, PAINTING, OUTDOOR EQUIPMENT STORAGE, AND TRASH ENCLOSURE AREAS

- a. All lighting shall be permanently maintained in accordance with the lighting and building plans approved by the County. Lighting utilized during harvest activities is exempt from this requirement.
- b. All landscaping and outdoor screening, storage, and utility structures shall be permanently maintained in accordance with the landscaping and building plans approved by the County. No stored items shall exceed the height of the screening. Exterior winery equipment shall be maintained so as to not create a noise disturbance or exceed noise thresholds in the County Code.
- c. 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. The permittee shall obtain the written approval of the Planning Division prior to any change in paint colors that differs from the approved building permit. Highly reflective surfaces are prohibited.
- d. Designated trash enclosure areas shall be made available and properly maintained for intended use.

4.17 NO TEMPORARY SIGNS

Temporary off-site signage, such as “A-Frame” signs, is prohibited.

4.18 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES – OPERATIONAL CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies’ requirements. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Building Division conditions as stated in their Memorandum dated April 7, 2017.



- b. Environmental Health Division conditions as stated in their Memorandum dated March 21, 2017.
- c. Engineering Services Division conditions as stated in their Memorandum dated December 22, 2016.
- d. Department of Public Works Memorandum dated March 21, 2016.
- e. Fire Department conditions as stated in their Inter-Office Memo dated January 3, 2017.
- f. Engineering Services Division Road Exception Approval as conditioned in their Memorandum dated December 22, 2016.

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 County 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 this permit.

4.19 OPERATIONAL MITIGATION MEASURES **[RESERVED]**

4.20 OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT **[RESERVED]**

- a. The Bay Area Air Quality Management District (BAAQMD) permit for use of the stationary generator ~~required~~ authorized in COA 6.15 shall remain valid and in effect until such time that the generator is no longer in use as a permanent power supply for the ~~w~~inery. per COA No. 4.20 (c)(3).
- b. To muffle noise from the backup generator, and ensure compliance with COA No. 6.6.(c), the ~~The~~ permittee shall permanently maintain use of the sound attenuating product required and installed to resolve CE14-00094 ~~until such time that the generator is no longer in use as a permanent power supply for the Winery.~~
- c. The winery's production increase from a maximum of 30,000-gallons per year to a maximum of 60,000-gallons per year shall occur in three phases (identified as A, B and C, below) subject to the permittee's completion and the PBES Department's verification of each prior phase as follows:
  - 1. Phase A: Complete engineered plans for permanent power to the winery either by connection to the grid via PG&E (or other utility) or a solar energy system, or both must be submitted to the County PBES Department prior to wine production being authorized to increase from a maximum of 30,000-gallons per year to a maximum of 40,000 gallons per year. The submitted plans shall include information on the backup generator, required per the California Building Code, to provide temporary power in the event of a power outage or emergency.

2. Phase B: A contract for the installation and delivery of permanent power either through PG&E (or other utility) or a third party solar energy provider must be signed and verification provided to the County PBES Department. The permittee shall also plant six cork oak trees from 38-inch diameter pots in the ground with adequate irrigation installed and in a manner to screen views of the backup generator and other mechanical equipment prior to the County issuing all building permits associated with removal of the cave portal door and other approved improvements and prior to wine production being authorized to increase to a maximum of 50,000-gallons per year. Upon providing verification of the signed contract, installation of the screening trees, and following Building Division final inspection of necessary building permits, the winery may host three of its marketing events per year (at least one shall be a small marketing event) as authorized by COA Nos. 4.3 and 4.20(c)(2) between noon and 9:30 p.m. on the ridgeline subject to having provided at least 30 days prior notice by email to the contiguous property owners of such events. A copy of the notice shall also be provided to the PBES Department.

3. Phase C: Permanent power either via PG&E or a solar energy system must be installed, operational, and have passed final Building Division inspections by July 31, 2019, and all generators must be removed by July 31, 2019, except the backup power source approved and permitted by the PBES Department Building Division, prior to wine production being authorized to increase from a maximum of 50,000-gallons per year to a maximum of 60,000-gallons per year. If the permittee fails to comply by this deadline, wine production shall be reduced and revert back to a maximum of 40,000-gallons per year beginning with the next crush and harvest season and thereafter until such time as permanent power is operational and any non-back up/secondary generators have been removed. Once these conditions have been satisfied, the winery may increase production to a maximum of 60,000-gallons per year. If permanent power has not been installed or is not operational because of matters beyond the control of permittee, such as changed laws, legal or regulatory proceedings or delays, delays caused by PG&E or "force majeure" events, then so long as the permittee continues to use best efforts with due diligence to the satisfaction of the County Building Official, the punitive measures of this provision will not become effective.

d. Prior to beginning construction on any Phase 2 cave improvements, the permittee shall submit building permits to the PBES Department Building Division. Following completion of Phase 2 cave improvements and upon issuance of a Final Certificate of Occupancy for Phase 2, the permittee shall cease use of the temporary tasting areas in Phase 1 of the cave authorized by COA No. 4.2 (I) and restore the area to the previously approved storage and production uses.

e. With the exception of harvest and/or crush activities and up to 6 bottlings per year, before 8:00 a.m. production activities shall only occur within the cave.

#### 4.21 PREVIOUS CONDITIONS

The permittee shall comply with the following previous conditions of approval for the winery use as consolidated into the attached document as Exhibit A. To the extent there is a conflict between a previous condition of approval identified in the attached document and these conditions, the more stringent condition shall control.

### PART III

#### 5.0 PREREQUISITE FOR ISSUANCE OF PERMITS

##### 5.1 PAYMENT OF FEES

No building, grading or sewage disposal permits shall be issued or other permits authorized until all accrued planning permit processing fees have been paid in full. This includes all fees associated with plan check and building inspections, associated development impact fees established by County Ordinance or Resolution, and the Napa County Affordable Housing Mitigation Fee in accordance with County Code.

#### 6.0 GRADING/DEMOLITION/ENVIRONMENTAL/BUILDING PERMIT/OTHER PERMIT PREREQUISITES

Permittee shall comply with the following with the submittal of a grading, demolition, environmental, building and/or other applicable permit applications.

##### 6.1 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES – PLAN REVIEW, CONSTRUCTION AND PREOCCUPANCY CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies' 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. Building Division conditions as stated in their Memorandum dated April 7, 2017.
- b. Environmental Health Division conditions as stated in their Memorandum dated March 21, 2017.
- c. Engineering Services Division conditions as stated in their Memorandum dated December 22, 2016.
- d. Department of Public Works Memorandum dated March 21, 2016.
- e. Fire Department conditions as stated in their Inter-Office Memo dated

January 3, 2017.

- f. Engineering Services Division Road Exception Approval as conditioned in their Memorandum dated December 22, 2016.

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 County 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 permit.

## 6.2 BUILDING DIVISION – GENERAL CONDITIONS

- a. A building permit shall be obtained for all construction occurring on the site not otherwise exempt by the CBC or any State or local amendment adopted thereto.
- b. If there are any existing structures and/or buildings on the property that will need to be removed to accommodate construction activities, a separate demolition permit shall be required from the Building Division prior to removal. The permittee shall provide a “J” number from the BAAQMD at the time the permittee applies for a demolition permit if applicable.
- c. All areas of newly designed and newly constructed buildings, facilities and on-site improvements must comply with the CBC accessibility requirements, as well as, American with Disability Act requirements when applicable. When alterations or additions are made to existing buildings or facilities, an accessible path of travel to the specific area of alteration or addition shall be provided as required per the CBC.

## 6.3 LIGHTING – PLAN SUBMITTAL

- a. Two (2) copies of a detailed lighting plan showing the location and specifications for all lighting fixtures to be installed on the property shall be submitted for Planning Division review and approval. All lighting shall comply with the CBC.
- b. 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; on timers; and shall incorporate the use of motion detection sensors to the greatest extent practical. All lighting shall be shielded or placed such that it does not shine directly on adjacent properties or impact vehicles on adjacent streets. 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 exempt from this requirement.

## 6.4 LANDSCAPING – PLAN SUBMITTAL **[RESERVED]**

## 6.5 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. The permittee shall obtain the written approval of the Planning Division in conjunction with building permit review and/or prior to painting the building. Highly reflective surfaces are prohibited.

#### 6.6 OUTDOOR STORAGE/SCREENING/UTILITIES

- a. Details of outdoor storage areas and structures shall be included on the building and landscape plans. All outdoor storage of winery equipment shall be screened from the view of residences of adjacent properties by a visual barrier consisting of fencing or dense landscaping. No stored item 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.
- b. 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 the County Code) shall be placed underground or in an equivalent manner be made virtually invisible from the subject roadway.
- c. Exterior winery equipment shall be located, enclosed or muffled so as not to exceed noise thresholds in the County Code.

#### 6.7 TRASH ENCLOSURES

Adequate area must be provided for collection and loading of garbage and recyclables generated by the project. The applicant must work with the franchised garbage hauler for the service area in which they are located, in order to determine the area and the pedestrian and vehicle access needed for the collection site. The garbage and recycling enclosure shall meet the minimum enclosure requirements established by staff and the franchised hauler, which shall be included in the building permit submittal.

#### 6.8 ADDRESSING

All project site addresses shall be determined by the PBES Director, and be reviewed and approved by the United States Post Office. 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.

#### 6.9 HISTORIC RESOURCES **[RESERVED]**

#### 6.10 DEMOLITION ACTIVITIES

- a. Final demolition plans for the interior fourth portal wall shall be submitted for building permit issuance. A site plan prepared by a qualified professional shall denote streams, stream setbacks, existing and proposed improvements and slopes. No new construction or earthmoving activities are allowed within established stream setbacks unless specifically approved as part of this permit in COA No. 1.0 (Scope), above. As determined by the PBES Director or designee, temporary

construction fencing shall be placed at the stream setback line to prevent unauthorized encroachments.

b. **[RESERVED]**

6.11 VIEWSHED – EXECUTION OF USE RESTRICTION

The property owner shall execute and record in the County Recorder's office a use restriction, in a form approved by County Counsel, requiring existing covering vegetation around the patio terrace, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successor so as to maintain conformance with the County Code.

6.12 PERMIT PREREQUISITE MITIGATION MEASURES **[RESERVED]**

6.13 PARCEL CHANGE REQUIREMENTS **[RESERVED]**

6.14 FINAL MAPS **[RESERVED]**

6.15 OTHER CONDITIONS APPLICABLE TO THE PROJECT PERMITTING PROCESS

a. The building permit application for the conversion of the private residential patio to a winery visitation and marketing area shall include [improvements to all outdoor areas approved for visitation/marketing](#). All outdoor assembly areas used for visitation/marketing shall comply with California Building Code Accessibility requirements. Staff will review required improvements to the outdoor assembly areas to confirm continued compliance with the Viewshed Ordinance. Use of these areas shall not commence until [the permittee has complied with COA No. 4.20 \(c\)\(2\) regarding Phase B and until](#) a Final Certificate of Occupancy has been granted.

b. ~~If a permit~~ ~~The permittee shall be required to obtain a permit for use of the stationary generator~~ from the BAAQMD [is required for the continued, temporary use of the stationary generator until the permanent power source required by COA No. 4.20 \(c\)\(3\) is installed and operational, the permittee shall obtain said permit](#) within 30 days of the date of this approval. A copy of the authorized permit shall be submitted to the PBES Department. The PBES Director or designee may extend ~~either this~~ timeline ~~specified in this COA 6.15,~~ upon [a](#) showing of good cause by the permittee. Any request for extension of time must be submitted in writing by the permittee and received by the PBES Director before the end of the timelines ~~s~~ specified herein, as those timelines may be extended by the PBES Director.

c. [Landscaping Plan Submittal. Two \(2\) copies of a landscaping and irrigation plan 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 Use Permit. The landscape plan shall include six cork oak trees in 38-inch diameter pots, which shall be planted in the ground with adequate irrigation installed. The trees shall be planted on the northern hillside above the outdoor](#)

equipment enclosure in a manner to screen views of the backup generator and other mechanical equipment.

The plan shall be prepared pursuant to the County's Water Efficient Landscape Ordinance (Chapter 18.118 of the County Code) requirements in effect at the time of building permit application submittal, 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, and to the greatest extent possible, the plant materials shall be the same native plants found in Napa County. The Agricultural Commissioner's office shall be notified of all impending deliveries of live plants with points of origin outside of Napa County.

- d. Building Code Compliance. Within 20 days of the date of this approval, the permittee shall meet with the County Building Official (CBO) or the CBO's designee, in order to identify all corrective measures necessary and a timeline to achieve compliance with Building Code, Fire Code and Title 24 Accessibility requirements for the cave and the winery, as identified in COA Nos. 6.15 (e) and 6.15 (f) below. In identifying necessary corrective measures, priority shall be given to those measures necessary to protect the safety of winery visitors and employees. The permittee may request a code compliance site inspection from the CBO or the CBO's designee, in order to facilitate the effort of identifying the corrective measures necessary to achieve such compliance.

Consistent with County Code Section 15.04.070, the CBO may extend the 30-day periods specified in COA Nos. 6.15(e) and 6.15.(f) by taking into consideration the severity of the required changes with respect to public safety, or other factors that the CBO determines are reasonable. Any request for extension of time must be submitted in writing by the permittee and received by the CBO before the end of the timelines specified herein, as those timelines may be extended by the CBO.

- e. Within 30 days of this approval, the permittee must submit to the PBES Department's Building Division a building permit application for the generator that will continue to serve as the temporary, primary power source until the permanent power source is installed and operational as required by COA No. 4.20 (c)(3).

- f. Within 30 days of this approval, the permittee shall submit to the PBES Department's Building Division a building permit application showing the location(s) in Phase 1 of the cave where temporary tastings would occur (per COA No. 4.2 (l)). The plans shall show access to these areas and include details on exiting and safety. The plans shall verify that all accessory uses in Phase 1 of the cave do not exceed the maximum permitted Accessory to Production Ratio (40 percent) per the County Code. Any future phasing of development shall continue to comply with the Accessory to Production Ratio.

## 7.0 PROJECT CONSTRUCTION

Permittee shall comply with the following during project construction:

### 7.1 SITE IMPROVEMENTS

Please contact Engineering Services with any questions regarding the following.

#### a. GRADING AND SPOILS

All grading and spoils generated by construction of the project facilities shall be managed per Engineering Services direction. Alternative locations for spoils are permitted, subject to review and approval by 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.

#### b. 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 when average wind speeds exceed 20 mph.

#### c. AIR QUALITY

During all construction activities the permittee shall comply with the most current version of BAAQMD Basic Construction Best Management Practices including but not limited to the following, as applicable:

1. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. The BAAQMD's phone number shall also be visible.
2. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, grading areas, and unpaved access roads) two times per day.
3. Cover all haul trucks transporting soil, sand, or other loose material off-site.
4. Remove all visible mud or dirt traced onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
5. All vehicle speeds on unpaved roads shall be limited to 15 mph.
6. 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.
7. Idling times shall be minimized either by shutting off equipment when not in use or reducing the maximum idling time to five (5) minutes (as required by State Regulations). Clear signage shall be provided for construction workers at all access points.



8. 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. Any portable engines greater than 50 horsepower or associated equipment operated within the BAAQMD's jurisdiction shall have either a California Air Resources Board (ARB) registration Portable Equipment Registration Program (PERP) or a BAAQMD permit. For general information regarding the certified visible emissions evaluator or the registration program, visit the ARB FAQ [http://www.arb.ca.gov/portable/perp/perpfact\\_04-16-15.pdf](http://www.arb.ca.gov/portable/perp/perpfact_04-16-15.pdf) or the PERP website <http://www.arb.ca.gov/portable/portable.htm>.

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 California Regional Water Quality Control Board.

7.2 **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 PBES 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 project development, all work in the vicinity must be 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 permittee shall comply with the requirements of Public Resources Code Section 5097.98.

7.3 **CONSTRUCTION NOISE**

Construction noise shall be minimized to the greatest extent practical and feasible under State and local safety laws, consistent with construction noise levels permitted by the General Plan Community Character Element and the County Noise Ordinance. Construction equipment muffling and hours of operation shall be in compliance with the County Code. Equipment shall be shut down when not in use. Construction equipment shall normally be staged, loaded, and unloaded on the project site, if at all practicable. 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 daily between the hours of 8 a.m. to 5 p.m.

7.4 **CONSTRUCTION MITIGATION MEASURES [RESERVED]**

7.5 **OTHER CONSTRUCTION CONDITIONS APPLICABLE TO THE PROJECT PROPOSAL [RESERVED]**

## **8.0 TEMPORARY CERTIFICATE OF OCCUPANCY - PREREQUISITES**

A Temporary Certificate of Occupancy (TCO) may be granted pursuant to the County Code to allow the commencement of production activities prior to completion of all project improvements. Permittee shall comply with the following before a TCO is granted:

### **8.1 TEMPORARY OCCUPANCY**

All life and safety conditions shall be addressed prior to issuance of a TCO by the County Building Official. TCOs shall not be used for the occupancy of hospitality buildings and shall not exceed the maximum time allowed by the County Code which is 180 days. Departments and/or agencies with jurisdiction over the project are authorized as part of the TCO process to require a security deposit or other financial instrument to guarantee completion of unfinished improvements.

## **9.0 FINAL CERTIFICATE OF OCCUPANCY – PREREQUISITES**

Permittee shall comply with the following before a Final Certificate of Occupancy is granted by the County Building Official, which upon granting, authorizes all use permit activities to commence.

### **9.1 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.

### **9.2 SIGNS**

Detailed plans, including elevations, materials, color, and lighting for any winery identification or directional signs shall be submitted to the Department for administrative review and approval prior to installation. 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 permit approval. All signs shall meet the design standards as set forth in the County Code. At least one legible sign shall be placed at the property entrance with the words “Tours and Tasting by Prior Appointment Only” to inform the public of same. Any off-site signs allowed shall be in conformance with the County Code.

### **9.3 GATES/ENTRY STRUCTURES**

Any gate installed at the winery entrance shall be reviewed by the PBES Department and the Fire Department to assure that the design allows 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 pursuant 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 permit approval.

### **9.4 LANDSCAPING [RESERVED]**

### **9.5 ROAD OR TRAFFIC IMPROVEMENT REQUIREMENTS [RESERVED]**

### **9.6 DEMOLITION ACTIVITIES**

All demolition activities associated with the interior fourth portal wall shall be completed, landscaping installed, and debris cleared from the subject parcel.

9.7 GRADING SPOILS

All spoils shall be removed in accordance with the approved grading permit and/or building permit.

9.8 MITIGATION MEASURES APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY **[RESERVED]**

9.9 OTHER CONDITIONS APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY **[RESERVED]**

Modified Exhibit A

**The Caves at Soda Canyon  
Application Number P16-00106  
2275 Soda Canyon Road  
APN 039-640-013  
PREVIOUS CONDITIONS**

- 4.21 The permittee shall comply with the following previous conditions of approval for the winery use as consolidated in this document. To the extent there is a conflict between a previous condition of approval identified in this document and the Recommended Conditions of Approval, the more stringent condition shall control.

**A. USE PERMIT NO. P05-0391 AND USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS NO. P06-01008**

COA No. 1: Scope

The permit shall be limited to:

- Approval of a Use Permit for an exception to the Conservation regulations to construct the driveway and parking lot on slopes exceeding 30 percent;
- Approval of a Use Permit to establish a new 30,000-gallon per year winery within approximately 16,000 square feet of caves;
- Three full-time employees and one part-time employee;
- Construction of six (6) on-site parking spaces;
- Construction of a new driveway;
- Construction of a new waste disposal system;
- Three 15,000 gallon water storage tanks for fire protection, domestic water, and waste water processing.

COA No. 2: Marketing

[This Condition has been relocated to COA No. 4.3 in order to update the formatting to our current standards and have the standard language regarding the definition of "Marketing of wine" and Auction Napa Valley events. One condition has been modified and two additional items have been added per the compromise reached on appeal to the Board of Supervisors \(shown in track changes\).](#)

~~Marketing events shall be limited to the following:~~

- ~~• Six (6) private wine and food events for wine trade personnel per year for a maximum of 20 guests and an average of 10 guests.~~
- ~~• Ten (10) private wine and food events for a maximum of 100 guests with an average of 30 guests.~~
- ~~• One (1) private harvest event per year for a maximum of 200 guests.~~
- ~~• One (1) open house during the Napa Valley Wine Auction for auction ticket holders from 11:00 AM to 5:00 PM during the Wine auction week.~~

~~The marketing events will occur in designated areas on the winery premises, both inside and outside the cave, and include food service catered by an off-site service. Parking will be provided on-site or at an approved off-site location with a shuttle~~

~~service. Marketing events are all by invitation only and would occur either from 12:00 noon to 4:00 PM or 6:00 PM to 11:00 PM, as proposed below:~~

~~"Marketing of wine" means any activity of a winery identified in this paragraph which is conducted at the winery and is limited to members of the wine trade, persons who have pre-established business or personal relationships with the winery or its owners, or members of a particular group for which the activity is being conducted on a prearranged basis. Marketing of wine is limited to activities for the education and development of the persons or groups listed above with respect to wine which can be sold at the winery on a retail basis, and may include food service without charge except to the extent of cost recovery when provided in associated with such education and development, but shall not include cultural and social events unrelated to such education and development. (Ord. 1104 Section 11, 1996; Ord. 947 Section 9 (part), 1990; prior code section 12071).~~

~~Evening marketing events shall cease by 11:00 PM with personnel involved with the event off the premises by midnight. Start and finish times of activities shall be scheduled to minimize vehicles arriving or leaving between 4:00 PM and 5:30 PM.~~

#### COA No. 3: Tours and Tastings

[This Condition has been relocated to COA No. 4.2. in order to update the formatting to our current standards and have the standard language regarding the definition of "Tours and Tastings" and the requirement for a log book or similar record. Two additional items have been added per the compromise reached on appeal to the Board of Supervisors \(shown in track changes\).](#)

~~Tours and Tastings are limited to a maximum of 20 person/day with an average of 70 persons/week. "Tours and Tastings" means tours of the winery and/or tastings of wine, where such tours and tastings are limited to members of the wine trade, persons invited by a winery who have pre-established business or personal relationships with the winery or its owners, and persons who have made unsolicited prior appointments for tours or tastings. (Ord. 947 section 9 (part), 1990; prior code Section 12070). Tours and tastings shall complete by 4:00 PM. Retail sale of wines shall complete by 4:30PM and shall be limited to those wines set forth in Napa County Code Sec.~~

~~18.16.030(G)(5)(c). A log book (or similar record) shall be maintained which documents the number of visitors to the winery, and the dates of their visit. This record of visitors shall be made available to the Department upon request.~~

## **B. USE PERMIT MODIFICATION NO. P08-00527**

#### COA No. 1: Scope

- a) This approval is limited to the following:
- Modifying site grading in front of the cave portals to provide an area for cave spoils and to provide drainage benches in the fill slope;
  - Replacing the approved water treatment/reclaimed irrigation system with a hold and haul system including four (4) 5,000-gallon wastewater treatment tanks;

- Relocating water storage tanks and wastewater treatment tanks;
- A new mechanical equipment pad;
- Minor adjustments to the cave and storm drainage layout;
- Reconfiguration of the parking area;
- Other minor improvements as depicted on the site plan approved with this action.

No changes to the previously approved operational characteristics, production capacity, tours and tastings or marketing activities of the winery have been proposed or approved as part of this application.

- The site improvements shall be designed insubstantial conformance with the submitted site plan and other submittal materials, except as modified by these conditions of approval. It is the responsibility of the applicant to communicate the requirements of these conditions to all designers, contractors, and employees to ensure compliance is achieved. Any expansion or change in use, or project changes, which are necessitated by the requirements of other department or agencies, are subject to further County approval.
- The activities/improvements permitted on the site are limited to those shown on the plans and information submitted with the Modification application. Any substantial change in use is subject to review and approval as determined by CDPD Director in accordance with the Zoning Ordinance.
- Plans submitted for building permits shall be in substantial compliance with the plans approved with this action, except as modified by these conditions of approval.

### **C. ROAD MODIFICATION REQUEST NO. P13-00048**

#### COA No. 1: Scope

The permit shall be limited to:

An exception to the Napa County Road and Street Standards for a driveway that will serve a new winery. All roadway construction associated with this application, outside the request for a road and street standard variance shall conform to the current Road and Street Standards of Napa County at the time of permit submittal and accepted construction and inspections practices. The exception request generally consists of the following:

- Station 9+79 to 12+40: Road Exception Request for fourteen foot traffic lane with two foot of compacted earth shoulder;
- Station 13+20: to 16+20: Road Exception Request for fourteen foot traffic lane with two foot of compacted shoulder;
- Station 17+00: to 20+00: Road Exception Request for fourteen traffic lane and two foot of compacted earth shoulder;
- Station 20+80 to 23+50; Road Exception Request for a fourteen traffic lane and two foot of compacted earth shoulder;
- Station 12+40: an inter-visible turnout;
- Station 16+20: an inter-visible turnout;
- Station 20+00 an inter-visible turnout.

The project is on a 31.35 acre parcel located on Soda Canyon Road, approximately 3,300 feet from the intersection of Chimney Rock Road within the AW (Agricultural Watershed) Zoning District.

Minor changes to these roadway improvements may be permitted subject to review and approval by the Engineering Manager in consultation with the Fire Marshal, and consistent with the Road and Street Standard Exception Findings made for this request.

