

Draft Conditions of Approval

Date: November 13, 2008
Applicant: W. Guy Davis
Address: 245 Wappo Road, Santa Rosa

File No.: UPE07-0008
APN: 028-260-041

Project Description: Request for a Use Permit to establish a new winery consisting of 18,670 square feet of winery/hospitality buildings and a 8,670 square foot cave with a maximum annual production capacity of 10,000 cases with visitors/tasting by appointment only.

If any changes to plans, drawings, documents or specifications required pursuant to any conditions herein specified occur, these changes shall be brought to the appropriate department for review and approval prior to any construction or improvements. Also, these conditions shall be reviewed by all departments involved in the initial approval of the subject plans, drawings, documents or specifications that are proposed for change.

PRIOR TO PERMIT ISSUANCE AND CONSTRUCTION

Prior to issuance of any permits (grading, building, etc.) evidence must be submitted by the applicant/owner and verified by the Permit and Resource Management Department (PRMD) staff that all of the following pre-issuance conditions have been met.

BUILDING:

1. The applicant shall apply for and obtain building related permits from PRMD. The necessary applications appear to be, but may not be limited to, site review, building permit, and grading permit.
2. A building permit shall be required for all cave portals and any mechanical/electrical systems associated with the caves.
3. The applicant shall include these Conditions of Approval on (a) separate sheet(s) of the building and grading permit blueprint plan sets.

TRANSPORTATION AND PUBLIC WORKS:

"The conditions below have been satisfied" BY _____ DATE _____

4. Prior to issuance of any building permit which results from approval of this application, a development fee (Traffic Mitigation Fee) shall be paid to the County of Sonoma, as required by Section 26, Article 98 of the Sonoma County Code.

FLOOD AND DRAINAGE:

"The conditions below have been satisfied" BY _____ DATE _____

5. Drainage improvements shall be designed by a civil engineer in accordance with the Water Agency Flood Control Design Criteria, for approval by the PRMD Drainage Review Section, and shall be shown on the improvement drawings.
6. The engineer shall include a site grading plan, and an erosion control plan as part of the required improvement drawings. The plans shall include all pertinent details, notes, and specifications.
7. Drainage review approval is required prior to issuance of grading/building permits.
8. This project is subject to the National Pollutant Discharge Elimination System (NPDES) requirements, and coverage under the State General Construction Permit, as set by the Regional Water Quality Control Board (RWQCB). A copy of the Notice Of Intent (NOI) filed with the RWQCB, as well as the Waste Discharge Identification Number (WDID) issued by that agency; must be submitted to the Drainage Review Section
9. Material excavated from wine caves is subject to a grading permit requirement in the following

cases: if the material would be stockpiled on the site or if the material would be spread and graded on the site. Other properties receiving excavated material are required to have a separate grading permit.

HEALTH:

"The conditions below have been satisfied" BY _____ DATE

PRIOR TO BUILDING PERMIT :

Water:

10. Prior to building permit issuance, the applicant shall cause the proposed water supply system to be evaluated for potential contamination or pollution via backflow by an American Water Works Association certified Cross Connection Control Specialist. The recommendations for cross connection control shall, at a minimum, meet the requirements of the California Plumbing Code and subsequent editions adopted by Sonoma County. A copy of the report must be submitted to the Project Review Health Specialist for review.
11. Prior to building permit issuance, provide the Project Review Health Specialist with the bacteriological (E. Coli and total coliform) arsenic and nitrate analysis results of a sample of your water tested by a California State-certified lab. If the analysis shows contamination, the applicant will be required to treat the well per County requirements and re-test the well. If the contamination cannot be cleared from the well, destruction under permit of this department may be required. Copies of all laboratory results must be submitted to the Project Review Health Specialist.
12. Prior to building permit issuance, proof of water availability must be submitted in accordance with Section 7-12 of the Sonoma County Code, Chapter 7. Provide a 8 to 12 hour yield test that indicates a minimum of 1 gallon per minute, or an 8 to 12 hour yield test that indicates a minimum of two gallons per minute for a second unit, conducted during the dry season (July 15 through October 1).
13. Prior to the issuance of any building permit, an easement is required to be recorded for this project to provide Sonoma County personnel access to any on-site water well serving this project and any required monitoring well to collect water meter readings and groundwater level measurements. Access shall be granted Monday through Friday from 8:00 a.m. to 5:00 p.m. All easement language is subject to review and approval by PRMD Project Review and County Counsel prior to recordation.

Septic:

14. Prior to building permit issuance, a permit for the winery sewage disposal system shall be obtained. The system may require design by a Registered Civil Engineer or Registered Environmental Health Specialist and both soils analysis, percolation and wet weather testing may be required. Wet weather groundwater testing may also be required. The sewage system shall meet peak flow discharge of the wastewater from all sources granted in the Use Permit and any additional sources from the parcel plumbed to the disposal system. If a permit for a standard, innovative or Experimental Sewage Disposal System sized to meet all peak flows cannot be issued, then the applicant shall revise the project (fees apply and a hearing may be required) to amend the Use Permit to a reduced size, not to exceed the on-site disposal capabilities of the project site and attendant easements. The Project Review Health Specialist shall receive a final clearance from the District Specialist or Liquid Waste Specialist that all required septic system testing and design elements have been met.
15. Application for wastewater discharge requirements shall be filed by the applicant with the North Coast Regional Water Quality Control Board. Documentation of acceptance of a complete application with no initial objections or concerns by the Regional Water Quality Control Board shall be submitted to Project Review Health prior to building, grading for ponds or septic permit issuance (If Regional Water Board Staff have objections or concerns then the applicant shall obtain Waste Discharge Requirements prior to building permit issuance). A copy of the waste discharge permit shall be submitted to Project Review Health prior to issuance of a certificate of occupancy or project operation. An application may be printed from: <http://www.waterboards.ca.gov/northcoast/geninfo/genwinerywdr/wine.html>

16. Toilet facilities shall be provided for patrons and employees. A copy of the floor plan showing the location of the restrooms shall be submitted to Project Review Health prior to issuance of building permits. For planned tenant improvements, installed central water and wastewater lines the length of the building with appropriate breakout floor design is acceptable.

Consumer Protection:

17. Prior to the issuance of building permits and the start of any construction, plans and specifications for any retail food facility that serves food to the public must be submitted to, and approved by, the Environmental Health Division of the Health Services Department. Contact the Environmental Health Division at 565-6544 for information. The PRMD Project Review Health Specialist shall receive a letter of approval from the Environmental Health Division to verify compliance with requirements of the California Uniform Retail Food Facility Law (CURFFL).

Noise:

18. Prior to the issuance of building permits noise barrier walls shall be shown on the building plans around the mechanical area in accordance with the project description.

Vector Control:

19. A Mosquito and Vector Control Plan acceptable to the Marin-Sonoma Mosquito and Vector Control District (telephone 707-285-2200) shall be submitted prior to the construction of any ponds. The Project Review Health Specialist shall receive a copy of the Vector Control Plan and an acceptance letter from the Marin-Sonoma Mosquito and Vector Control District.

PLANNING:

"The conditions below have been satisfied" BY _____ DATE

20. The applicant shall pay all applicable development fees prior to issuance of building permits.
21. Development on this parcel is subject to the Sonoma County Fire Safe Standards and shall be reviewed and approved by the County Fire Marshal/Local Fire Protection District. Said plan shall include, but not be limited to: emergency vehicle access and turn-around at the building site(s), addressing, water storage for fire fighting, and fire break maintenance around all structures. Prior to occupancy, written approval that the required improvements have been installed shall be provided to PRMD from the County Fire Marshal/Local Fire Protection District.
23. Prior to building permit issuance or prior to exercising this approval, whichever comes first, the property owner(s) shall execute and record a Right-to-Farm declaration on a form provided by PRMD.
24. Within five working days after project approval, the applicant shall pay a mandatory Notice of Determination filing fee of \$50 (or latest fee in effect at time of payment) for County Clerk processing, and \$1,876.75 (or latest fee in effect at the time of payment) because a Negative Declaration was prepared, for a total of \$1,926.75 made payable to Sonoma County Clerk and submitted to PRMD. If the required filing fee is not paid for a project, the project will not be operative, vested, or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the Fish and Game Code.) NOTE: If the fee is not paid within five days after approval of the project, it will extend time frames for CEQA legal challenges.
25. At the time of submitting a building permit application, the applicant shall submit to PRMD a Condition Compliance Review Fee deposit (amount to be determined consistent with the ordinance in effect at the time). In addition, the applicant shall be responsible for payment of any additional compliance review fees that exceed the initial deposit (based upon hours of staff time worked) prior to final occupancy being granted.
26. All building and/or grading permits shall have the following note printed on plan sheets:

"In the event that archaeological features such as pottery, arrowheads, midden or culturally

modified soil deposits are discovered at any time during grading, scraping or excavation within the property, all work shall be halted in the vicinity of the find and County PRMD Project Review staff shall be notified and a qualified archaeologist shall be contacted immediately to make an evaluation of the find and report to PRMD. PRMD staff may consult and/or notify the appropriate tribal representative from tribes known to PRMD to have interests in the area. Artifacts associated with prehistoric sites include humanly modified stone, shell, bone or other cultural materials such as charcoal, ash and burned rock indicative of food procurement or processing activities. Prehistoric domestic features include hearths, firepits, or house floor depressions whereas typical mortuary features are represented by human skeletal remains. Historic artifacts potentially include all by-products of human land use greater than 50 years of age including trash pits older than fifty years of age. When contacted, a member of PRMD Project Review staff and the archaeologist shall visit the site to determine the extent of the resources and to develop and coordinate proper protection/mitigation measures required for the discovery. PRMD may refer the mitigation/protection plan to designated tribal representatives for review and comment. No work shall commence until a protection/mitigation plan is reviewed and approved by PRMD - Project Review staff. Mitigations may include avoidance, removal, preservation and/or recordation in accordance with California law. Archeological evaluation and mitigation shall be at the applicant's sole expense.

"If human remains are encountered, excavation or disturbance of the location shall be halted immediately in the vicinity of the find, and the County Coroner contacted. If the Coroner determines the remains are Native American, the Coroner will contact the Native American Heritage Commission (NAHC). The NAHC will identify the person or persons believed to be most likely descended from the deceased Native American. The NAHC will then work with the applicant on re-interring the remains. The applicant shall be responsible for all costs incurred in the removal, identification and reburial of the remains. This condition shall be noted on all grading and construction plans and provided to all contractors and superintendents on the job site regarding the procedures to follow in the event that human remains are found including contact information for the County Coroner's Office."

Mitigation Monitoring: Building/grading permits shall not be approved for issuance by Project Review staff until the above notes are printed on the building, grading and improvement plans.

27. If paleontological artifacts are found during site development, all earthwork in the vicinity of the find shall cease, and PRMD staff shall be notified so that the find can be evaluated by a qualified paleontologist. When contacted, a member of PRMD Project Review staff and the paleontologist shall visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. No earthwork in the vicinity of the find shall commence until a mitigation plan is approved and completed subject to the review and approval of the paleontologist and Project Review staff. This condition shall be noted on all grading and construction plans and provided to all contractors and superintendents on the job site regarding the procedures to follow in the event that artifacts are found including contact information for PRMD.

Mitigation Monitoring: Staff shall check plans for notation of the condition, prior to issuance of grading permits and shall conduct site inspections as necessary during construction. This condition shall be noted on all grading and construction plans and provided to all contractors and superintendents on the job site.

28. The following dust control measures will be included in the project:
- A. Water or other dust palliative will be applied to unpaved portions of the construction site, unpaved roads, parking areas, staging areas and stockpiles of soil daily as needed to control dust.
 - B. Trucks hauling soil, sand and other loose materials over public roads will cover the loads, or will keep the loads at least two feet below the level of the sides of the container, or will wet the load sufficiently to prevent dust emissions.
 - C. Paved roads will be swept as needed to remove any visible soil that has been carried onto them from the project site.

Mitigation Monitoring: Building/grading permits for ground disturbing activities shall not be approved

for issuance by Project Review staff until the above notes are printed on the building, grading and improvement plans. The applicant shall be responsible for notifying construction contractors about the requirement for dust control measures to be implemented during construction. If dust complaints are received, PRMD staff shall conduct an on-site investigation. If it is determined by PRMD staff that complaints are warranted, the permit holder shall implement additional dust control measures as determined by PRMD or PRMD may issue a stop work order. (Ongoing during construction)

29. The project shall comply with all provisions of the County Low Water Use Landscaping Ordinance.
30. All new structures, lighting and signs shall require final design review by PRMD or the Design Review Committee prior to issuance of building permits. All exterior finishes shall be of non-reflective materials and colors.
31. Prior to issuance of building permits, an exterior lighting plan shall be submitted for review and approval by PRMD Project Review staff. Exterior lighting shall be low mounted, downward casting and fully shielded to prevent glare. Lighting shall not wash out structures or any portions of the site. Light fixtures shall not be located at the periphery of the property and shall not spill over onto adjacent properties or into the night sky. Flood lights are not permitted. All parking lot shall be full cut-off fixtures and shall not exceed 4 feet in height. Lighting shall shut off automatically after closing and security lighting shall be motion-sensor activated.

Mitigation Monitoring: PRMD shall not issue the building permit until an exterior night lighting plan has been reviewed and approved by PRMD Project Review staff and is consistent with the approved plans and County Design Standards. PRMD shall not sign off the building permit for occupancy until a site inspection of the property has been conducted that indicates all lighting improvements have been installed according to the approved plans and conditions. If light and glare complaints are received, PRMD shall conduct a site inspection and require the property be brought into compliance or procedures to revoke the permit and terminate the use shall be initiated.

32. The project shall comply with all recommendations contained in the Preliminary Geologic Study prepared by RGH Consultants, Inc. dated April 22, 2008. In addition, a detailed, site-specific Geotechnical Study shall be prepared and submitted with grading and construction plans. Said Study shall address all issues raised in the Preliminary Geologic Study and review by Kleinfelder, and shall insure that the construction of the winery is engineered to eliminate the probability of downward creep, erosion, landslides, and soil/bedrock expansion.

Mitigation Monitoring: Prior to approval of the grading, drainage, and construction plans for the project, PRMD Project Review staff shall ensure that the Geotechnical Study is submitted for Engineering Division Review and Approval.

33. Construction of new or expanded non-residential development on shall be subject to Workforce Housing Requirements pursuant to 26-89-045 of the Sonoma County Code.

PRIOR TO OCCUPANCY OR USE

HEALTH:

"The conditions below have been satisfied" BY _____ DATE _____

34. Prior to occupancy, backflow prevention devices shall be installed on the water supply system as recommended, after concurrence with the hazard evaluation and recommendations for cross connection control report by PRMD.

This condition shall not be signed off until the Project Review Health Specialist receives a letter from the cross connection control specialist stating that backflow prevention has been installed as recommended.

35. Prior to building occupancy, all wastewater plumbing shall be connected to a sewage disposal system that has been constructed under permit for the proposed use by the Well

and Septic Section of PRMD.

This condition shall not be signed off until the Project Review Health Specialist receives a final clearance from the district specialist that all required septic system testing, design elements, construction inspections and any required operating permits have been met.

ONGOING OPERATIONAL CONDITIONS

HEALTH:

"The conditions below have been satisfied" BY _____ DATE _____

36. The property owner or lease holder shall have the backflow prevention assembly tested by an American Water Works Association certified Backflow Prevention Assembly Tester at the time of installation, repair, or relocation and at least on an annual schedule thereafter.
37. A safe, potable water supply shall be provided and maintained.
38. Groundwater elevations and quantities of groundwater extracted for this site shall be monitored and reported to PRMD pursuant to Section WR-2d (formally RC-3b) of the Sonoma County General Plan and County policies.
39. Maintain the annual operating permit for any alternative (mound or pressure distribution) or experimental septic system installed per Sonoma County Code 24-32 and all applicable Waste Discharge Requirements set by the Regional Water Quality Control Board.
40. Use of the on-site wastewater disposal system shall be in accordance with the design and approval of the system.
41. The applicant shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tank and AB2185 (Hazardous Materials Handling) requirements and maintain any applicable permits for these programs.
42. Prior to providing any food service or allowing any patron/customer food consumption on site, the applicant shall obtain approval from the Environmental Health Division of the Health Services Department. This approval applies to special events, marketing dinners, food sample and wine tasting, catered services or other sales or services of food or beverages that apply under the CURFFL regulations. The applicant shall maintain all required Food Industry Permits.
43. All future sewage disposal system repairs shall be completed in the designated reserve areas and shall meet Class I Standards. Alternate reserve areas may be designated if soil evaluation and testing demonstrate that the alternative reserve area meets or exceeds all of the requirements that would have been met by the original reserve area.
44. To ensure that no neighbors are affected by odors caused by the residues of the grape crush, all residues must be removed from the site, or composted, or disced into the soil within two days of being crushed.
45. Noise shall be controlled in accordance with the standards set in the Noise Element of the Sonoma County General Plan.

Noise:

46. Noise shall be controlled in accordance with the following as measured at the exterior property line of any affected residential or sensitive land use:

Hourly Noise Metric¹, dBA	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
L50 (30 minutes in any hour)	50	45
L25 (15 minutes in any hour)	55	50
L08 (5 minutes in any hour)	60	55

L02 (1 minute in any hour)	65	60
¹ The sound level exceeded n% of the time in any hour. For example, the L50 is the value exceeded 50% of the time or 30 minutes in any hour; this is the median noise level. The L02 is the sound level exceeded 1 minute in any hour.		

Limit exceptions to the following:

- a. If the ambient noise level exceeds the standard in Table NE-2, adjust the standard to equal the ambient level, up to a maximum of 5 dBA above the standard, provided that no measurable increase (i.e. +/- 1.5 dBA) shall be allowed.
- b. Reduce the applicable standards in Table NE-2 by five dBA for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises, such as pile drivers and dog barking at kennels.
- c. Reduce the applicable standards in Table NE-2 by 5 decibels if the proposed use exceeds the ambient level by 10 or more decibels.
- d. For short term noise sources which are permitted to operate no more than six days per year, such as concerts or race events, the allowable noise exposures shown in Table NE-2 may be increased by 5 dB. These events shall be subject to a noise management plan including provisions for maximum noise level limits, noise monitoring, complaint response and allowable hours of operation. The plan shall address potential cumulative noise impacts from all events in the area.
- e. Noise levels may be measured at the location of the outdoor activity area of the noise sensitive land use, instead of the exterior property line of the adjacent noise sensitive land use where:
 1. The property on which the noise sensitive use is located has already been substantially developed pursuant to its existing zoning, and
 2. There is available open land on those noise sensitive lands for noise attenuation.

This exception may not be used on vacant properties which are zoned to allow noise sensitive uses.

47. Amplified sound and the very loud musical instruments (such as horns, drums and cymbals) are not permitted outdoors. The quieter, non-amplified musical instruments (such as piano, stringed instruments, woodwinds, flute, etc) are allowed outdoors when in compliance with the Noise Element of the Sonoma County General Plan.

Solid Waste:

48. All garbage and refuse on this site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid, and shall not be filled beyond a gross weight of 50 pounds (80 pounds if serviced by a mechanical lifting device). All garbage and refuse on this site shall not be accumulated or stored for more than seven calendar days, and shall be properly disposed of to a County Transfer Station or County Landfill before the end of the seventh day. Please note that the Local Enforcement Agency (at Environmental Health) bills at an hourly rate for enforcement of violations of the solid waste requirements.

PLANNING:

"The conditions below have been satisfied" BY _____ DATE _____

49. This Use Permit allows the applicant to operate a winery with a maximum annual production capacity of 10,000 cases with tasting by appointment only for a maximum of 15 people at a time including construction of an 18,670 square foot building and a 8,670 square feet cave

for barrel storage. The permitted hours of operation are 8:00 a.m. to 5:00 p.m. except during crush and for wine maker dinners. The kitchen use will be limited to preparing dinners for wine industry sales and marketing representatives at a frequency not to exceed 10 dinners per year with a maximum number of ten dinner guests at one time. The use shall be operated in accordance with the proposal statement dated December 20, 2007, and site plan prepared by Atterbury and Associates dated August 15, 2007, and building designs by Backen Gillam dated June 20, 2008, located in File# UPE07-0008 unless otherwise modified by these conditions other than, special events requiring a Zoning Permit are prohibited.

50. This use shall be constructed, maintained, and operated in conformance with all applicable county, state, and federal statutes, ordinances, rules, and regulations. A violation of any applicable statute, ordinance, rule, or regulation shall be a violation of the Use Permit, subject to revocation.
51. No 18-wheel trucks with two trailers ("doubles") shall serve the winery facility.
52. All surplus and excavated soils shall be retained onsite subject to the provisions of 6.a.iv above. All surplus soils that cannot be used on the project site shall be disposed of at an acceptable disposal site. If any areas outside the project site are used for disposal or stockpiling of soil or other materials, the contractor shall be required to demonstrate that the site has all the required permits, including, if applicable, a grading permit.

Mitigation Monitoring: The contractor shall be required to provide evidence to the County that the disposal site does not affect wetlands under the jurisdiction of the Army Corps of Engineers, or that the site has the appropriate permits.

53. Any proposed modification, alteration, and/or expansion of the use authorized by this Use Permit shall require the prior review and approval of PRMD or the Board of Supervisors, as appropriate. Such changes may require a new or modified use permit and full environmental review.
54. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. The Director of PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by the Director of PRMD are limited to those items that were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from the Director, and shall not affect the original permit approval date or the term for expiration of the permit.
55. This permit shall be subject to revocation or modification by the Board of Supervisors if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-92-120 and 26-92-140 of the Sonoma County Code.

In any case where the Use Permit has not been vested within two (2) years after the date of the granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect, provided however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-92-130 of the Sonoma County Code.