

RESOLUTION NO. 2012-____

A RESOLUTION OF CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA ADOPTING A MITIGATED NEGATIVE DECLARATION BASED UPON AN INITIAL STUDY PREPARED FOR THE BRIAN ARDEN WINERY PROJECT AT 331 SILVERADO TRAIL (APN 011-050-030) WITHIN THE “PD”, PLANNED DEVELOPMENT DISTRICT.

1 **WHEREAS**, Ronald and Judith Thomas are the owners of the subject
2 property for which this application is proposed; and
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4 **WHEREAS**, an application was submitted by Burt Harlan on September
5 16, 2011 requesting an amendment to Planned Development Zoning District to
6 allow the Brian Arden Winery Project, a 10,000 case production winery and wine
7 related uses including limited events, administrative offices, retail sales and
8 tasting locates at 331 Silverado Trail (APN 011-050-030); and
9

10 **WHEREAS**, in accordance with the California Environmental Quality Act
11 (CEQA), the City of Calistoga, Planning and Building Department prepared an
12 Initial Study/CEQA Checklist, which identified potentially significant impacts to air
13 quality, biological resources, cultural resources, geology and soils, greenhouse
14 gas emissions, hydrology and water quality and mandatory findings of
15 significance were identified; and
16

17 **WHEREAS**, the applicant has agreed to incorporate the mitigation
18 measures; therefore, the proposed project as amended by mitigation measures
19 would not have a significant adverse impact on the environment; and
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21 **WHEREAS**, the Planning Commission has reviewed and considered this
22 application at its regular meeting on March 21, 2012, and prior to taking action on
23 the application, the Commission received written and oral reports by the Staff,
24 and received public testimony. After considering the project, the Commission
25 adopted Resolution 2012-06 recommending adoption of the draft Mitigated
26 Negative Declaration based upon findings presented in the Staff Report and
27 subject to mitigation measures; and
28

29 **WHEREAS**, the City Council has reviewed and considered the Draft Initial
30 Study/Mitigated Negative Declaration prepared for the Project at its regular
31 meeting on April 17, 2012, and prior to taking action on the application, the
32 Council received written and oral reports by the Staff, and received public
33 testimony; and
34

35 **WHEREAS**, that on the basis of the Initial Study prepared for the Project,
36 the construction and operation of the Project will not have a significant effect on

37 the environment and, therefore, a Mitigated Negative Declaration is adopted
38 based on the following findings.

- 39
40 1. An Initial Study was prepared pursuant to the California Environmental
41 Quality Act and has been considered as a result of this project and
42 although the project could have a significant effect on the environment,
43 there will not be a significant effect in this case because mitigation
44 measures to reduce all impacts to a level of insignificance or to avoid such
45 impacts have been identified and agreed to by the applicant. A Mitigated
46 Negative Declaration should therefore be prepared with the mitigation
47 measures as adopted as Conditions of Approval.
48
49 2. As mitigated this Project will not result in any significant adverse
50 environmental impacts. There is no evidence that this project will result in
51 any adverse impacts to fish and wildlife habitat.
52

53 **NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of
54 Calistoga that based on the above Findings, adopts a Mitigated Negative
55 Declaration, subject to the following Mitigation Measures.
56

57 **AIR QUALITY**
58

59 Mitigation Measures AIR-1: Prior to building permit or grading permit issuance,
60 the Applicant shall prepare and submit an Dust and Exhaust Control Plan that
61 incorporates the following Best Management Practices with notes, details and or/
62 specifications subject to the review and approval of the Public Works and
63 Planning and Building Departments.
64

- 65 a) Exposed soils shall be watered periodically during construction, a minimum
66 of twice daily. The frequency of watering shall be increased if wind speeds
67 exceed 15 mph. Only on-site well water, purchased city potable water (if
68 available and subject to the review and approval of the Director of Public
69 Works) or reclaimed water shall be used for this purpose. Responsibility for
70 watering shall include weekends and holidays when work is not in progress, if
71 wind speeds are higher than 15 mph.
72
73 b) During excavation activities, haul trucks used to transport soil shall utilize
74 tarps or other similar covering devices to reduce dust emissions.
75
76 c) Grading and construction equipment operated during construction activities
77 shall be properly muffled and maintained to minimize emissions. Equipment
78 shall be turned off when not in use.
79
80 d) Construction sites involving earthwork shall provide for a gravel pad area
81 consisting of an impermeable liner and drain rock at the construction entrance

- 82 to clean mud and debris from construction vehicles prior to entering the public
83 roadways. Street surfaces in the vicinity of the project shall be routinely swept
84 and cleaned of mud and dust carried onto the street by construction vehicles.
85
86 e) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed
87 stockpiles (dirt, sand, etc.).
88
89 f) Post-construction revegetation, repaving or soil stabilization of exposed soils
90 shall be completed in a timely manner according to the approved Erosion and
91 Sediment Control Plan and verified by City inspectors prior to acceptance of
92 improvements or issuance of certificates of occupancy.
93
94 g) The Developer shall designate a person with authority to require increased
95 watering to monitor the dust and erosion control program and provide name
96 and phone number to the City of Calistoga prior to issuance of grading
97 permits.
98
99 h) Earthwork and excavation shall not occur during crush from September 15th
100 to October 30th.

101 **BIOLOGICAL RESOURCES**

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103
104 Mitigation Measure BIO-1: Preconstruction Nest Surveys and Construction
105 Exclusion Zones: If construction would take place outside of the nesting season
106 (September to January), then preconstruction nest surveys would not be
107 necessary. However, if construction would take place during the nesting season
108 (February-August), then preconstruction nest surveys shall be conducted as
109 follows in order to avoid any potential impacts to nesting birds.

- 110
111 1) Nest surveys shall be conducted no earlier than 14 days prior to tree
112 removal and/or breaking ground (surveys should be conducted a minimum
113 of 3 separate days during the 14 days prior to disturbance); and
114 2) In the event that nesting birds are found, the Project applicant should
115 consult with DFG and obtain approval for nest-protection buffers prior to
116 tree removal and/or ground disturbing activities; and
117 3) Nest protection buffers will remain in effect until the young have fledged.
118 All nest protection measures should apply to off-site impacts and within
119 300 feet of project activities. If a lapse in project-related work of 15 days
120 or longer occurs, another focused survey and if required, consultation with
121 DFG, will be required before project work can be reinitiated.
122

123 Mitigation Measure BIO-2: Prior to building permit issuance, a Tree Protection
124 and Replacement Plan consistent with Chapter 19.01 shall be reviewed and
125 approved by the Public Works Department. All requirements and restrictions
126 contained in Chapter 19.01 of the Calistoga Municipal Code (CMC) shall be

127 complied with, which shall incorporate replacement trees for those trees slated
128 for removal and shall include any recommendations of the Project Arborist.

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130 **CULTURAL RESOURCES**

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132 Mitigation Measure CR-1: During ground disturbing activities, a qualified cultural
133 resource consultant shall be present to monitor the site and activities. If
134 archaeological, historical, paleontological resources or other human remains are
135 encountered, all construction activity in the affected area shall cease and no
136 materials shall be removed until the qualified professional surveys the site and
137 mitigation measures can be proposed by the qualified professional to the
138 satisfaction of the Planning Division for approval and subsequent implementation
139 by the Applicant.

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141 Mitigation Measure CR-2: If archaeological materials are encountered during
142 construction activities, the Contractor shall stop all work within a fifteen foot
143 radius of the discovery and notify the City Engineer of the discovery. The find
144 shall be inspected by a qualified archaeologist. The City shall ensure that the
145 construction contractor personnel are informed that collecting archaeological
146 materials discovered during construction is prohibited by law.

147

148 If the archaeologist determines that the find is potentially significant (e.g., meets
149 the definition of historic resource or unique archaeological resource), all work
150 must be stopped in the immediate vicinity to allow the archaeologist to
151 recommend appropriate treatment. Such treatment could include modifying the
152 project to allow the materials to be left in place, or undertaking data recovery of
153 the materials in accordance with standard archaeological methods if such data
154 recovery would not result in further erosion or collapse of the slope as
155 determined by the City Engineer.

156

157 Mitigation Measure CR-3: If human remains are encountered during construction
158 activities, there shall be no further excavation or disturbance of the remains, or
159 nearby area until the Napa County Coroner has made the necessary findings as
160 to origin, in accordance with Health and Safety Code 7050.5. In accordance with
161 Public Resources Code 5097.98 if the coroner believes the human remains to be
162 those of a Native American, he or she shall contact, by telephone within 24 hours
163 the Native American Heritage Commission. The Native American Heritage
164 Commission shall immediately notify the most likely descendent (MLD). The
165 descendent shall inspect the site of the discovery and may recommend the
166 means for treating or disposing, with appropriate dignity, the human remains and
167 any associated grave goods. The descendents shall complete their inspection
168 and make their recommendation within 48 hours of their notification by the Native
169 American Heritage Commission. The remains shall not be damaged or disturbed
170 by further development until the City has discussed and conferred with the MLD
171 regarding their recommendations.

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GEOLOGY AND SOILS

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175 Mitigation Measure GEO-1: Prior to the issuance of a grading or building permit
176 for any portion of the project site, the applicant shall have a qualified
177 geotechnical engineer and certified engineering geologist prepare and submit to
178 the Planning and Building Department a final design-level geotechnical, geologic
179 and seismic hazards investigation that complies with all applicable state and local
180 code requirements. The final design-level geotechnical investigation shall:

181

182 a) Include an analysis of the expected ground motions at the site using
183 accepted methodologies:

184 b) Determine structural design requirements as prescribed by the most
185 current version of the California Building Code and City of Calistoga;

186 c) Determine the final design parameters for walls, foundations, foundation
187 slabs, utilities, roadways, parking lots, sidewalks, and other surrounding
188 improvements.

189

190 Mitigation Measure GEO-2: A qualified geotechnical engineer shall be retained
191 by the Applicant to be present on the project site during excavation , grading, and
192 general site preparation activities to ensure the implementation of the
193 geotechnical mitigations contained in the final design-level geotechnical
194 investigation.

195

GREENHOUSE GAS EMISSIONS

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198 Mitigation Measure GHG-1: The City shall require the contractor to implement
199 the following performance based best management practices during construction
200 as recommended by the Bay Area Air Quality Management District (2009
201 BAAQMD CEQA Air Quality Guidelines):

202 • Alternative-fueled (e.g., biodiesel, electric) construction
203 vehicles/equipment of at least 15 percent of the fleet;

204 • Recycle at least 50 percent of construction waste or demolition materials.

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HYDROLOGY AND WATER QUALITY

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208 Mitigation Measure HYD-1: Prior to start of construction verification shall be
209 provided indicating that a permit has been obtained or a Stormwater Pollution
210 Prevention Plan (SWPPP) and Notice of Intent (NOI) has been filed with the
211 California Regional Water Quality Control Board for a General Permit to
212 Discharge Storm Water Associated with Construction Activity subject to the
213 review and approval of the Planning and Building Department.

214

215 Mitigation Measure HYD-2: Prior to issuance of a grading or building permit, the
216 permit holder shall submit a stormwater drainage plan for approval by the Planning

217 and Building Department consistent with the Hydrology and Drainage Report
218 prepared by Delta dated February 1, 2012 and in conformity with the National
219 Pollution Discharge Elimination System and including Best Management Practices
220 (BMP) as described in the California Stormwater BMP Handbook or equivalent.

221
222 **PASSED, APPROVED AND ADOPTED** by the City Council of the City of
223 Calistoga at a regular meeting held this **17 day of April , 2012**, by the following
224 vote:

225

226 **AYES:**

227 **NOES:**

228 **ABSENT/ABSTAIN:**

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231

JACK GINGLES, Mayor

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233 **ATTEST:**

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236

AMANDA DAVIS, Deputy City Clerk

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