

RESOLUTION NO. 2012-01

**A RESOLUTION OF THE CITY OF CALISTOGA PLANNING COMMISSION
ADOPTING A MITIGATED NEGATIVE DECLARATION BASED UPON AN
INITIAL STUDY PREPARED FOR THE CONSTRUCTION AND OPERATION
OF THE LAVA VINE WINERY AND BIKE RENTALS AT 963 & 965
SILVERADO TRAIL (APN 011-050-043) WITHIN THE “CC-DD”, COMMUNITY
COMMERCIAL DESIGN DISTRICT.**

1 **WHEREAS**, Joseph and Jill Cabral are the owners of the subject property
2 for which this application is proposed; and
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4 **WHEREAS**, on February 21, 2011, Conditional Use Permit (U 2011-05)
5 and Design Review (DR 2011-05) applications were filed requesting a new
6 30,000 gallon (approximately 12,600 cases) per year winery on the subject
7 parcel with the construction of a new 5,214 square feet winery building and
8 associated infrastructure. In addition, the project proposes to add to the
9 available uses a new bicycle rental business on the property located at 963/965
10 Foothill Boulevard within the “CC-DD”, Community Commercial - Design District
11 (APN 011-050-043); and
12

13 **WHEREAS**, in accordance with the California Environmental Quality Act
14 (CEQA), the City of Calistoga, Planning and Building Department prepared an
15 Initial Study/CEQA Checklist, which identified potentially significant impacts to air
16 quality, biological resources, cultural resources, greenhouse gas emissions and
17 hazards and hazardous materials; and
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19 **WHEREAS**, the Planning Commission reviewed mitigated negative
20 declaration prepared for the project during a public hearing at its regularly
21 scheduled meeting on February 8, 2012. During its review, the Planning
22 Commission considered the public record, including the staff report, findings, and
23 written materials and testimony presented by the applicant and the public during
24 the hearing; and
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26 **WHEREAS**, that on the basis of the Initial Study prepared for the project
27 the Planning Commission has determined that the construction and operation of
28 the Lava Vine Winery and bike rentals will not have a significant effect on the
29 environment and, therefore, a Mitigated Negative Declaration is adopted based
30 on the finding that the project, with the incorporation of mitigation measures, will
31 not have a significant adverse impact on the environment; and
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33 **NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga Planning
34 Commission based on the above Findings, the Planning Commission adopts the
35 Mitigated Negative Declaration, subject to the following Mitigation Measures and
36 Monitoring Program.

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AIR QUALITY

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40 Mitigation Measures AIR-1: Prior to building permit or grading permit issuance,
41 the Applicant shall prepare and submit an Erosion and Sedimentation Control
42 Plan that incorporates the following Best Management Practices with notes,
43 details and or/ specifications subject to the review and approval of the Public
44 Works and Planning and Building Departments.

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46 a) Exposed soils shall be watered periodically during construction, a minimum of
47 twice daily. The frequency of watering shall be increased if wind speeds
48 exceed 15 mph. Only on-site well water, purchased city potable water (if
49 available and subject to the review and approval of the Director of Public
50 Works) or reclaimed water shall be used for this purpose. Responsibility for
51 watering shall include weekends and holidays when work is not in progress.

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53 b) During excavation activities, haul trucks used to transport soil shall utilize
54 tarps or other similar covering devices to reduce dust emissions.

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56 c) Grading and construction equipment operated during construction activities
57 shall be properly muffled and maintained to minimize emissions. Equipment
58 shall be turned off when not in use.

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60 d) Construction sites involving earthwork shall provide for a gravel pad area
61 consisting of an impermeable liner and drain rock at the construction entrance
62 to clean mud and debris from construction vehicles prior to entering the public
63 roadways. Street surfaces in the vicinity of the project shall be routinely swept
64 and cleaned of mud and dust carried onto the street by construction vehicles.

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66 e) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed
67 stockpiles (dirt, sand, etc.).

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69 f) Post-construction revegetation, repaving or soil stabilization of exposed soils
70 shall be completed in a timely manner according to the approved Erosion and
71 Sediment Control Plan and verified by City inspectors prior to acceptance of
72 improvements or issuance of certificates of occupancy.

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74 g) The Developer shall designate a person with authority to require increased
75 watering to monitor the dust and erosion control program and provide name
76 and phone number to the City of Calistoga prior to issuance of grading
77 permits.

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BIOLOGICAL RESOURCES

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81 Mitigation Measure BIO-1: If construction would take place outside of the nesting
82 season (September to January), then preconstruction nest surveys would not be

83 necessary. However, if construction would take place during the nesting season
84 (February-August), then preconstruction nest surveys shall be conducted as
85 follows in order to avoid any potential impacts to nesting birds.

- 86
- 87 1) Nest surveys shall be conducted no earlier than 14 days prior to tree
88 removal and/or breaking ground (surveys should be conducted a minimum
89 of 3 separate days during the 14 days prior to disturbance); and
 - 90 2) In the event that nesting birds are found, the Project applicant should
91 consult with DFG and obtain approval for nest-protection buffers prior to
92 tree removal and/or ground disturbing activities; and
 - 93 3) Nest protection buffers will remain in effect until the young have fledged.
94 All nest protection measures should apply to off-site impacts and within
95 300 feet of project activities. If a lapse in project-related work of 15 days
96 or longer occurs, another focused survey and if required, consultation with
97 DFG, will be required before project work can be reinitiated.

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99 Mitigation Measure Bio-2: Prior to building permit issuance, a Tree Protection
100 and Replacement Plan consistent with Chapter 19.01 shall be reviewed and
101 approved by the Public Works Department. All requirements and restrictions
102 contained in Chapter 19.01 of the Calistoga Municipal Code (CMC) shall be
103 complied with, which shall incorporate replacement trees for those trees slated
104 for removal and shall include any recommendations of the Project Arborist.

105 **CULTURAL RESOURCES**

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108 Mitigation Measure CR-1: During ground disturbing activities a qualified cultural
109 resource consultant shall be present to monitor the site and activities. If
110 archaeological, historical, paleontological resources or other human remains are
111 encountered, all construction activity in the affected area shall cease and no
112 materials shall be removed until the qualified professional surveys the site and
113 mitigation measures can be proposed by the qualified professional to the
114 satisfaction of the Planning Division for approval and subsequent implementation
115 by the Applicant as provided in CR-2.

116

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

123

124 If the archaeologist determines that the find is potentially significant (e.g., meets
125 the definition of historic resource or unique archaeological resource), all work
126 must be stopped in the immediate vicinity to allow the archaeologist to
127 recommend appropriate treatment. Such treatment could include modifying the
128 project to allow the materials to be left in place, or undertaking data recovery of

129 the materials in accordance with standard archaeological methods if such data
130 recovery would not result in further erosion or collapse of the slope as
131 determined by the City Engineer.

132
133 Mitigation Measure CR-3: If human remains are encountered during construction
134 activities, there shall be no further excavation or disturbance of the remains, or
135 nearby area until the Napa County Coroner has made the necessary findings as
136 to origin, in accordance with Health and Safety Code 7050.5. In accordance with
137 Public Resources Code 5097.98 if the coroner believes the human remains to be
138 those of a Native American, he or she shall contact, by telephone within 24 hours
139 the Native American Heritage Commission. The Native American Heritage
140 Commission shall immediately notify the most likely descendent (MLD). The
141 descendent shall inspect the site of the discovery and may recommend the
142 means for treating or disposing, with appropriate dignity, the human remains and
143 any associated grave goods. The descendants shall complete their inspection
144 and make their recommendation within 48 hours of their notification by the Native
145 American Heritage Commission. The remains shall not be damaged or disturbed
146 by further development until the City has discussed and conferred with the MLD
147 regarding their recommendations.

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149 **GREENHOUSE GAS EMISSIONS**

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

- 155 • Alternative-fueled (e.g., biodiesel, electric) construction
- 156 vehicles/equipment of at least 15 percent of the fleet;
- 157 • Recycle at least 50 percent of construction waste or demolition materials.

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159 **HAZARDS AND HAZARDOUS MATERIALS**

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161 Mitigation Measure HAZ-1: Prior to building permit issuance, the landscaped
162 planter on the north side of the main building shall be removed and replaced with
163 pavement to accommodate emergency vehicle access. Additionally, prior to
164 occupancy appropriate signage shall be installed indicating that the drive aisles
165 and turn around areas be kept clear of storage, parked vehicles and debris.
166 Signage shall also indicate that drivers are to pull their vehicles as far forward in
167 parking spaces as possible to ensure accessibility. Parking stripe projection may
168 be reduced to a standard length of 16 feet, as appropriate.

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170 **PASSED, APPROVED, AND ADOPTED** by the Planning Commission of
171 the City of Calistoga at a regular meeting held this **25th day of April 2012**, by the
172 following vote:

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175 **AYES:**
176 **NOES:**
177 **ABSENT:**
178 **ABSTAIN:**

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JEFF MANFREDI, Chairman

ATTEST:

KENNETH G. MACNAB, Planning Commission Secretary