

**EXHIBIT A  
DRAFT CONDITIONS OF APPROVAL**

**P11-0055 , Grape Times Wine Bar and Bistro  
4469 Railroad Avenue  
August 24, 2011**

**PROJECT SPECIFIC CONDITIONS**

**Planning Division**

1. The proposed business activities and operation shall conform substantially as shown on the plans and described in the narrative, Exhibit B, dated "Received July 1, 2011," on file with the Planning Division, except as modified by the following conditions. Minor changes to the approved activities and/or operation may be approved by the Director of Community Development if found to be in substantial conformance with the approved exhibits.
2. If additional hours of operation, activities, or interior floor expansions occur beyond those proposed in the applicant's written narrative and floor plan (Exhibit B) or as modified by these conditions are desired, prior City review and approval is required. Except as noted below, the Director of Community Development may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
3. Grape Times Wine Bar and Bistro is allowed to serve alcohol with food from 11:00 a.m. to midnight, daily. Food service shall be available for patrons of the bar during the operating hours of the business.
4. The outdoor drinking/dining area shall close and not be used after 10:00 p.m. daily.
5. There shall be no truck deliveries, parking lot sweeping, or garbage pick-up between the hours of 10:00 p.m. and 6:00 a.m.
6. The business owner/operator shall encourage staff to utilize the onsite parking spaces dedicated to the retail portion of the building.
7. The business owner/operator shall adhere to a "good neighbor" policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons' compliance with any applicable conditions of approval for the subject business relating to noise, loitering, etc.
8. Grape Times Wine Bar shall obtain all necessary approvals from the Department of Alcoholic Beverage Control (ABC) prior to operation.

9. Except for the designated outdoor dining area, alcohol shall not be consumed outside the establishment. Alcohol service and consumption in the outdoor dining area is allowed only upon specific approval by the Department of Alcoholic Beverage Control (ABC) and shall be subject to all ABC requirements. Grape Times Wine Bar and Bistro is responsible for supervising and controlling the activities of its customers within the outdoor patio area. Grape Times Wine Bar and Bistro shall ensure that no disorderly behavior occurs in this area, that drinks are not taken outside of the outdoor patio area, and that there are no more customers in the outdoor patio area than there are seats. The inability of Grape Times Wine Bar and Bistro to perform in this manner shall be cause for review and revocation of this use permit as it pertains to the service of alcoholic beverages in the outdoor dining area.
10. Prior to start of employment, employees that serve alcohol shall undergo an alcohol training program, such as TIPS (Training for Intervention Procedures), designed to prevent intoxication, underage drinking, and drunk driving.
11. Grape Times Wine Bar and Bistro will be operated as a bar featuring food/beverage service only. There shall be no live music, DJ music, or dancing allowed.
12. The restaurant employees shall dispose of waste or recyclables in the trash enclosure area on-site. Employees shall not dispose of waste or recyclables in the trash enclosure area prior to 8:00 a.m. or after 10:00 p.m.
13. The applicant shall provide a designated smoking area including ash/cigarette receptacle and related directional signage, if deemed necessary by the Director of Community Development after the business is in operation based on customer demand and/or complaints received from adjacent property owners/tenants regarding smoking.
14. The exterior doors of the bar shall remain closed when not being used for ingress/egress purposes. The bar windows shall remain closed during business hours.
15. Prior to business operation, the applicant shall install small signs in the interior of the building on or near the exit doors requesting that customers not loiter outside and be courteous and quiet when leaving the business and parking areas.

16. No outside washing of floor mats, containers, equipment, etc. shall be conducted unless a contained wash area is provided on-site. The location of the wash area shall be subject to review and approval by the Director of Community Development and Chief Building Official. The wash area shall be covered and shall be designed to prevent runoff onto or from the area. The area shall be connected to the sanitary sewer, subject to approval by DSRSD, or shall be collected in a containment area and removed regularly by a disposal and recycling service. If connected to the sanitary sewer, a structural control such as a sand filter or oil/water separator shall be used, and a sign shall be posted prohibiting the dumping of hazardous materials. Other methods may be used subject to the approval of the Director of Community Development and Chief Building Official. The applicant shall instruct employees to conduct all such washing activities in this area.
17. The applicant and/or responsible party shall construct a roofed trash enclosure on-site. The enclosure, including elevations, shall be shown on the plans submitted to the Building and Safety Division for tenant improvements and shall be subject to the review and approval of the Director of Community Development. Trash and recycling containers shall be stored under the roofed area at all times, except when being unloaded. A recycling container(s) shall be provided within the enclosure. The recycling container(s) and enclosure shall be designed in a manner consistent with Pleasanton Garbage Service's recycling program in effect at the time of building permit issuance.
18. The plans submitted to the Building and Safety Division for interior tenant improvements shall accurately reflect the property lines and include full floor plans (existing and proposed) of the residence and the retail space. Said plans shall be subject to the review and approval of the Chief Building Official and Director of Community Development prior to issuance of a building permit.

### **Building and Safety Division**

19. A one-hour separation wall shall be required on all shared walls between the residence and wine bar space. This shall be reflected on the plans submitted to the Building and Safety Division for plan check.
20. A separate water sub-meter shall be installed for the wine bar use. The applicant and/or responsible party shall coordinate with the Building and Safety Division for meter readings and/or monitoring.
21. The applicant and/or responsible party shall install separate men's and women's restroom facilities within the wine bar space. The restrooms shall be shown on the tenant improvement plans submitted to the Building and Safety Division for plan check and permit issuance.

22. The applicant or responsible party shall pay for additional sewer capacity for the subject use as determined by the Chief Building Official. The sewer fee shall be paid prior to issuance of a building permit and/or prior to operation.

## **STANDARD CONDITIONS**

### **Planning Division**

23. In the event that nuisances are created through the operation of the wine bar, either within the bar itself or by its patrons in the vicinity of the wine bar, the Director Community Development may refer the conditional use permit to the Planning Commission for review at a public hearing. If necessary, the Planning Commission may add conditions of approval or may revoke the conditional use permit.
24. No changes to the exterior of the building or site shall be made without prior approval from the Planning Division.
25. This approval does not include approval of any signage for Grape Times Wine Bar and Bistro. If signs are desired, the applicant and/or responsible party shall submit a sign proposal to the City for review and approval prior to sign installation.
26. The owner and/or wine bar staff shall maintain the area surrounding the business in a clean and orderly manner at all times. The owner/wine bar staff shall be responsible for and shall monitor the area outside of the wine bar to ensure peace and quiet.
27. To the extent permitted by law, the project applicant shall defend (with counsel reasonable acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

### **Building and Safety Division**

28. Prior to issuance of a business license, the applicant shall contact the Building Division and the Fire Marshall to ensure that the proposed use of the tenant space meets Building and Fire Code requirements. If required, the applicant shall obtain all appropriate City permits.

29. Any tenant improvement plans shall be submitted to the Building and Safety Division for review and approval prior to operation. The applicant shall obtain a building permit prior to commencement of any work. The applicant shall pay any and all fees to which the proposed application may be subject to prior to issuance of building permits. The type and amount of the fees shall be those in effect at the time the building permit is issued.

### **CODE REQUIREMENTS**

*Applicants/Developers are responsible for complying with all applicable Federal, State, and City codes and regulations regardless of whether or not the requirements are part of this list. The following items are provided for the purpose of highlighting key requirements.*

30. The business shall comply with Chapter 9.24 (Smoking in Public and Work Places) and Chapter 9.04 (Noise Regulations) of the Pleasanton Municipal Code.
31. At no time shall balloons, banners, pennants, or other attention-getting devices be utilized on the site except as allowed by Section 18.96.060K of the Zoning Ordinance for grand openings or by Section 18.116.040 of the Zoning Ordinance if approved as part of a temporary conditional use permit. At no time shall spot lighting be used in conjunction with such grand openings and/or promotional events.
32. This conditional use permit approval will lapse one (1) year from the effective date of approval unless the applicant receives a business license for the subject location.

{end}

**PDR-414, James Ervin**

**Application for design review approval to construct an approximately 768-square-foot addition, to be used as retail space, in front of the existing single-family home located at 4473 Railroad Avenue. Three parking spaces would be added at the rear of the property. Zoning for the property is C-C (Central Commercial) and Downtown Revitalization District.**

---

Mr. Pavan summarized the staff report and described the history and scope of the project. According to the City's records, this building has not been designated historically significant. He noted that there was a slight difference between the floor area stated in the staff report and what is shown on the floor plan (804 square feet); staff believes the floor plan square footage includes the bay windows. The new retail addition would match the existing building design as to materials and detailing; the colors would be changed, and a memo detailing those changes was distributed to the Commission. He stated that the proposal conformed to the Downtown Specific Plan and the General Plan. The existing home would be retained, and retail floor area would be added to create a live/work use. The proposed application also facilitates the expansion of retail uses in the side streets of the Downtown area and conformed to the Downtown Design Guidelines. Staff believes the addition is architecturally compatible with the additional structure and retains the integrity of the existing building elements. Existing trees would be maintained, sufficient parking would be available, and a disabled entrance would be provided.

Staff believes the proposal meets the intent of the codes and added that after review, the Pleasanton Downtown Association (PDA) indicated its acceptance and approval of the proposal. Staff became aware of concern by the Chair of the PDA Design Committee (Michael O'Callahan) with respect to the appearance of the front façade, specifically making it more retail compatible in appearance. He noted that the recently adopted Downtown Design Guidelines called for retail storefronts to have clear, unobstructed glass; muttons, mullions, and divided lights were discouraged. Staff recommended an additional condition of approval calling for the muttons and mullions to be removed from the façade; the applicant has agreed to that condition. Staff believes this project meets the intent of the design guidelines and that it would introduce an attractive retail component in the Downtown district. Staff recommended approval of this application.

In response to an inquiry by Chairperson Roberts regarding the building's use, Mr. Pavan confirmed that the rest of the building would remain a residence. The applicant will live in that house.

In response to an inquiry by Commissioner Blank regarding the use of the retail cigar store, Ms. Nerland replied that under State law, consumption of cigars on the premises for testing purposes was allowed. She added that this use in retail spaces with common walls was a touchy subject. The applicant must comply with State law with respect to selling tobacco products to minors.

**THE PUBLIC HEARING WAS OPENED.**

There were no speakers.

**THE PUBLIC HEARING WAS CLOSED.**

The Commission had no objection to the applicant's placement of the mullions if he so desired.

Commissioner Sullivan expressed concern about the concept of covering up a 104-year-old building. He preferred having a Downtown with real historic buildings. He noted that he would not support this application.

Commissioner Fox agreed with Commissioner Sullivan's comments and cited the Bonde house in Dublin as an example of retaining the original façade. She did not feel comfortable modifying the front and could not support this application. She felt that the City should maintain the historic nature of buildings over 100 years old.

Chairperson Roberts emphasized that this was a retail use in the Downtown and believed that the addition would not destroy the original building, making it look as much like the original as possible. She believed retaining the mullions would be acceptable and believed that would give the building more historical perspective.

Commissioner Arkin expressed concern about this project and did not believe the change would be beneficial.

**Commissioner Maas moved to approve PDR-414 as conditioned in the staff report. The question of the placement of window grids would be determined to the satisfaction of the Planning Director prior to the issuance of the building permit. Commissioner Roberts seconded the motion.**

**ROLL CALL VOTE:**

AYES: Commissioners Maas and Roberts.  
NOES: Commissioners Arkin, Fox, and Sullivan.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: None.

The motion did not carry.

Resolution No. PC-2004-66 was entered and adopted, denying the application.

Item 6b

PAP-72, (PADR-414), James Ervin (SR 05:005)

Appeal of the Planning Commission's denial of an application for design review approval to construct an approximately 768-square-foot addition, to be used as retail space, in front of the existing single-family home located at 4473 Railroad Avenue; three parking spaces would be added at the rear of the property. Zoning for the property is C-C (Central Commercial) and Downtown Revitalization District.

---

Mr. Sullivan recused himself, as he was a member of the Planning Commission at the time this item was discussed and denied.

Mr. Iseron presented the staff report.

Mayor Hosterman was concerned about the addition being esthetically and architecturally pleasing but also in keeping with the flavor of downtown.

Mr. Iseron said staff feels that the proposed design would accomplish that.

Mr. Brozosky asked how much of the building has changed in the past 104 years?

Mr. Iseron said it is hard for him to know how much the building has changed over the years. When the applicant purchased the home, he did renovations to the house to upgrade the exterior and brought in some detailing that was not on the original building, which made it look more historical. He believed the applicant has done a number of positive changes to the building over the years.

Mr. Brozosky asked if some of the changes to the building have been to the exterior?

Mr. Iseron said yes.

Mayor Hosterman declared the public hearing open.

James Ervin, applicant, mentioned that he has done cosmetic and detail work to the house when he purchased it in 1996. He upgraded the house with air conditioning, a new heating system and recessed lighting. An addition to the home was built two years ago, which duplicated everything that was in the existing home. The new addition will use the same type of material and trim to maintain the same architecture.

Michael O'Callaghan, representing the Pleasanton Downtown Association (PDA), said the PDA is in support of staff's recommendation and the conditions of approval. He noted that City staff has worked diligently to develop a relationship with the Association through continued ongoing negotiations to develop the downtown consistent with design guidelines. He encouraged the Planning Commission and Council to consider that there has been an ample amount of time put into these projects.

Peter MacDonald, representing the Pleasanton Downtown Association, said this is the kind of investment that the PDA would like to encourage in the downtown. The proposed application is on a small scale, pedestrian oriented, retail, helps to build the critical mass, and fits with the vision that the PDA has for the downtown and the Specific Plan. The Pleasanton Downtown Association agrees with the Planning Commission that it has to watch the historical issues, which is monitored by City staff and



the PDA. He noted that this building was not on the adopted list of downtown historical resources for both primary and secondary units.

Mr. Brozosky was comfortable that the applicant has tried to preserve the historical portion of this building. He was encouraged that there are some property owners trying to work on Railroad Avenue to improve it. With the conversion of the downtown Fire Station into a small theater, it opens the downtown to not only Main Street but also to Railroad Avenue and all of the streets in between Railroad Avenue and Main Street becomes a part of the downtown. He noted that this is one of the few projects before Council that provides for parking.

**It was moved by Mr. Brozosky, seconded by Ms. McGovern, to uphold the appeal, thus approving the design review application by finding that the project is consistent with the General Plan, the Downtown Specific Plan, and the Downtown Design Guidelines, and adopting Resolution 05-001, a resolution upholding the appeal of Case PAP-72, thereby approving the application of James Ervin for design review approval, as filed under Case PDR-414.**

Ms. McGovern believed this building did not make the list of historical buildings because the picture looks like it could have been torn down before Mr. Ervin did the renovation work. The proposed retail addition is attractive. She supported the idea and noted that this building will become a vital part of the downtown as Wayside Park is built larger, in addition to the black box theater. She asked staff if the City has begun to work with the Pleasanton Downtown Association to identify and advance the historical structures that will be subject to exact preservation as opposed to other type of uses?

Mr. Fialho said that this project stopped a few years ago. He said it would be appropriate for Ms. McGovern to raise this issue under Matters Initiated by Council and direct staff to work on it.

As part of the vitality of the downtown and General Plan, Ms. McGovern believed that this is something that should be done.

**The roll call vote was as follows:**

**AYES: Councilmembers - Brozosky, McGovern and Mayor Hosterman**

**NOES: None**

**ABSENT: None**

**RECUSED DUE TO CONFLICT OF INTEREST: Councilmember Sullivan**

**ABSTAIN: None**

PP11-0055, Grape Times Wi

City of Pleasanton

GIS

Department

4469 Railroad Avenue

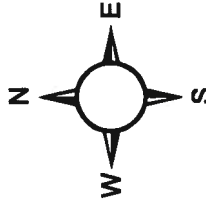
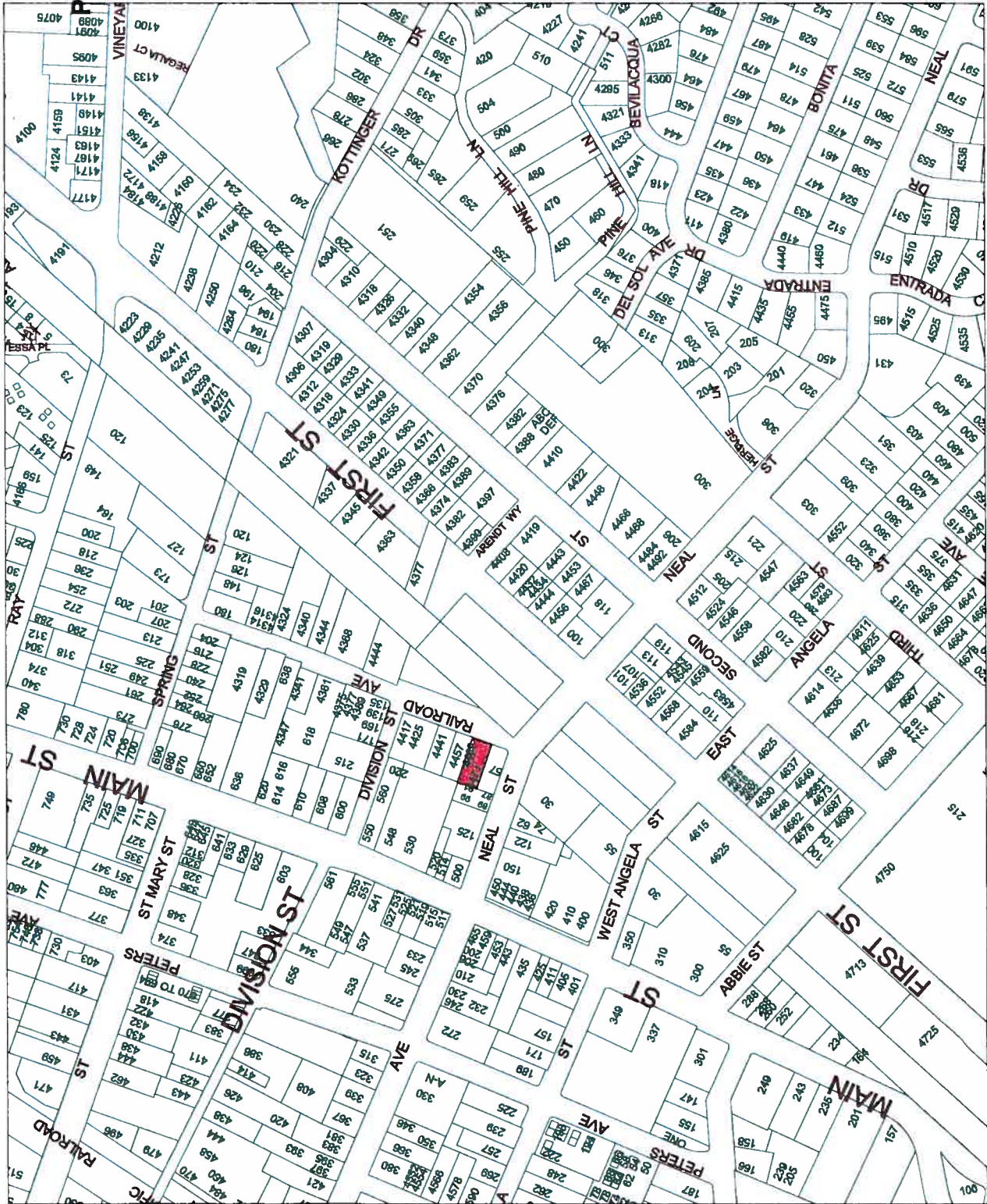


EXHIBIT D

Printed 8/9/2011



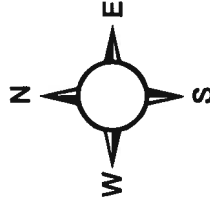
11-0055, Grape Times WI

City of Pleasanton

GIS

Department

4469 Railroad Avenue



Printed 8/9/2011

