



A Tradition of Stewardship  
A Commitment to Service

**Conservation Development and Planning**

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**Hillary Gitelman**  
Director

March 16, 2009

Randy Bryant  
R.E.B. Engineering  
PO Box 113  
St. Helena, CA. 94574

Re: Request for Confirmation of "Use" of Use Permit #04047-UP (APN 031-070-026)

Dear Mr. Bryant:

In response to your letter dated February 13, 2009 (received in this office on the same day), which included information confirming \$35,178.00, of actual or committed expenses toward "use" of the subject use permit, which includes the installation of the wastewater system (permit #E09-00036) please be advised that the Department has determined your actions satisfy the Napa County Code (Section 18.124) for "use" of the subject permit.

Should you have any questions, please contact me at [tabraham@co.napa.ca.us](mailto:tabraham@co.napa.ca.us) or at (707) 299-1331.

Sincerely,

Terri Abraham  
Planner I

cc: file



HILLARY GITELMAN  
Director

# COUNTY of NAPA

CONSERVATION, DEVELOPMENT AND PLANNING

PATRICK LYNCH  
Assistant Director

April 12, 2007

Clark and Elissa Miller  
701 Oakville Cross Road  
Oakville, CA 94562

**Re: APN 031-070-026; Use Permit # 04047-UP**

Please be advised that Use Permit 04047-UP has been **APPROVED** by the Napa County Planning Commission on February 21, 2007, based on the attached conditions, the Napa County Departments comments, and applicable County regulations.

The use permit will become effective unless an appeal is filed with the Napa County Board of Supervisors pursuant to Chapter 2.88 of the Napa County Code. You may appeal the conditions of approval. In the event an appeal is made to the Board by another, you will be noticed.

**EXPIRATION DATE: February 21, 2009**

*Pursuant to Section 18.124.080 of the Napa County Code, the use permit must be activated within two (2) years from the approval date, or it shall automatically expire and become void. This letter serves as the only notice you will receive regarding the expiration date of your permit.*

*You are hereby further notified, pursuant to Government Code Sec.66020 (d)(1), that the 90-day period, in which you would have to protest imposition of any fees, dedications, reservations, or other exactions that may have been attached as conditions of approval, has begun. Please note that additional fees will be assessed if a landscape plan or erosion control plan is required by this approval.*

Should you have any questions, please contact me at (707) 299-1352 or by e-mail: [njohnson@co.napa.ca.us](mailto:njohnson@co.napa.ca.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Johnson".

Nancy Johnson  
Principal Planner

cc: Jon Bigerow, representative

## CONDITIONS OF APPROVAL

Miller Winery

04047-UP

1. **SCOPE:** The permit shall be limited to:

- Wine production of no more than 10,000 gallons per year
- Conversion of a 6,330 square foot barn of which approximately 1,000 square foot is a covered crush pad
- Hours of operation for the winery shall be limited to 8:00 AM to 5:00 PM (except during crush)
- One full-time employee and five part-time employees during harvest.
- four parking spaces
- A new septic system

The winery shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials. It is the responsibility of the applicant 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 changes in use shall be by the approved Use Permit modification process.

2. **MARKETING:** Marketing events shall be limited as follows:

- a. Frequency: 5 times per year  
Number of persons: 10 maximum  
Time of Day: 11:00 AM to 10:00 PM with a four hour maximum and no outdoor amplified music.
- b. Frequency: 1 time per year  
Number of persons: 30 maximum  
Time of Day: 11:00 AM to 10:00 PM with a four hour maximum and no outdoor amplified music.

"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 association with such education and development, but shall not include cultural and social events unrelated to such education and development. (Ord. 1104 § 11, 1996: Ord. 947 § 9 (part), 1990: prior code § 12071). All activity, including cleanup, shall cease by 10:00 PM. Start and finish time of activities shall be scheduled to minimize vehicles arriving or leaving between 4:00 PM and 5:30 PM.

3. **TOURS AND TASTING:**

Tours and tastings are limited to a maximum of 10 persons/day with an average of 24 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 § 9 (part), 1990: prior code § 12070). Tours and tasting shall complete by 4:00 PM. Retail sale of wines shall complete by 4:30 PM and shall be limited to those wines set forth in Napa County

## **CONDITIONS OF APPROVAL**

### **Miller Winery**

### **04047-UP**

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.

**4. GRAPE SOURCE:**

At least 75% of the grapes used to make the winery's still wine shall be grown within the County of Napa. The applicant shall report to the Planning Department on an annual basis by December 31 the source of grapes verifying that 75% of the approved production is from Napa County grapes. The report shall include the Assessor's Parcel Number and the grape tonnage. The report shall be proprietary and not available to the public. For the public record, the applicant shall annually submit to the Department for the file a statement regarding compliance with the sourcing requirement and indicating the percentage of Napa County grapes utilized.

**5. SIGNS:**

Prior to installation of any winery identification or directional signs, detailed plans, including elevations, materials, color, and lighting, shall be submitted to the Planning Department for administrative review and approval. All signs shall meet the design standards as set forth on Chapter 18.116 of the County Code. At least one sign placed and sized in a manner to inform the public must legibly include wording stating "Tours and Tasting by Prior Appointment Only".

**6. GATES/ENTRY STRUCTURES:**

Any gate installed at the winery entrance shall be reviewed by the Planning and Public Works Departments and the Napa County Fire Department to assure that it is designed to allow a 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 according to the County Code.

**7. LIGHTING:**

All exterior lighting, including landscape lighting, shall be shielded and directed downward, shall be located as low to the ground as possible, and shall be the minimum necessary for security, safety, or operations and shall incorporate the use of motion detection sensors to the greatest extent practical. 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. Prior to issuance of any building permit for construction of the winery, two (2) copies of a separate detailed lighting plan showing the location and specifications for all lighting fixtures to be installed on the property shall be submitted for Department review and approval.

**8. LANDSCAPING/PARKING:**

Two (2) copies of a detailed landscaping plan, including parking details, shall be submitted for review and approval prior to issuance of building permits. The plan shall indicate the names and locations of all plant materials to be used along with the method of maintenance. Plant materials shall be purchased locally when practical. The Agricultural Commissioner's office (707-253-4357) shall be notified of all impending deliveries of live plants with points of origin outside of Napa County.

## **CONDITIONS OF APPROVAL**

### **Miller Winery**

#### **04047-UP**

The location of employee and visitor parking and truck loading zone areas shall be identified along with proposed circulation and traffic control signage (if any). Landscaping and parking shall be completed prior to occupancy, and shall be permanently maintained in accordance with the landscaping plan.

No trees greater than 6" DBH shall be removed, except for those identified on the submitted site plan. Any trees that are removed shall be replaced elsewhere on the property on a 2 for 1 basis of equivalent caliper. Replaced trees shall be identified on the landscaping plan. Trees to be retained shall be protected during construction.

Evergreen screening shall be installed between the industrial portions of the operation (e.g. tanks, crushing area, parking area, etc.) and off-site residences that can view them. Parking shall be limited to approved parking spaces only and shall not occur along access roads or in other locations except during harvest or approved marketing events. In no case shall parking impede emergency vehicle access or public roads. If any event is held which will exceed the available on-site parking, the applicant shall arrange for off-site parking and shuttle service to the winery.

#### **9. OUTDOOR STORAGE/SCREENING/UTILITIES:**

All outdoor storage of winery equipment shall be screened from the view of adjacent properties by a visual barrier consisting of fencing or dense landscaping. No item in storage is to 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.

New utility lines required for this project that are visible from any designated scenic transportation route (see Chapter 7 of the General Plan and Chapter 18.106 of the Napa County Zoning Ordinance for designated roads) shall be placed underground or in an equivalent manner be made virtually invisible from the subject roadway.

#### **10. RENTAL/LEASING:**

No winery facilities, nor portions thereof, including but not limited to offices, kitchens, barrel storage areas, and warehousing space, shall be rented, leased, nor used by entities other than persons producing and/or storing wine at the on-site winery, except as may be specifically authorized in this use permit or pursuant to the Temporary Events Ordinance (Section 5.36.010)

#### **11. COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES:**

The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Departments and Agencies, including but not limited to:

Department of Environmental Management as stated in their letter of December 19, 2006

Department of Public Works as stated in their letter of January 4, 2007

County Fire Department as stated in their letter of December 8, 2006

Building Division as stated in their letter December 12, 2006

The determination as to whether or not the permittee has substantially complied with the requirements of other County Departments and Agencies shall be determined by those

## **CONDITIONS OF APPROVAL**

### **Miller Winery**

**04047-UP**

Departments or Agencies. The inability to substantially comply with the requirements of other County Departments and Agencies may result in the need to modify the approved use permit.

**12. SPOILS:**

All spoils generated by construction of the project facilities, including cave spoils, shall be disposed of per Public Works direction. All spoils piles shall be removed prior to occupancy.

**13. WELLS:**

The permittee may be required (at the permittee's expense) to provide well monitoring data if it the Director of Environmental Management determines that water usage at the winery is affecting, or would potentially affect groundwater supplies or nearby wells. Data requested could include, but may not be limited to, water extraction volumes and static well levels. If applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gage potential impacts on the groundwater resource utilized for the project proposed. Water usage shall be minimized by use of best available control technology and best water management conservation practices. 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 director of environmental management shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to meet the requirements of the Napa County Groundwater Ordinance and protect public health, safety, and welfare. That recommendation shall not become final unless and until the director has provided notice and the opportunity for hearing in compliance with the county code section 13.15.070.G-K.

**14. NOISE:**

Construction noise shall be minimized to the maximum extent practical and allowable under State and local safety laws. Construction equipment muffling and hours of operation shall be in compliance with County Code Section 8.16. Equipment shall be shut down when not in use. Construction equipment shall normally be staged, loaded, and unloaded on the project site. If project terrain or access road condition 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 between the hours of 8 AM to 5 PM. Exterior winery equipment shall be enclosed or muffled and maintained so as not to create a noise disturbance in accordance with the Code. There shall be no amplified sound system or amplified music utilized outside of approved, enclosed winery buildings.

**15. 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 vegetation and shall be reviewed and approved by the Planning Department prior to the issuance of any building permits. Highly reflective surfaces shall be prohibited.

**16. 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. Construction activities shall not occur during windy periods.

**17. ARCHEOLOGICAL FINDING:**

## **CONDITIONS OF APPROVAL**

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**04047-UP**

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 Department will be contacted for further guidance, which will likely include the requirement for the applicant to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during the development, all work in the vicinity must be, by law, halted, and the Napa County Coroner informed, so that he 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 nearest tribal relatives as determined by the State Native American Heritage Commission would be contacted to obtain recommendations for treating or removal of such remains, including grave goods, with appropriate dignity, as required under Public Resources Code Section 5097.98.

### **18. TRAFFIC**

Reoccurring and scheduled vehicle trips to and from the site for employees, deliveries, and visitors will not occur during peak (4-6 PM) travel times to the maximum extent possible. All road improvements on private property required per the Department of Public Works shall be maintained in good working condition.

### **19. ADDRESSING**

All project site addresses shall be determined by the Director, and reviewed and approved by the U.S. Post Office, prior to issuance of any building permit. The 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.

### **20. STORM WATER CONTROL**

For any construction activity that results in disturbance of greater than one acre of total land area, permittee shall file a Notice of Intent with the California Regional Water Quality Control Board (SRWQCB) prior to any grading or construction activity. All hazardous materials stored and used on-site that could cause water pollution (e.g. motor oil, cleaning chemicals, paints, etc.) shall be stored and used in a manner that will not cause pollution, with secondary containment provided. Such storage areas shall be regularly cleaned to remove litter and debris. Any spills shall be promptly cleaned up and appropriate authorities notified. Parking lots shall be designed to drain through grassy swales, buffer strips, or sand filters prior to any discharge from the impervious surface into a watercourse. If any discharge of concentrated surface waters is proposed in the any "Waters of the State," the permittee shall consult with and secure any necessary permits from the State Regional Water Quality Control Board. All trash enclosures ~~must~~ be covered and protected from rain, roof, and surface drainage.

### **21. INDEMNIFICATION**

## **CONDITIONS OF APPROVAL**

**Miller Winery**

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An indemnification agreement, in the form attached hereto, shall be signed and returned to the County within twenty (20) days of the granting of this approval.

### **22. 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 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. Costs shall be as established by Board Resolution in accordance with the hourly consulting rate established at the time of the monitoring (\$125.00/hour as of July 2006). Violations of conditions of approval or mitigations measures caused by the permittee's contractors, employees, and guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of compliance deficiencies 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 it is so warranted, to commence revocation hearings in accordance with section 18.124.120 of the County Code.



31-070-26



## NAPA COUNTY

JEFFREY R. REDDING  
Director

### CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092  
AREA CODE 707/253-4376

December 28, 1989

Clark & Lissa Miller  
P.O. Box 370  
Oakville, CA 94562

RE: #U-168788

Dear Mr. & Mrs. Miller:

Bill Crenshaw, Supervising Building Inspector, referred your December 15 1989 letter to me. I do not recall speaking with you about this matter. Although it would have been inappropriate for you to address a request for extension of a Use Permit to Mr. Edwards, it does not appear that you need such an extension.

According to a letter in your file dated 12/15/88, you have activated the above-referenced Use Permit by occupying an existing 1,400 square foot residence as a farm labor dwelling. Although the Use Permit would also allow relocation of this residence, relocation is not necessary to activate the permit. Once activated, and as long as the conditions of approval are complied with, the Use Permit runs permanently with the land.

In addition to compliance with the applicable codes, your Use Permit contains two conditions that you should continue to adhere to: the Use Permit is limited to occupancy by full-time farm labor personnel employed by the property owner; and other permits (such as building permits for a main residence) will not be issued unless the farm labor dwelling is occupied as such.

If you have any questions, please contact Bill Crenshaw of the Building Division or myself.

Very truly yours,

A handwritten signature in cursive script that reads "Michael Miller".

Michael Miller  
Supervising Planner

cc. Bill Crenshaw

U168788.cf