



NAPA COUNTY

CONSERVATION • DEVELOPMENT and PLANNING DEPARTMENT

Charles Wilson
Director

1195 Third Street, Room 210 • Napa, California 94559-3092
Telephone 707/253-4416 FAX 707/253-4336

September 17, 2003

Jim Prager
1281 Lewelling Lane
St. Helena, CA 94574

Re: Prager Family Estate Winery APN 017-160-013 Use Permit #02616-UP

Dear Mr. Prager

Please be advised that Use Permit request #02616-UP have been **APPROVED** by the Planning Commission on September 3, 2003 based on the attached conditions and applicable County regulations.

The permit approval went ten (10) working days from the approval date without any appeal to the Napa County Board of Supervisors (pursuant to Chapter 2.88 of the Napa County Code).

EXPIRATION DATE: September 3, 2005

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.

Enclosed is a copy of the Conditions of approval.

Should you have any questions, please contact Buzz Kalkowski at (707) 253-4417.

Sincerely


Patrick Lynch
Assistant Director

Copies: file

John Tuteur, Assessor
Steve Lederer, Deputy Director
Gary Brewen, Building Codes Administrator
Larry Bogner, Public Works
Christine Secheli, Environmental Management
Barbara Easter, County Fire Department
Beth Painter, Balanced Planning, LLC, 1434 Third Street, Suite 3D, Napa, CA 94559

**CONDITIONS OF APPROVAL
PRAGER FAMILY ESTATE WINERY
02616-UP**

1. SCOPE: The permit shall be limited to:

- a. Wine production of no more than 75,000 gallons per year
- b. Construction of a 21,760 square foot winery building and a separate 1,200 sq. ft. winery office building, for a total 22,960 sq. ft.
- c. Construct a wastewater treatment pond for the treatment of the winery process wastewater and a Wisconsin Mound for the treatment of the domestic sanitary wastewater.
- d. Construction of a 30,000-gallon water storage tank.
- e. 22 parking spaces.
- f. Demolition of 4 unauthorized dwelling units and 6 agricultural outbuildings. The demolition shall be complete within 1 year of the approval of the use permit or prior to the issuance of the certificate of occupancy for the winery building whichever comes first.
- g. 5 full time employees and 2 part time employees.
- h. Custom production activities for a maximum of 4 custom producers (crushing, fermenting, barrel aging, and limited office space [one office space to be shared among the 4 custom producers]) utilizing a maximum of 25,000 gallons of the winery's proposed 75,000 gallon per year capacity. Custom production will not include case goods storage, retail wine sales, wine tasting, or distribution/shipping.
- i. Retail sales and tours and tasting by appointment only, with a maximum of 15 visitors/day and maximum of **40 visitors/week**.
- j. Establish a Marketing plan as discussed below.
- k. 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, constructors, 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. Private promotional tasting with meals:
Frequency: Total of 12 times per year with a maximum limit of 2 per month
Number of persons: 40 maximum per event
Time of Day: Noon to 4:00 PM or 6 PM to 10 PM.
- b. Two large events per year (may be Wine Auction, open house, harvest)
Number of persons: 200 maximum per event
Time of Day: Noon to 4:00 PM or 6 PM to 10 PM
Off-site parking and shuttle service required (see Condition #18, **TRAFFIC AND EVENT PARKING**).

There shall be no scheduling of Private Tasting and Tours on the days of any scheduled marketing events (provided for under this condition, Condition #2).

A minimum 1-week notice shall be made to all neighbors within 300 feet of the winery parcel for all marketing events having more than 40 in attendance.

Adequate numbers of porta-potties shall be in place on the winery parcel for use during all marketing events having more than 40 people in attendance.

**CONDITIONS OF APPROVAL
PRAGER FAMILY ESTATE WINERY
02616-UP**

"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 6:00 PM.

3. TOURS AND TASTING:

Tours and tasting and retail sales shall be by appointment only and are limited to members of the wine trade, persons who have a 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 pre-arranged basis. Tours and tasting shall complete by 4:00 PM. Retail sale of wines shall complete by 4:30 PM and shall be limited to only those fermented and bottled on-site by the winery operator. A logbook (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 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:

The freestanding winery double-sided, identification sign, as depicted on the Triade Design Studio site plan, dated 1-23-03, is approved with the following modifications:

- ***The two supporting columns shall not exceed 6 feet above the natural grade or 4 feet above the centerline of the adjoining Highway 128 (County Code § 18.116.060(C)(3));***
- ***The words "Tours and Tastings by Prior Appointment Only" shall be on both sides of the sign and shall be clearly legible and readable from Highway 128 (County Code § 18.116.060(B));***
- ***The placement of the sign shall be so located as to not restrict the winery entrance drive view of the cross traffic on Highway 128.***
- ***Should the sign be placed within the Highway 128 Road Setback, 70 feet back from the center of the Highway 128 right-of-way (County Code § 18.112.040), and should Caltrans have a need to move the sign to make room for highway improvements, the cost of moving the sign shall be at the winery owner's expense.***

A small sign (Not larger than 3 feet wide and 1 feet high) designating the private easement that is perpendicular to Highway 128 and bordering the northwest side of the property as "PRIVATE DRIVEWAY – NO WINERY ACCESS" shall be in place near the entrance off Highway 128 prior to the issuance of the winery building certificate of occupancy.

**CONDITIONS OF APPROVAL
PRAGER FAMILY ESTATE WINERY
02616-UP**

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 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 DESIGN:

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.**

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.

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.

Landscape screening shall be installed between the winery structures and winery parking, and Highway 128 and off-site residences that can view the structures and parking areas.

9. OUTDOOR STORAGE/SCREENING:

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.

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 the on-site winery itself, except as may be specifically authorized in this use permit or pursuant to the Temporary Events Ordinance (Section 5.36.010)

**CONDITIONS OF APPROVAL
PRAGER FAMILY ESTATE WINERY
02616-UP**

11. COMPLIANCE WITH OTHER DEPARTMENTS, AGENCIES AND TRAFFIC STUDY:

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

- a. Department of Environmental Management as stated in their letter of August 1, 2003
- b. Department of Public Works as stated in their letter of February 27 and March 3, 2003
- c. County Fire Department as stated in their letter of February 13, 2003
- d. Building Division as stated in their letter of February 12, 2003
- e. California Department of Transportation as stated in their letter of July 22, 2003
- f. Steve Weinberger's Winery Focused Traffic Study dated June 26, 2003, recommendations become requirements.

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 applicant may be required (at the applicant's expense) to provide well monitoring data if it is judged that water usage at the winery is, or would potentially mine groundwater or 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 the 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 Chapter 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. ***All sound barriers (sound-dampening acoustical enclosures) and muffling devices shall be designed in consultation with an acoustical consultant and shall be reviewed by the County for compliance with County Code Chapter 8.16 prior to issuance of building permits.*** There shall be no amplified sound system or amplified music utilized outside of approved, enclosed winery buildings unless a special permit to that effect has been secured through the County.

**CONDITIONS OF APPROVAL
PRAGER FAMILY ESTATE WINERY
02616-UP**

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 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:

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 AND EVENT PARKING:

Reoccurring and scheduled vehicle trips to and from the site for employees, deliveries, and visitors shall occur during non-peak (4-6 PM) travel times to the maximum extent possible.

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.

No event, visitor and, or, employee parking shall occur on the easement that traverses over the northwest property line (The property line that is perpendicular to Highway 128), and along the Highway 128 right-of-way.

For all events exceeding 40 people, invited guests shall be directed to an off-site location with adequate and approved parking and the invitees/attendees shall be shuttle bused to the winery. None of the event guests-attendees invited to the marketing events and, or, Wine Auction events, exceeding the count of 40 people (caterers and employees exempted), shall drive to the winery and, or, park their vehicles at the winery. The invitations to all marketing events and Wine Auction events having more than 40 people invited shall have clear and concise instructions as to the location of the parking and bus pick up area, shall provide scheduled shuttle departure times, shall instruct all guests that they are to meet at the specified parking/shuttle/bus pick-up location and shall instruct guests that they are to not drive to the winery for the event.

For compliance verification purposes, so the Department is aware of event scheduling, a copy of each marketing event or Wine Auction event invitation (or an e-mail with the equivalent event information: e.g. date, time, and event happenings), with more than 40 invitees-attendees, shall be sent (via U. S. Postal Service or by e-mail to the Conservation,

**CONDITIONS OF APPROVAL
PRAGER FAMILY ESTATE WINERY
02616-UP**

Development, and Planning Department, 1195 Third St., Room 210, Napa, CA 94559) prior to the date of the event. All invitation copies addressed above and sent to this Department shall be clearly marked "For Mitigation Measure Monitoring: Not An Invitation" (hand written or typed), along with the Assessor Parcel Number "APN 017-160-013" across the face of the invitation.

All marketing events with more than 40 people in attendance shall be scheduled to avoid starting or ending between the hours of 4:00 and 6:00 PM.

19. STORM WATER CONTROL:

For any construction activity that results in disturbance of greater than five acres (or one acre following the upcoming change in State regulations) of total land area, applicant shall file a Notice of Intent with the California Regional 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 applicant 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.

20. HIGHWAY 128 ACCESS IMPROVEMENTS:

Highway 128 shoulder improvements shall be made according to Paragraph #2, titled ***Required Access Improvements***, of the California Department of Transportation letter of July 22, 2003, reference #'s NAP 128103 & NAP-128-2.46. The shoulder improvements shall be complete prior to the issuance of the certificate of occupancy for the winery building.

21. HIGHWAY 128 DEDICATION OF LAND SUFFICIENT FOR FUTURE LEFT TURN LANE:

The dedication of land sufficient to accommodate a future left-turn lane, according to the specifics stated in Paragraph #4, titled ***Right of Way***, of the California Department of Transportation letter of July 22, 2003, reference #'s NAP 128103 & NAP-128-2.46. The dedication of the land to the California Department of Transportation shall be complete prior to the issuance of the building permit for the winery building.

22. USE OF STORAGE BARN FOR COMMERCIAL USE:

Prior to the issuance of the winery building permit, any and all commercial business operations within the existing storage barn shall cease and shall be verified as not existing by the Napa County Conservation Development and Planning Department. Future use of this structure shall be limited to non-winery uses.

23. INDEMNIFICATION:

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.

**CONDITIONS OF APPROVAL
PRAGER FAMILY ESTATE WINERY
02616-UP**

24. MONITORING COSTS:

All staff costs associated with monitoring compliance with these conditions, previous permit conditions and project revisions shall be borne by the applicant and/or property owner. Generally costs associated with planning review for building plan clearance and certification of occupancy are not to be charged per this condition. However, costs associated with conditions and mitigation measures that require monitoring outside of those two processes, 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 Resolution #95-77 or as such Resolution may be amended from time to time, or in accordance with the hourly consulting rate established by the Department at the time of the monitoring (\$88.00/hour as of December, 2002). Violations of conditions of approval or mitigations measures caused by the applicant's contractors, employees, and guests are the responsibility of the applicant.

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.