



COUNTY OF PLACER
Community Development Resource Agency

PLANNING

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: MICHAEL J. JOHNSON, AICP
Director of Planning

DATE: July 8, 2008

SUBJECT: Proposed Amendment to the Placer County Code for the Creation of
a Winery Ordinance – (ZTA 20050609)

ACTION REQUESTED

The Board is being asked to consider a Zoning Text Amendment to the Placer County Code for the creation of a Winery Ordinance as recommended by the Planning Commission at a public hearing on May 8, 2008.

BACKGROUND

While the current Zoning Ordinance provides little direction about wineries, and particularly ancillary uses like on-site sales, tasting and promotional events, the County has (and continues) to regulate wineries. Wineries fall under the definition of "agricultural processing" which requires a Minor Use Permit in the agricultural and residential zoning districts where they are allowed.

There are currently 10 approved wineries in Placer County's unincorporated area, with 230 acres of planted vineyard. Two of these wineries have been approved for regular tasting during specified hours, and two more have recently been approved for tasting by appointment with limits on the number of customers weekly. Other wineries have commenced (or wish to commence) some level of wine tasting although their permits do not currently allow public tasting. Some of these past activities generated complaints which led to Code Enforcement investigations and the County informing winery owners that they are not authorized to conduct tasting without a Minor Use Permit. Winery owners have indicated that they need to be able to market their wines on-site through tasting, direct sales and occasional promotional events in order to remain economically viable.

For this reason, the County was asked to draft a winery-specific ordinance to address wineries and accessory uses. The purpose is to provide more certainty and some regulatory relief for winery operators in terms of the permit process and requirements, while avoiding significant impacts to surrounding property owners and maintaining public health and safety. County staff, including representatives from the Planning Department, Engineering and Surveying Department, Environmental Health, Building Department, Agricultural Commissioner, and Emergency Services (Fire), met with wine industry representatives to get a better idea about concerns and objectives.

After reviewing winery ordinances from a variety of jurisdictions, including nearby foothill counties, and reviewing the County's Winery Guidelines prepared in 2001, staff drafted an ordinance for public review in May 2007.

Public Participation

The Planning Department sponsored two public workshops to discuss the first draft of the Winery Ordinance on June 21 and June 27, 2007. On July 9, 2007, the Agricultural Commission sponsored a public workshop.

Generally, winery owners and their supporters indicated that they believed the then-proposed ordinance was too restrictive and that the standards were cost prohibitive. Property owners living near Wineries expressed concerns about traffic, parking, drinking and driving, and noise and suggested that wine tasting be allowed only on parcels 30 acres or larger, not on private roads and that minimum on-site vineyard acreage be required.

After meeting with an Agricultural Commission Subcommittee, staff prepared a second public review draft of the Winery Ordinance in October 2007. The Planning Department conducted another workshop on October 24, 2007. On October 29, 2007, the Agricultural Commission conducted a public hearing on the then-proposed ordinance. The Agricultural Commission continued its review of the Ordinance to its November 12, 2007 meeting and asked the Winery Ordinance Subcommittee to reconvene to further evaluate the Draft Ordinance. On November 12, 2007, the Agricultural Commission recommended a revised, simplified version of the Winery Ordinance.

In the Fall of 2007, staff also made presentations about the Winery Ordinance to the Newcastle/Ophir, Granite Bay, Horseshoe Bar, Rural Lincoln and Penryn Municipal Advisory Councils. The Planning Commission conducted a public hearing/workshop on November 15, 2007. After taking public testimony, the Planning Commission directed staff to revise the Winery Ordinance to incorporate many of the recommendations made by the Agricultural Commission.

The Planning Commission conducted a public hearing/workshop on January 10, 2008 to review the revised draft ordinance prepared by staff. After taking public testimony, the Planning Commission indicated support for the Winery Ordinance and directed staff to make three additional changes related to permit requirements and parking.

The Rural Lincoln MAC considered the Winery Ordinance as an action item on May 19, 2008 and voted unanimously to recommend approval to the Board of Supervisors.

PROJECT DESCRIPTION:

The Draft Winery Ordinance creates a new Section 17.56.330 (Wineries) and includes the following elements:

- A. Purpose.
- B. Definitions
- C. Winery and Accessory Uses – Permit Requirement Charts
- D. Development and Operational Standards
 - 1. General
 - 2. Parking
 - 3. Access
 - 4. Potable Water
 - 5. Waste Disposal
 - 6. Tasting Rooms
 - 7. Promotional Events

Additional amendments are proposed to the various sections of the Placer County Code related to definitions, land use and permit requirements and parking lot surfacing requirements.

In terms of permit requirements, the proposed Winery Ordinance breaks down winery uses into small winery production (under 20,000 cases), large winery production (over 20,000 cases), wine sales, wine tasting and accessory sales, and promotional events. In the commercial and industrial zoning districts, few changes will be made by the new ordinance in that wineries with tasting rooms are included in the current definition of "restaurants and bars" which are allowed in a number of commercial and industrial zoning districts. Of more concern to both winery owners and surrounding property owners are changes proposed within the agricultural and resources and residential zoning districts where wineries are allowed.

Agricultural and Resource Zoning Districts: Agricultural processing, which includes wineries, is allowed in the Exclusive Agriculture, Farm, Forestry and Timberland Preserve zoning districts, and currently requires the processing of a Minor Use Permit, regardless of the size of the Winery. The Draft Ordinance would change the permit requirements for small winery production, wine sales, and public tasting from a Minor Use Permit requirement to Zoning Clearance only. A large winery production facility would continue to require a Minor Use Permit. A Zoning Clearance process is not discretionary and would not be subject to environmental review or public noticing. A Zoning Clearance would involve reviewing any winery proposal to determine whether it is in the proper zoning district, meets setback requirements, and meets the development standards provided in the proposed Winery Ordinance. Zoning Clearance is typically provided by front counter staff when reviewing building permit applications. If a winery proposes a new building, a building permit will be necessary. If a winery proposes to convert an existing building to a new use, particularly one that is open to the public, a change of occupancy permit will be required. In either case (building permit or change of occupancy), the Building Department will review the request for compliance with State and County regulations including the California Building Code and handicap accessibility, and will require clearance from the serving fire agency. The serving fire agency will ensure compliance with State and local Fire Safe Standards.

Residential Zoning Districts: Agricultural processing, which includes wineries, is currently allowed in the Residential Agriculture (RA) and Residential Forest (RF) zoning districts, and requires the processing of a Minor Use Permit. The primary change with the Draft Winery Ordinance is that all the winery use categories (production, wine sales, wine tasting), except for large winery production, will require an Administrative Review Permit, rather than a Minor Use Permit. Large winery production will continue to require a Minor Use Permit. The Administrative Review Permit process includes discretionary review, and would thus be subject to environmental review, though to date all wineries have been found to be Categorically Exempt. The Administrative Review Permit process allows the applicable County Departments and agencies to review the proposal and ensure that all County requirements and standards, as outlined in the Ordinance or in other County, state or federal regulations can be met. The Administrative Review Permit process also provides public noticing to surrounding neighbors, with an opportunity to comment, prior to a decision on the request by the Zoning Administrator, but no public hearing. The primary difference between the Administrative Review Permit and Minor Use Permit process is that a Minor Use Permit includes a public hearing before the Zoning Administrator.

Promotional Events: A new definition was created for "promotional events" associated with wineries and permit requirements and standards are proposed as part of the Draft Winery Ordinance. A promotional event would be one to promote the sale of Placer County wines and which is intended to allow for the sampling and direct marketing and sales of wines produced on the premises or produced elsewhere from grapes grown on site. As set forth in the proposed Ordinance, wineries could conduct up to six promotional events per year, and these events would require a one-time processing of an Administrative Review Permit.

Impact on Existing Wineries: The Winery Ordinance would affect existing wineries with approved Minor Use Permits. As all existing wineries in Placer County fall under the definition of a "small winery", their existing Minor Use Permits would be rendered moot because they would no longer be necessary. If such winery requires the processing of an Administrative Review Permit, the County would retain discretionary review authority and the Minor Use Permit conditions would remain in place, unless an Administrative Review Permit was processed that revised the conditions of approval. If a winery requires Zoning Clearance only, the Minor Use Permit conditions would be null and void and the winery would be required to comply with the provisions of the Winery Ordinance and other County Codes. If an approved winery proposes a new type of use not originally approved, like adding wine tasting to the winery facility, either a building permit (for a new structure) or a change of occupancy permit (for an existing building not approved for public use) would be required. Such building or change of occupancy permits would be subject to Zoning Clearance for compliance with the Winery Ordinance and other County Codes, as well as review by the local serving fire district to insure compliance with Fire Safe Standards.

In reviewing the proposed ordinance, the Planning Commission concluded implementation of the ordinance would not adversely impact Wineries or residents in the vicinity of Wineries, as similar requirements would still be implemented through the Development Standards included in the proposed ordinance.

The Winery Ordinance also includes the following standards:

General: The general standards require that the primary purpose of the winery to be the processing of wine grapes on the winery property or other local agricultural lands and that the winery property be at least 4.6 acres in size with one acre of planted vineyard on site.

Parking: Parking space standards are provided. Small wineries (under 20,000 case annual production) with public tasting are required to provide five permanent parking spaces. Large wineries are required to meet specified parking standards based on square footage of winery use areas.

Access: Access roads must meet State and local Fire Safe Standards as determined by the serving fire agency, with alternative designs allowed on a case-by-case basis. If a winery is accessed by a private road, the applicant must provide reasonable proof of access rights.

Water and Waste Disposal: Consistent with State law, standards for potable water, solid waste and winery production waste disposal and on-site sewage disposal are provided.

Tasting Facilities: The primary focus of the tasting area must be the marketing and sale of the wine produced at the winery. Incidental sales of wine-related merchandise and food is allowed.

Promotional Events: Standards are provided for promotional events including application requirements, duration of events, parking and noise.

PLANNING COMMISSION HEARING:

The Planning Commission conducted a public hearing to consider the Winery Ordinance at its May 8, 2008 meeting. Placer County Agricultural Commissioner Christine Turner and several other people spoke in favor of the Ordinance and recommended its adoption. One speaker expressed concerns about the current form of the Ordinance compared with earlier versions. His concern was the elimination of the Minor Use Permit requirement for wineries and tasting rooms, providing minimal opportunity for neighbors to review and comment on proposals. He also indicated he did not believe public safety issues were adequately addressed. The Planning Commission asked questions about the Ordinance and made suggestions for staff to make minor clarifying changes to the text of the Ordinance. The Planning Commission voted 5-0 (Commissioner Brentnall was absent) to recommend that the Board of Supervisors adopt the Negative Declaration and adopt the Winery Ordinance.

FISCAL IMPACT

The exact fiscal impact to the County would be minimal. Whereas Minor Use Permit fees are currently required for all winery proposals, under the Winery Ordinance, only an Administrative Review Permit or Zoning Clearance would be required in most cases. The fees for Zoning Clearance, Administrative Review Permits, Minor Use Permits and Appeals are established by the County's Fee Ordinance.

CEQA COMPLIANCE

A Negative Declaration was prepared and filed with the County Clerk's Office for a 20-day review period which ended on April 23, 2008. Although the Winery Ordinance may encourage the establishment of wineries in Placer County by simplifying the regulatory process and addressing accessory uses, the Initial Study did not identify any potentially significant impacts. This was based on the following factors: 1) The scope of the Placer County vineyard and winery industry is limited in nature. Currently, there are only 10 approved wineries and all were found to be categorically exempt from environmental review. According to the Agricultural Commissioner, there are 230 acres of vineyards in Placer County. 2) Small wineries (under 20,000 annual case production) will have limited impacts due to their small size and anticipated limited number of visitors during regular tasting room hours. 3) The Winery Ordinance allows only six promotional events per year and requires the approval of an Administrative Review Permit which will allow an evaluation of safe ingress and egress, parking, noise, and sanitation. 4) Large wineries will be subject to a Minor Use Permit requirement and environmental review which will provide the opportunity for the County to identify and mitigate potential site specific environmental impacts.

Three letters commenting on the Negative Declaration were received (Attachment B). The commenters suggested changes to the Winery Ordinance and in one case suggested that an Environmental Impact Report be prepared. The Planning Commission did not concur with these comments and recommended that the Board of Supervisors adopt the Negative Declaration. Recommended CEQA findings are attached to this staff report.

RECOMMENDATION

Staff brings forward the Planning Commission's recommendation that the Board of Supervisors adopt the Negative Declaration and the Winery Ordinance as set forth in Attachment A.

FINDINGS:

CEQA

1. The Negative Declaration has been prepared as required by law. The adoption of the Winery Ordinance is not expected to cause any significant adverse impacts. This is based on the following factors: 1) The scope of the Placer County vineyard and winery industry is limited in nature. Currently there are only 10 approved wineries and all of them were found to be categorically exempt from environmental review. According to the Agricultural Commissioner, there are 230 acres of vineyards in Placer County. 2) Small wineries (under 20,000 annual case production) will have limited impacts due to their small size and anticipated limited number of visitors during regular tasting room hours. 3) The Winery Ordinance allows only six promotional events per year and requires the approval of an Administrative Review Permit which will allow an evaluation of safe ingress and egress, parking, noise, and sanitation. 4) Large wineries will be subject to a Minor Use Permit requirement and environmental review which will provide the opportunity for the County to identify and mitigate potential site specific environmental impacts.

2. There is no substantial evidence in the record as a whole that the Project may have a significant impact on the environment.
3. The Negative Declaration as adopted for the Project reflects the independent judgment and analysis of Placer County, which has exercised overall control and direction of its preparation.
4. The custodian of records for the Project is the Placer County Planning Director, 3091 County Center Drive, Suite 140, Auburn, CA 95603.

Zoning Text Amendment Consistency With the General Plan

The proposed Zoning Text Amendment related to wineries and accessory uses and parking lot surfacing is consistent with the Placer County General Plan and implements the following General Plan policies:

- 7.A.3. The County shall encourage continued and, where possible, increased agricultural activities on lands suited to agricultural uses.
- 7.B.4. The County shall continue to enforce the provisions of its Right-to-Farm Ordinance and of the existing state nuisance law.
- 7.C.1. The County shall attempt to improve the financial viability of the agricultural sector of Placer County's economy through actions that have the potential to reduce costs and increase profits.
- 7.C.4. The County shall permit a wide variety of promotional and marketing activities for county-grown products in all agricultural zone districts.
- 7.C.5. The County shall permit on-farm product handling and selling. The County shall permit stands for the sale of agricultural products in any agricultural land use designation to promote and market those agricultural products grown or processed in Placer County. Secondary and incidental sales of agricultural products grown elsewhere may be permitted subject to appropriate approvals.
- 7.C.6. The County shall ensure that land use regulations do not arbitrarily restrict potential agricultural-related enterprises which could provide supplemental sources of income for farm operators.

Respectfully submitted,



Michael J. Johnson, AICP
Planning Director

ATTACHMENTS

Attachment A - Ordinance Related to Wineries

Attachment B - Correspondence Related to the Negative Declaration

Attachment C - Correspondence Related to Earlier Versions of the Draft Winery Ordinance

Attachment D - Correspondence Related to the Current Version of the Winery Ordinance

Attachment E - Minutes from the June 21 and 27, 2007 Public Workshops

Attachment F - Negative Declaration

cc:

Richard Eiri - Engineering and Surveying Division
Sharon Boswell - Engineering and Surveying Division
Leslie Lindbo - Environmental Health Services
Christine Turner - Agricultural Commissioner
Bob Martino - Chief Building Official
Bob Eicholtz - Emergency Services
Christa Darlington - County Counsel
Holly Heinzen - Assistant County Executive Officer
John Marin - CDRA Director
Melanie Heckel - Assistant Planning Director
Michael Johnson - Planning Director
Board of Supervisors
All MAC's
Winery Ordinance Mailing List
Subject/chrono files