



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: Set Hearing on October
18, 2016 for November
1, 2016
Placement: Departmental
Estimated Time: 2.5 hours on
November 1, 2016
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn S. Russell, Ph.D., Director, Planning and Development
Director(s) (805) 568-2085
Contact Info: Daniel T. Klemann, Deputy Director, Long Range Planning
(805) 568-2072
SUBJECT: Winery Ordinance Update

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

On October 18, 2016, set a hearing for November 1, 2016, to consider amending the Santa Barbara County Land Use and Development Code (LUDC), of Chapter 35, Zoning, of the County Code, to adopt new development standards, permit requirements, and procedures regarding winery development.

On November 1, 2016, your Board's action should include the following:

- a) Make the required findings for approval, including California Environmental Quality Act (CEQA) findings (Attachment 1).
- b) Certify the Winery Ordinance Update Final Environmental Impact Report (Attachment 2) including the EIR Revision Letter (RV01) dated November 1, 2016 (Attachment 3), pursuant to the State Guidelines for Implementation of the CEQA Guidelines.
- c) Adopt the Winery Ordinance Update by adopting an Ordinance amending Section 35-1 of Chapter 35 of the Santa Barbara County Land Use and Development Code, to adopt new development standards, permit requirements, and procedures regarding winery development, Case No. 14ORD-00000-00006 (Attachment 4).

Background:

The proposed amendment to the LUDC are intended to clarify and streamline the permit process for new winery development on lands designated for agricultural uses in the inland area of Santa Barbara. Your Board directed the Planning and Development Department to update the current winery regulations as part of the 2011\2012 Long Range Planning Annual Work Program.

Staff conducted extensive stakeholder engagement and public outreach to gather information and discuss winery ordinance issues that should be addressed in the ordinance update. The public outreach included 18 separate group meetings with wine-industry and agricultural groups, neighborhood groups, and non-profit organizations; five public meetings to discuss specific winery topics (i.e., tasting rooms, events, and food service); and three community workshops. Based on the input received during public outreach, staff prepared draft ordinance language for public review and comment in March 2014. In June 2014, staff revised and finalized the draft ordinance which serves as the project description analyzed in the Winery Ordinance Update Final Environmental Impact Report.

The current winery regulations were adopted in 2004. Since then, ambiguities and inadequacies in the existing winery ordinance became apparent during the review and permitting for new wineries (See discussion below). These ambiguities have been addressed during decision maker hearings on a case-by case basis. As a result, the existing winery permit process has become increasingly inefficient, adding additional time, cost, and uncertainty to the process.

The proposed winery ordinance amendment (Attachment 4) is intended to be consistent with and support the following project goals:

- To improve efficiency in the winery permit process by clarifying ambiguities and simplifying concepts contained in the existing winery ordinance.
- To balance the needs of various stakeholder groups by recognizing the importance of agriculture in the County and ensuring wineries are compatible with surrounding land uses.
- To support the core principle that the primary use of the property is for the growing and processing of grapes. Tasting rooms and special events may be supportive of agriculture, but they should be clearly secondary and incidental to the primary use of the property.

Two core areas the proposed ordinance amendments address include: structural issues pertaining to the existing tiered permit process and winery visitor issues.

Winery Ordinance Structural Issues. The existing winery ordinance includes a three-tiered permit processing structure (informally known as Tier 1, Tier 2, and Tier 3) where the characteristics (e.g. tasting room, special events, and winery visitors) of the individual winery determine the permit requirements. The existing winery tiers do not include minimum winery premises acreage requirements (except for 20-acre minimum premises for winery special events), and the minimum planted vineyard acreage requirements decrease as the level of intensity of winery related activities increases. This has created a situation where new winery applications on relatively small acreages have applied for a Tier 3 winery plus a Conditional Use Permit to maximize special events (more than 12 per year). The existing permit structure is problematic since it had the effect of establishing tasting rooms and special events, as compared to the growing and processing of grapes, as the primary use of the winery premises.

The proposed ordinance amendments apply a progressive scale to the permit tiers by adding a minimum premises size for the renamed Tier A, Tier B, and Tier C wineries. The permitted uses and levels of intensity progressively increase with the minimum winery premises size for each winery tier. Additionally, the proposed ordinance increases the planted vineyard acreage requirements for all winery

tiers to support the core principle that the primary use of the winery premises is for the growing and processing of grapes.

Winery Visitor Issues. Many of the existing neighborhood compatibility issues raised during the review and approval process for new wineries stem from three main issue areas:

- The number of visitors on the winery premises associated with winery special events;
- Winery related activities that do not meet the current definition of a winery special event (e.g., “special gatherings” of less than 80 winery visitors); and
- Simultaneous winery related activities such as tasting room visitors and uses currently undefined in the current ordinance (e.g., wine club members and private or “by appointment only” tasting room visitors, and vineyard tour attendees).

The LUDC currently defines “Winery Special Event” as “an event of less than one day and occurring on a winery premises attended by 80 or more people...” The ordinance is silent on how many “events” attended by less than 80 people are permitted.

Rather than establish attendee thresholds for a variety of different uses, the proposed ordinance amendment focuses on the total number of winery visitors allowed on the winery premises at any one time.

The maximum number of winery visitors allowed on the winery premises at any one time for proposed Tier A, Tier B, and Tier C wineries is specified in Table 4-16 (Attachment 4). For example, on a Tier C winery a maximum of 80 winery visitors are allowed on the winery premises at any one time. This could include a mix of winery visitors associated with the tasting room, vineyard or winery tours, or winemaker meals. If the number of winery visitors exceeds the maximum allowed at any one time, it is considered a winery special event and subject to the winery special event requirements.

In addition to the winery visitor and winery ordinance structural changes described above, the Winery Ordinance Update includes the following new uses and standards at proposed wineries:

- Increase minimum winery premises (Tier B and C wineries);
- Allow winemaker meals and cooking classes (Tier B and C wineries);
- Increase number of wine industry-wide events (All wineries); and
- Allow food service and food preparation (Tier B and C wineries).

1.0 Planning Commission Recommendation

On September 19, 2016, the County Planning Commission voted 4-1 to recommend approval of the staff recommended Winery Ordinance Update, subject to certain modifications (Attachment 6, Planning Commission Action Letter). The Planning Commission staff report dated May 3, 2016 (Attachment 7), provides a detailed overview of the Winery Ordinance Update, along with staff recommended changes to incorporate mitigation measures and certain alternative components that are set forth in the Final EIR. Sections 1.1 and 1.2 below summarize staff’s recommended changes to the project description for the winery ordinance as well as the Planning Commission’s recommended additional changes to the winery ordinance.

1.1 Staff Recommended Changes to the Project Description Carried Forward by the Planning Commission

The Planning Commission staff report dated May 3, 2016, describes in detail the staff recommended changes to the winery ordinance (Attachment 7). The Planning Commission accepted these changes, as follows:

- a) EIR Alternative 1 Planted Vineyard Acreage Requirements
Table 4-16: Planted vineyard acreage requirements. Requires “At least 51 percent of the winery case production shall be from grapes grown on the premises and/or from Santa Barbara County.” This standard is in keeping with the agricultural operation being the primary use of the property and not the commercial use of the winery.
- b) Incorporates EIR mitigation measure
Table 4-16: Minimum winery premises area. Increases the minimum premise area for a Tier B winery from 20 acres to 40 acres in the Inner-Rural Areas. The Winery Ordinance Update EIR identified this as a mitigation measure to mitigate cumulative traffic quality of life impacts in the Inner-Rural Area associated with future winery development.

1.2 Additional Planning Commission Recommended Changes to the Ordinance Forwarded by the Planning Commission

The Planning Commission recommended additional revisions at the meetings of June 22, 2016, August 3, 2016, and September 19, 2016, including new and revised development standards, permit revocation and zoning requirements, and clarifying ordinance text revisions. A summary of the Planning Commission recommended revisions are listed below along with the section of the ordinance where changes occur. All proposed ordinance changes are included in Attachment 4.

- a) Agriculture is Primary Use
Subsection A: Purpose and intent. Revised purpose and intent language to ensure that the scale of the winery operation is clearly secondary, subordinate, and incidental to the primary agricultural uses of the property on which the winery is located.
- b) Permitting Winery-Related Activities
Subsection B.4: Permit requirements and development criteria. Added permit requirements that a winery permit shall specify the number and type of winery related activities that are allowed to occur on the winery premise, and activities that bear no relation to the making and marketing of wine (e.g., fitness classes) are not allowed.
- c) Subsequent Change of Winery Premises Area
Subsection B.5: Reduction in winery premises area.
 - Added requirement to address a potential situation where the winery premises area is reduced following approval and/or issuance of the required planning permit(s) for a winery.
 - Added revocation and zoning enforcement requirements that would apply if owner fails to: file an application to modify the winery operation in compliance with Subsection B.5.a. (Reduction in Winery Premises Area); or, following approval of an application to modify the winery operation, the owner fails to modify the winery operation so that it complies with Section 35.42.280 (Wineries).

d) Planted Acreage: Hardship Exception and Timing of Vineyard Planting

Table 4-16: Planted vineyard acreage requirements.

- Added language to accommodate potential vineyard loss due to disease or weather, and/or to accommodate time for newly planted vineyard fruit to mature.
- Added language that the minimum required planted vineyard acreage shall be planted on the winery premises prior to issuance of the Land Use Permit and/or Zoning Clearance required to commence construction of the winery.

e) Tier A Winery with Tasting Room

Table 4-16 and Subsection C.9.b. Tasting rooms. A Conditional Use Permit approved by the Planning Commission is required if a tasting room is proposed as part of a Tier A winery operation. Additional requirements include:

- Minimum winery premises area of 10 acres.
- Allowable floor area of the tasting room shall not exceed 300 square feet.
- Tier A winery with tasting room can only be located in the Rural Area as designated on the Comprehensive Plan on property zoned AG-II (not in Urban or Inner Rural AG-I Areas).
- Tasting shall be by appointment only and limited to 20 winery visitors (who do not qualify as a member of the trade) at any one time.

f) Exceedance of Winery Visitor Limits – Enforcement Actions

Table 4-16 and Subsection C.10: Winery visitors. Added revocation and zoning provisions to address the situation where the number of visitors exceeds the maximum allowed (thereby constituting a special event and not standard winery visitors), yet the winery permit does not allow special events.

g) Findings for Special Events

Table 4-16 and Subsection C.11: Winery special events. Added new development standards for approval of winery special events that ensure winery special events are:

- Beneficial to and inherently related to the agricultural use of the land;
- Do not hinder or impair the short-term or the long-term agricultural activities on the winery premises or on other properties in the vicinity; and
- The scale and frequency of permitted events are clearly secondary, subordinate, and incidental to the primary agricultural uses of the property on which the winery is located.

h) Number of Winemaker Meals Per Year

Table 4-16 and Subsection C.16: Winemaker meals. Increased the maximum number of winemaker meals and/or cooking classes from four to six for Tier B wineries, and from six to eight for Tier C wineries.

i) Food Service and Preparation – Clarifications

Subsection C.16: Food service and food preparation.

- Added requirement that all food service and food preparation be clearly secondary, subordinate and incidental to the primary agricultural uses of the property on which the food service and food preparation occur.

- Added maximum number of allowed cooking classes and/or winemaker meals, as discussed above.
 - Added revocation and zoning enforcement provisions if special events are not allowed on the winery premises. This provision would apply if cooking class and winemaker meal attendees exceed the maximum number of winery visitors allowed on the winery premises at any one time.
 - Added requirement that food service and food preparation associated with cooking classes shall not include menu options or meal service, including food directly prepared at customer request, such that the winery premises functions as a restaurant, cafe, or coffee shop.
- j) Vineyard and Winery Tours – Clarifications and Enforcement Options
Subsection C.17: Vineyard and winery tours. Added revocation and zoning enforcement provisions for when special events are not allowed on the winery premises. This provision would apply if vineyard and winery tour attendees exceed the maximum number of winery visitors allowed on the winery premises at any one time.
- k) Definitions for Cooking Class, Tasting Rooms, and Winery Special Event
Definitions Section.
- Revised the definitions for “cooking class” and “winery special event.”
 - Revised “Tasting Room” definition to include: “A room or rooms, or an area within a structure, used by a winery visitor primarily for the tasting of wine and the marketing of winery products.”

2.0 Environmental Review

The Final EIR identifies potentially significant impacts and mitigation measures that reduce some of the impacts to less than significant levels. Feasible mitigation measures identified in the Final EIR have been incorporated in the LUDC ordinance amendment. However, several impacts, including Air Quality and Greenhouse Gas Emissions and Transportation and Traffic, have been determined to remain significant and unavoidable (Class I) even though mitigation measures have been identified and incorporated into the Final EIR.

To adopt the proposed ordinance, CEQA Guidelines Section 15093 requires the Board of Supervisors to adopt a Statement of Overriding Considerations to balance the benefits of the project against the identified unavoidable environmental risks and determine the benefits outweigh the risks (Attachment 1). The Final EIR (Attachment 2) can be reviewed on the Internet at:

http://longrange.sbcountyplanning.org/programs/winery_ord/WineryOrdinanceFinalEIR.php

EIR Revision Letter

Since publication of the draft Final EIR, the Planning Commission recommended changes to the Winery Ordinance. The changes are minor and a Revision Letter to the Final EIR has been prepared and is included as Attachment 3 to this Board Letter. As discussed in the Revision Letter, recirculation of the Final EIR is not required.

3.0 Comprehensive Plan Consistency

Staff reviewed the Winery Ordinance Update for consistency with the applicable policies of the Comprehensive Plan. Attachment 5 presents the policy consistency analysis. Staff concludes that the

Winery Ordinance Update, as proposed with recommended Planning Commission changes, would be consistent with the Comprehensive Plan.

Fiscal Analysis:

Budgeted: Yes

The Winery Ordinance Update is a Board of Supervisors budgeted project beginning in fiscal year 2011\2012. Staff salaries and other costs were included in the County's budget under the Planning and Development Department, Long Range Planning Division's Operating Expenditures (General Fund contribution). The project was not included in Planning and Development's 2016\2017 budget since adoption hearings were anticipated to occur before the end of fiscal year 2015\2016. Fiscal year 2016\2017 cost to date to complete the environmental review and decision-maker adoption hearings is approximately \$33,000. The total project cost to date is approximately \$580,000.

There are no facilities impacts. Implementation of the winery ordinance will occur primarily through the development review process (i.e., zoning requirements and development standards applied to new winery projects) and there will be no cost to the County.

Special Instructions:

Planning and Development will fulfill noticing requirements. The Clerk of the Board shall provide a copy of the executed Resolution and Ordinance amendments and Board Minute Order(s) to Planning and Development, attn: David Villalobos.

Attachments:

1. Findings and Statement of Overriding Considerations
2. Final Environmental Impact Report
http://longrange.sbcountyplanning.org/programs/winery_ord/WineryOrdinanceFinalEIR.php
3. EIR Revision Letter (RV01)
4. Ordinance (Case No. 14ORD-00000-00006)
5. Plans and Policy Consistency Analysis
6. Planning Commission Action Letter, dated September 19, 2016
7. May 3, 2016, Planning Commission Staff Report
8. June 15, 2016, Planning Commission Memorandum
9. July 27, 2016, Planning Commission Memorandum
10. September 9, 2016, Planning Commission Memorandum
11. Public Comments (See Attachment 11 for links to the comment letters)

Authored by:

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