

Board Letter for June 26, 2007

Winery Ordinance

Recommended Action:

That the Board direct staff to 1) follow Option #1 (exclusive processing of winery ordinance), or 2) follow Option #2 (winery and ranch marketing ordinances)

On May 1, 2007, staff provided the Board with a progress report on the winery ordinance. Staff received direction in several areas with a request to report back by the end of June. This report will provide an update on the Initial Study, Zone of Benefit issue, consideration of micro wineries, ranch marketing, and recommendations to further direct staff based on new information since our last report.

A. Initial Study: In order to prepare an accurate study that assesses the impacts of the winery ordinance, it was necessary to clarify and harmonize a number of sections within the Agricultural Commission's recommended draft ordinance (hereafter draft ordinance), as originally prepared by wine industry representatives. Staff completed a thorough review of the draft ordinance and has worked with a subgroup of the wine industry to harmonize it internally.

In order to use a mitigated negative declaration as the environmental document for the revised ordinance, it is necessary to identify impacts that would occur with adoption of the ordinance and mitigation measures to reduce these impacts to less than significant levels. The subgroup agreed in concept that there was a need to clarify the ordinance to achieve internal consistency as well as include mitigation measures in the form of development standards for certain impact areas. A meeting was held on May 25 with the Agricultural Commissioner and a subgroup of the wine industry to address ordinance clarifications as well as provide information on how staff has progressed with the initial study. An Executive Summary was distributed to the Agricultural Commission and the wine industry in early June through the Agricultural Commissioner. A meeting of staff and this group is scheduled prior to the upcoming Board meeting.

Staff has also taken the original colored process matrix, provided by industry, and simplified it. In addition to clarifying the draft ordinance, it is now presented in two tables which we believe are easier to understand. These tables, included as Attachment A1 and A2, have been forwarded to the industry for comment as well as being posted on the web prior to the Board meeting. Attachment A1 identifies winery uses within an agricultural district and Attachment A2 identifies winery uses outside the agricultural district.

The initial study process has been able to identify impact areas that are less than significant as well as confirm that the proposed ordinance has the potential to cause significant impacts related to development and accessory uses of new "by

right” wineries, as identified in the draft ordinance. Areas with less than significant impacts include: Air Quality, Geology and Soils, Hazards and hazardous materials, Hydrology and Water Quality, Mineral Resources, Population and Housing, Recreation, and Utilities and Service Systems.

Potentially significant impacts include: Aesthetics/Visual, Agricultural Resources, Biological Resources, Cultural Resources, Noise, Public Services, and Transportation and Traffic. At this time staff is working with industry to identify a number of development standards that can be utilized as mitigation measures to reduce these impacts to less than significant. We are working with the wine industry to receive input on a range of development standards for each impact area. We should have more information at the time this item is heard by the Board. These standards would be included in the Initial Study in the form of mitigation measures. In each area where the impact has been identified as potentially significant, staff has identified either a general plan policy inconsistency or exceedance of a county environmental threshold. The three main potential impact areas are described below.

Under Traffic/Circulation, the two areas identified as being potentially significant are 1) inadequate emergency access, and 2) increases in traffic which are substantial in relation to the existing traffic load and capacity of the street system. As noted on the county winery map (distributed to the Board in April), many area roadways serving existing small wineries (particularly in south county) utilize public roads that do not meet general plan policy standards. This presents a potentially significant impact to emergency personnel responding to facilities that have narrow road access, excessively long dead end roads, insufficient turn outs, etc.

The draft ordinance recognizes that developing new wineries in areas of the county where public infrastructure are inadequate could lead to potentially significant impacts when developing new wineries. Industry also recognized these issues and addressed them in the draft ordinance by restriction of use (generally limiting public use of the facilities) or by requiring a higher level of permit review (site plan review and special use permits).

For Aesthetics, staff has identified areas where new “by right” wineries could have potentially significant impacts from public roadways and potentially designated state scenic highways, based on the size of structures and location within the property. The general plan identifies a number of routes including portions of State Route 49, State Route 193 as well as other roadways and public scenic viewpoints, mostly in the south county area. The thresholds in the Initial Study discuss “introduction of physical features that are not characteristic of the surrounding development...”, and “substantial change to the natural landscape”. The draft ordinance includes only general development standards related to height and setbacks, so staff will be working with the industry to

formulate additional mitigation to address potential inconsistencies with general plan policies as well as visual impacts as previously discussed.

Under Noise, there are a number of general plan policies as well as environmental thresholds that could be exceeded if proper mitigation is not included with the development of new wineries. In particular, exterior standards could be exceeded through special events that include amplified music. The general plan standards are very strict in the evening and night for noise-sensitive areas. Staff is working with industry to identify effective mitigation and development standards to address a wide variety of events that could occur within the new wineries.

If staff is unable to reach agreement with industry on feasible mitigation measures through identification of development standards, then an EIR will need to be prepared. If that decision is made, then the County can potentially override the impacts after weighing the benefits to the industry with implementation of the ordinance.

B. Zone of Benefit - The Board had asked staff to research the issue of wineries using ZOB roads before returning for this update. Staff has researched the issues surrounding formation and annexation into ZOBs and determined that it is not possible to require a property to join/annex into a ZOB retroactively. However, if a new winery develops after formation of the ZOB, the property owner can be required to contribute their fair share for the wear and tear on the local roadways, caused by the new use.

C. Inclusion of Small Wineries - Updates to the draft ordinance now include definitions for small wineries in several categories: Home Occupation, allows production of up to 250 cases per year, a micro winery would allow 251 to 1,250 cases in residential zones, and wineries with small vineyards (less than five acres) also would be allowed. These categories will be reviewed by the industry at our next meeting.

D. Ranch Marketing - As previously reported, the update to this ordinance has been set aside until further progress is made on the winery ordinance. Staff is prepared to work on updating this ordinance at the direction of the Board. This will be discussed below under the Options section.

Options:

As presented before, staff has provided two options for continued processing of the winery ordinance.

Option #1 - Work with the wine industry to clarify the draft ordinance, and continue to work on mitigation measures / development of standards with the goal of completing the Initial Study with a recommendation to prepare and

circulate a Mitigated Negative Declaration after initiation of the draft winery ordinance. Based on staff's desire to work closely with industry in the final stages of the Initial Study, we request that this item be continued to August 21, 2007, for what we hope will be a recommendation to initiate the ordinance as well as accept the initial study with direction to publicly circulate the Mitigate ND and draft ordinance for Planning Commission consideration.

Option #2 – In addition to pursuing Option #1 above, direct staff to begin working with the ranch marketing industry to prepare a draft ordinance that can be reviewed publicly followed by hearings by the Planning Commission with recommendations forwarded to the Board. Once the draft has been reviewed and accepted by the Board, add the ranch marketing ordinance to the initial study of the winery ordinance and determine if both can be analyzed through use of the Mitigated ND. If so, proceed with a revised Initial Study. The Board could then initiate both ordinances and allow circulation of the Mitigated ND, if appropriate.

Attachments:

A1 - Winery uses in an Agricultural District

A2 - Winery uses outside an Agricultural District