



A Tradition of Stewardship
A Commitment to Service

Changes to the Winery Definition Ordinance (WDO):

Four Proposals

**for Consideration by the Napa County Planning Commission
& the Napa County Board of Supervisors**

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Introduction & Background

The Winery Definition Ordinance (WDO) was adopted in 1990 and codified in various sections of the County's zoning code, including Section 18.08.620 requiring that winery tours and wine tastings be by appointment only, and Section 18.08.370 (Marketing of Wine), which states:

“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 pursuant to Chapters 18.16 and 18.20, 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.

Based on this code section, winery use permits approved since 1990 generally authorize wineries to hold a specified size and number of marketing events over the course of a year, in addition to a specified number of prearranged (by appointment) tours and tastings. Social and business events (e.g. weddings, parties, conferences) have been deemed to fall outside the definition of marketing and, as a result, have not been permitted at wineries.

In late 2005, the Planning Commission and the Board of Supervisors considered broadening the definition of "marketing of wine" to, among other things, allow wineries to host weddings. This followed preparation of an Initial Study and preliminary negative declaration pursuant to the California Environmental Quality Act (CEQA). After public input and deliberations, the Board of Supervisors elected not to proceed with the ordinance.

On September 15, 2009, a number of speakers provided public comments to the Board of Supervisors requesting that the Board broaden the definition of "marketing of wine" to include cultural and social events; it was argued that this would be a way to stimulate

the local economy for a two year trial period. Separately, other members of the community, who had been discussing broader ideas for changes to the WDO, saw this as an opportunity to propose potential changes to the requirement that tours and tastings be by appointment only.

On October 6, 2009, the Planning Commission and the Board of Supervisors met in joint session to discuss these issues. At the end of the meeting, planning staff was directed to review any options that might exist for using our temporary events ordinance as a way to permit social and cultural events at wineries, offer support to industry group discussions about potential changes to the WDO, and assemble data regarding regional economic conditions and the characteristics of Napa County wineries.

On February 2, 2010, the Board of Supervisors received a report from staff and a report from the four wine industry groups (Vintners, the Farm Bureau, the Grape Growers, and the Wine Growers) as well as other interested stakeholders. The wine industry groups presented a consolidated set of principles and proposed changes to the zoning ordinance and reported that they had reached consensus (see Appendix A); although it became apparent that there was not real or deep agreement on at least one important issue, namely potential development of a special event permit process that would allow social and cultural events at wineries. At the close of the public testimony, each of the Board members shared their views, and staff was directed to:

1. analyze the industry groups' proposal & identify changes to the zoning ordinance that could be considered by the Planning Commission and the Board for adoption in short order;
2. analyze aspects of the industry groups' proposal that will require in depth study and analysis, and develop an estimate of the time and cost involved;
3. develop a policy interpretation, clarifying under what circumstances the existing zoning ordinance allows business meetings at wineries; and
4. describe in greater specificity how a special event permit process could be designed to allow cultural and social events at wineries.

Planning staff has prepared this "Four Proposals" document in response to the direction received from the Board on February 2, 2010. We are seeking input from the Planning Commission and the public at the Commission's regular meeting of February 17, 2010, so that these proposals may be refined and presented to the Board of Supervisors for consideration at a public hearing scheduled for 2:15 on March 2, 2010. Staff believes that all of the proposals contained here are generally consistent with the principles agreed to by the four wine industry group representatives and could be accompanied by findings of fact similar to those contained in the industry groups' proposal.

Proposal 1: Consensus Clarifications to the WDO

(Proposed as a stand alone ordinance)

Planning staff has examined the proposed language changes provided by the four wine industry groups (Appendix A), and believes that with some modification, proposed changes to the definition of marketing and to the list of permitted accessory uses (accessory to a winery) can be implemented as consensus-based clarifications to existing zoning code regulations. Specific proposed language is presented below with sidebar explanations where our text differs from the industry group proposal.

Section 18.08.370 Marketing of Wine

"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 customers and potential customers the persons or groups listed above with respect to wine which can be sold at the winery on a retail basis pursuant to Chapters 18.16 and 18.20, and.~~ Marketing of wine may include cultural and social events directly related to the education and development of customers and potential customers provided such events are clearly incidental, related and subordinate to the primary use of the winery. Marketing of wine may include food service, including food and wine pairings, where all such food service is provided 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.

Comment [heg1]: This phrase must be maintained so permitted activities affiliated with a winery cannot extend to other facilities & parcels.

Comment [heg2]: This phrase must be maintained so that events are planned ahead of time, consistent with approved marketing plans.

Comment [heg3]: The industry suggested broadening this to include guests and visitors, but isn't marketing all about customers & potential customers?

Comment [heg4]: The industry group suggested inserting "and that is limited in number and frequency consistent with the winery's use permit." This qualifier goes without saying, and is not typically included in code definitions.

Section 18.08.620 Tours and Tastings

"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 relationship with the winery or its owners, and~~ persons who have made unsolicited prior appointments for tours or tastings. Tours and tastings may include food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery and is incidental to the tasting of wine. Food service

Comment [heg5]: See Proposal 4 for a discussion of tours and tastings without appointments.

Comment [heg6]: The change to allow food wine paring as part of tastings is consistent with the general plan, but needs to be carefully crafted to clearly distinguish wineries from restaurants and cafes.

may not involve menu options and meal service such that the winery functions as a café or restaurant.

Section 18.16.030(H) Uses permitted upon grant of a use permit (AP zoning district) – uses accessory to a winery & Section 18.20.030(I) Uses permitted upon grant of a use permit (AW zoning district) – uses accessory to a winery

The following uses, when accessory to a winery:

1. Tours and tastings, as defined in Section 18.08.620,
2. Display, but not sale, of art,
3. Display, but not sale, of items of historical, ecological or viticultural significance to the wine industry,
- ~~4. Sale of wine-related products,~~
54. Child day care centers limited to caring for children of employees of the winery;

Comment [heg7]: This is the industry's suggested language. We're concerned that it may be overly broad, but we haven't been able to come up with an acceptable alternative.

Proposal Number 1 Next Steps

Staff believes this proposal should be revised as needed based on input from the public and the Commission with an eye to crafting an ordinance backed by broad public support, or even consensus. Because the ordinance would be declarative of existing policy, no General Plan amendment would be required and there would be no environmental impacts. Specifically, the proposed ordinance would be consistent with and implement General Plan Policy AG/LU-13, which states:

"The 1990 Winery Definition Ordinance recognized certain pre-existing wineries and winery uses as well as new wineries. For wineries approved after the effective date of that ordinance, agricultural processing includes tours and tastings by appointment only, retail sales of wine produced by or for the winery partially or totally from Napa County grapes, retail sale of wine-related items, activities for the education and development of consumers and members of the wine trade with respect to wine produced by or at the winery, and limited non-commercial food service. The later activity may include wine-food pairings. All tours and tastings, retail sales, marketing activities, and non-commercial food service must be accessory to the principal use of the facility as an agricultural processing facility. Nothing in this policy shall alter the definition of "agriculture" set forth in Policy AG/LU-2."

It should be noted, however, that simply making the changes suggested in this proposal will not address apparent disagreements within the industry regarding the types of business events that are currently permitted as "marketing," will not improve the County's ability to enforce provisions of the WDO, and will not resolve the special event permit question posed by the Board.

Proposal 2: Policy Interpretations of the WDO

(Proposed for adoption by Planning Commission resolution)

Since adoption of the WDO, it has not always been clear whether business meetings and similar events qualify as marketing events. A strict reading of the existing definition of marketing would suggest that wineries may *not* host business meetings unless they are “limited to activities for the education and development” of the persons or group involved and are singularly focused on “wine which can be sold at the winery on a retail basis.” Under this interpretation, only a business meeting solely focused on the production and sale of wine would be acceptable. However, business meetings that have a marketing objective (e.g. a wine tasting or education event scheduled for a group of bankers as part of a corporate retreat), have often been considered marketing events by many permittees, as long as a prevalence of such events does not constitute commercial activity or turn the winery into a conference center.

Clearly this is one area of the code that would benefit from clarification, and some have suggested that a policy interpretation – adopted by the Board or the Planning Commission – could provide that clarification. In addition, planning staff has identified other clarifications that could be accomplished via policy interpretations, as indicated below. With one exception – related to code enforcement – these policy statements are intended to articulate existing interpretations of County Code, existing Commission preferences, and existing practices of the Conservation, Development & Planning Department.

Business Meetings:

Marketing of wine may include business meetings related to the education and development of customers and potential customers provided such events are clearly incidental, related and subordinate to the primary use of the winery. To be considered “incidental, related and subordinate,” business meetings must include meaningful content related to the winery, and must be conducted without charge except to the extent of cost recovery.

The following are examples of business meetings that contain “meaningful content” about wine, and would be acceptable under this interpretation. In all cases, the relationship between time spent on wine education and development and time spent on other matters is the determining factor.

Comment [heg8]: This policy statement reiterates staff’s understanding of what is currently allowed. Examples have been provided to clarify the term “meaningful content.”

The phrase “except to the extent of cost-recovery” is admittedly difficult to interpret and enforce -- but not more so than the concepts of “non commercial food service” and the retail sales of “wine related products” contained in Proposal 1.

- 1.) A three hour (total) tour of the winery and private tasting event for employees of a national bank. The afternoon begins with an hour long speech by the regional bank manager discussing business prospects for the coming year.
- 2.) A 1 ½ hour special meeting of the Napa County League of Governments (NCLOG). Wine is served and the meeting includes a fifteen minute presentation by the winery’s owner about wine produced at the winery.
- 3.) A half-day corporate retreat for a San Francisco-based software company’s 25 member management group. From 8 to 11 they meet to discuss performance measurements. From 11 to 2 they enjoy a guided tasting of the winery’s wines, the winemaker hosts a blending lab, and there is a buffet luncheon featuring wine produced at the winery.

The following are examples of business meetings that do not contain “meaningful content” and would not be acceptable under this interpretation:

- 1.) A day-long annual meeting of local employees of a national bank. The catered lunch features wine produced on-site and begins with a fifteen minute presentation by the winery’s cellar manager, describing the benefits of micro-oxidation.
- 2.) A 1 ½ hour special meeting of the Napa County League of Governments (NCLOG). Wine is served and pamphlets describing the winery’s products are distributed.
- 3.) The weekly meeting of a fraternal or service organization such as Odd Fellows, regardless of the extent of wine related content.
- 4.) A two day annual conference of professional architects and engineers where wine is served and attendees are given the option to sign up for winery tours.

Conversion of Existing Structures:

To discourage property owners from constructing residences and barns with the express intent of converting them to wineries, the Planning Commission does not generally support use permit proposals seeking to convert existing buildings to winery use if the buildings have been constructed or substantially modified within the last 5-7 years.

Comment [heg9]: As long as we’re adopting policy statements, how about this one?

Marketing Programs Appropriate to Remote Locations:

To ensure that the intensity of winery activities is appropriately scaled to the location of the winery, the Planning Commission will consider the remoteness of the location when reviewing use permit proposals, and will endeavor to ensure a

Comment [heg10]: As indicated by our analysis of the winery data base, the commission is already implementing this policy in a general way – why not make it more explicit?

direct relationship between access constraints and on-site marketing and visitation programs.

Marketing Programs Appropriate to Production Volumes:

When reviewing proposed visitation and marketing programs associated with new or expanded wineries, the Planning Commission will consider the facility's actual production volumes. As the marketing of wine is necessarily subordinate to its production, wineries with limited production levels will, as a general rule, have limited marketing and visitation programs.

Comment [heg11]: Planning staff and Commissioners have long sought to establish a relationship between winery size (i.e. production) and visitation as suggested here. However industry representatives have pointed out that some small wineries may require more visitation than large wineries that have access to distributors. Thoughts?

Annual "Spot" Audits:

The Conservation, Development and Planning Department's code enforcement program is generally complaint-driven, however the Department and the Planning Commission will continue their practice of encouraging compliance with winery production volumes by annually auditing a random sample of permitted wineries using data provided by the wineries to State and federal agencies. As staffing allows, the annual "spot" audit may be expanded to consider compliance with winery visitation and marketing programs using data collected by the wineries in conformance with their conditions of approval.

Comment [heg12]: This is in response to the industry groups' "principle" about code enforcement.

Temporary Certificates of Occupancy:

The Building Department will continue their practice of allowing new wineries to produce wine after a temporary certificate of occupancy (TCO) has been granted, and to prohibit wineries from opening to the public for tours and tasting or for marketing events until they have a final certificate of occupancy. TCOs are generally not to be used to allow production of wine for more than one year.

Comment [heg13]: This is a restatement of the Department's current practice.

Proposal Number 2 Next Steps

Staff believes this proposal should be revised as needed based on input from the public and the Commission so that it can be presented for adoption in the form of a resolution with support from a majority of industry group representatives. The policy regarding business meetings in particular will require further discussion and revision to ensure that it simply restates what is allowed under the current ordinance. Because the resolution would be ultimately be declarative of existing policy/practices, no General Plan amendment would be required and there would be no environmental impacts.

Proposal 3: Special Events Permit Process for Social & Cultural Events

(Proposed as a stand alone ordinance adding a new subsection to Section 18.126.060 about Administrative Permits)

The Board of Supervisors has asked staff to develop, if possible, a special event permit process for their consideration that would be limited in scope (i.e. events could only occur at wineries) and would not require changes to the WDO. The Board's hope was that a specific proposal would allow the Board and interested stakeholders to offer more specific comments/suggestions than are possible when the idea is discussed as a broad concept.

As a result, staff has crafted the proposal below, which could be added by ordinance to a (non-WDO) section of the zoning ordinance that addresses administrative permits; creating a process to permit cultural and social events that are *indirectly* related to wine which can be sold at the winery by construing them as part of "marketing" if they meet specific standards. The administrative permit section of the zoning ordinance (Section 18.126.060) currently contains a list of situations in which an administrative permit may be granted and standards for their review. The section currently ends with subsection (P) about agriculture association signs, so the new winery special event permit process would be added as subsection (Q).

Section 18.126.060 Permit – Issuance prerequisites

(Q) Notwithstanding Section 18.08.370, Marketing of Wine, a cultural and social event that is indirectly related to the education and development of customers and potential customers may be permitted as a marketing event at a winery provided the application complies with the following standards:

- A. The winery has a valid use permit which specifically allows marketing events to be held at the winery.
- B. For wineries approved prior to February 22, 1990, where it is unclear what marketing activities were previously authorized, the winery obtains a use permit modification or a certificate of extent of legal non-conformity to clarify the intensity of marketing activities allowed.
- C. The winery submits a marketing plan for the current calendar year, indicating the schedule of events, and demonstrating:

Comment [heg14]: Standards A through H are derived from the 2005 draft ordinance to allow weddings at wineries. Standards I-L are derived from the Temporary Events ordinance.

- i) that the proposed event will conform with the number of attendees specified in the winery's use permit for visitors to a particular marketing event, and
 - ii) that the event will be counted towards the total number of marketing events per year authorized by the winery's use permit.
- D. The event is conducted for a particular group on a prearranged basis and the only alcoholic beverages served at the event are wines which can be sold at the winery on a retail basis pursuant to Chapters 18.16 and 18.20 of this Code.
- E. Food service and event facilities are provided without charge, except to the extent of cost recovery, and the application includes a cost breakdown.
- F. The event is not scheduled to begin or end during "peak" travel times of 4:00 to 6:00 p.m. on weekdays and 1:00 to 4:00 p.m. on weekends.
- G. The event may not include the use of outdoor amplified music unless it is specifically authorized by a use permit modification approved by the zoning administrator pursuant to section 18.10.020 of this Code and is based on an analysis outlining feasible methods for complying with the County's noise ordinance and those methods are included as conditions of approval on the use permit modification.
- H. Events within one-quarter mile of residential uses must end (including clean-up) by 10:00 p.m. unless a different time is authorized by a use permit modification approved by the zoning administrator and is based on an analysis outlining feasible methods for complying with the County's noise ordinance and such methods are included as conditions of approval on the use permit modification pursuant to section 18.12.020 of this Code.
- I. An application for an administrative permit shall be made in writing on a form prescribed by the department and shall be accompanied by the fee established by the board. A complete application and fee must be received by the department at least 60 days prior to the event; incomplete submittals will be automatically denied 60 days prior to the event.
- J. The application form and resulting permits shall include a checklist of standard requirements or conditions to address safety and security, noise, water and wastewater, parking and transportation, garbage and recycling, and other issues.
- K. The applicant shall be responsible for supervising all events to ensure they comply with required conditions and may be requested to provide for the presence of security guards or similar personnel.

- L. No permit shall be issued until the applicant has filed with the director a certificate of insurance showing that the applicant has obtained insurance coverage in the amount and type required by the county's risk manager and from an insurance company acceptable to the county's risk manager. In lieu of insurance, the applicant may provide the director with satisfactory evidence of equivalent security in one or more of the forms of security described in subsections (A)(1) through (4) of Section 17.38.030 of this code.

Proposal Number 3 Next Steps

Staff believes this proposal should be considered in light of input from wine industry groups and other interested stakeholders and further refined in the form of a stand alone ordinance if there is adequate public and political support.

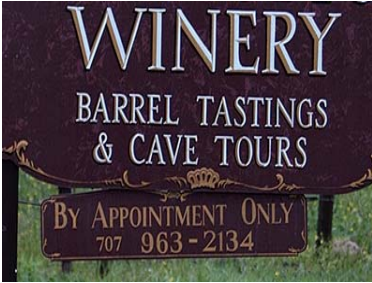
Once the ordinance language is further developed and refined, it will be possible to review it carefully for conformance with the General Plan, and to determine likely environmental impacts. The objective, however, would be to draft language constraining the permitted events sufficiently so as to nest them within the definition of "marketing of wine" and avoid introducing commercial events that would conflict with General Plan policies about agricultural preservation and urban centered growth. (The devil will be in the details here.)

Some will argue that such a task is infeasible, and that *any* special event permit process would necessarily conflict with the General Plan. However the issue is more nuanced than that, since activities that can legitimately be considered accessory to a winery (like marketing events) are consistent with the General Plan. The question is whether a new special event permit process can be sufficiently shaped and constrained such that the proposal and the universe of potential events it would enable can be considered "incidental, related and subordinate to the primary use of the winery." This will be a matter of interpretation for the Board of Supervisors to decide based on input and analysis from staff and interested stakeholders.

Staff expects that a draft ordinance, *if* it is found consistent with the County General Plan, would qualify for a negative declaration under the California Environmental Quality Act (CEQA), similar to the negative declaration prepared for the 2005 draft ordinance.

Proposal 4: Tours & Tasting without Appointment

(Proposed as a stand alone ordinance)



When the WDO was adopted in 1990, it was specifically crafted to eliminate public tours and tastings at new wineries, and to avoid potentially significant environmental impacts that were expected to occur if public tours and tastings continued to be permitted as part of new winery applications. Implementation of the tours-and-tastings-by-appointment-only regulation has been accomplished via use permit conditions requiring very specific

winery signage, conditions requiring advance appointments, and by placing limits on the number and frequency of overall winery visitation.

Industry group representatives have proposed amending the WDO to eliminate the requirement for advance appointments and for the related signage, ultimately relying on the wineries to limit the number and frequency of winery visitation consistent with their use permit through other means. (For example, the winery could restrict visitation by limiting their hours of operation or by limiting the number of parking spaces provided.)

While the suggested change would be beneficial because it would (a) create a more level playing field for pre- and post-WDO wineries; (b) eliminate a condition that is difficult to monitor and enforce; and (c) allow wineries the flexibility to design visitation programs that fit their individual business models, the suggestion will require a General Plan amendment and careful analysis.

Specifically, a General Plan amendment will be required to modify Policy AG/LU-13 (see bottom of p. 5, above for this policy) in order to eliminate the reference to tours and tastings by appointment. In addition, planning staff will have to analyze potential traffic and other impacts associated with existing and future wineries not requiring their guests to make advance appointments, and the resulting potential inability to limit overall visitation.

A detailed traffic study, undertaken in collaboration with technical experts at the Napa County Transportation & Planning Agency (NCTPA), would likely require an investment of \$200,000 for transportation engineering consultation services, and would lead to the crafting of mitigation measures needed to address potentially significant environmental impacts. If all significant impacts can be mitigated, the traffic study could lead to a mitigated negative declaration. However, if the cumulative impacts of

traffic growth cannot be reduced to less than significant levels (this was the ultimate conclusion of the General Plan EIR), then the traffic study would lead to the preparation of a focused EIR, which would have additional costs.

Proposal 4 Next Steps:

If the Planning Commission and the Board of Supervisors are interested in pursuing the proposal to eliminate the need for prior appointments, planning staff would develop an RFP for consultant services, and prepare a contract and funding request for consideration by the Board. Staff would also recommend establishment of an industry advisory group to help refine the consultant scope of work, ordinance language, and a mitigation program.



Appendix A: Industry Group Letters

2/2/10
#9D



At the direction of the Board of Supervisors, the Wine Industry Task Force, consisting of representatives from the Napa Valley Vintners Association, Napa Valley Grapegrowers Association, Napa County Farm Bureau and the Winegrowers of Napa County, have considered opportunities and proposals to provide economic stimulus to Napa County businesses through modifications of or clarifications to the Winery Definition Ordinance (WDO) or through the use of existing or revised temporary events ordinances.

Statement of Principles

The Wine Industry Task Force is unified in our support for the following principles:

1. For over 40 years the citizens of Napa County have held agriculture as the highest and best use of the county's unincorporated areas. The result has been the preservation and continued proliferation of a highly profitable grape and wine industry that is the primary economic driver of Napa County today. The long-term sustainability of Napa County's wine industry is predicated on the integrity of the Agricultural Preserve. We do not support any changes to the WDO or special events ordinances that threaten the viability or sustainability of the Agricultural Preserve.
2. The wine business is a global industry. Direct sales and consumer visitation at wineries are increasingly important factors enabling Napa Valley wines to compete with wines from other regions around the world. The quality of the visitor experience affects the competitive position of Napa Valley wineries.
3. Current economic conditions have put many Napa County businesses in jeopardy, including those in the wine industry and those directly dependent on the wine industry. Temporary or permanent changes to the County Code which support overall economic growth, conform to the principles in the General Plan, and do not benefit one industry at the expense of others are appropriate.
4. County enforcement of restrictions contained in the WDO and winery use permits is currently inadequate. In this environment, any code changes relaxing restrictions on wineries' activities may serve to encourage further expansion of disallowed activities. For any recommended changes to be effective, the County must implement an effective enforcement plan.
5. Any changes to the WDO regarding modifications to requirements for unsolicited prior appointments for tours and tastings at wineries should be assessed as to their potential environmental impacts and appropriate reviews should be taken.
6. Each of the industry groups will individually submit their positions with respect to the Special Event Permit concept.

2010 WDO – DRAFT CHANGES AS MARKED

SECTION 1. Findings of fact

- (d) The preservation of agricultural land requires a reliable market to justify the investment required to acquire, develop and maintain vineyards capable of producing high quality fruit. In this regard, a reliable market for Napa County wine grapes is dependent on the ability of Napa County wineries to promote, market and sell Napa County wines in an increasingly competitive domestic and international market.
- (g) Napa County is in competition with other wine regions around the world. Direct sales and consumer visitation at wineries are increasingly important factors enabling Napa Valley wineries to compete, and the quality of the visitor experience affects the competitive position of Napa Valley wineries.
- (h) The existence of wineries within the Agricultural Preserve is a conditional use granted to wineries because the creation, selling and marketing of wine is a necessary and essential adjunct to the agricultural activity of growing grapes, and thereby ensures the long term viability and sustainability of the Agricultural Preserve.

SECTION 8. Section 12047 of the Napa County Code is amended to read in full as follows:

Sec. 12047. “Winery.”

“Winery” shall mean an agricultural processing facility used for:

- (1) The fermenting and processing of grape juice into wine; or
- (2) The refermenting of still wine into sparkling wine;

SECTION 9.

Sec. 12070. “Tours and Tastings”.

“Tours and Tastings” shall mean tours of the winery and/or tastings of wine, including wine-food pairings, where such tours and tastings are limited to members(a) in the case of the wine trade, persons invited by a winery who have pre-established business or personal relationships existing wineries, limited in number and frequency consistent with the winery’s approved use permit and (b) in the case of new winery use permits and expansion of existing winery or its owners, and persons who have made unsolicited prior appointments for use permits, limited to the number and frequency authorized by each approved winery use permit. For clarity, on a prospective basis only, and without affecting winery uses permitted under Code sections 18.16.020 (g) through (i) and

18.20.020 (h) through (i), in no case will there be open and unrestricted public tours ~~or~~ and tastings.

Sec. 12071. "Marketing of Wine".

"Marketing of Wine" shall mean any activity of a winery identified in this paragraph which is conducted at the winery and is limited ~~directly related 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 pre-arranged basis. Marketing of wine is limited to activities for ~~the education and development of the persons or groups listed above~~ customers, visitors or guests of either the winery or its owners with respect to wine which can be sold at the winery on a retail basis pursuant to ~~Article 4~~ Chapters 18.16 and 18.20, and that is limited in number and frequency consistent with the winery's use permit. Marketing of wine may include cultural or social events directly related to such purpose to the extent such events are clearly incidental, related and subordinate to the primary use of the winery. ~~Marketing of this title, and wine may include food service, including food and wine pairings, where all such food service shall be 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.~~

SECTION 21.

Sec. 12602.3 Winery Signs.

A. All winery signs, including, but not limited to any sign containing "open", "closed", hours of operation, or identifying sales of wine, shall be governed by use permit or a comprehensive sign plan, and shall be compatible with the design and scale of the winery, its site, structures and surrounding area.

i. Figure 19.116.060: Examples of Winery Signs

B. ~~Unless the winery was permitted to conduct public tours or tastings prior to February 22, 1990, a winery that is required to or elects to have a sign identifying the winery at the entrance to or from a public roadway, including a sign attached to or part of an entry structure, must at the same location prominently and legibly post the words "Tours and Tastings by Prior Appointment Only". Any such signs must further conform to any applicable standards adopted~~ All winery signs must conform to any applicable standards adopted by

comprehensive sign plan, use permit or commission resolution as to size, placement, materials, legibility and maintenance.

- C. Winery sign design and location shall be consistent with the following standards, unless prior to February 24, 2000, such sign has been approved as part of a use permit, or at any time more restrictive provisions are specified by the applicable use permit or comprehensive sign plan:
- a. One or more freestanding sign faces limited to a combined total of thirty square feet;
 - b. One or more wall signs limited to a combined total of twelve square feet; and
 - c. A freestanding sign shall have no feature exceeding a height of six feet above the natural grade or four feet above the centerline of an adjoining roadway, whichever is the greater.

SECTION 11.

Sec. 12202. Uses Permitted Upon Grant of Use Permit.

(g) The following uses in connection with a winery:

(5) Any or all of the following uses provided that, in the aggregate, such uses are clearly incidental, related and subordinate to the primary operation of the winery as a production facility:

(A) Office and laboratory uses.

(B) Marketing of wine as defined in Section 12071, subject to such limitations in number and frequency consistent with the winery's approved use permit.

(C) Retail sale of (i) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of paragraphs (b) and (c) of Section 12419 regulating the source of grapes; and (ii) wine produced by or for the winery from grapes grown in Napa County.

(h) The following uses, when accessory to a winery:

(1) Tours and Tastings, as defined in Section 12070, subject to such limitations in number and frequency consistent with the winery's approved use permit.

(2) Display, but not sale, of art.

(3) Display, but not sale, of items of historical, enological or viticultural significance to the wine industry.

~~(4)~~ (4) Sale of wine related products.

(5) Child day care centers limited to caring for children of employees of the winery.

SECTION 14.

Sec. 12232. Uses Permitted Upon Grant of Use Permit.

(i) The following uses in connection with a winery:

(1) Crushing of grapes outside or within a structure.

(2) On-site, above ground disposal...

(3) Aging, processing...

(4) Bottling and storage...

(5) Any or all of the following uses provided that, in the aggregate, such uses are clearly incidental, related and subordinate to the primary operation of the winery as a production facility:

~~(A)~~ (A) Office and laboratory uses.

~~(B)~~ (B) Marketing of wine as defined in Section 12071, subject to such limitations in number and frequency consistent with the winery's approved use permit.

(C) Retail sale of (i) wine fermented or refermented and bottles at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of paragraphs (b) and (c) of Section 12419 regulating the source of grapes; and (ii) wine produced by or for the winery from grapes grown in Napa County.

(j) The following uses, when accessory to a winery:

(1) Tours and tastings, as defined in Section 12070, ~~_____~~, subject to such limitations in number and frequency consistent with the winery's approved use permit.

(2) Display, but not sale, of art.

(3) Display, but not sale, of items of historical, enological or viticultural significance to the wine industry. _____

~~(4)~~ (4) Sale of wine related products.

(5) Child day care centers limited to caring for children of employees of the winery.



WINEGROWERS
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members

Barbour Vineyards

Cakebread Cellars

Catlin Farm

Chateau Montelena

Far Niente Winery

Foster's Wine Estates Americas

Harlan Estate Winery

Hess Collection Winery

Icon Estates

Joseph Phelps Vineyards

Kendall-Jackson Wine Estates

MVP Vineyard

Pina Vineyard Management

Round Pond

Sawyer Cellars

Silver Oak Cellars

Silverado Premium Properties

Silverado Vineyards

Trefethen Vineyards & Winery

Trinchero Family Estates

February 2, 2010

Ms. Diane Dillon, Chair
Napa County Board of Supervisors
1195 Third Street, Suite 310
Napa, CA 94559

Dear Chairwoman Dillon:

The Winegrowers of Napa County appreciates the work that the Napa Valley Vintners (NVV), the Napa Valley Grapegrowers (NVGG) and the Napa County Farm Bureau (NCFB) has performed to determine if any changes should be made to the current Winery Definition Ordinance.

We believe that no changes should be made to the WDO that would jeopardize the Ag Preserve.

We cannot support any changes to the WDO that would put more restrictions on wineries than currently exist.

We support the creation of a new "Special Event Permit" process that will provide a path forward to provide wineries with more flexibility in the types of marketing events they can have while also providing robust checks and balances against abuse. We believe that this process does not belong within the WDO but rather in the realm of a "Special Event Permit" process which can provide an extra level of oversight.

We support the marketing of wine to include food service, specifically including wine and food pairings available to guests during educational tours and tastings.

We support the elimination of the "By Appointment Only" restriction for tours and tastings that has limited the abilities of some wineries to market their wines. We support this change as long as those wineries remain within their current use permit limitations for the number of guests at any given time.

We believe that business meetings that include a meaningful wine educational component conducted at wineries provide a valuable marketing tool for Napa Valley grapes and wines and therefore create economic stimulus to our community. We support the County drafting an "administrative interpretation" or any other mechanism the County deems necessary and responsible in order to



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permit these types of business meetings as long as they are performed within existing use permits and for cost recovery only. We understand that this provision is one area that goes beyond the current recommendation from the NVV, NVGG and NCFB.

Finally, we support the NVV's recommended changes in the WDO's "Findings of Fact" to reflect the nexus between protecting the Ag Preserve, the need for a reliable winegrape market and the ability for wineries to promote, market and sell Napa County wines in an increasingly competitive domestic and international market.

Thank you for the opportunity to share our comments regarding the Winery Definition Ordinance. We look forward to working with you and all of the Supervisors, as well as the other industry groups and community at large, throughout this process.

Sincerely,

Ed Matovcik

Mark Couchman

cc: Supervisor Brad Wagenknecht
Supervisor Keith Caldwell
Supervisor Bill Dodd
Supervisor Mark Luce

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February 2, 2010

Via Hand Delivery

Napa County Board of Supervisors
1195 Third Street, Third Floor
Napa, CA 94559

Re: Proposed Changes to the WDO

Dear Madame Chair and Members of the Board:

I am writing today first to express my support for the modest changes to the Winery Definition Ordinance that the Napa Valley Vintners, Napa Valley Grapegrowers and Napa County Farm Bureau advocate. Each word of their draft ordinance is the product of many hours of thought, debate and accumulated experience, and as such their proposal merits the serious consideration that I know the Board will give it.

I am also writing to encourage the Board to consider the place of the WDO in the wider context of the County's zoning regulations. Although it is tempting in the current recessionary climate to take actions that could provide economic stimulus to the County's business community, in considering changes to the WDO the Board must act as a land-use decision-making authority and not as a bailout agency. Specifically, the Board must consider the requirements of Napa County's agricultural preserve.

The agricultural preserve is the hallmark of Napa County and its most salient feature is its broad-based prohibition on the commercial use of agricultural land. From the perspective of Napa's regulatory scheme, wineries are allowed because they are considered to be accessory agricultural uses rather than commercial uses. This means, then, that tours and tastings and wine marketing events are accessory uses to what is already an accessory use. When we begin considering further uses (cultural and social events) that are accessory to tours and tastings and wine marketing events, we might legitimately ask whether those accessory uses to accessory uses to an accessory use are so attenuated from the agricultural use of land as to no longer be reasonably defensible as such. We might also ask whether those uses are, in fact, commercial and not agricultural.

In this regard, I find the definition of an accessory use in the original WDO to be instructive. It states that an accessory use shall mean "any use subordinate to the main use and

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customarily a part thereof." (Emphasis added.) Wineries, which are agricultural processing facilities, are customarily a very important part of agriculture and one which arguably gives the greater measure of value to our agricultural produce. And tours and tastings are customarily a part of the operation of a winery. But it is by no means clear that cultural and social events are customarily a part of winery or agricultural operations. Nor is it clear that we should wish them to be.

To the extent that the Board wishes to consider allowing wineries to host cultural and social events, those events should be very narrowly focused on wine education and development for the promotion and sale of wine. It is not acceptable to say that any activity at which wine is sold is a wine marketing event. Rather, please ask yourselves whether the activity in question is customarily a part of the operation of a winery or a vineyard. If not, it should not be considered.

Thank you for your time and attention to my comments.

Sincerely,



Katherine Philippakis

cc: Bruce Phillips, Napa Valley Grapegrowers
David Beckstoffer, Napa Valley Grapegrowers

