

Frost, Melissa

Subject: FW: APAC Meeting of July 13, 2015
Attachments: WDO Letter Matthiasson.docx

From: Morrison, David
Sent: Friday, July 10, 2015 4:04 PM
To: Gallina, Charlene; Anderson, Laura; Frost, Melissa
Subject: APAC Meeting of July 13, 2015

Chair Hall and members of the APAC,

In the staff report for Monday, I made an error. Proposal P, submitted by Dan Mufson, should read as follows:

Establish a mandatory compliance program with the following components:

- a. It will apply to all existing and new wineries.
- b. The data will be submitted online to create a database.
- b. An annual sworn affidavit by the Owner/President must be submitted certifying their use permit compliance.
- c. Formal audits will be performed by County personnel trained for this purpose, or third-party audit firms.
- d. The program is to be funded by fees based on visitation (tasting, events) and/or permitted wine production. The funding goal is to support annual audits of 33% of the wineries.
- e. There will be a schedule of mandatory penalties for non-compliance based on the factor in question: In addition to monetary fines, the penalties will mandate a return to the operations outlined in the original Conditions of Approval, and thereafter, a three-year waiting period, with clean audits, to apply for any use permit modifications for production or visitation increases.
- f. The components of the audit will include: production, grape sourcing, visitation, retail sales, the approved marketing plan, events, temporary events, food costs for food and wine pairing events, water usage and waste water volumes and handling. The Audit could include a review of the winery's Conditions of Approval.

I apologize for the mistake. It was inadvertent, but an important matter in the upcoming discussion.

Also, please see the attached letter from Jill Klein Matthiasson.

Respectfully,

David Morrison, Director
Napa County Planning, Building and Environmental Services

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July 10, 2015

Napa County Agricultural Protection Advisory Committee
c/o Melissa Gray and David Morrison
1195 Third Street
Napa, California 94559

To the Members of the Agricultural Protection Advisory Committee:

We have attended and spoken at two of your committee meetings about the importance of family farmers in Napa. It was our dream to be farmers and we chose to live in the Napa Valley because of its vibrant rural community. We were lucky enough to be able to purchase a home and vineyard on a five-acre parcel in the County. We planted fruit trees on our farm as well as hedgerows with native plants that provide habitat for beneficial insects and wildlife. We farm an additional 30 acres of vineyards on leased land and two fruit orchards, also on leased land. We make wine from the grapes and sell the fruit from the orchards at the Napa Farmers' Market and to local restaurants. We also produce award-winning jam from the fruit.

We are very much a part of our local community: we have two children in Napa public schools, and recently utilized our winery's DTC network to raise \$35,000 for the Napa Earthquake Relief Fund.

We see an opportunity in this current land use discussion for some healthy further evolution of the WDO as it relates to small family farmers in the Ag Preserve.

In 2012, we saw the passage of the California Homemade Food Act (A.B.1616). This bill, which became effective on January 1, 2013, "allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens referred to as "cottage food operations" (CFOs)."

All cottage food operators have to meet specified requirements pursuant to the California Health and Safety Code related to preparing foods that are on the approved food list, completing a food processor training, implementing sanitary operations, and operating within established gross annual sales limits. In order for this law to be implemented, Napa County had to relax some of its restrictions about commercial operations in the county.

Thus, on our **five** acres in Napa County, given current county regulations together with the Cottage Homemade Foods Act, we are legally permitted to grow peaches and sell them directly from our farm, we can make those peaches into jam in our home kitchen and sell them directly from our farm, but we cannot grow grapes and make wine and sell the wine directly from our farm. This reality undermines the ability for small family farms to survive in this valley, and turns smaller parcels like ours into home sites for large estate homes.

We would like to propose a revision of the current Winery Definition Ordinance, which would bring consistency to the laws in Napa County and to make it easier for small family farmers to survive and prosper in order for Napa Valley to retain small family operations that benefit a vibrant rural community.

We currently make our wine at a custom crush facility. With only five acres, it's more environmentally sound to share space with other wineries than to build more buildings, develop a waste water system, and develop and widen roads etc. However without a winery permit we are prevented from directly engaging our customers in our own home and vineyard. This puts pressure on our business to acquire the land necessary to build a winery in the agricultural preserve, primarily for the visitation rights.

Hosting visitors in one's home and vineyard is practiced throughout the world and is critical for success as a small winery—this is not just for direct sales—importers, distributors, and restaurant buyers regularly visit with wineries to learn about the place the wine is grown by seeing the soil and vines, and in the process building a lasting relationship with the winery.

As we mentioned, the Cottage Homemade Foods Act was designed to allow small, artisanal food makers to produce and sell items like pickles, jams, and breads in their own home. They do not have to comply with all regulations regarding production and sales as long as they have no more than one full-time equivalent employee and their gross sales do not exceed an agreed upon cap. They need to be fully permitted and are subject to inspection and audit.

We would like this committee to consider applying this approach to allowing limited wine visitation in one's own home to provide a safety valve for small producers whose small acreage and/or small business requires them to use custom crush for their production.

This can be accomplished in the following way: many small wine companies hold an "alternating proprietorship" at the location where they custom crush, and the ABC allows them to hold a "duplicate 02," for the retail sale and sampling of wines in a second location. The current WDO prevents that second location from existing within the agricultural preserve. The Cottage Homemade Foods Act presents a precedent for allowing small businesses to operate without the regulatory burden that is required of larger businesses. If the winery operation is owner-operated, the producers are farming the grapes, and a maximum of one employee is allowed, the business should be allowed to host visitors and sell their wine at their home or vineyard, with an agreed upon cap on sales.

This arrangement will guarantee that only small, owner-operated wineries can host visitors and sell wine directly from their homes and at the same time take the pressure off of the new winery permitting process and the environment of Napa Valley, since it will no longer be necessary to build a winery just to be able to host

visitors. Fewer new wineries equals less conversion of ag land, and a smaller environmental footprint. However, it allows small wineries to run their businesses on a level playing field.

The fair and sensible way to tackle the problem of winery impacts on the rural character of Napa Valley is not just to create more limits, but to constructively shape the nature of the way business is conducted. There are creative ways to address the problem while providing a place for small family business as part of the community. We think a modification of the WDO to allow small, owner-operated wineries to sell wine directly from their homes is a creative way to address the many issues the county is facing while allowing small family farms to thrive. This will balance out the restrictions on new wineries that are being considered by allowing small producers to compete without them having to build new wineries and thereby lessening the environmental impact.

Thank you very much for considering this request and please contact us if you have any questions.

Sincerely,

Steve and Jill Matthiasson
73 Luke Drive, Napa, CA 94558

