

MEMORANDUM



AGENDA ITEM: 6.1

DATE: June 18, 2013
TO: Planning Commission
FROM: Greg Desmond, Interim Planning Director
RE: Small Winery Ordinance Discussion

Background:

At the meeting on April 16, 2013 Commissioner Russell requested that the commission consider agendizing a discussion regarding the Small Winery Ordinance language (Section 17.180).

Commissioner Russell explained that the existing ordinance language may require revisions to accommodate the change in market conditions and consumer-direct marketing via the Internet. Both of which were not contemplated when the ordinance was drafted in 1999-2000.

The commission agreed to consider and discuss any proposed changes and selected Chairperson Heil to assist Commissioner Russell and staff with preparing materials for review at a subsequent commission meeting.

At the May 7, 2013 meeting the Planning Commission held an initial discussion regarding the Small Winery Ordinance. There was consensus with both the Planning Commission and via public testimony that the ordinance needed updating.

Commissioners Russell, Chairperson Heil and Interim Planning Director Greg Desmond have prepared the attached draft revisions for review/comment.

Discussion:

Winery development in St Helena is possible in the following zoning districts:

SC: Service Commercial: Conditional Use Permit (excludes retail sales and tasting)

I: Industrial: Conditional Use Permit (excludes retail sales and tasting)

A-20: Twenty-Acre Agriculture: Conditional Use Permit subject to the Small Winery Ordinance.

The St Helena Municipal Code includes the W: Winery District which has been applied to the following existing, large scale wineries: Krug, Sutter Home and Beringer. The W: Winery District requires a minimum parcel size of 20.0 acres.

The purpose of the Small Winery Ordinance is to allow establishment of small wineries on vineyard property which, in-turn, supports the continual agricultural use of the land and promotion of the wine industry within the city limits.

The purpose of the Small Winery Ordinance Amendment is to update the ordinance and to create consistencies between City of St Helena and County of Napa regulations regarding the entitlement process for winemaking facilities.

The proposed changes are focused on the following topics:

- *Events* – the update will allow marketing events, tours and tastings – all of which are currently prohibited.
- *Residential Development* – the update will remove the requirement that a small winery is subordinate to residential use.

Planning Commission Action:

This item requires no formal action at this time. The purpose is to discuss and provide direction to staff regarding next steps.

Attachments:

Draft topics for discussion

CHAPTER 17.180: SMALL WINERIES

- Section 17.180.010. Purpose**
- Section 17.180.020. Definitions**
- Section 17.181.030. Applicability**
- Section 17.182.040. Use Permit Required**
- Section 17.183.050. Design Review Required**
- Section 17.184.060. Pre-Prohibition Wineries**
- Section 17.185.070. Uses Prohibited**
- Section 17.186.080. Development and Use Standards**
- Section 17.187.090. Application Requirements**
- Section 17.188.100. On-Premise Events and Sales**
- Section 17.189.110. Inspections, Fees and Licenses**

Section 17.180.010. Purpose

The intention of the Small Winery regulations is to promote and implement the policies of the General Plan which aim to preserve agricultural land uses within the City of St. Helena. ~~The establishment of small wineries on vineyard property supports **the economic feasibility of** continuing agricultural use of the land **and promotion of the wine industry within the city limits, because an individual property owner can process his or her grape crop into wine within his or her privately owned facility.**~~

Allowing the development of small wineries on agricultural parcels 5.0 acres or larger is ~~also~~ intended to support the establishment of smaller, locally-owned and operated wineries. ~~The Small Winery is distinguished from the larger wineries that are allowed in the W: Winery zoning district and other specified commercial zoning districts because small wineries are accessory uses to the primary residential use of a property, and because public events and public-oriented uses are not permitted at the small wineries.~~

The difference between the Small Winery regulations and those outlined in the W: Winery District is specific to scale. The W: Winery District requires a minimum lot size of 20.0 acres and allows, through the conditional use permit process, restaurants, cafes, delicatessens and warehousing of grapes not crushed on the premises.

Section 17.180.020. Definitions

~~**Accessory use** is defined as any use subordinate to the main use and customarily a part thereof. An accessory use must be clearly incidental, related and subordinate to the main use, reasonably compatible with the other principal uses in the zoning district and with the intent of the zoning district, and cannot change the character of the main use.~~

Accessory use means any use subordinate to the main use and customarily a part thereof. An accessory use must be clearly incidental, related and subordinate to the main use,

reasonably compatible with the other principal uses in the zoning district and with the intent of the zoning district, and cannot change the character of the main use. Unless provided otherwise in this title, accessory uses may be conducted in the primary structure or in structures other than the primary structure. Where the zoning regulations applicable to a zoning district specifically identify the accessory uses which are permitted in conjunction with a primary use in that zoning district, no other accessory uses in conjunction with the primary use will be permitted in that zoning district.

Agricultural Parcel is any parcel with the A-20: Twenty Acre Agriculture designation.

Contiguous parcel is defined as any parcel whose property lines adjoin the parcel upon which the Small Winery is located, and any parcel that is immediately adjacent to or across any public or private street, excluding Highway 29, from that parcel upon which the winery is located.

Marketing event is defined as any activity of a small winery which is conducted at the small winery on a prearranged basis for the education and development of customers and potential customers with respect to wine which can be sold at the winery on a retail basis. Marketing events 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 events 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.

~~is defined as any activity conducted at the Small Winery for the purpose of educating members of the wine trade and persons who have pre-established business relationships with the Small Winery or its owner/operator about the wine produced at the Small Winery in order to increase the amount of wine sold to those individuals. Marketing activities may include food service without charge when provided in association with such education and development, but shall not include cultural and social events unrelated to such education and development.~~

~~**Phase I Water Availability Analysis (WAA-1)** is a report, prepared by a licensed civil engineer or hydrologist that states the proposed development of the parcel and estimates the total water use in acre-feet per year. It includes all water use proposed for the parcel including potential vineyard development.~~

~~**Phase II Water Availability Analysis (WAA-2)** is an aquifer test conducted by a licensed hydrologist, whereby the subject well is pumped for a prescribed period of time and the impacts on water levels at neighboring or monitoring wells is evaluated.~~

~~**Phase III Water Availability Analysis (WAA-3)** is a mitigation plan prepared by a licensed civil engineer or hydrologist that proposes changes to the project that will reduce the impacts to the groundwater basin.~~

Pre-prohibition winery (Ghost winery) is defined as a building that was used as a winery prior to Prohibition but has since been abandoned from use as a winery. For purposes of this Section, Prohibition took effect on January 16, 1920.

Premises is defined as the parcel on which the Small Winery is located.

~~Private marketing events are those marketing events which are hosted by the Small Winery owner/operator for members of the wine trade and for persons who have pre-established business relationships with the Small Winery or its owner/operator.~~

Produced is defined as any aspect of the winemaking process.

~~Public events are events which are open to members of the general public who are not members of the wine trade or who do not have pre-established business relationships with the Small Winery or its owner/operator.~~

Short-Term Rentals are regulated rentals of single-family residences located in residential and agricultural districts for periods of time less than 30 days.

~~Tours and tastings are tours of the Small Winery and/or tastings of wine produced by the Small Winery on the premises.~~

Winery is defined as an agricultural processing facility used for the fermenting and processing of grape juice into wine, and the re-fermenting of still wine into sparkling wine.

Section 17.180.030. Applicability

Small Wineries shall only be permitted as specifically allowed within the regulations pertaining to the established zoning districts. The re-establishment of Pre-prohibition Wineries may be permitted within any district, except the W: Winery zoning district, in compliance with the regulations of Section 27.284.

The re-establishment of pre-prohibition wineries in the W: Winery zoning district shall comply with the W: Winery district regulations in Article II, Division 3.

Section 17.180.040. Use Permit Required

A use permit, granted according to the process described in ~~Article XI, Division III, Chapter 17.180 of the St Helena Municipal Code~~ shall be required prior to the establishment of a Small Winery in any zoning-agricultural district.

Section 17.180.050. Design Review Required

Pursuant to Chapter 17.164 all signs, new structures or buildings, or exterior revisions (not including change in exterior color) of any existing structures or buildings for both permitted and conditional uses shall require design review.

Section 17.180.060. Pre-Prohibition Wineries

- (a) The re-establishment of a pre-prohibition winery may be permitted with approval of a use permit and design review.
- (b) The following findings must be made in order to approve a use permit for the re-establishment of a pre-prohibition winery:
 - 1. There is substantial evidence proving that the subject structure was used as a winery building prior to January 16, 1920.
 - 2. More than 50% of the exterior of the original historic structure remains standing.
- (c) The appearance of the renovated building must be consistent with the original appearance of the building, as documented by photographs or as recommended by a qualified architectural historian.
- (d) Pre-prohibition winery status may allow modification of regulations of the underlying zoning district to preserve the historic nature of the structure.
- (e) Pre-prohibition wineries shall not be automatically entitled to the prior annual production capacity, or type or intensity of prior social or marketing activities. Pre-prohibition winery operations must be consistent with all Small Winery regulations contained in sections 27.285 through 27.290.
- (f) Conditions of approval for a use permit to re-establish a pre-prohibition winery shall provide for the continued preservation of the historic nature of the structure through rezoning to include an HP: Historic Preservation overlay or other means deemed suitable.
- (g) Construction must comply with the California Uniform Building Code and/or the State Historic Building Code, as amended and adopted by the City of St. Helena.

~~**Section 17.180.070. Uses Prohibited**~~

~~Public events shall not be permitted.~~

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~~Per St. Helena Code section xxx, Short Term overnight accommodations shall be prohibited.~~

~~Weddings shall be prohibited.~~

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~~(a) No facilities for assembly, public sales or entertaining including, but not limited to, retail sales rooms, visitor centers, dining rooms separate from that within the residential unit, kitchens or food service facilities shall be permitted.~~

Section 17.180.080. Development and Use Standards

(a) Small Wineries shall generally be allowed only on parcels of five (5.0) acres or greater in size; however, exceptions may be granted if it can be demonstrated that there will be minimal impact upon surrounding properties.

~~(b) Small Wineries shall be an accessory use to a residential use. The residential use shall be the primary residence of the winery owner or winery operator.~~

~~(b)~~ The development of Small Wineries shall be consistent with the development standards outlined in Chapter 17.20.060 A-20: Twenty-Acre Agriculture accessory buildings for the district in which the Small Winery is located, except that more restrictive and/or additional standards may be applied depending on the size, scale and location of the Small Winery and if it is determined that the winery building or operations will have a negative impact upon other properties in the vicinity.

~~(c)~~ Only one Small Winery is permitted per parcel.

~~(d)~~ A minimum of 75% of the grape source utilized for the wine produced at the Small Winery shall be grown in Napa County.

~~(e)~~~~(e)~~ Pursuant to Municipal Code Section 18.10(f), no municipal water may be utilized for the Small Winery operations or vineyard irrigation.

~~(f)~~ A minimum of three parking spaces (two standard parking spaces and one accessible parking space) shall be provided with the winery use. Additional parking spaces may be required depending upon the number of employees employed at the winery. All employees and winery visitors shall be required to park on-site. The number of on-site parking spaces shall be determined during the use permit process depending on the size, scales, and location of the Small Winery.

~~(d)~~ Accessory uses, buildings and structures. The maximum square footage of structures used for accessory uses that are related to a winery shall not exceed forty percent (40%) of the area of the production facility. "Production facility" for the purpose of this section means crushing, fermenting, bottling, bulk and bottle storage, shipping, receiving, laboratory, equipment storage and maintenance facilities, but shall not include wastewater treatment or disposal areas which cannot be used for agricultural purposes.

~~(e)~~ Development area. The winery development area of a winery shall be contiguous to and shall not exceed one hundred percent of the winery area calculated according to subsection (B) of this section which is existing as of the date of adoption of the ordinance codified in this section.

~~(f)~~(g)

~~(g)~~(h) The winery area shall be the aggregate paved or impervious or semipermeable ground surface areas of the production facility, storage areas (except caves), offices, laboratories, kitchens, tasting rooms and paved parking areas for the exclusive use of winery employees.

~~(h)~~(i)

Section 17.180.090. Application Requirements

(a) A well water analysis is required to determine if any wells on the property have adequate capacity to support the estimated future water use. If not, the applicant must submit a copy of an approved well expansion plan prior to issuance of a building permit and the expanded well must be installed prior to issuance of a Certificate of Occupancy.

(b) Application for a Small Winery use permit shall include a Phase I Water Availability Analysis (WAA-1). The report shall describe all current and estimated future water use on the parcel, including residential, Small Winery, and irrigation uses. The WAA-1 shall be reviewed by the City Engineer, and if it is determined that water use is likely to exceed one acre foot of water per acre of land per year, the applicant shall be required to complete a Phase II Water Availability Analysis (WAA-2) to determine the impact of the proposed water use upon neighboring monitoring wells. If, through the WAA-2, it is determined that the proposed project will have a significant impact on neighboring wells the applicant will be required to mitigate that impact by revising the project. This mitigation plan is a Phase III Water Availability Analysis (WAA-3). Mitigation could include scaling back the size of the winery or phasing the vineyard development. All phases of a Water Availability Analysis shall be prepared or conducted by a licensed civil engineer or hydrologist on forms prescribed by the City or with methodology approved by the City Engineer.

(c) A grading and drainage plan shall be submitted for review and approval with the use permit application.

(d) A traffic analysis, completed by a licensed traffic engineer, shall be submitted with the use permit application. The analysis should define the projected Average Daily Trips that will be generated by the new Small Winery traffic, and should include a determination as to whether the estimated increase in traffic will result in a significant adverse impact on the streets and intersections in the vicinity of the project site.

~~(d)~~(e) The use of mobile bottling lines shall be reviewed during the use permit process to determine impact upon residential uses in the vicinity of the property. If the use of mobile bottling lines is to be allowed, the size and parking of trucks, frequency of use and hours of operations shall be subject to limitations established in the use permit process.

~~(e)~~(f) Disposal of pomace and wastewater shall be reviewed during the use permit process. Small Winery operations shall generate no discernible odors of sewerage or putrefying organic material origin, other than normal fermentation odors, at the property line.

~~(f)~~(g) The construction of caves shall require use permit review. Use Permit applications for caves shall include information pertaining to disposal of spoils.

Section 17.180.100. On-Premise Events and Sales.

(a) Facilities for assembly, public sales or entertaining including, but not limited to, retail sales rooms, visitor centers, dining rooms, kitchens or food service facilities shall be permitted.

(b) Marketing events are permitted at the Small Winery. During the use permit process careful consideration shall be given to the intent of the marketing event, the proportion of the marketing event's non-wine-related content, and the intensity of the overall marketing plan.

~~(a)(c) Public events are not permitted.~~

~~(b) The number and frequency of private wine marketing events shall be strictly limited and reviewed during the use permit process. Private wine marketing events are limited to a maximum of one (1) event per calendar month. The maximum number of guests allowed at any private wine marketing event shall be determined by the Fire Code occupancy of the Small Winery building. This maximum capacity shall be posted in a conspicuous place in the Small Winery building. Use permit conditions may impose stricter limitations if residential development on adjoining parcels is in close proximity to the new Small Winery use.~~

~~(c) There can be no advertising in publications produced for general distribution for private wine marketing events and all attendees must have been specifically invited to participate in the private wine marketing event by the Small Winery owner/operator. Because facilities for assembly or entertaining are prohibited, all private wine marketing events must be held within the confines of the on-site residential unit, the production area of the Small Winery building, or outside.~~

~~(d) The establishment of on-premise wine sales shall be determined through the use permit process. If wine sales are to be allowed, they shall be restricted only to wine that is produced on the premises. No merchandise shall be sold.~~

(e) The hours of sales shall be by appointment only as reviewed during the use permit process.

Section 17.180.110. Inspections, Fees, and Licenses.

- (a) A business license is required prior to the commencement of operation of a Small Winery.
- (b) The City Planning Director, or his or her designee, shall inspect Small Wineries as often as necessary to ensure compliance with this Article and use permit conditions. An inspection fee shall be set by Council resolution.