



COUNTY OF SONOMA

PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

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MEMO

Date: November 29, 2012
To: Planning Agency
From: Ken Ellison
Subject: Promotional Events

The following discussion outlines the primary issues related to use permit promotional events that the Planning Agency has asked to discuss. Based upon any discussion that takes place, the Agency may direct staff to develop further analysis and/or bring back policy options for future code interpretations and/or amendments.

Definitions

Although the purpose of this memo is to discuss agricultural promotional events, there are a number of different types of code related 'events' in the County, which has sometimes caused confusion. The definition of the primary ones currently in use is listed below for clarification purposes. In some cases, a single event may need more than one type of event permit if the activity occurs both on private property and the County road right-of-way. Note that General Plan Policy AR-6g indicates that the definition for promotional events must ultimately be formalized in the code along with permissible sizes and intensities:

Cultural Events are defined in the zoning code and by policy, occur on private property not subject to a use permit (instead a zoning permit must be obtained), and are limited to 'occasional' occurrences (which has been interpreted to be four times per year). The Cultural event definition excludes events that occur entirely within a building permitted for such use.

Special Events is the term used in County policies to describe events occurring in the public right-of-way that require an encroachment permit, such as parades, block parties, and various types of foot and bicycle races. Winery events are sometimes referred to as "Special Events," but for the purposes of this memo, such events will be called "Promotional Events."

Promotional Events are typically events that occur at wineries or other visitor serving uses (lodges, bed and breakfast Inns, etc.), and are subject to use permit approval. They are identified in the zoning code

and General Plan in a variety of ways. In the agricultural zones “...*temporary, seasonal or year-round sales and promotion of agricultural products grown or processed in the county subject to the minimum criteria of General Plan Policies AR-6d and AR-6f*” is allowed subject to obtaining a use permit. In the Resources and Rural Development district “*other recreational or visitor serving uses which do not interfere or detract from the purposes of this district; except such uses are not permitted on land subject to a Williamson Act contract*” is allowed subject to a use permit. Finally, in the agricultural and commercial zoning districts the following language can be found as allowed subject to a obtaining a use permit in conjunction with a Bed and Breakfast Inn “*Weddings, lawn parties or similar activities to be held at a bed and breakfast inn. Outdoor amplified sound may be allowed at these events only if specifically authorized by the use permit*”.

The General Plan Agricultural Resources Element contains a number of lengthy policies relating to the definition and limitations on agriculturally related promotional events, including policies AR-6a through AR-6g. The key definition language for agricultural promotion events is found in AR-6a, which reads “*Permit visitor serving uses in agricultural categories that promote agricultural production in the County, such as tasting rooms, sales and promotion of products grown or processed in the County, educational activities and tours, incidental sales of items related to local area agricultural products, and promotional events that support and are secondary and incidental to local agricultural production...*”.

Industry Wide Events are not specifically defined in the zoning ordinance or County policy, however they are generally identified as promotional/marketing activities occurring one to six times a year that are organized by a recognized industry group and involve multiple wineries within a specific geographical area. Only wineries with use permits allowing public tasting are typically permitted to take part in an Industry Wide Event during tasting room hours.

Current Rules

As noted in the Definitions section above, all promotional events require a use permit. Beyond that, the zoning code does not offer much guidance. However, General Plan policies AR-6b, AR-6d, AR-6f and AR-5g do provide some general guidance.

Policy AR-6b: *Except as allowed by Policy AR-6a, prohibit new restaurants and lodging. Recognize existing restaurants or lodging facilities and those which were approved prior to adoption of this plan, but limit their expansion or intensification.**

Policy AR-6d: *Follow these guidelines for approval of visitor serving uses in agricultural areas:*

- (1) The use promotes and markets only agricultural products grown or processed in the local area.*
- (2) The use is compatible with and secondary and incidental to agricultural production activities in the area.*
- (3) The use will not require the extension of sewer and water.*

- (4) *The use is compatible with existing uses in the area.*
- (5) *Hotels, motels, resorts, and similar lodging are not allowed.*
- (6) *Activities that promote and market agricultural products such as tasting rooms, sales and promotion of products grown or processed in the County, educational activities and tours, incidental sales of items related to local area agricultural products are allowed.*
- (7) *Special events on agricultural lands or agriculture related events on other lands in the Sonoma Valley Planning Area will be subject to a pilot event coordination program which includes tracking and monitoring of visitor serving activities and schedule management, as necessary, to reduce cumulative impacts.**

Policy AR-6f: Local concentrations of visitor serving and recreational uses, and agricultural support uses as defined in Goal AR-5, even if related to surrounding agricultural activities, are detrimental to the primary use of the land for the production of food, fiber and plant materials and may constitute grounds for denial of such uses. In determining whether or not the approval of such uses would constitute a detrimental concentration of such uses, consider all the following factors:

- (1) *Whether the above uses would result in joint road access conflicts, or in traffic levels that exceed the Circulation and Transit Element's objectives for level of service on a site specific and cumulative basis.*
- (2) *Whether the above uses would draw water from the same aquifer and be located within the zone of influence of area wells.*
- (3) *Whether the above uses would be detrimental to the rural character of the area.**

Policy AR-5g: Local concentrations of any separate agricultural support uses, including processing, storage, bottling, canning and packaging, agricultural support services, and visitor-serving and recreational uses as provided in Policy AR-6f, even if related to surrounding agricultural activities, are detrimental to the primary use of the land for the production of food, fiber and plant materials and shall be avoided. In determining whether or not the approval of such uses would constitute a detrimental concentration of such uses, consider all the following factors:

- (1) *Whether the above uses would result in joint road access conflicts, or in traffic levels that exceed the Circulation and Transit Element's objectives for level of service on a site specific and cumulative basis.*
- (2) *Whether the above uses would draw water from the same aquifer and be located within the zone of influence of area wells.*
- (3) *Whether the above uses would be detrimental to the rural character of the area.*

*In cases where the proposed processing use would process only products grown on site, such use would not be subject to this concentration policy.**

Standards and Practices

The interpretation of what is allowed as an agricultural promotional event, their frequency, and the size/intensity allowed has changed slowly over time as the events themselves and their related physical facilities have changed. Currently, there is no comprehensive group of policies in place that identify the latest decisions of the County regarding events that can be pointed to for potential applicants and the general public. However, there are trends that have been identified, many of which have been included in individual project staff reports and conditions of approval. These decisions/trends include:

1. Greater limitations on promotional events not explicitly related to agriculture

Weddings and similar events have long been included in use permits as promotional events to acknowledge that bringing such guests to wineries helps to promote the agricultural product. However, increasing scrutiny has been given to requests for these types of events, especially those which involve a large number of weddings. In some cases the number of weddings allowed has been limited on a case by case basis.

2. Greater limitations on the number and size of events at wineries

The average number of agricultural promotional events is 19 per winery (that has permitted events) County wide. In the Sonoma Valley, the average is 29 per winery. However, the number of events at any individual winery can vary widely depending on site specific issues. Detailed review of the requested number and size of events at wineries has increased significantly in the past few years. In the Sonoma Valley, a Special Events Coordinator pilot program is in development. The Sonoma Valley Visitor's Bureau has taken the lead to compile the data for events, including non-winery events, in a calendar system. Later this year the County intends to have a live website where people can do their own event coordination using this calendar. The website will allow people to figure out the concentration and type of events in their area and plan accordingly.

3. Increasing use of two year review periods for small/medium events, and limited term permits for larger events

A two year condition compliance review for small/medium events allows the BZA to revise event related conditions upon review of the permit where there have been violations or non-compliance with the conditions of approval, or if the project rises to the level of a public nuisance (although the burden of proof is placed on the County).

A limited term permit has also been used for large events or in areas that may be over-concentrated. A limited term permit allows the BZA full authority to revise conditions based on compatibility concerns (the burden of proof is placed on the applicant to show compatibility with the neighborhood).

4. Clarification on the required amount of septic capacity vs porta-potty use for events

PRMD has adopted specific policies regarding the size of septic systems vs the number of porta-potties needed for events. Recent clarification has been made to those policies that

septic systems must be sized to accommodate 100% of the flow from all indoor only events. Essentially, the policies have increasingly stringent septic system requirements as the number of events increase. This has resulted in wineries sometimes requesting the maximum number of events just below a specific policy threshold (i.e. requesting four large events because the first four events can rely 100% on porta-potties, and/or requesting 25 events because from 5 to 25 events up to 50% of the event sanitation needs can be met through porta-potty service).

5. Hours of Operation for Tasting Rooms and Industry Wide Events

The BZA and Board have previously directed staff to establish consistent tasting room hours no later than 5pm to avoid cocktail hour. Industry wide events are allowed to occur during tasting room hours of operation. Hours of operation have also been limited in some cases to avoid peak traffic hours.

Note that due to the wide variety of locations of wineries within Sonoma County, many event related issues need to be analyzed and addressed on a site specific basis. However, there are a number of key issues that are County wide which are noted below.

Key Issues

Number of People to Trigger an 'Event'

At the present time there is no code or policy that identifies how many people can gather before it becomes a 'large gathering' (i.e. an 'event'). For the purposes of Cultural Event Permits on residential property, the BZA has previously adopted an interpretation that 35 or more people creates a 'large gathering' as defined in the code, which the Board of Supervisors further refined in the specific context of vacation rentals on residential property to 25 or more people. The increasing number of small wine pairing dinners, wine club dinners, marketing dinners, cooking demonstrations, and similar related uses now occurring or requested to occur at wineries (in addition to the standard tasting room clientele) makes having a consistent interpretation imperative.

Limited Term vs Two Year Reviews

As noted above, increasing use of limited term and two year review permits for events has been occurring. The BZA has recently added a two year review to all use permits for event activities. In some cases a limited term use permit was approved in areas that have had compatibility or overconcentration concerns or for very large events (like concerts). Concern has been raised by the owners of small wineries regarding the substantial investments in their properties necessary to accommodate events, and that they rely on the event activities for marketing and sales. Without a vested right to conduct the events, a limited term permit could constrain investment and detract business. It also subjects the operator to greater risks associated with unforeseen circumstances, changes in policies or codes or factors outside their control.

Time/Duration of Events (Multi-Day)

Agricultural promotion events have no standard hours, although General Plan Noise Element requirements become significantly more stringent at 10pm, which effectively limits the night-time hours of events. However, allowing events to run all the way up to 10pm can result in parking lot and clean-up/breakdown noise occurring after 10pm. In some cases events have been limited to a 9:30pm cutoff, or within one-half hour after sunset.

Multi-day events have also become more common in recent years. The BZA has recently interpreted a single industry wide event to be no more than three consecutive days, which has been clarified in recent use permit conditions.

Type of Event

As noted above, the County does not have a clear definition of what constitutes an agricultural promotional event and the term has been interpreted broadly in the past. This has raised issues related to events that are not directly related to the agricultural activity (such as concerts or weddings at wineries), and how to address events benefiting charities. Weddings in particular have become an issue in recent years, with their ability to attract bookings in the right setting sometimes being perceived by neighbors as overshadowing agricultural operations on site. The BZA has interpreted weddings as promoting agriculture when no banquet facilities are included (i.e. outdoor weddings only). Many wineries believe that weddings build brand awareness and loyal customers. More recently the BZA has placed additional limits on the number of weddings allowed and on renting out facilities to third parties for such events.

Overconcentration and Cumulative Impacts

As noted above, there are three General Plan Policies regarding overconcentration issues (AR-5g, AR-6f and AR-6g), although none of them set actual standards as to when exactly the line is crossed for too many events in an area. This issue is complicated by the wide variety of winery locations, sizes, number/size/type of events, and differences in potential access roads/existing traffic levels between them. The coming Sonoma Valley Special Events Coordinator pilot program that is presently in development may provide good data to further evaluate this issue. In the meantime, staff reports for wineries are noting other nearby wineries with events to give the BZA a picture of the local cumulative impact from events that may be occurring.

Indoor vs Outdoor Events

Given indoor events have much less sound and visual impact than outdoor events, and are often smaller in nature due to the limited size of existing facilities, questions have been raised as to whether indoor events should be treated differently than outdoor events. Allowing additional indoor events could result in requests for larger winery structures and stand-alone event facilities that could be inappropriate for agricultural areas.

Clarification of Allowed Food Handling Facilities on Site

Requests for commercial kitchens associated with wineries (including permanent kitchens, barbeques, food storage areas, and pantry facilities) have increased significantly in recent years. For a period of time many of these requests were denied or limited to catered services and pre-prepared food served from a catering layout kitchen, over concerns of 'use creep' into a restaurant type facility. However, the last few large wineries approved have allowed commercial kitchens in order to serve the increasing number of wine pairing dinners and similar events at wineries. Typically, the best way to control land use is to control physical structures on site. Allowing permanent commercial kitchens will tend to increase the trend towards more wine pairing and other food service uses at wineries.

Permanent Improvements for Events

Beyond the food handling/commercial kitchen facilities discussed above, questions regarding the installation of permanent specialized event structures at wineries such as banquet halls, amphitheaters, dining patios, and lodging facilities continue to arise.

Outdoor Amplified Music

Noise studies are required for all requests for amplified music to insure sound levels are below General Plan Noise Element requirements. However, issues continue to arise from neighbors disturbed by the presence of amplified music in an otherwise quiet rural setting, often for many weekends in a row during the summer months. In addition, there are no adopted standards for exactly how/when the music will be measured, and how/when will any corrections to sound levels be made. PRMD Code Enforcement addresses these issues on a complaint basis. In some cases, use permits have been conditioned to have continuous sound monitoring with on the spot reduction in sound levels occurring if General Plan noise standards are exceeded, but this can be difficult to verify. In most cases, monitoring has been required only after complaints are filed and determined to be valid, with a subsequent written report turned into PRMD for review of possible noise violations and/or additional mitigations.

Parking and Traffic Impacts/Control for Events

At the present time there are no adopted standards for temporary event parking location, design, or temporary traffic controls where vehicles exit and enter the public roadway system. Generally, parking for events can easily be accommodated between vineyard rows or along vineyard and winery access roads. However, in some cases tasting rooms and events are proposed on small, substandard parcels or roads. In addition, where event parking is offsite, there are no standards for signage or shuttle vehicle frequency/size. This has caused traffic backups on public roadways during some events as drivers stack up looking for appropriate parking.

Road Access for Events

Some events are proposed at wineries located in remote areas of the County along one lane or private roads. Concerns have been raised whether the County should allow/encourage public use and access where two-way traffic cannot readily be accommodated or where inadequate road conditions exist. The

Promotional Event Memo
Page 8

County Fire Marshal does have some standards for public use and events that require a minimum 18 foot wide road with specific turning radii and vertical clearances.

List of Attachments

Exhibit 'A' – Typical Winery Event Related Conditions

*Mitigating Policy in General Plan

Exhibit 'A' **Typical Winery Event Related Conditions**

TWO-YEAR REVIEW CONDITION FOR USE PERMITS

Two-Year Review. A review of special event activities under this use permit shall be undertaken by the director two (2) years after commencement of special events to determine compliance with the conditions of approval applicable to special events. The director shall give notice of this use permit review to all owners of real property within three hundred feet (300') of the subject property plus any additional property owners who have previously requested notice. The director shall allow at least ten (10) days for comment. If the director determines that there is credible evidence of non-compliance with the conditions of approval applicable to special events or that the special event activities constitute a public nuisance, the director shall refer the matter to the Board of Zoning Adjustments for possible revocation or modification of the use permit with regard to special events. Any such revocation or modification shall be preceded by a public hearing noticed and heard in compliance with the Zoning Code. This use permit review shall not include any other aspect of the original use permit approval, unless other conditions of approval have not been met, violations have occurred, or the use constitutes a public nuisance.

Condition Compliance Fee. Prior to commencement of special events, the applicant shall submit a condition compliance review fee deposit sufficient to cover the use permit review of special event activities.

Annual Report. After commencement of special events, the operator shall submit an annual report to PRMD by January 30th of each year describing the number of special events that occurred during the previous year, the date, time, and duration of each event, the number of persons attending the event, and the purpose of the event. The annual report shall also include the proposed special events for the following year.

LIMITED TERM PERMIT FOR USE PERMITS

Limited Term Permit. This use permit for special events shall be for a two-year limited term allowing ___# of special events per year for a period of two years following the commencement of the first special event as follows:

If the applicant desires to continue special events beyond the two-year period authorized by this permit, the applicant shall seek a use permit renewal or modification in compliance with the Zoning Code. All special events must promote winery and local agricultural production.

FOOD HANDLING/COMMERCIAL KITCHEN CONDITION FOR USE PERMITS

A restaurant or a cafe with cooked-to-order food is prohibited. Table service, retail sales of cooked or prepared food and/or menu items are prohibited in the tasting room. The following types of food service are allowed under this permit:

- a. Samples or tastes of pre-prepared food and appetizers featuring local foods and food products offered in conjunction with wine tasting, special events, wine club meals and winemaker dinners.
- b. Catered meals or appetizers featuring local foods and food products offered in conjunction with special events, wine club meals and winemaker dinners. Such meals/appetizers may be prepared in a caterer's preparation area prior to serving as described on the approved project floor plan. The caterer's preparation area can include counter space, a double sink, microwave oven(s), warming oven(s), refrigeration, a stove or range, and an exhaust hood.
- c. Retail sales of pre-prepared packaged food not associated with the activities described in a) and b) are allowed in conjunction with wine tasting subject to the following limitations:
 1. Retail sales of pre-prepared packaged food shall be permitted only during tasting room hours as approved by this Use Permit.
 2. Retail sales of pre-prepared packaged food shall be for on-site consumption only.
 3. No indoor seating area or table service is permitted in conjunction with retail sales of pre-prepared food. Outdoor seating areas are permitted for use as outdoor picnic areas.
 4. No off-site signs advertising retail sales of pre-prepared food is permitted. All project signage shall conform to the Zoning Code Sign Regulations."

SPECIAL EVENTS COORDINATION USE PERMIT CONDITION

The days and hours for special events shall be subject to review and approval by a Special Events Coordinator or similar program established by the County or at the County's direction. The applicant shall submit to the County an annual request and schedule for special events for each calendar year including the maximum number of participants, times and dates, and to report the actual events from the previous year. The applicant shall contribute, on an annual basis, a fair share towards the cost of establishing and maintaining the program. The program should consider the fairness for long established uses and establish reasonable costs for managing the program.

PROMOTIONAL EVENT RELATIONSHIP TO AGRICULTURAL ACTIVITIES CONDITION

All events, including winemaker dinners, wine/food pairings and corporate dinners must be related to the agricultural marketing aspect of the winery operation.

ANNUAL REPORTING REQUIREMENT USE PERMIT CONDITION

Annual Report. After commencement of event activities, the operator shall submit an annual report to the Director by January 15th describing the number of events that occurred during the previous year, the day, date, time, and duration of each event, the number of persons attending the event, the purpose of the event and any other information required by the director. The annual report shall also include the proposed events for the following year to the extent known at the time of the report.

SEPTIC CAPACITY REQUIREMENT FOR PROMOTIONAL EVENTS CONDITION

This project is approved for special events and shall provide septic system capacity in accordance with PRMD Policy 9 2 31 (available on PRMD's website under Policy and Procedures). The project septic system shall be designed to accommodate 50% percent of the wastewater flow from an event with ___# guests, in addition to peak wastewater flows from all other sources plumbed to the septic system.

PORTABLE TOILET CAPACITY/MAINTENANCE EVENT CONDITION

When permitted events exceed ___# guests, the permit holder shall provide portable toilets meeting the following minimum requirements:

- a. An adequate number of portable toilets shall be provided, but in no case shall the number of portable toilets be less than one toilet per one hundred (100) event employees and visitors per day for day use.
- b. Portable hand washing facilities shall be provided with all portable toilets used for serving visitors or the public. Employees serving food to visitors or the public must have access to permanently plumbed running hot and cold water sinks plumbed to a permitted on-site wastewater treatment system or public sewer.
- c. Portable toilets shall be serviced as needed, but in no case less than once every seven days.
- d. The applicant shall provide an accessible portable restroom on the job site where required by Federal, State or local law, including but not limited to, requirements imposed under OSHA, the Americans with Disabilities Act or Fair Employment and Housing Act.
- e. Portable toilets shall not be brought on-site prior to 48 hours before the special event and shall be promptly serviced and removed within 48 hours after the special event.
- f. If complaints are received by PRMD regarding the number of available portable toilets that PRMD deems a valid complaint, the applicant or current operator of the Use Permit shall increase the number of portable toilets and/or increase the frequency of maintenance of the portable toilets for the remainder of the special event and at future special events as directed by

PRMD. The property owner and/or his agent(s) are expected to maintain portable toilets and hand washing units so that:

- i) The holding tank does not leak or overflow.
- ii) Toilet paper is promptly replaced when the dispenser runs out.
- iii) Water, paper towels and soap are promptly replaced when the hand washing units run out.
- iv) The wait to use a portable toilet shall not be so long that people use alternatives to sanitary restroom facilities.
- v) Reliance upon portable toilets shall not create a public nuisance.