

SUMMARY OF EXISTING POLICIES AND REGULATIONS PERTAINING TO NEIGHBORHOOD COMPATIBILITY AND WINERIES

**Handout for Winery Ordinance Update Community Meeting #4 – Neighborhood Compatibility
February 11, 2013 (6:00-8:00 PM)
St. Mark’s –in-the-Valley Church (Stacy Hall), 2901 Nojoqui Ave, Los Olivos, CA**

Below is some background information pertaining to Neighborhood Compatibility and wineries.
Included are:

- Definition of Agriculture and Purpose and Intent of Land Use Designations
- Purpose and intent of the Agricultural Zones
- Development standards for winery facilities
- Findings required for approval of a Development Plan
- Right To Farm Ordinance

Definition of Agriculture and Purpose and Intent of Land Use Designations

Below is an excerpt from the Santa Barbara County Comprehensive Plan Land Use Element (Adopted 1980 and Amended February 2011). This document is available online at <http://longrange.sbcountyplanning.org/programs/genplanreformat/PDFdocs/LandUseElement.pdf>.

LAND USE DEFINITIONS (pgs 135-136)

OPEN LAND USES

AGRICULTURE

The purpose of an agricultural designation is to preserve agricultural land for the cultivation of crops and the raising of animals. For the purposes of this Element, agriculture shall be defined as the production of food and fiber, the growing of plants, the raising and keeping of animals, aquaculture, the preparation for marketing of products in their natural form when grown on the premises, and the sale of products which are accessory and customarily incidental to the marketing of products in their natural form which have been grown on the premises. Lands eligible for this designation include, but are not limited to, lands with prime soils, prime agricultural land¹, grazing land, land in existing agricultural use, land with agricultural potential, and lands under Williamson Act contracts.

Plant crops include food and fiber crops, orchards and vineyards, field crops, and crops grown in nurseries, and greenhouses. Animal raising includes raising and keeping of horses, grazing, and

¹ Prime agricultural land (Cal. Government Code § 51201(c)) means:

1. All land which qualifies for rating as Class I or Class II in the Soil Conservation Service land use capability classifications.
2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.
3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S.D.A.
4. Land planted with fruit or nut bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than \$200 per acre.
5. Land which has returned from the production of unprocessed agricultural plant products

stock raising activities. In addition to such uses, agricultural lands may be utilized for a limited number of other uses, including related or incidental residential uses; and the preparation for marketing of products as allowed under the appropriate zoning districts. Public works, public service, public utility and oil drilling uses which are found to be compatible with agriculture may also be permitted.

Agricultural Commercial (AC) (40-320 or more acre minimum parcel size)

This category is for commercially farmed, privately owned land located within either Rural, Inner-Rural, Existing Developed Rural Neighborhoods or Urban Areas which meets the following criteria:

- 1. The land is subject to a Williamson Act Contract, including contracts that have been non-renewed or,*
- 2. Parcels forty (40) acres or greater, whether or not currently being used for agricultural purposes, but otherwise eligible for Williamson Act Contract may be included if they meet requirements of Uniform Rule No.6.*

This category includes compatible land uses and land uses that are necessary and a part of the agricultural operations. All types of crops and livestock are included. Both “prime” and “non-prime” soils (as defined in the Williamson Act and the County’s Uniform Rule No.6) and irrigated and non-irrigated lands are included. Parcels which are smaller than forty (40) acres in size at the time of adoption of this Element may be eligible for the AC designation if they are “prime” or “super-prime” as defined by the County Uniform Rules and are eligible for agricultural preserve status.

Agriculture I (5 or more acres minimum parcel size)

This designation applies to acreages of prime and non-prime farm lands and agricultural uses which are located within Urban, Inner Rural, and Rural Neighborhood areas.

Agriculture II (40 or more acres minimum parcel size)

This designation applies to acreages of farm lands and agricultural uses located outside Urban, Inner Rural and Rural Neighborhood areas. General agriculture is permitted, including but not limited to livestock operations, grazing, and beef production as well as more intensive agricultural uses.

Purpose and Intent of the Agricultural Zones

Below is an excerpt from the Santa Barbara County Land Use and Development Code (Published December 2011). This document is available online at <http://sbcountyplanning.org/pdf/forms/LUDC/County%20LUDC%20December%202011%20Updated%20April%202012.pdf>

Section 35.21.020 - Purposes of the Agricultural Zones

The purposes of the individual Agricultural zones and the manner in which they are applied are as follows.

A. *AG-I (Agricultural I) zone.*

1. *The AG-I zone is applied to areas appropriate for agricultural use within Urban, Inner Rural, Rural (Coastal Zone only), and Existing Developed Rural Neighborhood areas, as designated on the Comprehensive Plan maps. The intent is to provide standards that will support agriculture as a viable land use and encourage maximum agricultural productivity.*

B. *AG-II (Agricultural II) zone.*

1. *The AG-II zone is applied to areas appropriate for agricultural land uses on prime and non-prime agricultural lands located within the Rural Area as shown on the Comprehensive Plan maps. The intent is to preserve these lands for long-term agricultural use.*

Development standards for winery facilities

Below is an excerpt from the existing winery ordinance that pertains to development standards for wineries located in the inland areas of the County. The existing winery ordinance, Section 35.42.280 of the Santa Barbara County Land Use and Development Code (Published December 2011) can be found online at:

http://longrange.sbcountyplanning.org/programs/winery_ord/Section%2035%2082%20280%20Wineries.pdf

Section 35.42.280.D

D. *Development standards for winery facilities located in the Inland area.* *Wineries shall also comply with the following development standards, unless otherwise indicated. The standards contained in this Subsection shall supersede other regulations contained in this Development Code in the case of a conflict. However, other portions of the Santa Barbara County Code, as well as permitting requirements of other County Departments may contain standards and regulations that apply to winery development.*

1. *In general:*

- a. *The primary purpose of the winery shall be to process wine grapes grown on the winery premises or on other local agricultural lands located within Santa Barbara County and San Luis Obispo County. No more than 50 percent of the grapes processed over a five year period shall be imported from outside of Santa Barbara County and San Luis Obispo County.*
- b. *Retail sales of wine grape products shall be limited to those produced by the winery operator or bottled or grown on the winery premises.*

2. *Setbacks:*

- a. *Structures and outdoor use areas associated with a winery shall provide a minimum setback of 100 feet from adjacent lots. This setback shall be increased to 200 feet if the winery includes public tours, public wine tasting, retail sales, or special events.*
- b. *Structures and outdoor use areas associated with a winery shall provide a minimum setback of 200 feet from an existing residence located on an adjacent lot. The setback shall be increased to 400 feet if the winery includes public tours, public wine tasting,*

retail sales, or special events. A winery shall be considered to comply with these setback requirements, and shall not be considered nonconforming, if, after the approval for the winery is granted (either by an approved Development Plan or issued Land Use Permit), a residence is constructed on property that is either not owned by the owner of the property on which the winery is located or is not part of the winery premises, and the location of the residence is within the setback distances specified above.

- c. The setbacks may be reduced by the review authority provided any of the following findings are made. However, the setbacks shall not be reduced to below that which is normally required by the applicable zones or Article 35.2 (Zones and Allowable Land Uses).*
- (1) There is not a feasible way to meet the required setbacks without creating a significant environmental impact or impacting prime agricultural land (i.e., Soil Conservation Service Class I and II).*
 - (2) The setback distances are not practical or feasible due to existing topographic conditions or onsite vegetation.*
 - (3) The setback reduction is proposed for a legally constructed existing structure, and as indicated below.*
 - (a) It can be clearly demonstrated that the structure was intended to be used for a legitimate agricultural or residential use, and*
 - (b) The use of the structure as part of a winery operation shall not adversely affect neighboring properties.*
 - (4) The setback reduction is proposed for a structure that is part of an existing nonconforming winery operation and proposed additions to the structure are located no closer to the closest property line than the existing structure is located.*
- d. The minimum setback distances required under Subsections 2.a. and 2.b. above do not apply if the adjoining property is under the same ownership as the lot that the winery is located on or is included within the winery premises.*

3. Access/street addressing:

- a. Access to the winery premises and access ways within the winery premises, shall be designed to the satisfaction of the County Traffic Engineer and County Fire Department and shall comply with the applicable County private road and driveway standards and requirements. Ingress and egress shall be clearly marked and visible, and turning movements into the winery premises shall not create congestion or unnecessary slowing at access points. Structure address numbers shall be posted at the driveway/access road winery premises entrances and on winery structures in compliance with County Fire Department requirements.*
- b. Existing roads shall be utilized to the maximum extent feasible in order to minimize grading, site disturbance, and the loss of agricultural land.*

4. Design standards. *New structures associated with the winery including production facilities shall be subject to review and approval by the Board of Architectural Review in compliance with Section 35.82.070 (Design Review). Exterior changes to existing structures associated with the winery shall be subject to review and approval by the Board of Architectural Review in compliance with Section 35.82.070 (Design Review) unless the exterior changes are determined to be minor by the Director. In addition, the following design standards shall also apply.*

- a. Exterior. The design, scale, and character of the winery shall be compatible with existing development in the vicinity. Structures associated with the winery including*

production facilities shall have an exterior design style that is agricultural or residential in nature using earth tones and non-reflective paints, siding, and roofing materials. Structures shall not use an exterior design style typically associated with large industrial facilities.

- b. Screening.** The visibility of winery structures from public roads shall be minimized through the use of landscaping and other screening devices to ensure that the character of the area is retained. Tanks not located within a structure shall be completely screened from public roads.*
- c. Height. The height of a structure associated with a winery facility shall be limited to 35 feet. The height limit may be increased to 45 feet where a pitched roof of greater than four in 12 (rise to run) is proposed and at least 50 percent of the structure is limited to a height of 35 feet or less.*
- d. Lighting. Exterior lighting fixtures shall be of a low intensity, low glare design and shall be shielded with full cutoff design and directed downward to ensure that neither the lamp nor the related reflector interior surface is visible from a location off of the winery premises in order to prevent spill over onto adjacent lots under separate ownership. Pole lighting fixtures shall be used only for special events and seasonal agricultural activities. Exterior lighting shall not be installed or operated in a manner that would throw light, either reflected or directly, in an upward direction.*

5. Parking.

- a. The number, size, location, and design of required parking spaces shall comply with the standards of Chapter 35.36 (Parking and Loading Standards) unless there is a conflict with the standards of this Section, in which case the standards of this Section shall apply.*
- b. The visibility of parking areas associated with the winery from public roads shall be minimized through the use of landscaping and other devices.*
- c. The number of parking spaces shall be permanently maintained on the winery premises. The review authority may modify the number of required spaces based on site-specific considerations. Oversize parking spaces to accommodate bus/limousine parking is only required for wineries that are open to the public.*
- d. Parking shall not be allowed within an adjoining road right-of-way or trail easement.*
- e. Parking areas shall be surfaced with a minimum of asphalt, concrete, brick, or other masonry paving units, chip seal, or crushed rock surface. Parking spaces on paved surfaces shall be marked with paint striping a minimum of two inches in width. Parking spaces on other types of surfaces shall be marked by the use of concrete wheel stop barriers, timber, or other durable material, that is securely installed and fastened to the parking surface. These standards shall not apply to temporary parking provided in open field areas for special events.*
- f. Parking for special events, group events, or winemaker dinners may be provided in open field areas with a slope of 10 percent or less, free of combustible materials, at a ratio of 400 square feet per required space (including parking space and traffic aisles).*

6. Waste disposal. (See online version for details)

7. Tasting rooms.

- a. Tasting rooms shall be clearly incidental, accessory, and subordinate to the primary operation of the associated winery as a production facility.*
- b. The location of the tasting room shall take into consideration site constraints, onsite access, visual concerns, grading and other environmental issues.*

- c. *The primary focus of the tasting room shall be the marketing and sale of the wine produced on the winery premises. Sales of souvenirs and clothing bearing the logo of the winery, as well as wine related items and other products that reflect or enhance the character or theme of the winery may also be offered for sale in the tasting room.*
- d. *If more than one winemaker shares production facilities or more than one winery is located on a winery premises, only one tasting room is allowed. More than one winemaker or winery facility may share a tasting room.*

8. Special events.

- a. *Site area. The minimum winery premises area on which a special event shall occur is 20 acres. However, this requirement may be reduced by the review authority upon a determination that the character of the area and the type of special event makes a 20 acre winery premises site area unnecessary.*
- b. *Use limitations.*
 - (1) *Amplified music associated with special events shall not exceed 65 dBA at the exterior boundary of the winery premises. For wineries located in Inner-Rural Areas as designated on the Comprehensive Plan, a special event proposing outdoor amplified music shall only be allowed from 10 a.m. to 8 p.m. and the amplified music shall cease by 7 p.m. For wineries located within Rural Areas as designated on the Comprehensive Plan, a special event proposing outdoor amplified music shall only be allowed from 10a.m. to 11 p.m., and the amplified music shall cease by 10 p.m. unless the Director determines that the sound at the property line shall not exceed 65 dBA.*
 - (2) *The site of a special event shall be located a minimum of 1,000 feet from a residential one-family zone that has a minimum lot area requirement of one acre or less.*
 - (3) *County Fire Department requirements shall be met.*
 - (4) *Water supply and sanitation facilities shall be provided as required by the County Public Health Department.*
- c. *Parking plan. A parking plan shall be implemented for special events. The plan shall include:*
 - (1) *The use of a parking coordinator who shall be present at all times during special events attended by 100 or more persons to manage and direct vehicular movement and parking.*
 - (2) *The use of dust control measures to keep dust generation to a minimum and to minimize the amount of dust leaving the site.*
 - (3) *Appropriate signage placed onsite directing visitors to and indicating the location of parking areas, including open field overflow areas. Signs shall be in place before the commencement of each special event.*

9. Hazardous Materials Business Plan. (See online version for details)

- 10. Noise.** *Noise-generating construction activities associated with winery structural development occurring within 1,600 feet of a noise-sensitive land use as defined in the County Noise Element shall be limited to the hours between 8 a.m. and 5 p.m., Monday through Friday, and shall not occur on State holidays. Non-noise generating construction activities (e.g., painting without the use of a compressor) are not subject to these restrictions.*

Findings required for the approval of a Development Plan (DVP)

Below is an excerpt from Section 35.82.080.E (required findings for Development Plans) of the Santa Barbara County Land Use and Development Code (LUDC). A Development Plan is required for Tier II and Tier III wineries. A Conditional Use Permit (CUP) is also required for some Tier III wineries. The required findings for approval of a CUP are very similar to the required findings for a DVP. The complete text can be found online at:

<http://sbcountyplanning.org/pdf/forms/LUDC/County%20LUDC%20December%202011%20Updated%20April%202012.pdf>

35.82.080 - Development Plans

E. Findings required for approval. *A Development Plan application shall be approved or conditionally approved only if the review authority first makes all of the following findings, as applicable:*

1. *Findings for all Preliminary or Final Development Plans.*
 - a. *The site of the proposed project is adequate in terms of location, physical characteristics, shape, and size to accommodate the density and intensity of development proposed.*
 - b. *Adverse impacts will be mitigated to the maximum extent feasible.*
 - c. *Streets and highways will be adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.*
 - d. *There will be adequate public services, including fire and police protection, sewage disposal, and water supply to serve the proposed project.*
 - e. *The proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will not be incompatible with the surrounding area.*
 - f. *The proposed project will comply with all applicable requirements of this Development Code and the Comprehensive Plan.*
 - g. *Within Rural areas as designated on the Comprehensive Plan maps, the use will be compatible with and subordinate to the agricultural, rural, and scenic character of the rural areas.*
 - h. *The project will not conflict with any easements required for public access through, or public use of a portion of the subject property.*
2. *Additional finding required for Final Development Plans.*
 - a. *Substantial conformity. The plan is in substantial conformity with any previously approved Preliminary Development Plan, except when the review authority considers a Final Development Plan for which there is no previously approved Preliminary Development Plan. In this case, the review authority may consider the Final Development Plan as both a Preliminary and Final Development Plan.*
 - (1) *If the Final Development Plan is under the jurisdiction of the Director, and the Director cannot find that the Final Development plan is in substantial conformity with the previously approved Preliminary Development Plan, the Director shall refer the Final Development Plan to the review authority that approved the Preliminary Development Plan for a decision on the Final Development Plan.*
3. *Additional findings required for Preliminary or Final Development Plans for sites zoned C-V (Visitor Serving Commercial).*
 - a. *Coastal Zone. (see the online version for details)*

- b. Inland area.*
 - (1) For development within Rural areas as designated on the Comprehensive Plan maps, the project will not result in a need for ancillary facilities on other rural lands (e.g., residences, stores). Such facilities, if necessary, shall be provided within designated urban areas.*
 - (2) For development surrounded by areas zoned residential, the proposed use is compatible with the residential character of the area.*
- 4. Additional findings required for Preliminary or Final Development Plans for sites zoned MU (Mixed Use).*
 - a. The density and type of mixed use development is consistent with all applicable Comprehensive Plan policies and incorporates any other conditions specifically applicable to the lots that are identified in the Comprehensive Plan.*
 - b. The mixed use development will not be detrimental to the health, safety, comfort, convenience, property values, and general welfare of the neighborhood.*
 - c. The existing and proposed circulation is suitable and adequate to serve the proposed uses.*
 - d. The structures are clustered to the maximum extent feasible to provide the maximum amount of contiguous open space.*
 - e. The mixed use development will not adversely affect necessary community services (e.g., fire protection, police protection, sewage disposal, traffic circulation, and water supply).*
 - f. The proposed mixed uses are sited and designed to ensure the compatibility of the uses.*
- 5. Additional findings required for Preliminary or Final Development Plans for sites zoned PRD (Planned Residential Development).*
 - a. The density and type of the proposed development will comply with the PRD zone and applicable policies of the Comprehensive Plan including any applicable community or area plan policies.*
 - b. Adequate provisions are or will be made within the proposed covenants, conditions, and restrictions to permanently care for and maintain public and common open spaces and recreational areas and facilities.*
 - c. The structures are clustered to the maximum extent feasible to provide the maximum amount of contiguous open space.*
- 6. Additional findings required for Preliminary or Final Development Plans for sites within the Agriculture-Residential Cluster overlay. (see the online version for details)*
- 7. Additional findings required for Preliminary or Final Development Plans for sites within the Hazardous Waste Management Facility overlay zone.*
 - a. There is a need for the off-site treatment, storage, or disposal hazardous waste management facility as determined in compliance with Policy 2-1 of the County's Hazardous Waste Element.*
 - b. The proposed facility is consistent with the siting criteria for off-site hazardous waste management facilities identified in the Hazardous Waste Element and the development standards identified in Section 35.28.140 (Hazardous Waste Management Facility (HWMF) Overlay Zone).*
 - c. A risk assessment has been prepared for the Development Plan which adequately evaluates the risks to human health and safety and the environment under both routine operations and upset conditions.*
 - d. The risks to human health and the environment have been minimized to the maximum extent feasible and the remaining risks are considered acceptable.*
 - e. The project will not create a financial burden for the County.*

- f. *The proposed facility operator has demonstrated financial responsibility for the operation, monitoring, closure, and post-closure of the subject facility.*
- 8. *Additional findings required for Preliminary or Final Development Plans for sites within the Summerland Community Plan Area.*
 - a. *A modification to reduce the number of required parking spaces will not result in an increase in on-street parking.*
 - b. *If the project will result in a net increase in water use, there is sufficient water supply available to serve existing commitments.*
 - c. *The development will not adversely impact existing recreational facilities and uses.*

Right To Farm Ordinance

Below is Santa Barbara County’s Right To Farm Ordinance, Chapter 3, Article V, Section 3-23 of the County Code.

Sec. 3-23. - Agricultural nuisances and consumer information

(a)

Purpose and Intent. The purpose of this division is to protect agricultural land uses on land designated on the Comprehensive Plan/Coastal Plan, Land Use Maps as A-I or A-II, or on land zoned exclusively for agricultural use from conflicts with nonagricultural land uses that may result in financial hardship to agricultural operators or the termination of their operation.

(b)

Definitions.

(1)

"Agricultural land" means land within the A-I and A-II categories as designated pursuant to the County of Santa Barbara Comprehensive Plan, Land Use Element, or land zoned exclusively for agricultural use pursuant to the County of Santa Barbara Articles II, III and IV Zoning Ordinances.

(2)

"Agricultural use" means and includes, but is not limited to, the tilling of the soil, the raising of crops, horticulture, aviculture, apiculture, livestock farming, the raising of small animals and poultry, dairying, animal husbandry, wineries processing grapes produced on the premises, and the sorting, cleaning, packing and storing of agricultural products preparatory to sale and/or shipment in their natural form when such products are produced on the premises, including all uses customarily incidental thereto, but not including slaughterhouse, fertilizer works, commercial packing or processing plant or plant for the reduction of animal matter, or any other use which is similarly objectionable because of odor, smoke, dust, fumes, vibration or danger to life or property.

(c)

Findings. The board of supervisors finds that it is in the public's interest to preserve and protect agricultural land and operations within the County of Santa Barbara and to specifically protect these lands for exclusive agricultural use. The board of supervisors also finds that residential development adjacent to agricultural land and operations often leads to restrictions on farm operations to the detriment of the adjacent agricultural uses and economic viability of the county's agricultural industry as a whole. The purposes of this chapter, therefore, are to promote the general health, safety and welfare of the county, to preserve and protect for exclusive agricultural use those lands zoned for agricultural use, to support and encourage continued agricultural operations in the county, and to forewarn prospective purchasers or residents of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence including, but not limited to, the sounds, odors, dust and chemicals that may accompany agricultural operations.

The further purpose of this provision is to promote a good neighbor policy between agriculturalists and residents by advising purchasers and residents of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence including, but not limited to, the sounds, odors, dust and chemicals that may accompany agricultural operations so that such purchasers and residents will understand the inconveniences that accompany living side by side to agriculture and be prepared to accept such problems as the natural result of living in or near agricultural areas.

(d)

No agricultural activity, operation or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three years if it was not a nuisance at the time it began.

(e)

Public Information. Information concerning the ordinance codified in this section shall be made available by the County of Santa Barbara resource management department, including the following notice:

Santa Barbara County is an agricultural county with many areas zoned for agricultural operations. The presence of farms and ranches yields significant aesthetic and economic benefits to the residents of the County. Thus, the County's agriculture must be protected, including in areas where it is near residential development and Santa Barbara County has enacted [Chapter 3-23](#) of

its County code which provides that properly conducted agricultural operations will not be deemed a nuisance.

The ordinance further requires the County to make information on the ordinance and its provisions available to the public. Accordingly, if the property you own, rent, or lease is located close to agricultural lands or operations, you may be subject to inconvenience or discomfort from the following agricultural operations: cultivation and tilling of the soil; burning of agricultural chemicals including, but not limited to, the application of pesticides and fertilizers; and production, irrigation, pruning, growing, harvesting and processing of any agricultural commodity, including horticulture, timber, apiculture, the raising of livestock, fish, poultry and commercial practices performed as incident to or in conjunction with such agricultural operation, including preparation for market, delivery to storage or market, or to carriers or transportation to market. These operations may generate dust, smoke, noise and odor.

(f)

Severability. If any section, subsection, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the chapter.

(Ord. No. 3778, § 1)