



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
P L A N N I N G D E P A R T M E N T

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MEMORANDUM

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Chris Bazar, Director, Community Development Agency
Albert Lopez, Planning Director

DATE: November 6, 2017

SUBJECT: Proposed Amendments to County Zoning Ordinance to allow
Microbreweries and Microbrewery Related Uses in the A (Agriculture)
District

BACKGROUND

There has been an increased interest in promoting agri-tourism by allowing additional uses such as microbreweries and microbrewery related uses in agricultural areas. These proposed amendments to the County Zoning Ordinance would help to encourage a strong agri-tourism industry by supporting enterprises that are appropriate in agricultural areas and that are consistent with long-term, sustainable agricultural practices and operations, in order to increase the economic viability of working farms and ranches, and to promote economic diversification. Currently, the Zoning Ordinance allows wineries and olive oil mills but microbreweries are not listed as a permitted use in the A (Agriculture) District. Changes to the Zoning Ordinance are necessary for microbreweries to be allowed in agricultural areas.

DISCUSSION

The proposed amendments to the County Zoning Ordinance would allow the development of a microbrewery as a permitted use in the A (Agriculture) District; microbrewery-related uses would be conditionally permitted within the A District only with approval of a conditional use permit by the Board of Zoning Adjustments.

Microbrewery Definition

The Brewer's Association defines a microbrewery as "a brewery that produces less than 15,000 barrels (17,600 hectoliters) of beer per year with 75 percent or more of its beer sold off-site." According to the Brewer's Association, microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and, directly to the consumer through carry-outs and/or on-site tap-room or restaurant sales.

Staff reached out to a number of local microbrewery headmasters within the County to discuss the needs, requirements and the annual barrel production at local microbreweries. On average, local microbreweries were producing 5,000-6,000 barrels of beer on an annual

basis. In keeping with the County's desire to support enterprises that are appropriate in agricultural areas, staff recommends a maximum annual production of 10,000 barrels.

Subsequent Revisions to the Proposed Ordinance Amendments

Since the distribution of the original ordinance amendment language, the Office of the County Counsel advised staff to make minor clarifications to the proposed language. The following changes were made to the proposed ordinance amendments:

- The agri-tourism definition was deleted until a more inclusive agri-tourism ordinance is considered at a later date.
- The word "bonded" was removed from the microbrewery definition since it's not applicable to microbreweries.
- The term "food truck" was replaced with "mobile outdoor business" to be consistent with existing terminology in the Zoning Ordinance.

The ordinance language in Attachment A reflects these changes.

Environmental Analysis

The California Environmental Quality Act (CEQA) requires that an environmental review be conducted for the proposed ordinance amendments and establishes a process for completing the review. A Notice of Intent to Adopt a Mitigated Negative Declaration (NOIA) and an Initial Study/Draft Mitigated Negative Declaration (IS/MND) for the proposed Microbrewery Ordinances was released on August 29, 2017 for a 30-day public review period which ended on September 29, 2017.

The minor revisions to the proposed ordinance amendments made subsequent to the public review period are described in a revised project description in the IS/MND. Analysis of the revisions to the proposed ordinance amendments concluded that the ordinance revisions do not constitute a substantial revision, pursuant to Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines; therefore, recirculation of the IS/MND for additional public review is not required. The NOIA and IS/MND are available for review on the County website at: <https://www.acgov.org/cda/planning/landuseprojects/microbrewery.htm>.

Under the California Environmental Quality Act, AB 52 (Gatto, 2014), the County sent formal Notification of Project Consideration and Notification of Consultation Opportunity, pursuant to Public Resources Code § 21080.3.1, to all tribes that are culturally and traditionally affiliated within the area. No comments were received in response to the notification.

Summary of Comments Received

The County received seven letters commenting on the IS/MND, from the Governor's Office of Planning and Research, Zone 7 Water Agency, California Department of Transportation, Environmental Health, the County Public Works Agency, the Livermore Valley Winegrowers Association and the Contra Costa-Alameda County Cattlemen's Association. A summary of the comments is provided below. Please see Attachment C for a complete list of comments received and responses.

Staff has consulted with applicable State and County agencies to ensure the proposed microbreweries and microbrewery-related uses would be compliant with state and local statutes,

regulations and requirements. The County requested comments from the California Alcohol Beverage Control Department and the California Department of Conservation, but no comments were received from these agencies.

The County received comments from California Department of Transportation (Caltrans) regarding traffic impact based on analysis of Levels of Service or the near-future Vehicle Miles Traveled. Our local process requires a project to pay road impact fees based on the trips generated during the peak period along the roadways as per the traffic mitigation ordinance; it is currently set at \$5.60 per gross square foot for the construction of tasting rooms. The County Public Works Agency noted that they are responsible for ensuring that roadway signage and privately maintained signage in the public right-of-way are design and installed per County requirements.

The Zone 7 Water Agency (Zone 7) reviewed the proposed amendment in the context of providing water supply, flood protection, and groundwater and stream management within the Livermore-Amador Valley. All projects will need to comply with Eastern Alameda County plans and policies, including, but not limited to, Zone 7's Sustainable Groundwater Management Ordinance and Zone 7's Nutrient Management Plan. Within the Zone 7 service area, the agency will be responsible for issuing drilling and well permits in the Eastern Alameda County.

The Regional Water Board and County Environmental Health will be responsible for permitting onsite wastewater treatment systems in compliance with local statutes, regulations and requirements. Additionally, all food sales and services will adhere to the County Environmental Health regulations and requirements.

Recommendations from County Advisory Bodies

On July 25th, the Agricultural Advisory Committee reviewed the proposed amendments to the Zoning Ordinance and recommended that the Board of Supervisors approve the proposed amendments as presented. On September 13th, after reviewing the proposed ordinance amendments, the District 4 Agriculture Committee recommended approval of the amendments. On September 20th, the Sunol Citizens' Advisory Committee reviewed and recommended approval of the proposed amendments.

On September 25th, the Castro Valley Municipal Advisory Council reviewed the proposed ordinance amendments and unanimously adopted a motion recommending approval of the ordinance with the following revisions: cultivation, preferably of a crop that is used in the beer made on-site, should be required; and wineries and microbreweries should be allowed on the same site.

The proposed ordinance language for microbreweries was modeled after the existing ordinance language pertaining to wineries, which have no requirement for cultivation on-site. While the ordinance amendments, as currently proposed, do not explicitly address locating a winery and microbrewery on the same parcel, siting both facilities at the same location would not be precluded by the ordinance.

Planning Commission Recommendation

The proposed amendments to the County Zoning Ordinance were presented to the Planning Commission on October 16, 2017. The Planning Commission took public testimony, reviewed the proposed amendments to the County Zoning Ordinance, and considered the Castro Valley Municipal Advisory Council recommendations. The Planning Commission recommended that

the Board of Supervisors approve the proposed amendments and the Initial Study/draft Mitigated Negative Declaration (IS/MND) (Attachment B) as currently proposed.

Tentative Schedule for Ordinance Adoption

The ordinance adoption process requires presenting the draft ordinance at public meetings in all of the affected communities, many of which have already been held. The table below contains the schedule for remaining meetings.

Date	Public Hearing
December 5 th	Board of Supervisors – First Reading
December 19 th	Board of Supervisors – Second Reading

NEXT STEPS

Staff recommends that your Committee hear a presentation by staff, take public testimony, and provide comments on the proposed amendments. With your Committee's concurrence, staff will present the proposed amendments to the full Board of Supervisors on December 5th for approval.

Attachments:

- A. Proposed amendments to the Zoning Ordinance
- B. Initial Study/draft Mitigated Negative Declaration (IS/MND) available at <https://www.acgov.org/cda/planning/landuseprojects/microbrewery.htm>.
- C. IS/MND Comments (Letter A-G)
- D. IS/MND Responses to Comment

