

April 20, 2011

MEMO

TO: Bruce D. Glasscock, City Manager
Frank F. Turner, Deputy City Manager

FROM: Phyllis M. Jarrell, Director of Planning

SUBJECT: Request to Amend the Code of Ordinances concerning Alcohol Sales in Residential Zoning Districts

Attached is a letter from Mr. Michael R. Coker requesting that City Council consider amending the Code of Ordinances to allow the sale of alcohol in a residential zoning district in association with a winery located on a property zoned Agricultural. Mr. Coker's clients wish to obtain a winery permit from the Texas Alcoholic Beverage Commission for the restaurant and bakery located in the Wells Farmstead house located at Coit Road and Lorimar Drive. The underlying zoning of the property is Agricultural, which is a residential zoning district. Through the heritage designation overlay zoning for the property, City Council allowed restaurant, office and other uses to encourage preservation of the house. Normally, these uses would not be allowed either by right or by Specific Use Permit in the Agricultural zoning district.

The Agricultural zoning district does allow wineries with a SUP, but this regulation conflicts with Article II, Section 3.3 of the Code of Ordinances, which prohibits the sale of alcohol in a residential zoning district. When regulations were established for wineries in 2005, staff thought that a winery with vineyards could potentially locate in an agricultural district and recommended that the use be allowed. However, we did not identify the conflict with the Code of Ordinances at that time.

While the Zoning Ordinance authorizes the use of heritage designation to add uses and to adjust other development standards such as height, setbacks and parking, the same flexibility does not extend to the Code of Ordinances. An amendment to the Code of Ordinances would be necessary to accommodate Mr. Coker's request. His proposal is to amend the Code to allow the sale of alcohol in a residential zoning district when associated with a restaurant in a heritage designated property with a SUP for a winery.

There are several issues that City Council may wish to consider in relation to this requested amendment, as outlined below:

- The Texas Alcoholic Beverage Code allows a wide range of activities as part of a winery permit, including the manufacturing, bottling, blending and packaging of wines. A winery may also offer on-site wine tastings and sell wine for both on-

site and off-site consumption. All of these activities may not be appropriate in a residential zoning district, depending on the size and scale of the operation.

- Most of the properties with heritage designations are located within residential zoning districts. Alcohol sales in association with a winery might be appropriate in some residential zoned locations but not others.
- While Mr. Coker's request is specific to wineries, the potential exists for heritage designated property to be used for a restaurant or for weddings and receptions with alcohol sales under different types of TABC permits.

Staff requests Council's direction on this matter. Please let me know if you need additional information.

XC: Paige Mims, Deputy City Attorney
Tina Firgens, Planning Manager

Michael R. **COKER** Company

2700 Swiss Avenue
Suite 100
Dallas, Texas 75204



April 13, 2011

Phyllis Jarrell, Director of Planning
City of Plano
1520 Avenue K
Plano, Texas 75074

Re: Wells Family Homestead located at 3921 Coit Road, also known as Patti's Place with Heritage Designation

Dear Ms. Jarrell;

My clients, John and Teresa Weeks, have entered into an agreement to purchase the business operations at Patti's Place for the continued operation of the restaurant and bakery. Historically, Patti's Place has been a bakery and restaurant with limited operating hours since it commenced operations about three years ago. The Weeks' desire is to continue operation of the restaurant and bakery with longer operating hours and with the potential to have a winery that allows for the sale of alcohol in accordance with the Texas Alcoholic Beverage Code, Winery Permit chapter. The concept of a continuing operation that contributes to the quality of life in neighborhoods surrounding the location is not lost on the Weeks.

The property is zoned Agricultural with a heritage designation for the Wells Family Homestead. The Agricultural zoning district allows a winery when a specific use permit is approved by the Plano City Council. The Winery definition from the Plano Zoning Ordinance gives the impression that wine may be sold at retail since it refers to activities authorized by Chapter 16 the Texas Alcoholic Beverage Code.

Winery	A wine-making facility that: (1) ferments juices from grapes and/or other fruit, (2) blends wines, (3) manufactures, bottles, labels, and packages wine, and/or performs any other activity authorized by Chapter 16, Winery Permit, of the Texas Alcoholic Beverage Code as amended. (ZC 05-24; Ordinance No. 2005-7-10)
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A portion of Chapter 16 of the TABC code is included below for reference:

CHAPTER 16. WINERY PERMIT

Sec. 16.01. AUTHORIZED ACTIVITIES. (a) Except as provided by Section 16.011, the holder of a winery permit may:

(1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;

(4) [~~(3)~~] sell wine in this state to or buy wine from permit holders authorized to purchase and sell wine, including holders of wholesaler's permits, winery permits, and wine bottler's permits;

(5) [~~(4)~~] sell wine to ultimate consumers:

(A) for consumption on the winery premises; or

(B) in unbroken packages for off-premises consumption in an amount not to exceed 35,000 gallons annually;

(6) [~~(5)~~] sell the wine outside this state to qualified persons;

(7) [~~(6)~~] blend wines; and

(8) [~~(7)~~] dispense free wine for consumption on the winery premises.

NOTE: TABC Chapter 16 section above downloaded from State of Texas website

The issue that we need help resolving is the disparity between Section 3-3 of the Municipal Code that prohibits the sale of alcoholic beverages in any residentially zoned district, the ability to obtain a specific use permit for a winery and those aspects of the TABC regulations that appear to be contrary to Section 3-3 of the Municipal Code.

Sec. 3-3. - Manufacturing, importing, transporting, selling, etc.—Unlawful in districts zoned residential.

It shall be unlawful for any person to manufacture, distill, brew, import, transport, store for purposes of sale, distribute or sell any alcoholic beverages in any residentially zoned district within the City of Plano.

Proposed restaurant operations:

Lunch and early dinner [evening small plate] restaurant service

Blending, bottling and selling wine

Presenting wine tasting events for a fee

Food and wine pairing classes for a fee

Special event [example: wedding receptions, company meetings, etc.]

Potential ordinance revision language that would provide for the accomplishment of the proposed restaurant operations, as described above.

Add an exception at the end of Section 3-3. "Exception: A restaurant located in heritage preservation overlay and that has a specific use permit for a winery may sell alcoholic beverages for on and off-premise consumption in accordance with Chapter 16 "Winery Permit" of the Texas Alcoholic Beverage Code."

Since this regulation is not a zoning ordinance, the City Council may consider an amendment following proper posting if they believe it to be in the best interests of the City.

In closing, we intend to improve the beauty of the landscaping and gardens surrounding the building and parking areas. We would like to include local educational facilities and horticultural groups in the design, installation and maintenance of the garden improvements. Additionally, we will be installing an herb garden to support the kitchen operations with fresh herbs.

Lastly, we believe that if we are able to accomplish our objectives, that we will add value to the tax base, add jobs to the economy, and provide a city-wide resource that will be a magnificent destination in Plano.

Sincerely,



Michael R. Coker, AICP/CBO