

## PLANNING & DEVELOPMENT

600 West Fourth Street  
Davenport, Iowa 52801-1106  
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Office: (563) 326-8643 Fax: (563) 326-8257



Item #3  
10/16/18

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Timothy Huey  
Director

To: Mahesh Sharma, County Administrator

From: Timothy Huey, Planning Director

Date: October 9, 2018

**Re: Discussion of Public Hearing and Planning and Zoning Commission recommendation on an application to add wineries and associated facilities to the list of Special Permitted Uses in Ag-General Zoning Districts**

The Planning Commission held a public hearing on the proposed zoning text amendment submitted by Julia Rubino. Her request is to add wineries and associated facilities as a Permitted Special Use in the Ag-General (A-G) Zoning District. Approval of this amendment would then allow the applicants to submit a Special Use Permit application to the Zoning Board of Adjustment for approval to operate a winery, tasting room and associated event center on the property located on Great River Road on a portion of the former Olathea golf course. This application is also submitted in conjunction with an application to rezone the proposed parcel back to Ag-General from its current designation as R-1. Approval of both applications would be required prior to consideration of any Special Use Permit (SUP) application.

Staff presented a draft of a proposed addendum to the Scott County Comprehensive Plan's Land Use Policies to specifically address the standards and criteria for review of such SUP applications. If adopted, those policies would be used by the Zoning Board of Adjustment along with the other criteria for Special Use Permits to evaluate such requests and determine what conditions would be appropriate for any approval at a particular location or on what basis an application would be denied. It was the consensus of the Planning Commission to forward on its recommendation to approve this text amendment but to also set a public hearing for the proposed addendum to the Land Use Policies for its next meeting so those could be forwarded on to the Board of Supervisors for its consideration in conjunction with this text amendment application.

The Planning Commission unanimously recommended approval of the proposed Zoning Ordinance text amendment to add as a special permitted use "wineries for the production of native Iowa wine in conjunction with a vineyard and associated facilities for the production, bottling, marketing and sale of the wine." Such a proposed special permitted use may also include associated facilities for tastings and other events held on the premises.

Copies of the Staff memo to the Planning Commission, the applicant's application and other materials are also attached. The public hearing on the application to rezone this property to A-G is also this same agenda.

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Timothy Huey  
Director

To: Planning & Zoning Commission

From: Timothy Huey, Planning & Development Director

Date: September 27, 2018

**Re: Application to add wineries to the list of Special Permitted Uses in Ag-General Zoning Districts**

Wineries and associated wine tasting and event facilities are a growing trend in Iowa. In many counties that have adopted Zoning Ordinances, such facilities are addressed through some version of a Special or Conditional Use permitting process or allowed as some version of a Home Occupation or Cottage Industry. These regulations recognize the agricultural related nature of vineyards and growing grapes but also the commercial-industrial nature of the related wine making and tasting facilities. Some counties address such uses under the broader heading of Agritainment; which include other ag tourism or ag entertainment operations. These would be such things as corn mazes, history farms, petting zoo, hay rack rides and the like. These activities are also generally reviewed through the special permit process. Most regulations recognize and require an agricultural related connection between the attraction and the commercial operation. These operations can increase the visibility and understanding of agriculture but also provide valuable economic development through the creation of jobs and tax revenue. Many of our neighboring counties have very successful wineries with associated tasting rooms and events centers. Staff is very supportive of making such enterprises possible in Scott County. Included with this memo are examples from Clinton and Johnson Counties.

The applicants for this proposed text amendment approached staff with their plans to have a vineyard, winery, tasting room and events center in Scott County. They had a specific location in mind. It was a portion of the former Olethea Golf Course, which had been zoned Ag-General but was recently rezoned to R-1. The purpose of that rezoning was to market the property for sale for residential development after the golf course was closed.

Staff discussed a number of possibilities and alternatives for the applicants to be able to accomplish their business goals which were; first, to establish a vineyard and grow grapes. Growing crops for food is a permitted use in any Scott County zoning district and generally would be considered exempt from zoning under State Law. Second, to build a residence on the property. That would be permitted under the current R-1 zoning district regulations or would also be exempt under any zoning district regulations if determined to be a farm house. Third, to develop a winery for the production of wine from grapes both grown on the property and purchased from other suppliers. This may be determined as being ag exempt under certain circumstances. The ordinance definition of farming is: *The science or art of producing agricultural products which involves cultivating the soil and producing crops for food, fiber, fuel or consumer products, or the raising of livestock for food or other consumer products.* This would raise the question if the further “processing” of crops is an agricultural land use or a

commercial/industrial land use. It is staff's determination that even though growing grapes as a commodity is ag-exempt, the production of wine is not and a winery would need to comply with county zoning regulations. Fourth, to operate tasting facilities to sell and market the wine produced. Clearly the retail sale of wine and wine tasting would require compliance with both county zoning and building codes. Finally, the applicants propose to operate an event center for gatherings and events such as weddings, parties, receptions and other celebrations. This too would require compliance with both county zoning and building codes.

In order to address the applicant's plans, staff identified two alternatives to obtain approval and to allow these combined operations. One, would be to leave the portion of the property for the vineyard and the residence zoned R-1 and seek rezoning to C-2 for only the areas where the winery, wine tasting and events would be conducted. The other would be to seek to rezone the entire property to Ag-General, apply for an agricultural exemption for a farm house on the property; then, also to request an amendment to the Ag-General Zoning District to add wineries and associated facilities as a Permitted Special Use. If those steps were approved then the applicant could seek approval of such a Special Use Permit.

Staff would recommend that any amendment to the Ag General Zoning District regulations to put winery uses under Special Permitted Uses should rely on the Zoning Board of Adjustment to tailor the approval of any particular request to what is appropriate for that location and that application. Staff is recommending that limits on the size and scope of any operation are better addressed during the review of the Special Use Permit application. However, prior to any building permit being issued, but after approval of a Special Use Permit, the project would still need a Site Plan Review approved by the Planning and Zoning Commission.

This proposed amendment is only to allow such applications in areas zoned Ag-General not Ag Preservation. Staff believes that approval of this amendment will allow our Ag-Preservation policies to remain in place while still allowing consideration of other ag related activities, such as wineries in conjunction with vineyards, that are not traditional Iowa commodity agriculture. Staff would further note that the vast majority of prime farmland in unincorporated Scott County is zoned A-P and will remain so. The majority of the limited areas that are zoned A-G are in the more heavily wooded and rolling hills or river bluff areas of unincorporated Scott County. If this amendment is approved staff would not envision many more applications other than the one that initiated this review. Furthermore, approval of this Special Use would not allow stand alone "event centers" that were not associated with a winery operation. The Planning Commission could consider specific land use policies as part of a Comprehensive Plan amendment to address wineries. Such policies would then be applied by the Zoning Board of Adjustment when considering such Special Use applications and any appropriate conditions for their approval. Staff has made an initial draft of such an addendum to the Land Use Policies in Chapter Two of the Comprehensive Plan that is included with this memo and other materials on this application.

# **Scott County Comprehensive Plan**

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## **CHAPTER 2: VISION, GOALS, AND OBJECTIVES**

### **ADDENDUM**

#### ***Economic Development Objectives regarding wineries and related facilities***

This addendum is adopted to establish land use policies to guide the review and any approval of Special Use Permits for wineries and associated facilities in unincorporated Scott County. While this Comprehensive Plan encourages development to occur within cities, it does encourage development, when it does occur in rural Scott County, to be on marginal agricultural land. The economic development objectives adopted with this Comprehensive Plan also encourage Scott County to promote a diverse regional economy and opportunities that improve our quality of life. To this end, Scott County would adopt the following policies on wineries and related facilities:

**Objective 1. Location:** Wineries can only be located adjacent to and in conjunction with a vineyard that produces grapes to be used in the production of wine on the premises. The Agricultural General Zoning District (A-G) is intended to protect agricultural operations but also to allow compatible development when approved with a Special Use Permit. These policies acknowledge that the growing of grapes would generally be considered an agriculturally exempt land use and, as such, could be located in any area of unincorporated Scott County. However, wineries and any associated facilities would have to be located in an area zoned A-G, and only if a Special Use Permit is approved in compliance with these policies.

**Objective 2. Access:** Wineries should be located on adequately constructed and maintained roads. If an analysis of traffic generated by such an operation is determined to be necessary, such an analysis shall be prepared at the applicant's expense by a qualified traffic engineer/planner and be submitted and reviewed in conjunction with the Special Use Permit application.

**Objective 3. Size and scope:** The size of a winery should be in scale with the production of grapes from the associated vineyard. The intent of these policies is to allow wineries that use grapes grown on the property but also to allow the use of grapes grown elsewhere in accordance with Iowa Native Wine regulations. The associated tasting facilities shall be designed to be compatible with the winery operation and limited to primarily serving and selling wines produced on the property.

**Objective 4. Associated event center:** An event center for gatherings and events such as weddings, parties, receptions and other public or private events may be approved in conjunction with a winery. The size and design of the building shall be appropriate for the location and the frequency of events shall be reviewed in conjunction with the review of the Special Use Permit. The Zoning Board of Adjustment may determine appropriate limits on the size and frequency of such events and place conditions to reduce the impacts on the adjacent property and on the public health, safety and welfare. Temporary facilities such as tents or other non-permanent structures may also be permitted for such events. Limits on the number of attendees, amplified music

# **Scott County Comprehensive Plan**

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and/or speakers and any other aspect of the events determined to have significant impacts on adjacent properties may also be considered by the Zoning Board of Adjustment with the review of the Special Use Permit. Parking and circulation areas shall comply with the requirements of the Scott County Zoning Code Section 6-27 Off Street Vehicular Parking Requirements.

**Objective 5. Code compliance:** Wineries and all associated facilities shall comply with all applicable Federal, State and local regulations. Scott County Health, Accessibility and Construction Codes shall apply to all facilities covered by the Special Use Permit.

**Objective 6. Compatibility with Agricultural and Residential Land Uses:** These policies are intended to allow wineries and associated facilities when and where they are determined to be compatible with the adjacent land uses. They are adopted to further the diversification of Scott County's rural economy, promote tourism and the quality of life for our local citizens.



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Timothy Huey, Director

**Zoning Text Amendment Application**

10/3

Date 8 / 31 / 2018

**Applicant:**

Julia Rubino

**Statement of proposed text amendment:** Cite Section of Zoning Ordinance to be amended and requested changes:

In section 6-10 "Ag" Agricultural General District, subsection D Special Permitted Uses, we propose to add an additional bullet point (3) Winery. A facility for the preparation, processing, marketing, and distribution of wines. May include a tasting room, sales area, and/or event center.

**How will such an amendment Comply With the Scott County Comp Plan and Land Use Policies?**

The goal of the Scott County Comprehensive Plan is to preserve land and protect limited resources while encouraging business growth. This change allows vineyards already designated as...  
(see back side)

Julia Rubino  
Signature  
Julia Rubino  
Name of Applicant (printed)  
524 Brown St.  
Mailing Address  
Bettendorf / IA / 52722  
City / State / Zip  
563-940-4240  
Phone

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name of co-applicant  
\_\_\_\_\_  
Mailing Address  
\_\_\_\_\_  
City / State / Zip  
\_\_\_\_\_  
Phone

& julia.rubino89@gmail.com

Received by Ut \$100 pd 9/5  
Zoning Staff



agriculture to add a winery tasting room, sales area, and/or event center. and continue to maintain the lands agriculture use. The wine tasting room and event center will only make up a small portion of the land, which will mainly be used for agriculture. This will both compliment and encourage ag-tourism.



### 3.6 ZONING DISTRICT REGULATIONS

#### 3.6.1 A-1 Prime Agricultural District

**A. Purpose.** The A-1 Prime Agricultural District is intended to preserve areas appropriate for agricultural uses and to protect those areas of the County having the best soils for agricultural purposes from encroachment by non-farm uses. The A-1 District implements the Agricultural Future Land Use category of the Master Plan.

Agricultural uses are the primary intended use in this district. Farmers shall have the continuing right to conduct normal farm operations. Any person who requests a zoning permit to place a non-farm dwelling on property which lies within the district is deemed to be aware of the normal agricultural uses and farming practices within the district, including night farming, noise, odors and other impacts from normal farm operations.

**B. A-1 Permitted Principal Uses & Structures.**

1. Agricultural, farms, farming and the usual farm buildings including farm dwellings.
2. Truck gardens, nurseries and horticulture.
3. Single family dwelling. Newly constructed non-farm dwellings shall not be located closer than 1,320 feet to an established feed lot or livestock confinement operation, unless an existing confinement feeding operation, or a proposed confinement feeding operation which has made an application for a permit to the Iowa Department of Natural Resources, is of sufficient size that State of Iowa regulations would require that a greater separation distance than 1320 feet would be necessary between the confinement feeding operation structure and a dwelling for siting of the confinement feeding operation structure, the greater separation distance will be required for locating the newly constructed non-farm dwelling. (Amended 5/21/03-Ord 2003-03) (Amended 8/8/2016-Ord 2016-02)
4. Public parks, fairgrounds, playgrounds, campgrounds and recreation areas.
5. Wildlife preserves, hunting areas, lakes and ponds.
6. Kennels, riding stables and the boarding of horses, provided that a Type E bufferyard surrounds all animal enclosure areas except pastures.
7. Railroad, street, sewer, water, trail easements and rights-of-way, and other utilities, but not including storage or maintenance yards and buildings, or administrative and sales offices. (Amended 11/22/2000-Ord 2000-05)
8. Group Home. Subject to Section 4.2.6.



9. Family Day Care Home. Subject to Section 4.2.5.

**C. A-1 Permitted Accessory Uses and Structures.** Uses and structures clearly incidental and necessary to the permitted principal uses and structures of this district, not involving the conduct of business on the site (except home occupations) and located on the same lot or a contiguous lot under the same ownership.

1. Secondary farm dwellings pursuant to Section 4.2.1.
2. Private swimming pools, garages, tennis courts, gardens and greenhouses.
3. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of work.
4. Roadside stands for the sale of produce provided that access to such stands shall be so located as to afford a minimum sight distance of 750 feet to motor vehicles on adjacent roads, that no parking space shall be located closer than 20 feet to the road right-of-way and that not less than 4 parking spaces be provided.
5. Home occupation as provided in Section 4.2.2.
6. Non-Commercial WECS, subject to Section 4.2.17 (Amended 9/8/08-Ord 2008-02)
7. Non-Utility Scale Solar Installations, as provided in Section 4.2.19 of this ordinance. (Amended 10/3/2016-Ord 2016-03)

**D. A-1 Special Exception Uses and Structures.** (Amended 1/16/02-Ord 2002-02)  
Subject to Section 9.3.4 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Agricultural service businesses involving processing, storage, and sale of grain for seed or feed; alfalfa dehydrating; sale of feed supplements; storage, distribution or sale of agricultural lime, agricultural chemicals or fertilizers; trenching, terracing or well drilling; but not including the sale or display of farm machinery, petroleum products, building materials or appliances; provided that the business produces no offensive noise, vibration, smoke, dust, odor, heat, glare or electrical interference detectable within the limits of the nearest dwelling. (Amended 11/22/2000-Ord 2000-05)
2. Mining and extraction of minerals or raw materials, as provided in Section 4.2.9, including necessary processing equipment, provided that access shall not cause a real or potential traffic hazard; that 1 off-street parking space for each employee plus 1 off-street space for each company



vehicle be provided. Any person or firm seeking a conditional use for the extraction of minerals or other raw materials shall submit a plan whereby the land so used would be restored by the applicant to a condition compatible with the surrounding area upon conclusion of the operation.

3. Sanitary landfill, provided that refuse be covered with dirt daily if it contains raw garbage; that a nuisance due to smoke, odor or blowing of trash and debris shall not be created; that the site shall be restored to a condition compatible with the adjacent area upon conclusion of the landfill operation. A dust free access road shall be provided.
4. Concrete, asphalt mixing or batching plants for temporary use during the construction, repair or maintenance of public roads, highways, or other public facilities, provided that the area be restored to a suitable condition free of refuse and debris.
5. Privately operated campgrounds, exposition grounds, youth or summer camps, gun clubs, marinas, boat docks, and recreation vehicle riding areas, race courses and similar outdoor recreation activities.
6. Golf courses and clubhouses but not including miniature golf courses.
7. Airports and landing fields approved by the Federal Aviation Administration.
8. Animal exhibits and zoos, subject to the conditions established in Section 4.2.3.
9. Bed and breakfast inn as established in Chapters 137B and 137C, Code of Iowa, and as provided in Section 4.2.4 of this ordinance.
10. Cemeteries.
11. Storage units. Subject to Section 4.2.11 and other conditions to ensure compatibility.
12. Child Day Care Center. Subject to Section 4.2.5.
13. Cottage Industry on parcels of five or more acres unless the Board of Adjustment finds that:
  - a. Allowing the Cottage Industry on a smaller area is appropriate for the specific site, and (Amended 9/8/08-Ord 2008-02)
  - b. allowing the Cottage Industry on a smaller area will not cause adverse impacts on neighboring properties greater than the impact caused if the Cottage Industry were on five acres or more. (Amended 9/8/08-Ord 2008-02)



14. Bed and breakfast home as established in Chapters 137B and 137C, Code of Iowa, and as provided in Section 4.2.4 of this ordinance.
15. More than one secondary farm dwelling on a farm.
16. Elementary & secondary schools and other educational facilities.
17. Churches.
18. Communications stations and towers, provided that they will not interfere with the operation of any airport or landing strip. See Section 4.2.13.(Amended 5/21/03-Ord 2003-03)
19. Except as provided in Section 4.1.4, single family residences sold separately from farm structures located within 1,320 feet of the dwelling and under common ownership. (Amended 5/18/09-Ord 2009-08)
20. Commercial WECS, subject to Section 4.2.16. (Amended 9/8/08-Ord 2008-02)
21. Utility Scale Solar Installations, as provided in Section 4.2.18 of this ordinance. (Amended 10/3/2016-Ord 2016-03)
22. Guest Home, subject to Section 4.2.20 (Amended 8/7/2017-Ord 2017-02)

**E. A-1 Lot Development Standards.** All development shall comply with the standards in Exhibit 3.6.1.

**Exhibit 3.6.1: A-1 Lot Development Standards.**

<b>Maximum Density</b>	One Dwelling unit per 40 acres or one-sixteenth of a section (one quarter-quarter section), including rights-of-way
<b>Minimum Lot Area and Width.</b>	<b>Non-farm Dwellings and Institutional Uses</b>
	Minimum Area - 2 net acres, provided that sufficient acreage is reserved for farm use to ensure that non-farm density does not exceed one unit per forty (40) acres.
	Minimum Width - 150 Feet
	<b>Utility and telecommunication facilities</b> - no minimum area or width
<b>Minimum Setbacks</b>	<b>Other uses</b> (unless specifically authorized by the Board of Supervisors)
	Minimum Area 40 acres
	Minimum Width 500 feet
<b>Minimum Setbacks</b>	Front 50 feet
	Side 15 feet
	Side for corner lot 30 feet
	Rear 40 feet
<b>Maximum Height</b>	35 feet or 2 ½ stories



Exhibit “A”

DECISION OF THE CLINTON COUNTY BOARD OF ADJUSTMENT

APPLICANT: Benjamin & Carey Arndt

FILE #: 3741

DATE FILED: 02/11/2014

DATE OF HEARING: 03/27/2014

THIS REQUEST IS FOR:

APPEAL:

VARIANCE:

SPECIAL EXCEPTION: X

THE DECISION OF THE BOARD OF ADJUSTMENT IS TO **GRANT** THE REQUEST, SUBJECT TO THE FOLLOWING CONDITIONS FOR APPROVAL:

1. This development is subject to all applicable state codes, permitting, and inspections.
2. Applicant must obtain all necessary state and local permits for construction and operation.
3. Applicants shall be limited to a liquor license that allows the sale of beer and wine only. Service of liquor or hard alcohol shall not be permitted. Proof of licensing from the State shall be submitted to the County Zoning Department before opening to the general public.
4. Ownership and operation of the winery shall remain with members of the Arndt family. If at any point in the future ownership or operation of the winery does not meet this requirement, the approval of this application shall become null and void and a new application will be required.
5. To retain Cottage Industry status, wine produced at this facility shall consist of at least 50% grapes grown on the premises except in the event of a catastrophic crop failure.
6. The Winery is limited to 24 special events per year. Sustained occupancy of more than 75 individuals for a period of longer than 2 hours shall be considered a special event.
7. Events must end by 12-midnight with amplified and/or outdoor music ending by 11pm.
8. Capacity of special events is limited to 275 individuals on premise at any given time. This capacity limit may be reduced as a result of review of the proposed septic system by a Wastewater Professional approved by the County Sanitarian, but shall not exceed 275 individuals.
9. Pursuant to Section 4.2.2.E of the Clinton County Zoning Ordinance, food preparation and service shall be limited to those services requiring only a temporary license from the Iowa Department of Inspections and Appeals. Food service and preparation which requires a “Food Service Establishment” or “Retail Food Establishment” license shall not be allowed.
10. A minimum of 60 off-street parking spaces which meet the design standards set forth in section 6.2.2 of the Clinton County Zoning Ordinance shall be available in the parking area immediately adjacent to the building during normal hours of operation. A minimum total of 152 spots shall be available for use during special events. The applicant shall erect proper signage clearly designating all pre-approved parking areas and accesses thereto. Absolutely no parking will be allowed in the County Right-of-Way, and head-in parking from any public Right-Of-Way shall not be permitted.
11. If the Clinton County Engineer determines that fugitive dust from the new development is causing a hazard to the traveling public, the Clinton County Secondary Roads Department will cause the application of a dust palliative to 195th Street from Hwy 61 to the entrance to the facility. The actual cost of applying the dust palliative shall be reimbursed to the Clinton County Secondary Road Department. The dust palliative will not be applied more than twice per calendar year.

CHAIR, BOARD OF ADJUSTMENT

DATE

In the event the request is granted, the applicant agrees to all conditions and safeguards set forth above, as well as those in Chapter 9.3.5(H) of the Clinton County Zoning Ordinance. The applicant further agrees that in the event the specified conditions and safeguards are not complied with, within the time specified, approval of this decision shall become null and void.

SIGNATURE OF APPLICANT

DATE

DECISION OF THE CLINTON COUNTY BOARD OF ADJUSTMENT

APPLICANT: Benjamin & Carey Arndt

FILE #: 3741

DATE FILED: 02/11/2014

DATE OF HEARING: 03/27/2014

THIS REQUEST IS FOR:

APPEAL:

VARIANCE:

SPECIAL EXCEPTION: X

THE DECISION OF THE BOARD OF ADJUSTMENT IS TO DENY THE REQUEST.  
REASONS FOR DENIAL ARE:

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

CHAIR, BOARD OF ADJUSTMENT

DATE

In the event the request is granted, the applicant agrees to all conditions and safeguards set forth above, as well as those in Chapter 9.3.5(H) of the Clinton County Zoning Ordinance. The applicant further agrees that in the event the specified conditions and safeguards are not complied with, within the time specified, approval of this decision shall become null and void.

SIGNATURE OF APPLICANT

DATE



## CONDITIONAL USE PERMIT

**BOA-18-27603**

IN ACCORDANCE WITH CHAPTER 8:1.22 OF THE JOHNSON COUNTY UNIFIED DEVELOPMENT ORDINANCE, A CONDITIONAL USE PERMIT IS ISSUED TO:

**Bob Walker**

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FOR THE OPERATION OF:

**Winery**

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AT:

**3867 James Ave SW, Iowa City IA 52240**

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Such operation shall be established and conducted subject to and in conformance with the Johnson County Unified Development Ordinance as well as certain Supplemental Conditions as follows:

1. Any structures that are used in the winery process will not be considered agriculturally exempt and shall conform to the Johnson County Building Code. A building permit must be applied for and granted for any new structures, building upgrades, and remodels associated with the winery.
2. The applicant must install a parking area with marked 9ft x 20ft spots at the rate of 1 spaces per 100 square feet of floor area intended for public use. If 10 or more spots intended for public use are required, all parking areas and drives must be of a dust free surface.
3. The applicant must submit an approved stormwater management and soil erosion control plan prior to being granted any new building permits for the winery use.
4. The applicant shall work with the County Engineer to apply dust control on James Avenue SW, from 100 feet south of the property's proposed access north to the intersection with IWW Road SW, if deemed necessary by the County Engineer.
5. Public may visit the site by appointment only.
6. No more than 50 customers shall be on site at any one time unless attending a separately-permitted special event.
7. Any outdoor lighting installed on the property must be downcast and conform to the Downcast Lighting Regulations.
8. The applicant must have the well and wastewater approved by the Johnson County Public Health Department.

Approved by the Johnson County Board of Adjustment on **February 21, 2018.**

ISSUED:

\_\_\_\_\_  
Director  
Planning, Development & Sustainability

\_\_\_\_\_  
Date

PERMIT NO.

**BOA-18-27603**

EXPIRATION DATE

**None**



## STAFF REPORT

**DATE:** February 21, 2018

**TO:** Johnson County Board of Adjustment

**FROM:** Johnson County Planning, Development & Sustainability  
Mitchell Brouse, Assistant Planner

**RE:** Conditional Use Permit Application BOA-18-27603 of Bob Walker

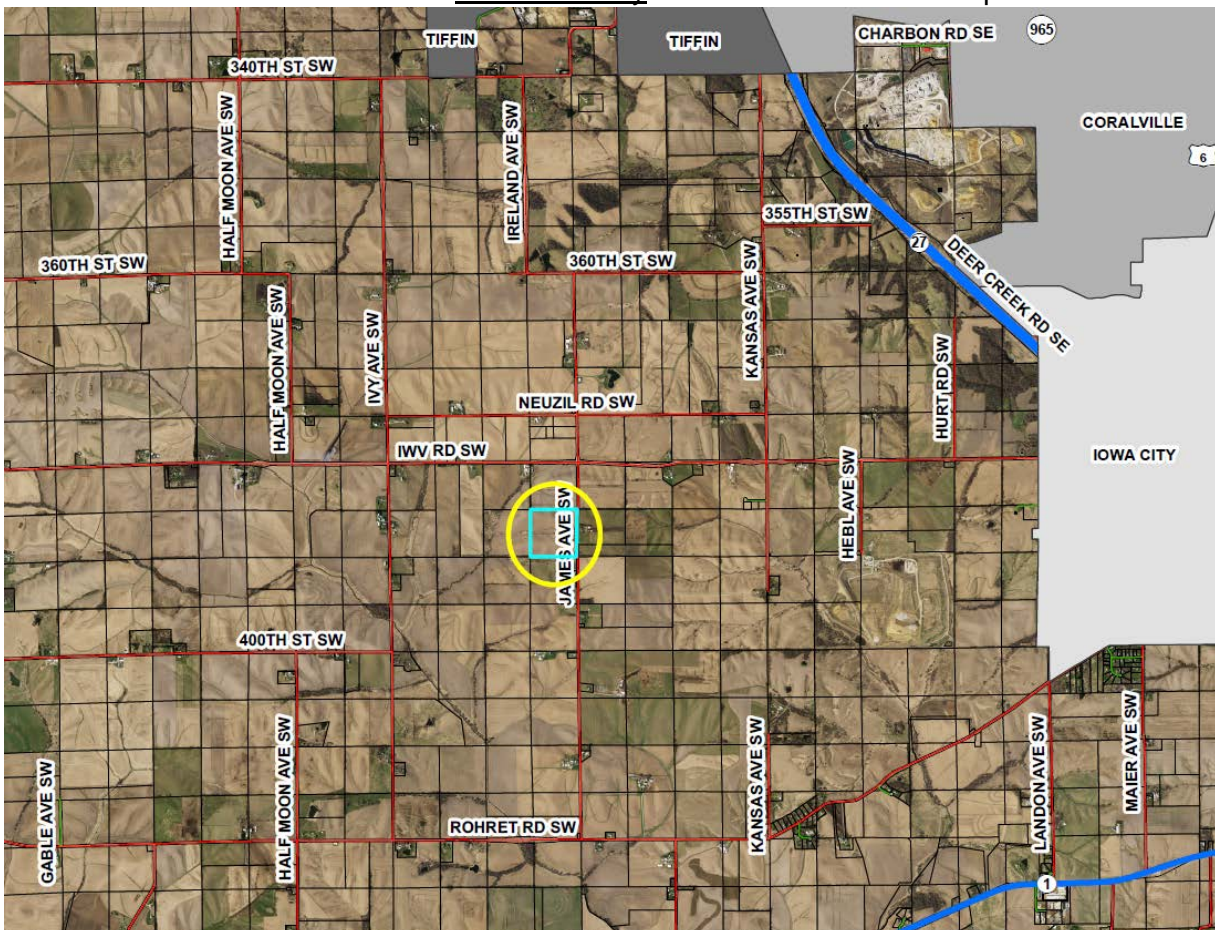
### Purpose of Request

The applicant is requesting a Conditional Use Permit to operate a winery for processing grapes with a tasting room.

### Location

The property in question is located in the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 16, Township 79 North, Range 7 West of the 5th P.M. It is on the west side of James Ave SW, approximately 2,000 feet south of its intersection with IWV Road SW, in Union Township.

**BOA-18-27603 – Walker Winery – Exhibit 1 – Location Map**



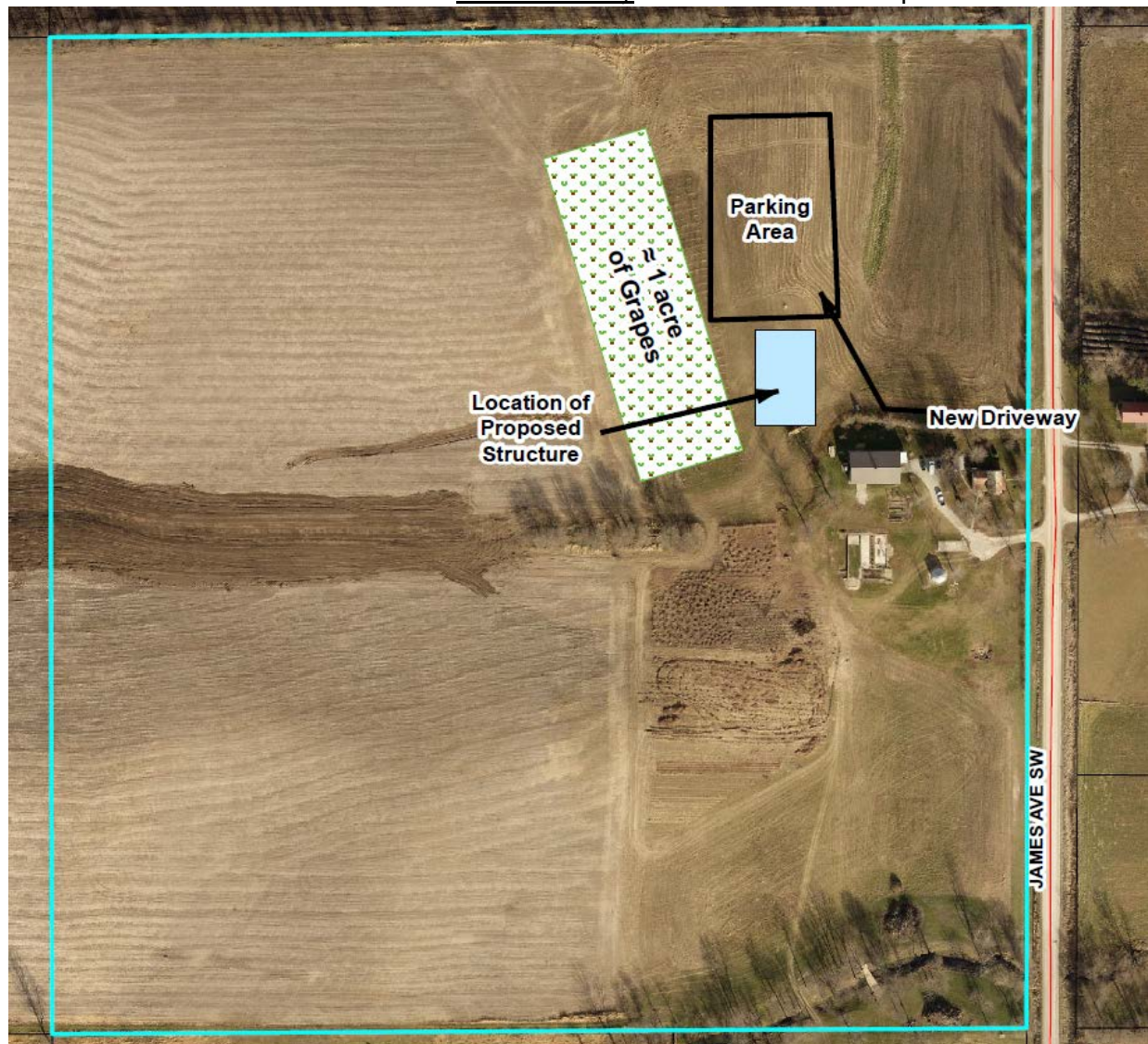
## GENERAL PROPERTY INFORMATION

SURROUNDING PROPERTY	EXISTING LAND USE	ZONING
<b>Site</b>	<b>Agricultural</b>	<b>A</b>
North	Agricultural	A
South	Agricultural, Residential	A
East	Agricultural	A
West	Agricultural	A

## SPECIAL INFORMATION

Health Department requirement	1-acre per septic system
School District	Tiffin Fire Association
Fire District	Iowa City Community School District
Law Enforcement furnished by	Johnson County Sheriff

### BOA-18-27603 – Walker Winery – Exhibit 2 – Area Map





## Details of Request

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The applicant is requesting a Conditional Use Permit to operate a winery. The winery will have 2 employees. The tasting room will be open by appointment only. The parcel in question is part of an 80 acre, agriculturally exempt farm.

The applicant intend to construct a building to house wine production equipment as well as the tasting room.

## Land Use Policies and Plans

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According to the Johnson County Land Use Plan (2008) this property is located in the rural/agricultural area of the county, where agricultural uses are allowed. The property is zoned A-Agricultural. Wineries are a conditionally permitted use in the A-Agricultural zoning district. Wineries are defined as:

- A facility for the preparation, processing, marketing, and distribution of wines. May include a tasting room and or sales area.

### **According to Chapter 8:1.20 - *CONDITIONAL USE PERMIT REGULATIONS AND SUPPLEMENTARY CONDITIONS.***

I. Purpose. This article is intended to provide for the appropriate review of the location, site development, and conduct of certain designated uses. These are uses which generally have a distinct impact on areas in which they are located or are capable of creating special problems for bordering properties unless given special attention. In any determination upon a particular conditional use at the location requested, the following guidelines shall be considered:

1. That the proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property.
  - **Staff has recommended a set of conditions that should work to safeguard the health, safety, and welfare of the general public.**
2. That the proposed use will not adversely affect the quality and supply of water, air, and light to surrounding property.
  - **Staff does not believe that the proposed use will negatively affect the supply of water, air, and light to the surrounding property. In addition, the recommended conditions will help to ensure the use does not create negative effects.**
3. That the proposed use will not adversely affect established property values of adjoining or surrounding buildings.
  - **Wineries require agricultural inputs and the proposed use is located in a primarily agricultural area. So long as the winery remains within the proposed intensity, staff is not aware of any reason that permitting this use will negatively affect neighboring property values.**



4. That the proposed use is in accordance with the character of the area and the particular suitability of this area for the proposed use.
  - **While production of wine is manufacturing in nature, it requires agricultural inputs, and if maintained at a reasonable intensity, it is suitable in agricultural areas.**
5. That the proposed use is an appropriate use of the land and will not discourage appropriate uses of other land.
  - **This property is an active farm with vegetable growing, grapes, and some row crop production and is located in an agricultural area. Staff does not believe that approval of this request will discourage appropriate uses of other land.**

### **Existing Road Infrastructure**

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The winery will be accessed via a new access onto James Ave SW, located to the north of the existing house site. The existing driveway will be removed. James Ave is a gravel road with a 2014 road count of 130 average annual daily trips (AADT).

The proposed access is approximately 1,800 feet ( $\approx 1/3$  mile) south of James Avenue's intersection with IWV Road SW, which has a paved surface.

**PZC-18-27603 – Walker Winery – Exhibit 3 – Road Infrastructure and Traffic Count**



### **County Engineer's Report**

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Requested that the driveway be moved to the proposed location and that dust alleviation is applied on James Ave SW to the Secondary Roads Department Specifications.

### **Health Department Report**

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No objections to this request. If the operation extends beyond what is proposed, JCPH would have to reassess.

### **Johnson County Sheriff's Report**

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No objections.

### **Conclusion**

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Staff recommends approval with the following conditions:

1. Any structures that are used in the winery process will not be considered agriculturally exempt and shall conform to the Johnson County Building Code. A building permit must be applied for and granted for any new structures, building upgrades, and remodels associated with the winery.
2. The applicant must install a parking area with marked 9ft x 20ft spots at the rate of 1 spaces per 100 square feet of floor area intended for public use. If 10 or more spots intended for public use are required, all parking areas and drives must be of a dust free surface.
3. The applicant must submit an approved stormwater management and soil erosion control plan prior to being granted any new building permits for the winery use.
4. The applicant shall work with the County Engineer to apply dust control on James Avenue SW, from 100 feet south of the property's proposed access north to the intersection with IWW Road SW, if deemed necessary by the County Engineer.
5. Public may visit the site by appointment only.
6. No more than 50 customers shall be on site at any one time unless attending a separately-permitted special event.
7. Any outdoor lighting installed on the property must be downcast and conform to the Downcast Lighting Regulations.
8. The applicant must have the well and wastewater approved by the Johnson County Public Health Department.

### **Definitions:**

- 151A. **Seasonal Agricultural Events.** Seasonal activities related to on-site agricultural production, which bring the general public to working farms. These activities may include any combination of agricultural festivals, farm to table dinners, farm related cooking classes, and other similar activities. Seasonal agricultural events may include food and beverage service and limited sales of products not produced on site. Seasonal Agricultural Events do not include weddings. With the exception of crop mazes, activities listed as special events in subsection 8:1.22(B)(8)(h) must be permitted as special events.
158. **Special Events.** A temporary outdoor activity, or one held in a temporary structure or tent, that includes music festivals, concerts, theatrical exhibitions, entertainment, speeches or other activity where a large number of people attend. A temporary activity may include a single event or similar events that are repeated no more than twelve times in a given calendar year.
188. **Winery.** A facility for the preparation, processing, marketing, and distribution of wines. May include a tasting room and or sales area.

### **Zoning:**

“Vineyard” is considered agriculture and is allowed/exempt in all Ag districts.

“Special Events” is listed as a Conditional Use (Special Exception) in all zoning districts. It is limited to 12 calendar days per year

- Our ZBA has made a determination on past applications that with weddings, the day before the event, the day of the event, and the day after the event are counted as a single occurrence because the setup the day before and cleanup the day after are smaller number of people. So a wedding center could have weddings 12 weekends a year, and each wedding can cover Friday-Sunday.
- This permit/approval is also used for our temporary music festivals, corn mazes, harvest festivals, etc. In those cases, every day the event occurs is counted as one of the 12 dates.

“Event Center” is not explicitly listed in our CH-Highway Commercial zoning district, but through interpretation of the ZBA, it has been determined that an Event Center is ‘similar in nature to other uses listed’ in the CH district.

“Seasonal Ag Events” is listed as a Conditional use in A-Ag and AR-Ag Residential zoning districts.

### **Supplemental Conditions for Special Events (ZBA often adds other conditions on top):**

- h. **Special Events** are permitted in any zoning district. The Board of Adjustment may permit the temporary establishment of a special event in any district such uses as specified below. Such permission shall contain a termination time and any other conditions deemed necessary and proper to protect the surrounding properties and the general health, safety and welfare of the public. Careful consideration shall be given to parking, health and sanitation facilities, safety, fire danger, traffic, circulation and impact on surrounding uses from amplifying systems, noise, litter and lights.

Any temporary buildings, uses and structures permitted by this section need not comply with district yard requirements but shall be set back from all lot lines and otherwise be located on



the property as may be required by the County to reduce any potential safety hazards to vehicles and pedestrian traffic on adjacent public ways, and to also reduce any adverse effects on adjacent properties. No permanent structures shall be erected except in conformance with the regulations of the district within which the property is located. The uses subject to such temporary use provisions include:

- i. Antique show and flea market.
- ii. Auto/motor vehicle racing or other event.
- iii. Carnival or circus.
- iv. Crop maze.
- v. Dances.
- vi. Farm show or rodeo.
- vii. Haunted house or haunted trail.
- viii. Live nativity or other performance, concert or temporary assembly.
- ix. Other similar temporary or transient attraction, activity or use.

A property owner whose property is zoned A, AR, or R may apply for and receive a Multiple Special Events Permit allowing no more than twelve (12) special events for a single calendar year. The application shall identify all dates the requested events are to be held. Any permanent structures to be utilized in conjunction with the events shall be required to have valid occupancy permits, if applicable. If no occupancy permit is applicable, said structure(s) shall be subject to inspection by the Johnson County Building Official to determine said structure is safe for the expected occupancy related to the events or, in the alternative, the applicant shall provide a written certification from an appropriately licensed professional indicating said structure is safe for the expected occupancy related to the events. No matter how many multiple Special Events permits are applied for with respect to a single property, no more than twelve (12) special events may be held thereon within any given calendar year.

- This highlighted language is intended for when people wanted to use ag-exempt structures for A-2 Assembly uses that require significant upgrades per IBC. You will see in Seasonal Ag Events below (also highlighted) that we've actually done away with the "Building Official" giving a determination because our guys weren't comfortable signing off on a building unless they had inspected it from footings to final. So someone either has to get a permit, or have an outside engineer or architect stamp a certification.
- Our Board has also included a standard condition stating that the Zoning Administrator can approve a date change to the 12 permitted dates if requested in writing. This gives flexibility for rain dates for outside events without having to clog up the ZBA agenda, or call a special meeting just to approve a date change request.

**Supplemental Conditions for Seasonal Ag Events (this permit was adopted 2 weeks ago so we haven't had a request yet. I anticipate ZBA having other conditions in addition to these).**

**Seasonal agricultural events** are permitted in the A and AR Districts. The Board of Adjustment can permit temporary establishment of seasonal agricultural events during an specified event window of up to 120 days each calendar year. The permit shall expire at the end of the specified event window. Seasonal agricultural events are subject to the following conditions:

- i. A maximum of two (2) event windows, totaling a maximum of 120 days can be permitted each calendar year. The Board of Adjustment may limit the number of event days based on the unique characteristics of the land and area, to adequately safeguard the health, safety, and welfare of the surrounding residents and landowners and the general public.
- ii. The applicant must provide adequate off street parking.
- iii. If the proposed use is located on a gravel road, the applicant shall apply dust control at the County Engineer's discretion. When required, dust control shall be applied prior to the beginning of the event window, in accordance with Johnson County Secondary Roads standards,
- iv. The applicant shall obtain written approval for the proposed entrance to the public roadway from the appropriate authority.
- v. Any permanent structures where employees and the visiting public congregate must have a valid occupancy permit for the proposed use. If no occupancy permit is applicable, the applicant shall provide written certification from an appropriately licensed professional indicating said structure is safe for the expected occupancy related to the events.
- vi. The request shall comply with all Johnson County Public Health requirements and all other applicable state and local regulations.
- vii. The request must comply with the requirements of the Sensitive Areas Ordinance and the Stormwater Management Regulations.

process of certifying that the Wind Turbine Generator and associated equipment will not interfere with emergency communication transmissions shall be at the applicant's expense. (Ordinance #2008-07/06-06-08)

- .05 A Non-Commercial Wind Turbine Generator shall not be placed on a parcel of land or lot which is less than one (1) acre in size. (Ordinance #2009-06/06-05-09)

8.004.250 WINERY: The following provisions shall apply to vineyards and wineries, along with the various associated structures and uses: (Ordinance #2011-01/6-17-11)

- .01 Purposes: The purpose of the vineyard shall be to grow fruits to be processed into wine. The primary purpose of the winery shall be to process fruit grown on the property owned by the owner of the winery, who shall be allowed to process imported fruits and to ferment imported juices, in accordance with Iowa Native Wine license. (Ordinance #2011-01/6-17-11)

- .02 General Provisions: The following general provisions shall apply to vineyards and wineries: (Ordinance #2011-01/6-17-11)

A. Wineries shall include those areas of a structure where grapes are crushed, fermented or pressed, where bulk wine is stored in tanks or barrels, or where winery operations such as racking, filtering, blending, or bottling of wines are carried out, and on-site case goods storage. (Ordinance #2011-01/6-17-11)

B. Picnic areas and playgrounds shall be allowed provided they are subordinate to the winery and tasting room. (Ordinance #2011-01/6-17-11)

C. Retail sales of merchandise, art, and pre-packaged food items shall be allowed within the tasting facility or retail sales area of the wine and shall not be under any circumstances located in a separate structure from that of the tasting room or retail sales area of the wine. Sale of non-wine merchandise shall be subordinate to wine sales. (Ordinance #2011-01/6-17-11)

- .02 Tasting Facilities (Ordinance #2011-01/6-17-11)

A. Subordinate to Winery: Tasting facilities shall be clearly related and subordinate to the primary operation of the winery. The primary focus of the tasting facility shall be the marketing and sale of the wine and grape or fruit products processed, vintaged, or bottled at the winery. Snack foods that are consumed during wine tasting are allowed. (Ordinance #2011-01/6-17-11)

B. Wine Sales: Retail and wholesale sales of wine shall include those processed, vintaged, or bottled by the winery operator and other Iowa Native Wines, subject to the provisions of the Iowa Native Wine license. (Ordinance #2011-01/6-17-11)

C. Marketing: Tasting facilities include any marketing activities sponsored by a winery facility intended for the promotion and sale of the facility's products. Activities at a marketing event may include, but are not limited to: (Ordinance #2011-01/6-17-11)

1. Live music events; provided however that concerts, an event which includes more than one facility, or facility rental events, shall be considered Special Events as described in Subsection .03. (Ordinance #2011-01/6-17-11)
2. Grape growing and wine making promotional activities. (Ordinance #2011-01/6-17-11)
3. Meetings of groups of individuals and businesses formally organized, for example Western Iowa Grape Growers Association, to support and promote wineries. (Ordinance #2011-01/6-17-11)
4. Food may be served at marketing events. (Ordinance #2011-01/6-17-11)

.03 Special Events: Special events are activities that are not the tasting and marketing events described in Subsection .02.C above. Special Event are typically activities where the property owner is compensated for the use of the site or facilities, or by an admission fee, for activities such as but not limited to weddings, parties, company picnics, birthdays, reunions, or concerts. (Ordinance #2011-01/6-17-11)

- A. Number Permitted: Special events are limited to a total of 30 days per calendar year. (Ordinance #2011-01/6-17-11)
- B. Capacity Limitation: (Ordinance #2011-01/6-17-11)

Events that have less than 25 persons in attendance shall not be considered Special Events and shall not count against the total number of events allowed. (Ordinance #2011-01/6-17-11)

All Special Events are limited to 300 persons. In the case where a Special Event may be held on multiple consecutive days, capacity limitations shall be counted on a per day basis. (Ordinance #2011-01/6-17-11)

In zoning *districts* where allowed, events held with an attendance of greater than 300 persons shall be processed as a separate per event approval for "Temporary establishments or enterprises involving large assemblages of people or automobiles including, but not limited to, carnivals, circuses, rodeo grounds, show rings, livestock auction barns and yards, music festivals, sports festivals and similar uses". (Ordinance #2011-01/6-17-11)

- C. Existing Special Events: Any special events scheduled prior to the effective date of this section (8.004.250) shall be allowed to be held during the ensuing calendar year provided it is documented with the *Development Director* that said special event was contractually arranged in writing or publicly advertised prior to said effective date. Said documentation shall be presented to the *Development Director* within thirty (30) days of the effective date of this section. (Ordinance #2011-01/6-17-11)



- D. Special Events to be held on an ongoing basis from year to year with a capacity of 26 to 300 persons shall be processed as single *conditional use* permit, addressing the general concept of the events and shall not be limited to a specific number of Special Events per year other than the limitation of the number of events and capacity stipulated in this Section (8.004.250.03). Annual renewal of *conditional use* permits shall not generally be required for Special Events unless circumstances exist that in the opinion of the Board warrants a periodic review. (Ordinance #2011-01/6-17-11)
- .04 Dining Facilities: Dining facilities are an establishment where food is prepared and served to the public in an established indoor seating area. The dining facility must be subordinate to the winery. (Ordinance #2011-01/6-17-11)
- .05 All areas constructed to accommodate the public shall be subject to the Pottawattamie County Building Codes. Areas of the facility utilized for the production and storage of wine shall be considered agricultural exempt from the County Building Codes. Said agricultural exempt facilities are required to obtain State Electrical Permits. (Ordinance #2011-01/6-17-11)
- .06 Orchards and Cider Mills: The same standards and limitation established for wineries shall apply to cider mill facilities, except for those that deal with specifications on the production and licensing required for wine. In all other cases, wine and cider shall be interchangeable. (Ordinance #2011-01/6-17-11)

Prepared by: Scott County Planning and Development, 600 West Fourth Street, Davenport Iowa

SCOTT COUNTY ORDINANCE NO. 18-\_\_\_\_\_

AN ORDINANCE TO AMEND A PORTION OF SECTION 6-10.D. SPECIAL PERMITTED USES IN THE “AGRICULTURAL-GENERAL DISTRICT (A-G)” OF THE ZONING ORDINANCE FOR UNINCORPORATED SCOTT COUNTY

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF SCOTT COUNTY IOWA:

**Section 1.** Amend Section 6-10 “Agricultural-General District (A-G)” of the Zoning Ordinance for Unincorporated Scott County

**D. Special Permitted Uses** by adding:

(3) Wineries for the production of native Iowa wine in conjunction with a vineyard and associated facilities for the production, bottling, marketing and sale of the wine. May also include associated facilities for tastings and other events held on the premises. Such facilities shall meet all building and health codes and any conditions for the approval of such facilities shall be established in conjunction with the review of the Special Use Permit and in accordance with Scott County Land Use Policies. Prior to the issuance of any building permit for the construction of such facilities a Site Plan Review will be approved by the Planning and Zoning Commission in accordance with provisions of Section 6-29 A.-F.

**Section 2.** The County Auditor is directed to record this ordinance in the County Recorder's Office.

**Section 3.** Severability Clause. If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of the Ordinance, which are separate from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

**Section 5.** Repealer. All ordinances or part of ordinances in conflict with the provisions of the Ordinance are hereby repealed.

**Section 6.** Effective Date. This Ordinance shall be in full force and effect after its final passage and publication as by law provided.

Approved this \_\_\_\_ day of \_\_\_\_\_ 2018.

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Tony Knobbe, Chair  
Scott County Board of Supervisors

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Roxanna Moritz, County Auditor