

TO: Council Member Craig Rice & Staff and
Members of the ad hoc stakeholders group

The Sugarloaf Citizens Association (SCA or Sugarloaf) thanks you for the opportunity to submit comments concerning the proposed winery ZTA: *12-03 Agricultural Zones-Wineries*. SCA is eager to work with the County to balance the interests of stakeholders while encouraging the viability and future of wineries in Montgomery County's Agricultural Reserve. With that in mind, we submit our views on the following issues:

- **Equal Treatment.** An underlying question raised by this ZTA is equal treatment of agricultural enterprises that engage in direct sales of their agricultural products to consumers. SCA urges that County staff be directed to conduct research to determine whether it is appropriate regulatory policy to regulate wineries separately from our food crop farms or breweries that engage in direct sales to consumers. Accordingly, SCA's recommendations and the broadening of the right to increase the number of Special Public Events for wineries and the related requirements should be revisited in one year.
- **Definition of a Special Public Event.** SCA agrees that normal business operations of a winery, such as the sale of wine by the glass on site and wine tastings, are not "public events" that properly fall within a "limited right" category. For example, Sugarloaf Mountain Vineyard's (Winery) St. Patrick's Day celebration, in which staff members wear green and serve soda bread to a normal-sized crowd, is not an event which properly falls into a "limited right" category. But the "Stomp", which is advertised, requires special parking arrangements and the location of staging, and includes live, amplified entertainment, clearly is such an event.

Sugarloaf believes that the appropriate designation of such an event is a "Special Public Event." Winery has suggested the following language to replace the definition of a "public event," in an attempt to differentiate between normal business activities and what Winery terms a "big deal" event:

A TICKETED EVENT SHALL BE ONE OPEN TO THE PUBLIC AT THE WINERY OR ON A WINERY PROPERTY FOR WHICH THERE IS A COVER CHARGE OR ANY CHARGE APART FROM THAT FOR WINE, WINE TASTINGS, WINERY OR VINEYARD TOURS, FOOD AND DRINK THAT MAY BE SERVED AT A WINERY UNDER MD CODE SECTION _____. WINE DRINKING PARAPHERNALIA (*e.g.*, corkscrews and filters), AND CLOTHING, WINE GLASSES AND OTHER SIMILAR ITEMS BEARING THE NAME OR LOGO OF THE WINERY, WHICH ITEMS, INTER ALIA, ARE SOLD AT A WINERY DURING THE REGULAR COURSE OF ITS BUSINESS.

A TICKETED EVENT MAY LAST MORE THAN ONE DAY, BUT IN NO CASE SHALL IT BE LONGER THAN FOUR (4) NONCONTIGUOUS DAYS.

The Winery would determine whether an event fell into the “special event” category or would, instead, be deemed to be an event permitted in the ordinary course of running a business, by whether tickets were sold or a cover charge was assessed. With all respect, that is not a good idea. If enough people attend, a business does not need to sell tickets or assess a cover charge. Woodstock was not a ticketed event! The impact of an event on the Winery's neighbors and on the community as whole is not determined by whether people had to pay to get in. Simply using ticketing as the basis for defining a “big deal” event does not specifically address the biggest concern of the surrounding neighbors and landowners – which is number of attendees and the impacts of noise, traffic, and lighting. Additionally, such a definition could be easily circumvented by not ticketing and either charging more for your wine or benefiting from the economies of scale of a large event.

Accordingly, SCA proposes using Winery’s suggested language as a starting point, but with revisions as follows:

A SPECIAL PUBLIC EVENT SHALL BE AN EVENT OPEN TO THE PUBLIC AT THE WINERY OR ON A WINERY PROPERTY THAT HAS BEEN SPECIALLY ADVERTISED SO AS TO INFORM THE PUBLIC OF ITS OCCURRENCE OUTSIDE THE ORDINARY COURSE OF THE WINERY’S BUSINESS, INCLUDING BUT NOT LIMITED TO SUCH EVENTS AS ELECTRIC BAND CONCERTS WITH AMPLIFIED SOUND AND STAGING, EXPOSITIONS, FAIRS, FESTIVALS, AND CAUSE-RELATED FUNDRAISING, WHETHER TICKETED OR NON-TICKETED, AND WHETHER OR NOT A COVER CHARGE OR OTHER CHARGE IS ASSESSED APART FROM CHARGES FOR WINE, WINE TASTINGS, WINERY OR VINEYARD TOURS, FOOD AND DRINK THAT MAY BE SERVED AT A WINERY UNDER MARYLAND CODE SECTION _____, WINE DRINKING PARAPHERNALIA (SUCH AS CORKSCREWS AND FILTERS), AND CLOTHING, WINE GLASSES, AND OTHER SIMILAR ITEMS BEARING THE NAME OR LOGO OF THE WINERY, WHICH ITEMS, INTER ALIA, ARE SOLD AT A WINERY DURING THE REGULAR COURSE OF ITS BUSINESS.

EACH DAY DURING WHICH A SPECIAL PUBLIC EVENT TAKES PLACE SHALL BE CONSIDERED A SEPARATE SPECIAL PUBLIC EVENT.

- **Number of Allowed Special Public Events.** If the number of Special Public Events is raised from two to six and a single event can last up to four days, as proposed by the Winery that would effectively raise the allowed number of events to 24--or nearly every other weekend throughout the year.

SCA Comments: A special public event can last no more than one day. There can be six Special Public Events per calendar year and they should end by 8p.m.

Discussion: Sugarloaf is agreeable to an increase from the current two day limitation to six days. Sugarloaf submits that it would be premature to establish a larger number of permitted Special Public Events than six from the existing base line of two unless and until experience shows that six Special Public Events are inadequate to meet the legitimate business needs of the Winery or any other winery in the County and do not cause adverse impacts on the surrounding neighbors and the community.

- **Traffic Control & Security.** The drinking of alcohol at public events necessarily raises health and safety concerns. As a condition for the relaxation of existing limits, the Winery should be required to provide traffic control and security at its own expense in connection with each Special Public Event.
- **Noise & Lighting.** SCA is concerned that given the tight budget of the County and insufficient staff, enforcement of noise ordinances could be spotty.

SCA Comments: Temporary structures should be erected at events to help mitigate the impact of outdoor amplified music. No outdoor lighting should be allowed.

Discussion: Existing noise and traffic ordinances must be respected by the Winery and enforced by the County with respect to all Special Public Events, as they must be observed in the ordinary course of business. Special attention will need to be paid to noise and traffic impacts with respect to all Special Public Events. The additional monitoring and enforcement obligations that such Special Public Events impose on the County are an additional reason not to increase the number of such events that may be conducted by a business by right any more dramatically than from two to six, until the Winery (or any future wineries) and the County establish that they can meet their obligations to their neighbors and the community with six.

- **Definition of Winery.** 20% of fruit grown on site is too low and not in keeping with the Ag Reserve's mission of promoting farming in Montgomery County.

SCA Comments: 51% of the fruit used in winemaking—a standard requirement in many winery ordinances for fruit grown onsite and used in winemaking as noted by Winery neighbor, John DeCenzo, in his submitted remarks-- should be grown and harvested at the vineyard or a set minimum number of acres under vine. Exceptions should be made for crop failure.

Discussion: Sugarloaf is not wedded to using the percentage of wine produced on the premises as the only appropriate measure of local production. A percentage of acreage measure may also be appropriate. But clearly the overall intent of any measure that is adopted

must be to ensure that to be permitted in the Ag Reserve as a winery, a business must in fact be growing grapes and using them to make wine, not to be an importer and bottler of grapes grown in some other place outside the Ag Reserve.

Again, we appreciate the opportunity to submit comments on *ZTA 12-03: Agricultural Zones-Wineries* and look forward to working with the County and the other stakeholders to craft legislation that makes wineries more economically viable while bearing in mind the interests of neighboring landowners and other stakeholders in the Ag Reserve.

Respectfully submitted,

SUGARLOAF CITIZENS ASSOCIATION

By: _____
Jim Choukas-Bradley, President

By: _____
Beth Daly, Legislative Director

