

**FINAL REPORT
AGRICULTURAL PROTECTION ADVISORY COMMITTEE (APAC)
RECOMMENDATIONS TO THE PLANNING COMMISSION**

Approved: August 24, 2015



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BACKGROUND

On March 10, 2015, the Board of Supervisors and the Planning Commission held a joint special hearing to discuss and provide direction regarding concerns about the cumulative impacts of new development on the County. The hearing was attended by over 400 people. From that meeting, four actions were taken:

1. Direct staff to return with a draft resolution and guidelines to establish an ad hoc advisory committee to review the Winery Definition Ordinance and Conservation Regulations;
2. Form a Board of Supervisors ad hoc committee to plan a forum with the cities to discuss joint efforts to address regional land use issues
3. Direct staff to revise the Circulation Element of the General Plan, including preparation of a draft traffic mitigation fee
4. Direct staff to complete the Climate Action Plan.

The Agricultural Protection Advisory Committee (APAC) was created by the Board of Supervisors on March 24, 2015. The 17-member committee was tasked with developing recommendations regarding the following questions:

- the minimum parcel size for new wineries
- the minimum percentage of grapes used in the winery to be grown on-site ("estate grapes")
- requiring that new or expanded wineries result in no net loss of vineyards;
- requiring that a majority of employees be directly engaged in vineyard or production operations; limiting the amount of variance allowed for setbacks on new wineries
- requiring that wineries include the number of temporary events in their use permit approval as part of marketing and tasting room visitation
- requiring different development standards for wineries located in the Agricultural Preserve (AP) and Agricultural Watershed (AW) zoning districts.

The APAC completed its tasks on August 24, 2015 and presented this Final Report to the Planning Commission on September 16, 2015. The report is organized as follows:

I. Summary of Proposals

Summary of proposals addressed by APAC:

- Recommended by supermajority vote
- Not recommended by supermajority vote
- Considered but did not reach supermajority vote
- Considered but not voted.

II. Appendix

A compilation of selected comments for each proposal. The comments are meant to represent the range of input received and are not attributed in this report to committee members or members of the public. For complete comments, refer to APAC meeting minutes and audio/video recordings located on the County of Napa website.

SUMMARY OF FINAL RECOMMENDATIONS:

APAC recommended by supermajority that the Planning Commission undertake the following:

1. Recommendation: Avoid the use of variances as a principal tool for achieving compliance with land use regulations. Variances may be used only when there is specific evidence supporting all necessary findings.

Action taken: The proposal received a unanimous vote. Vote 16 - 0. The Committee made this recommendation on July 27.

2. Recommendation: Develop guidelines and benchmarks for consideration of future winery use permits based on the format of Proposal X (see Appendix).

Action taken: The proposal to support the format, submitted as Proposal X, received a unanimous vote. Vote 16-0. The Committee made this recommendation on June 22. *Note: the specific content of this format was not recommended.*

3. Recommendation: Use the working definition of agriculture (see Appendix).

Action taken: The proposal received a supermajority. Vote 12 - 4. The Committee made this recommendation on June 22.

4. Recommendation: Implement an annual self-certification reporting process, requiring a report to be submitted by the principal officer of each winery certifying the amount of wine produced, compliance with the 75% rule, as applicable, and compliance with all conditions of use permit approval. All data collected shall remain confidential to the extent allowed under the law.

Action taken: The proposal received a unanimous vote. Vote 16 - 0. The Committee made this recommendation on July 27.

5. Recommendation: Limit the total development area, for parcels up to 40 acres in the AP and AW zones, to no more than a cumulative total of 20% of a parcel, including new winery, residential and/or other permitted uses. The total development area for parcels larger than 40 acres would be capped at a fixed eight (8) acres maximum.

Action taken: The proposal received a supermajority. Vote 13 - 4. The Committee made this recommendation on August 24.

6. Recommendation: Modify the County code to include outdoor hospitality areas and Type 3 caves in the total area used to determine the maximum square footage for accessory uses for new wineries in the AP and AW zones.

Action taken: The proposal received a supermajority. Vote 12 - 5. The Committee made this recommendation on August 24.

7. Recommendation: Prohibit hold and haul of wastewater and related liquid by-products on all AP and AW zoned parcels for new wineries except during winery development, not to exceed one year from certificate of occupancy, or in an emergency situation.

Action taken: The proposal received a unanimous vote. Vote 17 - 0. The Committee made this recommendation on August 24.

8. Recommendation: Establish a process for the approval of use permits for small wineries as defined in Napa County's Local Procedures for Implementing California Environmental Quality Act (CEQA):

- Include less than 5,000 square feet in size excluding caves
- Involve either no cave excavation, or excavation sufficient to create no more than 5,000 additional square feet with all of the excavated cave spoils to be used on site
- Produce 30,000 gallons or less per year
- Generate less than 40 vehicle trips per day and 5 peak hour trips except on those days when marketing events are taking place
- Hold no more than 10 marketing events per year, each with no more than 30 attendees, except for one wine auction event with up to 100 persons in attendance
- Hold no temporary events.

Action taken: The proposal received a supermajority. Vote 15 - 2. The Committee made this recommendation on August 24.

9. Recommendation: Limit the implementation of the recommended new requirements for winery use permits, including maximum winery development area, small winery use permit approval processes, and hold and haul restrictions to new use permit applications for wineries submitted after January 1, 2016.

Actions taken: The proposal received a supermajority. Vote 13 - 4. The Committee made this recommendation on August 24.

10. Recommendation: Strongly encourage elected and appointed officials of the County, and their staffs, to take the following actions:

- Implement the land use policies identified in the Napa County General Plan update.
- Enforce all current regulations fairly and consistently.
- Deny any unrealistic use permit applications and modifications that are depending on the excessive use of variances.
- Consistently follow existing procedures.
- Discontinue creative efforts to justify projects on non-conforming parcels.
- Be consistent in the interpretation, application and enforcement of all use permits.
- Complete items the County Board of Supervisors and Planning Commission identified at the joint special hearing on March 10, including:
 - County Climate Action Plan
 - Circulation Element of the General Plan
 - Summit of County, City, and Town officials to discuss joint efforts to address regional land use and transportation issues.

Action taken: The proposal received a supermajority. Vote 12 - 4. The Committee made this recommendation on August 24.

11. Recommendation: Share the County's production reporting methodology with the five other Napa County jurisdictions and encourage annual winery data collection from wineries located in the incorporated areas for the purposes of capturing more complete data.

Action taken: The proposal received a unanimous vote. Vote 16 - 0. The Committee made this recommendation on August 24.

12. Recommendation: Appoint a five-person subcommittee of APAC to review language prior to the final report being presented to the Planning Commission and Board of Supervisors and to confirm accuracy of recommendations.

Action taken: The proposal received a unanimous vote. Vote 16 - 0. The Committee made this recommendation on August 24.

APAC voted by supermajority not to recommend to the Planning Commission the following:

1. Proposal: Adopt a rule that prohibits the net loss of vineyards as a part of new and/or amended winery use permits.

Action taken: The committee defeated this proposal by a supermajority. Vote: 4 -13. The Committee took the vote on May 26.

APAC voted, but did not achieve a supermajority, on the following:

1. Proposal: Retain the existing 10-acre minimum parcel size for all new wineries.

Action taken: The proposal did not receive a supermajority. Vote 11 - 6. The Committee took the vote on May 26.

2. Proposal: Increase the minimum parcel size for new wineries to 40 acres in both the AP and AW zones.

Action taken: The proposal did not receive a supermajority. Vote 8 - 9. The Committee took the vote on May 26.

3. Proposal: Establish a small winery use permit for new facilities on parcels of 10 to 40 acres.

Action taken: The proposal did not receive a supermajority. Vote: 11 - 6. The Committee took the vote on May 26. *(A subsequent proposal to implement a small winery approval process, regardless of parcel size, using a definition established in Napa County's Local Procedures for Implementing CEQA was approved on August 24 with a supermajority vote of 15-2.)*

4. Proposal: Require a minimum amount of estate grapes for all new and/or amended winery use permits.

Action taken: The proposal did not receive a supermajority. Vote 6 - 11. The Committee took the vote on May 26.

APAC did not take a vote on the following:

1. Proposal: Should a majority of winery employees be engaged in vineyard and/or production operations?

2. Proposal: Should temporary events be included as a part of winery use permits?

3. Proposal: Should there be different development standards for AP and AW zoning?

APPENDIX

The arguments presented below represent the range of input received and are not attributed in this report to committee members or members of the public. For complete comments, refer to APAC meeting minutes and audio/video recordings located on the County of Napa website.

1. Limit variances allowed for new wineries.

Arguments in Favor:

- The Planning Commission has not always based its decisions for variances on sound findings. The legal obligation to require clear and factual evidence in support of findings needs to be re-emphasized for both applicants and staff.
- Variances should be strictly limited to remain consistent with the WDO and the General Plan, and the environmental documents associated with those regulations and policies.
- Specific percentage guidelines for maximum variance for road setbacks should not be applied to variances, as the practice would lead to inconsistent and arbitrary treatment of applicants. It would be more appropriate to change the road setbacks, rather than set percentages for variances. The use of percentages is a blunt instrument and would only apply to wineries while allowing other structures (residences, barns, etc.) to continue to be placed near roads. Variances should not be abused, however, there are situations where they are justified and need to be evaluated on a case-by-case basis.
- The issue is not the variances, but the discretion with which they are being applied by the Planning Commission. Instead of wineries being made to fit the regulations, the regulations have been made to fit the wineries' business plans. The subjectivity that has been relied upon by the Planning Commission in approving variances has eroded our landscapes and community.

Arguments Against:

- No arguments were offered in opposition to the motion.

2. Create guidelines for evaluating winery use permits.

Arguments in Favor:

- Each winery is site specific and needs to be individually considered. The guidelines are designed to consider various site-specific criteria and to allow for Commission discretion and flexibility. The focus should be on the intensity of use, such as visitation and marketing events, rather than incidental uses such as kitchens.
- All items are interrelated and should be addressed comprehensively, with the expectation that individual cells within the matrix will be considered at a later time.
- Without a consistent framework for considering winery proposals, applicants cannot make reasonable business decisions and the public cannot anticipate where and what intensity of wineries may be located in their neighborhood.
- Existing businesses shouldn't be punished under these guidelines, but existing residents shouldn't be punished by not having these protections.
- The proposed guidelines are a big step forward, but they need to be refined. The AP and AW zones should be treated differently. It is important to keep the distinction between the valley floor and hillsides, with regards to impacts on neighbors, traffic

safety, water availability, and number of potential winery sites. We need to specifically include a small winery exemption. A column should be included to allow wineries on 10-acre parcels in the AP zone. Visitation without production should be allowed, to assist winemakers who cannot afford to develop permanent facilities.

- The Committee is not bound by law or policy. We should step out of the box and provide the necessary direction to form future County actions. Instead we are muddling in the minutiae of legalities. The Committee has not talked about taking away or diminishing existing permit rights. The guidelines are not meant to be punitive, they are meant to regulate future development. We need to move beyond narrowly defined interests and show leadership to address the broader concerns that are of benefit to the community.
- The proposed guidelines are an organizing tool intended to provide clarity. There are issues with the details, but this Committee may not be the best vehicle for addressing them.
- Temporary events should be included to allow wineries greater range of services, while ensuring that the total impacts of the winery are accounted for in the Use Permit.

Arguments Against:

- It is critical that the Committee clarify whether the proposed guidelines will apply only to new wineries or whether it will also be used to evaluate future modifications of existing winery use permits. Existing wineries could be subject to the guidelines and forced to give up existing rights in order to comply with the new restrictions. Many of the existing and largest wineries were built on small parcels that would not comply with setbacks and other guidelines.
- If these guidelines are adopted, an Environmental Impact Report (EIR) should be prepared to determine their potential impact, just as there was in 1990 with the adoption of the Winery Definition Ordinance. The Committee should review the EIR mitigations approved in 1990. They were never implemented, but instead were to be applied to individual projects.
- The Planning Commission is currently considering a visitation matrix, as well as other policies. These guidelines are redundant to that effort.
- The proposed guidelines represent a ceiling which would be strictly enforced. It would not allow for individual variations in operations and would hamstring the Commission and Board's discretion in decision-making. Each project should be judged on its own merits, and not subjected to a one-size-fits-all approach.
- Several of the issues listed in the guidelines are operational in nature and do not fall within the purview of agricultural protection. Many of the guidelines appear arbitrary.
- The current limits included in the proposed guidelines are too restrictive. They will significantly limit the entry of new and small wineries. The County should not discourage economic development. This will require the County to compensate landowners for the devaluation associated with these new regulations. These guidelines will result in a taking that will have to be paid for by the public.
- Napa competes globally. We need to connect with individual consumers, which is critical. Wineries are dependent upon direct to consumer marketing and these guidelines would severely restrict the ability of wineries to survive. This proposal is not based on environmental impacts, and does not take any economic impacts into consideration.
- If temporary events are made part of the Use Permit, then they would become permanent and could not be individually denied. Temporary events already have limits

and restrictions, they don't need additional regulations. By including temporary events in the winery regulations, we may inadvertently affect the ability of other non-winery users to hold such events.

A proposal to adopt the contents of Proposal X as guidelines or benchmarks to be used for evaluating new or modified winery use permits did not receive a supermajority. Vote 6 - 10.

A proposal to adopt Proposal X as guidelines or benchmarks for evaluating only new winery use permits did not receive a supermajority. Vote 8-8. The Committee addressed these items on August 10.

	AP			AW			
	10 Acres	20-40 Acres	40+ Acres	10-20 Acres	20-40 Acres	40-80 Acres	80+ Acres
Review Authority							
Production Capacity							
Winery Development Maximum Area							
Maximum Hospitality Area							
Tasting Room Visitors							
Food Service							
Marketing Event Visitors							
Hours of Operation							
Temporary Events							
Retail Products							
Hold and Haul							

The Committee reconfirmed their previous recommendation with a vote on August 24th.

The vote passed 17 - 0 to recommend supporting the format (but not the specific content) of Proposal X, applying only to new winery use permits submitted after January 1, 2016.

3. Use a consistent and comprehensive definition of agriculture.

The current definition of Agriculture is established in the General Plan and is employed by the Winery Definition Ordinance.

Agriculture is the raising of crops, trees, and livestock; the production and processing of agricultural products; farm management activities; farm worker housing; and related accessory uses.

Agricultural processing includes crushing; wastewater disposal; aging, processing; bottling, storage, and shipping of bulk wine; office and laboratories; retail sales of wine; marketing activities for the education and development of consumers and members of the wine trade regarding wine produced by the winery; and limited non-commercial food service.

Accessory uses must be related, subordinate and incidental to the main use. They must also be reasonably compatible with and cannot change the character of the primary agricultural uses.

Permitted Uses that are compatible with agriculture include dwellings and guest cottages; small care homes; minor communications facilities; kennels and veterinary offices; non-commercial energy systems; limited recreational uses; campgrounds and related lodging; sanitary landfills; levee repair and maintenance; and agricultural processing facilities (other than wineries).

Uses accessory to a winery include tours and tastings; retail sale of wine-related items; display of art or items of historical, ecological, or viticultural significance; child care centers; and temporary events.

Arguments in Favor:

- The definition reaffirms the County's existing policy and regulatory foundations, to ensure that any recommendations are consistent with the current framework.
- Education of the wine experience is enhanced when it's accompanied by food, or music, or art. People expect more sophistication to wine tasting when they come to Napa. We shouldn't punish the wine industry for being creative when it comes to presenting their product.
- Temporary events should not be included in the definition, as they are a separate part of the law, related to freedom of assembly and expression, as opposed to events that are only associated with commercial activities.

- Rather than refer to some uses as “accessory,” which causes confusion with accessory uses as utilized in the County Zoning Ordinance, such uses should be referred to as “compatible,” which is the language used in Winery Definition Ordinance.

Arguments Against:

- Over the years, wineries have emphasized marketing and hospitality activities, at the expense of their agricultural tradition. This refocus has been at the expense of the general public, with increased traffic, water usage, and loss of open space. There currently is no sensitivity to the cumulative impacts of the wine industry on Napa valley. The definition needs to reflect the need to balance the needs of businesses with the needs of community.
- Marketing and hospitality activities should be accessory to the winery operation. Food service should not be included as a part of the primary definition of agriculture. The definition should be clarified to indicate that the right-to-farm ordinance does not protect landowners with regards to winery marketing and hospitality activities.
- Permitted uses should not be characterized as accessory uses. The Committee should be working effectively off of the language in the General Plan and County Code. If the language we are using is confusing, then we need to amend the General Plan and Code to prevent our recommendations from becoming flawed.

A substitute motion failed to redefine marketing activities and food service as accessory uses instead of as part of the primary definition of agriculture. Vote 7 - 9.

4. Strengthen the Use Permit compliance process.

Arguments in Favor:

- Proposal Z commits every winery to attest that they are complying with each condition of the use permit.
- Allowing wineries to continue to violate permit requirements while pursuing permit modifications to come into compliance creates an unfair business advantage, allows operators to continue to impact health and safety and/or the environment, and establishes a CEQA baseline that reduces the need for mitigation of potential environmental impacts.
- The code enforcement program is largely supported through the general fund. Penalties and fines have helped to offset the cost of the program in the past, but would not likely cover the cost of code enforcement to meet its new expanded mandate. A fee to cover the cost of the broader compliance program would reduce the impact to the taxpayers in paying for additional policing of the wine industry.
- Food and wine pairings are already addressed through the use permit conditions and the self-certification process.

Arguments Against:

- All aspects of the winery operation should be included in the reporting, not just the production. In particular, wineries should be required to report on visitation and major marketing events. Marketing events should be noticed in advance to surrounding landowners.

- A transition period should be included to allow wineries to assess the requirements of the program and how they may need to adapt their operations.
- The code enforcement program should eventually be expanded to all County use permits, not just those associated with wineries.
- The wine industry urged the Board of Supervisors to enforce food and wine pairing requirements. However, this proposal would not provide the public with this information.
- Reporting must be submitted annually, by all wineries that have use permit approval within the unincorporated area;
- The principal officer of each winery shall sign a document certifying the amount of wine produced, compliance with the 75% rule, as applicable, and compliance with all conditions of approval
- Copies of ATTB and CDFA forms shall be provided to the County to verify the above information;
- All data collected shall remain confidential to the extent allowed under the law;
- Enforcement and compliance review fees shall be adopted to support the cost of the expanded compliance review;
- Subject to applicable law, the County shall prepare a formula for calculating civil penalties associated with violating wineries;
- A more in-depth compliance review will be held if the winery is exceeding their annual production limit, or is in violation of the 75% rule. In-depth compliance reviews will also be held to investigate complaints received from the public;
- If it is determined that a violation has occurred, then the winery must immediately comply with the conditions of its use permit. An application to modify the use permit to correct the violation may not be submitted for one year;
- Staff will provide an annual report to the Planning Commission regarding the number of wineries found to be in violation during the previous year, and a summary of production, crush, and 75% compliance aggregate data.

An amended motion failed on a vote 5 - 11 to include enforcement of the cost of food and wine pairings.

5. Establish a maximum area of development to include both residences and wineries.

Arguments in Favor:

- The goal of this Committee is to protect agricultural land. While the number and scale of wineries is a concern to cumulative vineyard loss, it is not the only factor. Increasingly, private homes are being built in the rural areas that are getting larger, with more expansive and intensive amenities. Stricter regulation of home sites is needed to ensure that farmland is protected to the greatest extent. The biggest threat to the valley isn't wineries; it is the proliferation of mansions.
- The County zoning code allows wineries to develop up to 25% of a parcel, and there are no lot coverage requirements for single family residences. These requirements are not cumulative.
- Winery owners may choose to not construct a residence. But if they do, the total impact of the development footprint should be considered.
- The point is to create non-conforming parcels and cease the activity in the future.

Arguments Against:

- If homes and accessory residential uses are included in the maximum development area, it would reduce the area available to wineries for their development.
- There are other types of uses that could contribute to the maximum development footprint of an agricultural parcel. This requirement should not be limited only to housing and wineries.
- Winery development areas do not currently include lawn areas and other ancillary features, which should be captured in the maximum footprint.
- Residential development is separate from winery development. If there is interest in regulating the activity, it should be considered on its own.
- Will create a lot of non-conforming parcels, which creates issues for those businesses.

6. Include outdoor visitation areas and Type 3 caves in the accessory use calculations.

Arguments in Favor:

- Caves, outdoor patio areas, lawns, and rooftops are increasingly being used for hospitality functions, but are not considered in the County's calculation of maximum area allocated to accessory uses.

Arguments Against:

- This requirement could have unintended consequences.
- The recommendation isn't needed, since it does not protect agricultural land. Caves can be constructed without affecting the overlying farmland.

7. Restrict Hold and Haul practices.

Arguments in Favor:

- The recommendation needs to clarify that it would not apply in the Airport Industrial Area.
- The recommendation needs to clarify that it would only apply to wastewater and liquid by-products.
- The recommendation needs to clarify that it wouldn't apply to emergencies or temporary uses.

Arguments Against:

- No arguments were offered against the motion.

8. Create a process for small wineries based on CEQA definition.

Arguments in Favor:

- The proposed process provides an overall conceptual approach without getting into any specifics. The details can be discussed and debated later.
- County has allowed a small wineries permit process in the past. The adopted General Plan directs staff to develop a small winery approval process, which has not yet been implemented. This action will implement existing County policy.
- Needs to be clear that public hearing and noticing would still be required.

Arguments Against:

- The small winery approval process needs to be considered within the context of allowing wineries on differing parcel sizes. Committee members cannot commit to the idea of a small winery process in concept without understanding the scope and intensity that would be allowed.
- The small winery approval process should be included as a part of the consideration of other permitted activities. It can't be considered separately from the discussion of the range of activities and intensities being considered for various parcels sizes and zoning.
- The types of activities described in the proposed process are too narrowly defined; they need to be expanded.
- The requirements do not address number of visitors (day/wk/mo), on-site food preparation, sale of retail products (other than wine), or waste disposal.

9. Limit the implementation of the recommended new requirements to new use permit applications for wineries submitted after January 1, 2016.

Arguments in Favor:

- Applying these requirements retroactively would disrupt existing business plans and may result in a loss of support for the recommendations. The Committee should focus on making achievable compromises.

Arguments Against:

- As proposed, the three recommendations would only apply to new wineries, submitted in 2016. To be effective, they should also apply to modifications of existing permits submitted after January 1.

10. Strongly encourage elected and appointed officials of the County, and their staffs, to take recommended actions.

Arguments in Favor:

- These recommendations represent the heart of why we are all here.
- The lack of consistency in implementing the planning process and the resulting inequities created by this unpredictability are the biggest sources of the existing public discontent. The process we have now is not fair or consistent, but depends upon who you know.
- These recommendations address traffic and housing, which are two of the biggest problems that are currently being faced by Napa, which were beyond the scope of APAC's mandate
- Napa needs to immediately and aggressively address violations. The compliance review process should ensure that violations are dealt with consistently.
- The right-to-farm ordinance is a way to minimize nuisance complaints regarding agricultural production and processing.

Arguments Against:

- The motion should include defining hospitality and marketing as being subordinate and incidental to agricultural production and processing.
- The implementation items from the March 10th workshop should include a timeline for completion. Also, all General Plan actions need to be implemented in a timely manner, particularly with regards to Angwin.
- The definition of agriculture, as applied to the right-to-farm ordinance, may result in the loss of property rights for thousands of landowners. This approach results in right-to-farm protections for outdoor activities, concerts, events, and other hospitality uses. The definition being offered by the Committee will result in unintended consequences that will make it difficult for rural residents to protect themselves against winery impacts.
- County Counsel was asked to provide their understanding and interpretation of the right-to-farm protections using the revised definition of agriculture.

Actions Taken:

The Committee made a recommendation on August 24.

A substitute motion failed 9-7 to accept all of Proposal AA, except for Item 1 regarding the definition of agriculture.

The vote passed 12-4 to recommend adoption of the guidelines as originally proposed.

We strongly recommend that the elected and appointed officials of the County and their staff implement the following actions:

- Implement the land use policies identified in the Napa County General Plan update.
- Enforce all current regulations fairly and consistently.
- Deny any unrealistic use permit applications and modifications that are depending on the excessive use of variances.
- Consistently follow existing procedures.
- Discontinue creative efforts to justify projects on non-conforming parcels; and
- Be consistent in the interpretation, application and enforcement of all use permits.

APAC encourages and supports the County to complete each of the other items it identified at the special March 10 meeting:

- Complete the County Climate Action Plan.
- Revise the Circulation Element of the General Plan.
- Hold a summit of County and city officials to discuss joint efforts to address regional land use and transportation issues.

11. Share the County's production reporting methodology with the five other Napa County jurisdictions and encourage annual winery data collection from wineries located in the incorporated areas.

No summary available.

12. Appoint an ad hoc subcommittee to edit the final report of recommendations.

Arguments in Favor:

- The motion should clarify that the entire Committee should review the Final Report before it is submitted to the Planning Commission.

Arguments Against:

- No arguments were made against the proposal.

Actions Taken:

The Committee made a recommendation on August 24th.

The vote passed 17 - 0 to recommend that Eve Kahn, John Dunbar, Jeri Gill, Tony LeBlanc, and Ted Hall be appointed as a subcommittee to edit the Final Recommendations Report, subject to a final review by the entire Committee.

APAC voted by supermajority not to recommend to the Planning Commission the following:

1. Require that new or expanded wineries result in no net loss of planted vineyard land.

Arguments in Favor:

- The committee's task is to protect agriculture. Once we build on farmland, we will never get it back. The amount of land available for grape growing is finite and needs to be strictly protected. This provision should be expanded to apply to all agriculture, including cropland and grazing land. It reinforces the ideal that agriculture is the highest and best use of land in agricultural zoned areas.
- Habitat restoration doesn't preclude future agriculture, but development does.
- Preventing the loss of vineyards could encourage the efficient use of land and reduced footprints in the construction of new homes, yards, driveways, and other accessory uses if appropriately applied.

Arguments Against:

- There doesn't seem to be a big problem. We've lost very small amounts of vineyard land to development historically
- This is a crude instrument for achieving the intent. If the issue is intensification of use, then other policy options are more effective. It may be better to limit the footprint of commercial wineries.
- This creates a disincentive, in that any land that may be considered for a future residence or winery will not be planted during the interim. As this would apply to the parcel(s) affected by the use permit, it may unnecessarily encumber other parcels where there is no structural development associated with the winery.

- Some parcels may be better used for crops other than grapes. This provision could prevent people from diversifying the agricultural economy. It protects vineyards at the expense of other agricultural lands. Similarly, it would deter or prevent projects like the Napa River Rutherford Reach Restoration project, the Vine Trail, or future road improvements, where the removal of existing vineyards may be necessary.
- Applicants may not always have land available in which to offset potential vineyard losses. When wine demand falls again, it would be overly restrictive and prevent landowners from adapting to market changes.
- It would disaggregate production from growers, by placing the needs of vineyards above the needs of production. In the past, Napa has treated vineyards and processing as co-equal parts of agriculture.

APAC voted, but did not achieve a supermajority, on the following:

1. Retain the existing 10-acre minimum parcel size for all new wineries.

No summary available.

2. Increase the minimum parcel size for new wineries.

Arguments in Favor:

- Increasing the minimum parcel size for new wineries reduces the number of potential winery sites countywide by nearly half, from 4,941 sites to 2,593. The County already has adequate production capacity. Maintaining agriculture does not require the extent of expanded wineries that could be realized if all potential sites were developed. Decreasing the number of permits will address public concerns about traffic and water. The easiest and cleanest way to limit the number of new wineries is to restrict parcel size.
- Increased parcel sizes potentially reduces conflicts with neighboring residences, since winery facilities can be located in the interior of the larger property. They also reduce the need for variances. Small parcels don't have sufficient room for water, parking, waste water disposal, or setbacks.
- Larger parcels increase the potential for estate sourced grapes to be used in production. We need to protect agricultural land, not agricultural businesses.
- Increasing parcel size will not prevent people with smaller parcels from making or selling wine, as custom crush facilities are available and many alternative sites exist in non-ag zoned areas. Ten acres isn't enough for a production facility, but growers on small parcels can still custom crush elsewhere for their wineries.
- Regulating parcel size may not be the best metric, but it's the one at hand. There is an elegant consistency to making the minimum parcel size to create a new parcel consistent with the minimum parcel size needed for a new winery. There is no other way to effectively address our problems right now. While other tools are available, the County isn't making use of them.
- Permitting wineries to locate on smaller parcels allows hobbyists and economically infeasible operations into the market. These operations may rely more on marketing to

survive rather than wine quality or wine volume. New or expanded small wineries are expecting the same intensity of use as facilities on larger parcels. Small parcels can't sustain a winery and we're seeing too many such proposals lately. The winery business model has changed, so the County has to change as well.

Arguments Against:

- Increasing the minimum parcel size raises the entry cost for the development of new wineries. In turn, increased establishment costs could lead to less innovation, as owners and investors pursue low-risk ventures in order to recover their investments. Small parcels are stakeholders tied to the land, not absentee landowners looking for development opportunities. Allowing for wineries on small parcels preserves the economic value of those properties which allow locally-based families to stay in community. Small wineries also allow for a greater range of visitor experiences.
- Over 93% of vacant parcels larger than 40 acres are located in the AW zone. Since the winery development area is regulated as a percentage of the underlying parcel, increasing the minimum parcel size will accelerate the concentration of new wineries in the Carneros and hillside areas of the county.
- Increasing parcel size will result in unintended consequences. Limiting new wineries to larger parcels will allow for more large-scale wineries, which will have a greater potential to impact the community. Similarly, if wineries aren't allowed on parcels of less than 40 acres, those smaller properties will be more likely to convert to rural residential uses. It's possible that the increase in residential development may lead to more AirBnB and/or rental uses, which in turn will require additional regulation.
- This is a zoning problem not a parcel size problem. It's not the size of the parcel that is the issue for new winery development; it's where the winery is proposed to be located. We should be focusing our efforts on the site-specific impacts of future development, not looking to regulations that only address the symptoms of the problems that the community faces. It may be easy to adopt a larger parcel size, but that won't substantively change traffic, water, housing, or other challenges. There are broader concerns involved, including hospitality businesses within the cities, hotel growth, low-wage jobs and expensive housing, and commuting. These are all issues that are external to the discussion of wineries. This committee should focus on the larger issue of visitation, not on the narrower focus of future winery development.
- Not all 10 acre parcels are the same. Water isn't a limiting factor for small parcels where there is recycled water. Owners of multiple parcels will simply shift new winery development to the larger parcels within their holdings and pursue even larger production levels.
- The government shouldn't dictate economic viability. The County should regulate the use and development of small parcels, but shouldn't prohibit their ability to support a winery. Smaller parcel sizes maintain a lower threshold for entry for wine makers who can bring innovation, diversity, and competition into the market. The value of existing private investments, current assessments, or potential property tax revenues should not be reduced.

3. Establish a small winery use permit for new facilities located on parcels of 10-40 acres.

Arguments in Favor:

- County has allowed a small wineries permit process in the past. The adopted General Plan directs staff to develop a small winery approval process, which has not yet been implemented. This action will implement existing County policy.

Arguments Against:

- Small winery permits should be granted without regard to parcel size.

4. Require that a minimum percentage of grapes used in any new or expanded winery be grown on-site (“estate grapes”).

Arguments in Favor:

- This requirement could be applied to not just the subject parcel, but to adjoining parcels under common ownership by the winery, to reduce disruption.
- We should use as little farmland as possible for non-production uses. It’s important to ensure that grapes are protected on the site itself.
- The requirement for estate grape production should apply primarily to AP zoned land, since that is where there is the most concern for protecting vineyards.
- Estate grapes promote a connection between the winery and the land, supporting the ideal that the wine is reflective of the unique soils and climate of Napa, rather than clever branding or advertising. Currently, there is no requirement that the production facilities and primary agricultural use of the land be integrated.
- The establishment of a new winery should be accompanied by existing or new vineyards, reducing the demand on the existing limited wine grape supply. Wineries that do not want to include vineyards in their operations should be encouraged to locate within urban downtowns or the airport industrial area.

Arguments Against:

- If an estate grape requirement were to apply to existing permits, it could disrupt operations. If a winery came in for a use permit modification and couldn’t meet the estate grape requirement, they could be forced to acquire vineyard property or reduce production.
- The intent of this requirement is already met by the 75 percent rule, which requires that a significant majority of new wine production come from grapes grown in the Napa Valley. We already reinforce the connection between local grape production and local wine processing on a broad scale. The estate grape requirement would be redundant.
- The definition of “estate” is not clearly established and enforcement could be cumbersome if construed to mean grapes from a parcel or nearby group of parcels. In the marketplace, “estate” means grapes owned by, or under multi-year contract to, a winery. There is no requirement that estate grapes come from the winery facility parcel or contiguous parcels.
- Requiring minimum estate grape production will have the opposite of the intended economic effect. It would disrupt the market for grape growers by (1) limiting the amount of grapes that could be purchased by wineries under this rule; and (2) limiting production

by the amount of grapes available on the winery's parcel, so that grape sales will be further reduced by production reductions.

- It creates an incentive for every grape grower to build a winery, in order to ensure a market for the grapes they grow. This could result in small wineries being located on every available parcel.
- Requiring every winery to produce a portion of its production from on-site grapes would prevent winemakers from blending different varietals, or the same varietal from different terroirs, thereby restricting the creativity and diversity of wine products. It would also limit winery production for a vintner if they decide to replant all or part of an existing vineyard, as they would not be able to replace estate grapes with outside fruit or juice. Finally, it leaves winery owners vulnerable; if there is blight, fire, drought, flood, or other disaster, they would be unable to offset their losses with non-estate fruit or juice.