

**PLANNING COMMISSION RECOMMENDATIONS**  
**TO THE BOARD OF SUPERVISORS REGARDING AGRICULTURAL PROTECTION**

Provided below are the Final Recommendations of the Planning Commission regarding the recommendations made to it by the Agricultural Protection Advisory Committee (APAC). Changes made by the Commission to the APAC recommendations are shown in red underline.

Of the 12 recommendations made by the APAC, nine are being forwarded by the Commission without further change. Three have been revised, and two new recommendations have been added by the Commission to those made by the APAC.

The reasons for the changes made by the Commission are summarized as follows:

Recommendation No. 8: The Commission strongly supports the idea of reducing regulatory hurdles that may inhibit the creation of new, small, family-owned wineries. It is the small wineries that often provide entry for new entrepreneurs, who provide a rich source of passion, dedication, innovation, and competition into the Napa market. The criteria included in the streamlined process make clear that the intent is to facilitate and promote wineries that are primarily focused on wine making and furthering the Napa Valley brand, not to create more venues that are focused on events and/or direct marketing. Adding a requirement that proposed small wineries must use at least 75 percent estate grapes reinforces the connection of these facilities to the land, and discourages speculators who are more interested in creating a new label rather than make wine. Similarly, adding a requirement that prohibits modification of the small winery use permit for five years after permit approval discourages operators who may try to abuse the streamlined process by deliberately under-sizing their facility in order to get a foothold at a particular location with the intent of subsequently ramping up operations. This criterion would allow successful small wineries to grow in the future, while winnowing out those who should instead be directed to a more extensive permit review.

Recommendation No. 11: Napa County has built up a complex and layered web of property entitlements over the past century. There are “ghost” wineries, pre-Prohibition wineries, pre-1974 wineries, exempted small wineries, pre-Winery Definition Ordinance (WDO) wineries, and post-WDO wineries. Vineyards are permanent crops, which are long-term ventures. In the same vein, winery facilities require significant capital to build and to operate, and they can play a role in the branding of a wine. Unlike other businesses, wineries are not able to move or adapt as quickly, as they are dependent today on products that were made three years ago. As such, Napa County has long recognized the need to accommodate the longer horizons that local wineries require in decision making. A key part of that accommodation is the importance of continuing Napa’s practice of recognizing and respecting the existing property rights and entitlements granted to property owners as regulations have evolved over the years.

The revisions made here make clear that all existing legally established rights held by wineries would not be affected by the new regulations being recommended by the Planning Commission. However, as happened under the WDO, any new wineries or any future expansion of existing wineries may be subject to the recommendations being considered as a result of the APAC process.

Recommendation No. 12: Marketing and sales have been integrated into the definition of agriculture since the adoption of the WDO in 1990. Section 7 of the WDO clearly states:

The Board expressly finds that marketing of wine as defined in this ordinance as well as those uses identified in Section 12232 (f) through (h) are activities that are not only necessary to retain agriculture as a major source of income and employment in Napa County, but also will ensure the continued agricultural viability of existing and future Napa Valley vineyards.

Similarly, the General Plan includes Policy AG/LU-2, which states:

“Agriculture” is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Agriculture also includes farm management businesses and farm worker housing.

This approach has been done purposefully, to highlight the interdependence of vineyards, wine making, and marketing/sales. While the WDO and General Plan both make clear that sales and marketing are subordinate to the growing of grapes and production of wine, they are still considered to be interwoven into the fabric of agriculture. Any one of these aspect cannot be divorced from the others. Vineyards without wineries would result in a commodity export economy, much as Napa had up until 1990, when most of the grapes grown here were still being shipped out for processing elsewhere. Wineries without vineyards would essentially be small industrial parks, while wineries that relied solely on national distributors without any on-site sales would eliminate the tourist industry that currently employs tens of thousands of people and the tax revenues that are a fundamental support for municipal services. The marketing and sale of wine without either wineries or vineyards would result in scattered rural liquor stores, without any sense of place or authenticity. These three activities work hand-in-hand to create the unique experience that makes Napa the world renowned region that it is today.

The proposed revision to the Policy AG/LU-2 would add: “Marketing activities and other accessory uses shall remain incidental, subordinate, and related to the main use” to the existing definition of agriculture. This would provide greater policy emphasis to future Commissions and to staff regarding the both the fundamental importance of marketing and sales, as well as its clearly subsidiary status.

Recommendation No. 13: The Interpretive Guidance on Marketing Activities for Wineries adopted by the County in 2010 states that:

To ensure that the intensity of winery activities is appropriately scaled, the County considers the remoteness of the location and the amount of wine to be produced at a facility when reviewing use permit proposals, and endeavors to ensure a direct relationship between access constraints and on-site marketing and visitation programs.

For the past year, the Planning Commission has been working to apply this direction in the consideration of applications for major modifications and for new wineries. However, the

Interpretive Guidance does not provide clear standards for use in equitably determining the “appropriate scale” of winery intensity, the remoteness of location, and/or the relationship between the amount of wine production and site intensity. Similarly, there is no definition provided regarding access constraints and how they may affect marketing and visitation programs.

In the absence of more specific tools, the Commission has developed its own set of metrics to implement the 2010 Interpretive Guidance. These include tables comparing proposed new wineries or winery expansions with other facilities of equivalent production capacity, and comparing proposed applications with other existing wineries within a one mile radius. The Commission has also developed a set of locational criteria that compare proposals with existing goals and requirements of the County. While it is important to consider the unique merits of each land use application that comes before the Commission, these tools provide a critical context within which wineries can be considered in comparison with one another to ensure fair and equitable treatment, as well as geographically to look at the cumulative context within a neighborhood.

Recommendation No. 14: Just as the Commission has begun looking at each winery proposal in the context of other similarly sized operations as well as wineries within close proximity of the subject property, so it is also important to periodically review the status of the County’s administration of the wine industry as a whole. This is similar to establishing a dashboard, with performance standards or metrics that measure the effectiveness of the planning process. The proposed annual report to the Planning Commission would provide important information including the following:

- How the rate and number of approvals measure against the projections used in the General Plan Environmental Impact Report, to determine if cumulative impacts are being exceeded.
- Trends in the amount of grapes available; the amount being exported; the amount of grapes being imported; and local crush production.
- The amount of vineyards lost and/or gained over time, which determines the available grape supply.
- Overall data on the relationship between production capacity and tasting room/ marketing visitation permitted levels.

This report would provide quantifiable, updated metrics that could be used as a part of the analysis available to the Commission, Board of Supervisors, and the public as to whether zoning regulations, General Plan policies, and voter initiatives are having the intended results and/or are measurable achieving their goals. Programs that are successful can be extended or replicated. Those that are failing can be revised or eliminated in favor of new approaches.

Herein provided below are the Final Recommendations:

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

2. Develop guidelines and benchmarks for consideration of future winery use permits based on the format of Proposal X.

	AP			AW			
	10 – 20 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							

3. Implement an annual code compliance process, including the following:
  - a. Reporting must be submitted annually, by all wineries that have use permit approval within the unincorporated area;
  - b. 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;
  - c. Copies of ATTB and CDFA forms shall be provided to the County to verify the above information;

- d. All data collected shall remain confidential to the extent allowed under the law;
  - e. Enforcement and compliance review fees shall be adopted to support the cost of the expanded compliance review;
  - f. Subject to applicable law, the County shall prepare a formula for calculating civil penalties associated with violating wineries;
  - g. 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;
  - h. 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;
  - i. 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.
  - j.
4. 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.
  5. 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 unincorporated area for the purposes of capturing more complete data.
  6. 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 permitted uses. The total development area for parcels larger than 40 acres would be capped at a fixed eight (8) acres maximum.
  7. 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.
  8. 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):
    - a. Include less than 5,000 square feet of enclosed building space;
    - b. Involve no more than 5,000 square feet of cave excavation, with all of the excavated cave spoils to be used on site;
    - c. Produce 30,000 gallons of wine or less per year;
    - d. Generate less than 40 passenger vehicle (or equivalent) trips per day, except on those days when marketing events are taking place, or host no more than 15 tasting room visitors per day;
    - e. Hold no more than 10 marketing events per year, each with no more than 30 attendees, as well as one Auction Napa Valley event with no more than 100 attendees;
    - f. Produce at least 75 percent of wine production from grapes grown on site ("estate grapes"), unless the farm has experienced a catastrophic event;

- g. The use permit may not be modified for at least 5 years after initial approval by the County, to discourage speculation and/or a piece meal project, to the extent allowed by law; and

If any of the above criteria are exceeded in either the initial application or future modifications, the request may not be considered categorically exempt and will be heard by the Planning Commission as the decision making body.

9. Strongly encourage elected and appointed of the County, and their staffs, to take the following actions:
- a. Implement the land use policies identified in the Napa County General Plan update
  - b. Enforce all current regulations fairly and consistently.
  - c. Deny any unrealistic use permit applications and modifications that are depending on the excessive use of variances.
  - d. Consistently follow existing procedures.
  - e. Discontinue creative efforts to justify projects on non-conforming parcels.
  - f. Be consistent in the interpretation, application and enforcement of all use permits.
  - g. 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; and
    - Summit of County, City, and Town officials to discuss joint efforts to address regional land use and transportation issues.
10. Adopt a rule that does not prohibit the net loss of vineyards as a part of new and/or amended winery use permits.
11. ~~Limit the implementation of~~ Implement the recommended new requirements for winery use permits so that they become effective no later than January 1, 2017. Prioritize requirements to be implemented as soon as possible. Review new winery requirements to ensure that they do not affect existing permitted and legally conforming property rights. , 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, 2017.
12. Amend Policy AG/LU-2 as follows:  
“Agriculture” is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Marketing activities and other accessory uses shall remain incidental, subordinate, and related to the main use. Agriculture also includes farm management businesses and farm worker housing.
13. Include the following information in staff reports regarding winery use permits for consideration by the Commission in decision-making:
- a. Comparison with wineries that have similar production as the proposed project;

- b. Comparison with wineries within one mile of the project site;
- c. Site-specific criteria.

Wineries Located within One Mile of the Proposed Project								
Name	Address	Building Size	Cave Size	Production	Tours/ Tastings	Weekly Visitors	Number of Marketing Events	Employees

Wineries Located with Similar Production Limits											
Name	Building Size	Cave Size	Production	Daily Visitors	Weekly Visitors	Annual Visitors	Annual Marketing Visitors	Annual Marketing Events	Number of Visitation	Acres	Location

Locational Criteria	Staff Comments
Size of Parcel	
Proximity of Nearest Residence	
Number of Wineries Located Within One Mile	
Located Within the Napa Valley Business Park (AKA Airport Industrial Area)	
Primary Road Currently or Projected to be Level of Service D or Below	
Primary Road a Dead End	
Located Within a Flood Zone	
Located Within a Municipal Reservoir Watershed	
Located Within a State Responsibility Area or Fire Hazard Severity Zone	
Located Within an Area of Expansive Soils	
Located Within a Protected County Viewshed	
Result in the Loss of Sensitive Habitat	
Operational Criteria	Staff Comments
Napa Green Certified or Other Related Program	
Percentage of Estate Grapes Proposed	
Number of Proposed Variances	
Wastewater Processed On-Site	
Voluntary Greenhouse Gas Emission Reduction Measures Proposed	
Vanpools, Flexible Work Shifts, Shuttles, or Other Traffic Congestion Management	

Strategies Proposed	
Violations Currently Under Investigation	
High Efficiency Water Use Measures Proposed	
Existing Vineyards Proposed to be Removed	
On-Site Employee or Farmworker Housing Proposed	
Site Served by a Municipal Water Supply	
Site Served by a Municipal Sewer System	
Recycled Water Use Proposed	
New Vineyard Plantings Proposed	
Hold and Haul Proposed: Temporary (Duration of Time) or Permanent	
Trucked-In Water Proposed	

14. Provide an annual report to the Planning Commission on prior year winery activity that includes the following information:
- a. Total permitted and actual wine production;
  - b. Total wine grape acreage and production;
  - c. Total amount of wine crushed within Napa County, amount of grapes imported into Napa, and amount of grapes exported out of the County;
  - d. Total production, tasting room visitation, marketing visitation, and variances permitted by the County;
  - e. Gross and net loss of vineyards and farmland;
  - f. Average and median visitation numbers for groups of wineries based on production levels;
  - g. Number of temporary event permits issued, and number of visitors allowed.