



A Tradition of Stewardship
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County Executive Office

1195 Third Street
Suite 310
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4421
Fax: (707) 253-4176

Minh C. Tran
County Executive Officer

MEMORANDUM

To: Board of Supervisors	From: Leigh Sharp, Management Analyst II
Date: October 16, 2018	Re: Item #10A – Proposed Winery Compatibility Measures

This correction memo is issued due to formatting errors in Agenda Item 10A regarding proposed winery compatibility measures. Below is the complete content of the original Board Letter.

RECOMMENDATION

Director of Planning Building and Environmental Services (PBES) requests confirmation of direction on proposed winery compatibility measures.

EXECUTIVE SUMMARY

In 2010, the Board adopted interpretive guidance on marketing activities for wineries. The guidelines reference that the remoteness of a winery, access constraints, and the amount of wine produced should all be considered when deciding the intensity of proposed marketing programs. However, the guidelines as written do not provide any definition for either remoteness or accessibility, do not indicate how they are to be quantified, and do not describe how these criteria relate to production, visitation, and/or marketing proposals. As a result, the language has created uncertainty in the evaluation and consideration of proposed wineries.

On August 14, 2018, the Board requested that a discussion of whether the County should adopt an ordinance to regulate remote wineries be placed on the agenda to provide clarity and further guidance on this issue. The workshop was held on September 25, 2018, where the Board accepted extensive public input, requested staff to provide additional information in consideration of the issue, and gave detailed direction to staff on the issues to be addressed in a future Board meeting.

PROCEDURAL REQUIREMENTS

1. Staff reports.
2. Public comments.
3. Motion, second, discussion and vote on the item.

FISCAL IMPACT

Is there a fiscal impact? No

BACKGROUND AND DISCUSSION

Workshop Summary

The Board agreed on the need for criteria that focus on the compatibility of a proposed winery with its location. The criteria would require prospective applicants to design their projects to be proportionate to the constraints of the site and the supporting infrastructure. This would benefit natural resources and ensure the quality of life for rural communities, as well as increase the predictability for prospective applicants. The Board discussed the following issue areas and potential measures to increase winery compatibility. Direction is needed regarding which of the following potential criteria should be included in a draft ordinance.

1. Traffic:

- a. The number of vehicles generated by a proposed winery should not overburden the capacity of the public road serving the project, nor should it worsen existing conditions where County roads do not meet minimum Road and Street Standards. Proposals should either be reduced in scope or should be required to improve the County road.
- b. Winery proposals should be evaluated on the basis of the number of vehicles, not the number of tasting room or marketing visitors. Similarly, conditions of approval should be revised to refer to the number of vehicles, not visitors.
- c. Prepare a map showing the width of County roads for public use.

2. Custom Crush:

- a. Custom crush facilities should not be allowed in agricultural zones, and instead should be located in industrial or commercial zones. All wineries proposed for agricultural zones should have a minimum amount of producing vineyard located on-site (i.e., estate grape source).

3. Hold and Haul:

- a. Proposed wineries should be designed to process waste water on-site, and should not rely on trucking waste water to off-site treatment facilities.

4. Topography:

- a. Proposed wineries should be located on sites that have sufficient area in which to develop, outside of steep slopes, flood plains, or other site constraints.
- b. Prepare a map showing parcels affected by steep slopes for public use.

5. Fire Safety:

a. New standard conditions of approval should be developed specific to proposed wineries located in High Fire Hazard Areas. Staff should be creative in addressing concerns associated with proposed wineries as they may relate to the potential safety of employees, visitors, and surrounding neighbors.

6. Visitation:

a. Tasting room and marketing visitation should be reduced when an application includes significant constraints, such as less than standard public or private roads, low water yield, limited area for wastewater treatment and disposal, and/or limited suitability for vineyards.

7. Variances and Exceptions:

a. Strictly construe the interpretation of regulations to protect public health and safety. Project designs that rely on Setback Variances and Conservation Regulation Exceptions, and/or private roads that require Exceptions to the Road and Street Standards should be strongly discouraged.

Implementation Alternatives

The Board discussed three options for implementing any future winery compatibility measures; adoption of an ordinance; adoption of guidelines in a memorandum; and revising the standard conditions of approval.

Staff recommends incorporating all three options. The first step would be for the PBES Director to prepare a memo for public distribution that clearly states the County's concerns and intent regarding the compatibility of winery design with the natural and physical constraints imposed by the proposed site. This memo would provide immediate guidance for staff and the Planning Commission in evaluating pending applications while an ordinance is being drafted and processed. The memo would also establish a set of expectations that could be relied upon by both applicants and the public as to what types of winery projects the County will favorably consider.

The second step would be an ordinance to ensure that the concerns expressed by the Board would be codified and fully enforceable. It would also ensure that the measures would be equally applied to both use permits for new wineries, as well as modifications of existing wineries, to provide consistency and a level playing field. An ordinance would also provide greater long-term confidence in these rules by both applicants and the public, as a memo is much easier to amend in the future than the County Code. Ordinance amendments also have an established public process to guarantee opportunities for public comment and review. Concurrently with the preparation of the ordinance, staff would prepare revised standard conditions of approval for Board consideration, so that the ordinance requirements are consistently implemented on a project-specific basis.

Additional Research

As a part of the workshop discussion, the Board requested staff to provide further information regarding several areas of interest, as follows:

Variations and Exceptions

The Board asked how many setback variations, exceptions to the Road and Street Standards, and exceptions to the Conservation Regulations have recently been considered by the Planning Commission. Over the past five years, the Planning Commission has approved the following:

Year	Variations	Road Exceptions	Con Reg Exceptions	Number of Projects Requesting a Variance or Exception	Total Projects Considered by the Planning Commission
2018	1	3	1	5	16
2017	6	6	4	13	36
25016	3	5	0	7	24
2015	1	3	1	4	19
2014	6	2	2	8	17
Totals	17	19	9	37	112

The County granted 45 variations and exceptions in the last five years, on 37 individual applications. Several applications involved requests for a variance and/or exception(s).

Staff Workload

The Board requested a list of advance planning projects that staff has currently been directed to work on, along with the resources to complete each task, so that priorities could be established in providing a timeline to prepare the compatibility measures. The list of pending projects, estimated staff hours, and estimated completion dates are provided as follows.

Note that the items listed are for advance planning only. They do not include efforts related to developing and implementing the Strategic Plan, implementing the Process Improvement recommendations, 2017 Fire recovery and any future disaster response, implementing the Code Compliance program, or ongoing permit processing.

Task	Estimated Number of PBES Staff Hours	Estimated Completion Date
Winery Compatibility Measures	140 hours	April, 2019
Cannabis Dispensary Ordinance	75 hours	May, 2019
Circulation Element	120 hours	January, 2019
Climate Action Plan	160 hours	August, 2019
Residential Development in Ag Zones and View Shed Ordinance	120 hours	May, 2019
Revised Road and Street Standards	75 hours	July, 2019
Temporary Events Ordinance	60 hours	TBD
Filming Ordinance	75 hours	TBD
Limited Winery Ordinance	40 hours	TBD
Noticing Ordinance	40 hours	TBD
Bird Cannon Customs and Standards	20 hours	March, 2019
Total	925 hours	

The 925 hours shown below is equivalent to approximately six months of PBES staff work. It is important to note that many of the above identified tasks will also require significant attorney time from County Counsel that may equal or exceed the hours identified for PBES. In particular, the winery compatibility ordinance, cannabis, temporary event ordinance, and Climate Action Plan will all require significant counsel time to ensure legal defensibility and future enforceability.

Prior County Actions

The Board requested additional background on what existing County regulations apply to the areas of winery compatibility, as well as a summary of any prior Board actions regarding these issues.

Traffic

The Draft Circulation Element includes Policy CIR-6, which would require applicants to mitigate their impacts to the County transportation system, which could include improvements to existing County roads. Policies CIR 39 and 40 would require that proposed projects be evaluated on the basis of vehicle miles traveled and the number of vehicles, not on the number of visitors.

Custom Crush

There are currently no requirements regarding custom crush or minimum estate grape thresholds. The Agricultural Protection Advisory Committee (APAC) did not recommend that new and/or amended winery use permits require a minimum amount of estate grapes, on a 6-11 vote. As the recommendation failed, it was not forwarded to the Planning Commission for consideration.

Hold and Haul

There are requirements in the County Code regarding the installation and operation of hold and haul facilities, but there are no limitations on their use for wineries. The APAC recommended to prohibit the hold and haul of wastewater and related liquid by-products on all Agricultural Preserve (AP) and Agricultural Watershed (AW) zoned parcels for new wineries except during winery development, which would not exceed one year from the issuance of the Certificate of Occupancy, or in an emergency situation. The Planning Commission concurred with the APAC's recommendation and forwarded it to the Board of Supervisors. The Board chose not to adopt the recommendation.

Variances and Exceptions

The County Code includes provisions regarding the processing of variance and exception requests, but does not otherwise limit their use. The APAC approved two recommendations regarding this issue. The first called for avoiding the use of variances as a principal tool for achieving compliance with land use regulations. Variances should only be used when there is specific evidence supporting all necessary findings. The second said that the County should deny any unrealistic Use Permit applications and modifications that depend on the excessive use of variances; and discontinue creative efforts to justify projects on non-conforming parcels. The Planning Commission agreed with both recommendations and forwarded them to the Board of Supervisors. The Board adopted the first recommendation, but did not adopt the second recommendation.

Fire Safety

The current standard conditions of approval include requirements regarding fire suppression and water tanks, temporary structures, operational conditions, pre-occupancy conditions, and gates/entry structures. They do not address the unique safety concerns posed by the placement of potentially large numbers of out-of-county visitors in high fire hazard areas, either through tasting or marketing events.

Visitation

There are currently no requirements regarding the amount of tasting room or marketing visitation. The APAC did not make any specific recommendations regarding this issue, but did make a general recommendation that visitation be proportionate to the size of the parcel. The Planning Commission did not concur with the recommendation. Instead, the Commission included a new recommendation to require that staff reports for winery use permits and modifications include tables comparing the visitation of the proposed project to other existing wineries with similar permitted production levels, and to other existing wineries within one mile of the proposed site. The Commission also recommended that site-specific criteria be included with staff reports (examples include but are not limited to proximity to the nearest residence, whether access is a dead-end road, Napa Green Certified, voluntary greenhouse gas reduction measures, violations, and loss of vineyards). The Board of Supervisors adopted the Commission's recommendation.