



Agenda Date: 4/27/2015

Agenda Placement: 6A

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## Napa County Agricultural Protection Advisory Committee **Board Agenda Letter**

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**TO:** Agricultural Protection Advisory Committee

**FROM:** David Morrison - Director  
Planning, Building and Environmental Services

**REPORT BY:** David Morrison, Director, Planning, Building & Environmental Servi - (707) 253-4805

**SUBJECT:** Workshop on Minimum Parcel Size, Vineyard Loss, and Estate Grape Production

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### **RECOMMENDATION**

This public workshop is being conducted by the Agricultural Protection Advisory Committee and County staff to allow for input and discussion regarding proposals for amending the County Zoning Code. The focus of this workshop concerns three topics: (1) the minimum parcel size for establishing new wineries; (2) the net loss of vineyards associated with winery development and/or expansion; and (3) the role of estate grapes in winery production.

### **EXECUTIVE SUMMARY**

**Proposed Actions:**

That the Agricultural Advisory Committee:

1. Receive the staff presentation and ask any clarifying questions;
2. Accept public testimony regarding the three issues; and
3. Discuss and provide staff direction regarding additional research and/or analysis needed for the Committee to make a recommendation at a future meeting.

**Discussion:**

This public workshop is being conducted by the Agricultural Protection Advisory Committee and County staff to allow for input and discussion regarding proposals for amending the County Zoning Code. The focus of this workshop concerns three topics: (1) the minimum parcel size for establishing new wineries; (2) the net loss of vineyards associated with winery development and/or expansion; and (3) the role of estate grapes in winery production.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

For the second meeting, the Committee directed staff to hold a workshop focusing on the first three issues assigned by the Board of Supervisors: (1) the minimum parcel size for new wineries; (2) the net loss of vineyards in the establishment or expansion of wineries; and (3) the level of estate grape production for wineries. This staff report provides analysis, to the extent that data is available, for each issue as follows:

**MINIMUM PARCEL SIZE**

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Issue

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The question has been raised as to whether a larger minimum parcel size for wineries should be considered. Currently, there are 49 wineries (10.5%) located on parcels that are zoned agricultural and are smaller than 10 acres. These facilities predate the Winery Definition Ordinance and are considered legally non-conforming – they may continue to operate although they do not comply with existing zoning regulations. A total of 91 wineries (19.5%) are located on parcels zoned agricultural that are between 10 and 20 acres, while 104 wineries (22.3%) are located on parcels that are 20 to 40 acres in size. Finally, 151 wineries (32.3%) are located on agriculturally-zoned parcels that are 40 acres in size or greater. (The remaining wineries (15.4%) are located on land zoned commercial or industrial, or are located within the Airport Industrial Area Specific

Plan.)

The concerns expressed regarding this issues include, but are not limited to, the following:

- ) Allowing wineries to be created on smaller parcels allows new vintners to enter into the wine industry. Creating a new winery already requires significant financial investment. Requiring that more land be acquired in order to approve a new winery will add substantial additional costs and will further raise barriers to entry into the market. This, in turn, will prevent new vintners (who are often underfunded) from locating in the Napa Valley, which will reduce dynamism and innovation, making the local wine industry less competitive.
- ) There is a history and tradition of small wineries in Napa Valley. The majority of wineries in Napa are family owned operations, many of which are located on smaller parcels. If new wineries are restricted to larger parcels, it will represent a significant shift in the experience of visiting a winery. Local winemaker/owners will increasingly be replaced by corporate investors and absentee landlords.
- ) The parcel may be too small to accommodate a private well, leach field system and replacement area, parking, production facility, hospitality areas, and other accessory uses without requiring variances to setbacks.
- ) The smaller area requires that facilities be placed closer to neighboring residences, whereas with larger parcels large internal buffers could be incorporated into the design to reduce potential conflicts.
- ) If several wineries are clustered together on small parcels, multiple driveways can complicate turning movements and traffic flow. In addition, numerous wineries in close proximity to one another reduce views of the rural, agricultural landscape.
- ) Small parcels may accommodate little or no on-site vineyards. If a majority or all of the grapes used at a winery are grown elsewhere, can the winery truly be considered ancillary or accessory to the on-site farm use, or is it a production facility that is better suited in an industrially zoned area?
- ) If wineries are allowed on every agriculturally zoned parcel that is 10 acres or larger, Napa Valley could hypothetically add nearly 5,000 new wineries (assuming the grape supply was sufficient to ensure that the wine produced at these new wineries used at least 75% grapes that were grown within Napa County.) Increasing the number of existing wineries by more than 1,000 percent would have severe consequences for the local economy, traffic, water, employment, and other quality of life issues.

### Ordinances and Policies

It should be noted that the 10-acre minimum parcel size only applies to new wineries established after 1990. Wineries established after 1920, but before 1990, have a 1-acre minimum. Wineries established before 1920 have a 2-acre minimum.

Section 18.104.240 of the County Code states:

Wineries - Minimum parcel size.

Wineries are permitted to be located or operated on parcels zoned AP or AW only if the single parcel on which it is located meets the following minimum parcel size:

- A. Wineries that were established in conformance with all applicable county regulations prior to the effective date of the ordinance codified in this section: one acre;
- B. Wineries that were established after the effective date of the ordinance codified in this section: ten acres.

(Ord. 947 § 16, 1990: prior code § 12418)

Section 18.104.245 of the County Code states:

Exceptions to winery setback and minimum parcel size for pre-prohibition wineries.

- A. Substantially intact buildings (i.e., four walls and a roof) used as wineries prior to Prohibition, but not being used as wineries as of the date of the addition of this section to the code, may, subject to the approval of a use permit, be used as wineries under all of the provisions of this code otherwise applicable to wineries except as modified by this section. For purposes of this section, such wineries are called pre-Prohibition wineries.
- B. The minimum parcel size for a pre-Prohibition winery shall be two acres. A parcel that is made substandard (i.e., reduced in size to less than ten acres) after the date of adoption of this ordinance is not eligible for the exceptions allowed by this section.
- C. The setback requirements of [Section 18.104.235](#) shall not apply to pre-Prohibition wineries, but the findings required by [Section 18.104.235](#) shall apply to pre-Prohibition wineries.
- D. No pre-Prohibition winery shall necessarily be entitled to the same annual production capacity or type or intensity of social or marketing activity it had prior to Prohibition. These matters shall be determined on a case by case basis in connection with consideration of the use permit for the pre-Prohibition winery, but in no case shall exceed twenty thousand gallons per year.
- E. For purposes of this section, Prohibition took effect on January 16, 1920.
- F. A winery located on a parcel less than five acres in size shall demonstrate compliance with all applicable water and sewage requirements and that the sewage disposal system shall be contained entirely within the subject parcel.

(Ord. 1205 § 1, 2002: Ord. 1198 § 1, 2002)

(Ord. No. 1330, § 1, 10-27-2009; Ord. No. 1379, § 162, 1-29-2013)

Relevant General Plan policies include:

Policy AG/LU-8:

The County's minimum agricultural parcel sizes shall ensure that agricultural areas can be

maintained as economic units.

Policy AG/LU-111:

Limitations on General Plan Amendments relating to Agricultural, Watershed, and Open Space and Agricultural Lands:

a) Until December 31, 2058, the provisions governing the intent and maximum building intensity for lands designated Agriculture, Watershed and Open Space and Agricultural Resource set forth in Policies AG/LU-20 and 21 (which are identical to Sections 3.F.7.a, 3.F.7.d, 3.F.8.a, and 3.F.8.d of the Agricultural Preservation and Land Use Element adopted on June 7, 1983, as amended through September 28, 2007 [hereinafter the "Land Use Element"]), shall not be amended unless such amendment is approved by vote of the people. Until December 31, 2058, the provisions governing minimum parcel size for lands designated Agriculture, Watershed and Open Space and Agricultural Resource set forth in Policies AG/LU- 20 and 21 shall not be amended to reduce minimum parcel sizes unless such amendment is approved by vote of the people.

Analysis

Should the Committee wish to consider possible changes to the minimum parcel size, staff has provided some initial analysis.

The issue of minimum parcel size is in part a discussion on how many wineries should be allowed in the rural areas of the Napa Valley and how they should be dispersed. As requested by the Committee, staff broke down the analysis into three categories: parcels between 10 and 20 acres in size; parcels between 20 and 40 acres in size; and parcels larger than 40 acres. The results are provided in the table below.

	Parcels with Wineries			Parcels without Wineries		
	10-20 acres	20-40 acres	40 acres +	10-20 acres	20-40 acres	40+ acres
AP	44	35	34	263	151	180
AW	56	65	117	968	966	2,413
Subtotal	100	100	151	1,231	1,117	2,593
Grand Total	351			4,941		

For existing wineries, those located within the AP (Agricultural Preserve) zone tend to be located on smaller parcels of less than 20 acres. Those located in the hillside areas tend to be located on larger parcels of 40 acres or more. Interestingly, the number of wineries in the AW (Agricultural Watershed) zone more than doubles those in the AP zone (238 vs. 113).

Of greater note are those parcels that are zoned agricultural, but do not currently have a winery. There are 594 parcels in the AP zone and 4,347 parcels in the AW zone that could accommodate a new winery (assuming all site development issues could be addressed, compliance with the 75% rule can be achieved, and the projects were economically feasible). Under the current County zoning regulations, the number of wineries could hypothetically increase from 467 to over 5,500. Even limiting new wineries to parcels of at least 40 acres could result in a potential 2,593 wineries, the vast majority of which would be located in the hillside areas (AW zone).

For the purposes of discussion, staff analyzed the number of potential winery sites there would be if the parcel size were further limited by requiring a minimum percentage of the property be planted in vineyards (combining the minimum parcel size issue with the estate grape issue discussed later in this report). If new wineries were limited to parcels of at least 40 acres, that also have at least 50% of the site planted in vineyards, there would be 336 potential sites. If the threshold was increased to at least 90% vineyard coverage on a minimum of 40 acres, the number of sites would be reduced to 100.

## **NET LOSS OF VINEYARDS**

### Issue

The issue has been raised whether development within agricultural zones should result in no net loss of vineyards. The availability of specific data regarding this issue is limited. Currently, however, the average area of structures associated with wineries in the agricultural zones is 33,311 square feet (excluding caves as they do not result in vineyard loss). The median size of total structures within a winery facility in the agricultural zone is 8,928 square feet. These measures are of buildings only and do not include the entire production and hospitality footprint of winery facilities.

The concerns expressed regarding this issue include, but are not limited to, the following:

- ) The first and foremost land use activity within the agricultural preserve should be farming. The soils that provide Napa Valley wines with its distinctive quality are severely limited. Any use that results in a net decrease in the amount of land planted is contrary to the intent of the agricultural preserve and the General Plan.
- ) Although agriculture is the highest and best use of land within the preserve, it is not the only use. Flood control projects, habitat restoration, public infrastructure, road improvements, farm labor housing, and other uses also have a place within the agricultural preserve. Although the occasional loss of vineyards is regrettable, the removal of vineyards has been fairly minimal and has been more than offset by new plantings elsewhere within the valley. The total grape harvest has nearly doubled in the past 20 years and occasional minor reductions in vineyard acreage has not significantly affected overall supply.

### Ordinances and Policies

Interestingly, there are numerous sections of the County Code regulating the planting of vineyards. Staff has not found any restrictions on the removal of vineyards.

Relevant General Plan policies include the following:

Policy AG/LU-2:

“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.

Policy AG/LU-12:

No new non-agricultural use or development of a parcel located in an agricultural area shall be

permitted unless it is needed for the agricultural use of the parcel, except as provided in Policies AG/LU-2, AG/LU-5, AG/LU-26, AG/LU-44, AG/LU-45, and ROS-1.

### Analysis

Should the Committee wish to consider possible changes to the minimum parcel size, staff has provided some initial analysis.

Staff calculated this impact using two different methods. The first was to use the digitized aerial maps that are updated annually, which include estimates on the amount of acres of vineyard lost to development. This includes structures, parking lots, water features, and paved areas. The second method was to add up all of the construction approved since 1993. Both methods came up with very similar results.

Between 1993 and 2014, a total of 874 acres of vineyards were removed and converted into developed space. Note that this includes wineries, houses, and agricultural outbuildings. Over the past 22 years, an average of 39.7 acres of vineyards has been lost annually.

It is also important to recognize however, that the planting of new vineyards has far outpaced vineyard loss during this time period. In 1993, total vineyards in Napa County accounted for 38,593 acres. By 2014, that number had grown to 52,362 acres. This represented an increase of 13,769 acres, or an annual average of 625.9 acres of new vineyards per year. As a result, vineyard development grew faster than vineyard removal by nearly 1,600 percent.

### **ON-SITE GRAPE PRODUCTION**

#### Issue

The question has been raised whether a minimum amount of grapes produced by a winery in the agricultural zones should be grown on the property where the winery is located. Currently, there are 35 wineries (8.7%) in the AP (Agricultural Preserve) and AW (Agricultural Watershed) zones that do not have any vineyards on-site. A total of 59 wineries (42.0%) of wineries have at least 50% vineyard coverage. Only 14 parcels (3.5%) have vineyard coverage of more than 90% on the land where the winery is located. The average for all parcels with existing wineries in the agricultural zones is 40.9% of the parcel is planted in vineyards. The median is 42.0%.

It should be noted that the percentage of land in vineyard is generally much higher for wineries located in the AP zone (median of 68.9%) than those in the AW zone (median of 32.3%). Parcels zoned AW typically include sloped areas, watercourses, special status species, and other physical constraints which prevent the land from being fully developed into vineyards.

The concerns expressed regarding this issue include, but are not limited to, the following:

- ) The idea of a winery dependent upon the surrounding land for the source of its grapes is a nostalgic ideal that no longer reflects the diversity of the current marketplace. For some vintners, it is not economically feasible to invest in the expense of constructing extensive capital improvements, when custom crush facilities are available. Crushing, blending, storage, and tasting may occur at several different locations, allowing winemakers to keep overhead costs low. Moreover, concentrating several winemaking operations into one facility limits impacts to only one parcel, thereby preventing the loss

of vineyards that would result if wineries were built on each individual property.

- ) As mentioned previously, wineries located in hillside areas may not be able to meet a high threshold for estate grape production due to environmental limitations.
- ) Wineries are considered to be accessory to the primary use of land in the agricultural preserve, which is farming (i.e., the growing of grapes). If a winery is located on land that does not have vineyards, it is primarily a production facility to service grapes grown anywhere within the valley and not just those grown on-site. Such facilities are more appropriately located in the industrial area, so that the soils they would otherwise occupy can remain in agricultural production. A winery should reflect the terroir and the setting of the land on which it is located.
- ) The 75% rule has limited value, as it only applies to new wineries and/or expanded production of pre-existing wineries. An estate grape requirement would provide additional regulatory incentives to ensure that the primary activity within the agricultural preserve remains the growing and harvesting of wine grapes.

### Ordinances and Policies

Staff is not aware of any code requirements or General Plan policies that directly address the issue of wineries including fruit grown on-site as a part of their production.

### Analysis

Should the Committee wish to consider possible changes to the minimum parcel size, staff has provided some initial analysis.

County staff does not have access to individual winery data from either the California Department of Food and Agriculture (CDFA) or the Alcohol, Tobacco, Tax and Trade Bureau (TTB). Consequently, any analysis of existing levels of estate grape production and/or trends can only be inferred from other available data.

The following table shows total wine production for Napa Valley, as provided by TTB (in gallons). Staff has correlated that information with estimated gallons produced from grapes grown in Napa Valley, as reported by the County Agricultural Commissioner. This is not an exact measurement, as some Napa grapes may be sold to winemakers outside of the County. Also, a standard of 142.68 gallons per ton of grapes is assumed here, whereas, the number of gallons per ton may range anywhere from 140 to 180, depending on the type of grape and how it is processed.

Nevertheless, the table can provide a general picture. Since 1997, the percent of local grapes has generally ranged from 39 to 57 percent. The average during this time was 39.2% (the median was 39.6%).

Year	Total Production per TTB	Tons/Year per Ag Commissioner	Number of gallons (tons x 142.68)	Percent of local grapes used in total production
2013	50,906,837.52	174,847	24,947,170	49.01%
2012	46,124,922.99	182,859	26,090,322	56.56%
2011	40,704,362.02	121,872	17,388,697	42.72%
2010	41,995,025.78	138,842	19,809,977	47.17%



2009	47,951,909.28	142,976	20,399,816	42.54%
2008	47,480,760.99	115,865	16,531,618	34.82%
2007	52,265,539.91	145,112	20,704,580	39.61%
2006	55,105,749.19	152,776	21,798,080	39.56%
2005	52,622,256.66	181,025	25,828,647	49.08%
2004	44,786,597.41	119,874	17,103,622	38.19%
2003	43,715,896.20	128,814	18,379,182	42.04%
2002	49,026,660.50	130,099	18,562,525	37.86%
2001	50,288,994.00	126,438	18,040,174	35.87%
2000	49,631,773.00	136,962	19,541,738	39.37%
1999	46,871,674.00	103,526	14,771,090	31.51%
1998	42,890,084.00	102,355	14,604,011	34.05%
1997	45,120,611.00	144,217	20,576,882	45.60%
1996	17,881,751.00	100,251	14,303,813	79.99%
1995	9,811,801.00	109,842	15,672,257	159.73%

Separately, staff looked at the reports provided by the 40 or so wineries subject to the Napa County wine audit over the past three years. It should be noted that this is a small sample, perhaps 10% of the 400 wineries located in agricultural zones. It should also be noted that estate production referred to here may include vineyards that are owned by the winery operator but may not be located on the same site as the winery facility. Despite these caveats, the information again provides a general picture of current practices as they relate to the issue of estate production.

In 2013, the wineries that participated in the audit reported a total production of 2,216,548 gallons. Of that amount, 784,207 gallons came from grapes grown by the winery owner, or about 35.4% of total production. In 2014, audited wineries produced 1,088,203 gallons. A total of 334,341 gallons came from grapes grown by the winery owner, or 30.7%. These numbers are generally consistent with the 39% figure cited from using Agricultural Commissioner data (described above).

### **SUPPORTING DOCUMENTS**

- A . Winery Definition Ordinance
- B . WDO Clarification
- C . Marketing Events Resolution
- D . AB2004
- E . Draft APAC Minutes April 13, 2015

Recommendation: Approve

Reviewed By: Melissa Frost