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

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: Discussion and Tentative Recommendations Regarding Definitions, Proposal X, and Option F;
Clarification and Corrections to Tentative Recommendations

RECOMMENDATION

This meeting is being conducted by the Agricultural Protection Advisory Committee and County staff to allow for input, discussion, and tentative recommendation regarding proposals for amending the County Zoning Code. The focus of this meeting concerns: (1) definitions; (2) Proposal X; (3) Option F; and (4) clarification and corrections to the Tentative Recommendations.

EXECUTIVE SUMMARY

That the Agricultural Protection Advisory Committee:

1. Receive the staff presentation and ask any clarifying questions;

2. Accept public testimony; and
3. Discuss and take tentative action regarding the following:
 - a. Definitions
 - b. Proposal X
 - c. Option F
 - d. Clarifications and corrections regarding the Tentative Recommendations

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**BACKGROUND:**

Harvest Duhig indicated the following on July 27, 2015.

It has come to my late attention that several of the APAC community members are unfamiliar with the contents of a winery use permit. I think it would be very effective in guiding the conversations if we all had the same base understanding of the current requirements for any applicants of a use permit.

A copy of the Use Permit application packet is included in Attachment C of this staff report.

DEFINITIONS:

On August 5, 2015, Eve Kahn submitted the following proposed revision to the consolidated definition of agriculture for the APAC:

Agricultural processing includes crushing; wastewater disposal; aging, bottling, storage, and shipping of bulk wine; office and laboratories.

Accessory uses related to a winery include tours and tastings; retail sales of wine and wine-related items; marketing activities for the education and development of consumers and members of the wine trade regarding wine produced by the winery; limited non-commercial food service; display of art or items of historical, ecological, or viticultural significance; child care centers; and temporary events.

Other permitted uses in the agricultural zones may 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).

For reference, staff is reprinting the following background from the June 22, 2015, staff report for the Committee's information and consideration.

Napa County General Plan:

The General Plan includes the following relevant policies:

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.

Action Item AG/LU-2.1:

Amend County Code to reflect the definition of "agriculture" as set forth within this plan, ensuring that wineries and other production facilities remain as conditional uses except as provided for in Policy AG/LU-16, and that marketing activities and other accessory uses remain incidental and subordinate to the main use.

Policy AG/LU-13:

The 1990 Winery Definition Ordinance recognized certain pre-existing wineries and winery uses as well as new wineries. For wineries approved after the effective date of that ordinance, agricultural processing includes tours and tastings by appointment only, retail sales of wine produced by or for the winery partially or totally from Napa County grapes, retail sale of wine-related items, activities for the education and development of consumers and members of the wine trade with respect to wine produced by or at the winery, and limited non-commercial food service. The later activity may include wine/food pairings. All tours and tastings, retail sales, marketing activities, and noncommercial food service must be accessory to the principal use of the facility as an agricultural processing facility. Nothing in this policy shall alter the definition of "agriculture" set forth in Policy AG/LU-2.

Policy AG/LU-15:

The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a "right to farm"), even though established urban uses in the general area may foster complaints against those agricultural practices. The "right to farm" shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2, above. The existence of this "Right to Farm" policy shall be indicated on all parcel maps approved for locations in or adjacent to designated agricultural areas and shall be a required disclosure to buyers of property in Napa County.

Napa County Code:

The County Code includes the following relevant ordinances:

Section 18.08.020 - Accessory use:

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"Accessory use" means any use subordinate to the main use and customarily a part thereof. An accessory use must be clearly incidental, related and subordinate to the main use, reasonably compatible with the

other principal uses in the zoning district and with the intent of the zoning district, and cannot change the character of the main use. Unless provided otherwise in this title, accessory uses may be conducted in the primary structure or in structures other than the primary structure. Where the zoning regulations applicable to a zoning district specifically identify the accessory uses which are permitted in conjunction with a primary use in that zoning district, no other accessory uses in conjunction with the primary use will be permitted in that zoning district. Structures constituting an accessory use that are related to a winery are further limited to the extent provided by Section 18.104.200.

Section 18.08.040 – Agriculture:

“Agriculture” means the raising of crops or livestock and includes the following:

- A. Growing and raising trees, vines, shrubs, berries, vegetables, nursery stock, hay, grain and similar food crops and fiber crops;
- B. Grazing of livestock and feeding incidental thereto;
- C. Animal husbandry, including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits and poultry and egg production, except as provided in subsection (F) of this section;
- D. Sale of agricultural products grown, raised or produced on the premises;
- E. Farm management uses meeting all of the standards in subsections (E)(1) through (E)(6) of this section. Farm management shall mean the operation, maintenance and storage of farm machinery, equipment, vehicles and supplies used exclusively for agricultural cultivation and harvesting where all machinery, equipment, vehicles and supplies are leased or owned and operated by the farm manager whether that manager is an owner, tenant, or agricultural contractor, and regardless of whether properties managed are contiguous or under similar ownership, provided that at least seventy-five percent of the managed acres are within Napa County. Farm management shall not include manufacturing for sale or retail sales of any kind and shall not include businesses devoted to equipment storage, rental or repair rather than farming. Farm management shall not include the operation, maintenance or storage of equipment used for construction of structures, even if those structures are in support of agriculture;
 1. Offices used for farm management shall meet the definition of accessory uses in Section 18.08.020;
 2. Farm management activities established or expanded after June 30, 2006, alone or in combination with any wineries subject to Section 18.104.220 shall not occupy more than fifteen acres or twenty-five percent of the parcel size, whichever is less;
 3. No single farm management building or structure newly constructed or expanded after June 30, 2006 shall exceed five thousand gross square feet. Multiple smaller buildings are permitted as long as they conform to the lot coverage standard in subsection (E)(2) above;
 4. Uncovered storage areas shall be screened from preexisting residences on adjacent parcels and from designated public roads defined in Chapter 18.106. Screening shall generally consist of evergreen landscape buffers;
 5. Farm managers shall possess all applicable local, state and federal permits and licenses;
 6. All exterior lighting, including landscape lighting, for farm management uses shall be shielded and directed downward, located as low to the ground as possible, and the minimum necessary for security, safety, or operations. Additionally, motion detection sensors must be incorporated to the greatest extent practical. No flood-lighting or sodium lighting of buildings is permitted, including architectural highlighting and spotting. Low-level lighting shall be utilized in parking areas as opposed to elevated high-intensity light standards. Prior to issuance of any building permit for construction, two copies of a separate detailed lighting

plan shall accompany building plans showing the location and specifications for all lighting fixtures to be installed on the property shall be submitted for department review and approval.

- F. Agriculture shall not include the raising and keeping of more than twenty-five roosters per acre, up to a maximum of one hundred roosters per legal parcel, except as may be permitted pursuant to Chapter 6.18.

Section 18.08.370 - Marketing of wine:

"Marketing of wine" means any activity of a winery which is conducted at the winery on a prearranged basis for the education and development of customers and potential customers with respect to wine which can be sold at the winery on a retail basis pursuant to Chapters 18.16 and 18.20. Marketing of wine may include cultural and social events directly related to the education and development of customers and potential customers provided such events are clearly incidental, related and subordinate to the primary use of the winery. Marketing of wine may include food service, including food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery.

Business events are similar to cultural and social events, in that they will only be considered as "marketing of wine" if they are directly related to the education and development of customers and potential customers of the winery and are part of a marketing plan approved as part of the winery's use permit. Marketing plans in their totality must remain "clearly incidental, related and subordinate to the primary operation of the winery as a production facility" (subsection (G)(5) of Sections 18.16.030 and subsection (I)(5) of 18.20.030). To be considered directly related to the education and development of customers or potential customers of the winery, business events must be conducted at no charge except to the extent of recovery of variable costs, and any business content unrelated to wine must be limited. Careful consideration shall be given to the intent of the event, the proportion of the business event's non-wine-related content, and the intensity of the overall marketing plan.

Section 18.08.620 - Tours and tastings:

"Tours and tastings" means tours of the winery and/or tastings of wine, where such tours and tastings are limited to persons who have made unsolicited prior appointments for tours or tastings. Tours and tastings may include food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery and is incidental to the tasting of wine. Food service may not involve menu options and meal service such that the winery functions as a café or restaurant.

Section 18.08.640 – Winery:

"Winery" means an agricultural processing facility used for:

- A. The fermenting and processing of grape juice into wine; or
- B. The refermenting of still wine into sparkling wine.

Temporary Event Manual

Temporary event(s) are defined as:

A festival, fair, show, showcase, house or garden design tour, concert, dance, rally, parade, demonstration of competition of creative athletic form to which the public is invited or admitted with or without the payment of an admission charge. They include but are not limited to, music, dance, theatre, speech, athletics, or any other visual, audio, or tactile arts or combination thereof, including incidental retail sales of the products of

such activities, as long as such sales are not advertised off-site.

Interpretative Guidance for 2010 County Code Amendment:

Cultural and social events that are unrelated to (customer) education and development are explicitly not permitted, while cultural and social events that are directly related to (customer) education and development have always been allowed. Business events are similar to cultural and social events, in that they are only permitted as part of "marketing of wine" if they are directly related to the education and development of customers and potential customers of the winery and are part of an approved marketing plan that in its totality is "clearly incidental, related and subordinate to the primary operation of the winery as a production facility."

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.

PROPOSAL X:

At the June 22, 2015, meeting of the APAC, the Committee directed staff to revise Proposal X to include a column to allow for wineries on 10 acres parcels in the AW (Agricultural Watershed) Zone. The revised table is provided in Attachment D of the staff report.

On June 30, Michelle Benvenuto submitted a revised Proposal X, including a column for the existing County requirements. See Attachment E of the staff report.

On July 27, 2015, the Napa County Farm Bureau submitted an alternative to Proposal X. See Attachment F of the staff report.

OPTION F:

The Committee asked that Option F be reprinted, to see if there was any interest in taking up any of the items included therein.

Proposals that do not directly address minimum parcel size, estate grapes, or vineyard loss.

Sub-options:

1. Establish a one-year moratorium on new or amended winery applications.
2. Prohibit new wineries within Municipal Watersheds.
3. Prohibit new custom crush facilities within the AW zone.
4. Establish a fee as part of the use permit to pay for a code enforcement position, dedicated to monitoring and enforcing winery use permit requirements.
5. Create a formula to restrict the permitted number of visitors based on the amount of winery production.
6. Establish a fee as part of the new or amended use permit to support the County workforce proximity housing fund.
7. Require all wineries to comply with existing County regulations.
8. Limit the total number of annual use permits for new and/or amended winery use permits:

- a. Allocate annual permits by parcel size and/or production capacity, encouraging a variety of operations;
 - b. Tie any increase to the number of permits to the increase in grape supply;
 - c. Establish a cap and trade program whereby holders of unutilized permitted capacity may sell their rights to other wineries, upon County approval;
9. All new and amended winery use permits shall be subject to the following:
- a. Require that the winery parcel have sufficient water source(s) on site for all production and winery activities (no trucking of water to augment the needs of winery production or activities shall be permitted). If water becomes insufficient for the permitted production capacity, the winery's permitted capacity shall be reduced to an appropriate level;
 - b. Require that all sewage/processed waste disposal systems be contained entirely within the winery parcel (no "hold and haul" system shall be permitted or expanded);
 - c. Require that grape source(s) be identified and proven to Napa County before any application is deemed to be complete;
 - d. Require wineries to annually report grape source, wine production and visitation counts to Napa County in order to verify compliance;
 - e. Limit maximum coverage of new wineries to 5% of the existing parcel or 5 acres, whichever is less;
 - f. Limit maximum permitted production for new wineries based on the acreage of existing and proposed vineyards;
 - g. Limit actual production based on the number of current and yielding acres of vineyard;
 - i. Limit visitation based on the number of actual gallons produced. Visitation levels should also be based on road access and impacts to adjoining properties;
 - j. Limit marketing events to wineries on at least 20 acres, taking road access and impacts on adjoining properties into account;
 - k. Limit marketing events to 0.1 visitors per gallon of actual production;
 - l. Restrict marketing events in the AW Zone to daylight hours only;
10. Instead of minimum parcel size, estate grapes, or net vineyard loss, adopt performance metrics based on impacts to traffic and public services;
11. Prepare a list of problems and issues that need to be resolved before recommending any new regulations;
12. Amend the County Code to define agriculture as including wineries and other production facilities as conditional uses, except as provided for in Policy AG/LU-16, and that marketing activities and other accessory uses are incidental and subordinate to the main use.

FINAL RECOMMENDATIONS:

This is a brief summary of staff's understanding of the tentative recommendations. The Committee should provide any necessary corrections or clarifications, so that staff can prepare an accurate final report for consideration.

1. Minimum parcel size for new wineries:

Committee did not make a recommendation. The vote to allow wineries on parcels of at least 10 acres in both the AP and AW zones failed 11-6.

2. Minimum percentage of grapes used in the winery to be grown on-site ("estate grapes");

Committee did not make a recommendation. The vote to require a minimum level of estate grapes failed 6-11.

3. Requiring that new or expanded wineries result in no net loss of vineyards:

Committee made a recommendation. The vote to not include a requirement that there be no net loss of vineyards passed 13-4.

4. Requiring that a majority of employees be directly engaged in vineyard or production operations:

The Committee has not specifically taken up this item.

5. Limiting the amount of variance allowed for setbacks on new wineries:

Committee made a recommendation. The vote to support the statement that variances should be the exception and approved only when supported by findings passed 16-0.

6. Requiring that wineries include the number of temporary events in their use permit approval as part of marketing and tasting room visitation:

The Committee has not specifically taken up this item, except as a part of Proposal X.

7. Requiring different development standards for wineries located in the Agricultural Preserve (AP) and Agricultural Watershed (AW) zoning districts:

The Committee has not specifically taken up this item, except as a part of Proposal X.

8. Expanding the Wine Audit and strengthening the code enforcement process:

Committee made a recommendation. The vote to support Proposal Z as written passed 16-0.

9. Ag Definitions:

Committee made a recommendation. The vote to support the definition of agriculture, as revised, passed 12-4.

10. Proposal X:

Committee made a recommendation. The vote to support the format (but not the specific content) of Proposal X passed 16-0.

SUPPORTING DOCUMENTS

A . APAC MInutes for May 15, 2015

B . APAC Minutes for July 27, 2015

C . Use Permit Application Packet

- D . Proposal X - Revised Staff
- E . Proposal X - Michelle Benvenuto
- F . Proposal X - Farm Bureau

Recommendation: Approve

Reviewed By: Melissa Frost