

### APAC Proposal Summary

Topic: Minimum Parcel Size/Net Loss of Vineyards/Estate Grapes

Proposal	Committee Member	Source*	Type**	Comment
A	Stan Boyd	C	I	No change. Market forces will prevail.
B	Charlie Hossom	C	N/A	Analyze like water study
C	John Dunbar	C	III	Use permit cap to limit development by tranche
D	Peter McCrea	C	III	Allow small wineries w/limitations
E	Bob Fiddaman (alt)	C	V	40 Acre minimum with estate grapes
F	Gary Margadant (alt)	C	V	40 Acre minimum with estate grapes
G	David Graves	C	I	No change. Use other measures
H	Harvest Duhig (alt)	C	II	No change. No net loss of vynds
I	Cio Perez	C	V	Numerous restriction on uses
J	Carolyn Czsapleski	P	I	Implement General Plan definitions
K	Bruce Phillips	C	IV	Require no net loss of vineyards
L	Walt and Bernadette Brooks	P	II	Estate fruit rqmnts. Limit marketing to 20+ acres
M	Eve Kahn	C	N/A	Define problems before proceeding
N	Various	P	I	No change to ensure entrepreneural opportunity

\* C - Committe

P - Public

\*\* I. No change (4)

II. No change with additional restrictions (2)

III. Change to 40 acre minimum with exceptions (2)

IV. Change to 40 acre minimun (1)

V. Change to 40 acre minimum with additional conditions (3)

## **PROPOSAL K:**

The Agricultural Protection Advisory Committee (APAC) has been tasked to review Napa County's policies regarding the development and expansion of new wineries, and to advance recommendations that address growing concern with regard to the long term sustainability of continued winery development within Napa County's highly regulated agricultural landscape. With this task in mind, I offer the following analysis and recommendation for consideration by the Committee at its scheduled meeting on Monday May 11, 2015.

This recommendation is limited to the following Permitted Production Capacity topics addressed in APAC's April 27, 2015 Study Session:

1. Minimum parcel size for new wineries
2. No net loss of vineyard for winery development
3. Estate winegrape requirement for new wineries

For shared understanding, I will start with a review of existing County statutes as well as some analysis of permitted wine production capacity in light of the finite plantable acreage in Napa County.

### **Review of Applicable County Statutes**

#### **Findings:**

1. The establishment of Agricultural Preserve (1968) formalized Napa County's commitment to agriculture as the "highest and best use" of the unincorporated areas of Napa County, limited commercial activities in these areas to agriculture and established minimum parcel sizes that prevented subdivision and the potential for development.
2. The Napa County General Plan (2008) affirms the County's overriding focus to "protect agriculture and agricultural, watershed, and open space lands by maintaining 40- and 160-acre minimum parcel sizes, limiting uses allowed in agricultural areas, and designating agriculture as our primary land use." Further, Policy AG-LU2.1, while embracing agricultural production facilities (e.g. wineries) and related marketing activities within the definition of agriculture, states "that wineries and other production facilities remain as conditional uses ...."
3. Section 12418 of the Winery Definition Ordinance (1990) increased the minimum parcel size that qualifies for consideration for a permit to build and operate a winery from one acre to ten acres on individual parcels zoned AP or AW. It is significant to note that, in the "Findings of Fact" Section 5, the Board of Supervisors found that requiring new wineries to meet this larger minimum lot size requirement was not discriminatory. Further the Board found that "the basis for requiring new wineries to have larger minimum parcels is that the increased parcel size for new wineries will reduce densities and thereby lessen local visual, traffic, air, noise, and groundwater impacts and reduce the conversion of viable agricultural land."
4. In 1990, the 20-acre minimum in the Agricultural Preserve (AP) and 40-acre minimum in the Agricultural Watershed (AW) were later increased to 40 acres and 160 acres respectively. The justification for the increase was driven by analysis that supported that these parcel sizes were the minimum necessary for sustainable agricultural use.
5. With the primary consideration of ensuring that any newly permitted winery development within Napa County produce Napa County appellation wines, Section

12419 of the Winery Definition Ordinance (1990) stipulates that “at least seventy five percent of the grapes used to make ... wine...shall be grown in the County of Napa.”

Conclusion:

- Precedence has been set in Napa County for increasing the minimum parcel size required to qualify for a discretionary use permit to build and operate a winery in the interest of affecting balanced land use policy that serves to heighten the integrity of its agricultural protections.

**Permitted Winery Production Capacity v Napa County Winegrape Production**

The following table compares current permitted Napa County winery production capacity against current and forecast winegrape production. Given the number of variables necessary to consider regarding the inclusion of permitted capacity that is exempt from the Winery Definition Ordinance (WDO), this analysis is limited to Post-WDO permitted winery capacity only, recognizing that this represents a minority of permitted winery production capacity within Napa County.

	<b>2013 (Actual)*</b>	<b>2014 (Estim.)</b>	<b>2034 (Proj.)</b>	<b>Variance</b>	<b>%</b>
<b>Total Acreage (Bearing Acres)</b>	43,568	45,335	49,869	4,534	10%
<b>Tons/Acre (Average)</b>	4	4	4	-	0%
<b>Total Winegrape Production</b>	174,847	181,340	199,474	18,134	10%
<b>Total Winegrape Sourcing Capacity (gallons)</b>					
<b>@75% Napa County Content:</b>	<b>13,987,760</b>	<b>14,507,200</b>	<b>15,957,920</b>	<b>1,450,720</b>	<b>10%</b>
<b>Permitted Winery Capacity gallons)**</b>					
	<b>Surplus Production Capacity</b>				
Total:	127,460,952				
<b>Post-WDO (75% Rule Applies):</b>	<b>24,247,697</b>	<b>9,740,497</b>	<b>8,289,777</b>		
WDO-Exempt:	103,213,255				
@70% Permitted Capacity Utilization:					
Total:	89,222,666				
<b>Post-WDO (75% Rule Applies):</b>	<b>16,973,388</b>	<b>2,466,188</b>	<b>1,015,468</b>		
WDO-Exempt:	72,249,279				

\* Source: 2013 Napa County Agricultural Crop Report

\*\* Source: Planning Dept. Presentation to Joint Board of Supervisors and Planning Commission Special Meeting (March 10, 2015)

**Assumptions:**

Gallons / Ton: 60  
 Gallons/Case (9L): 2.378

### Findings:

Assuming an average permitted wine production capacity utilization rate of 70%, and excluding all WDO-exempt permitted facilities (Pre-WDO, Airport Industrial, etc.), and that all Post-WDO facilities produce wines with the required minimum of 75% Napa County winegrapes, this analysis supports the following findings:

1. In 2014 Napa County permitted wine production capacity exceeded Napa County winegrape production by approximately 2.4 million gallons.
2. By 2034, assuming that there is no additional wine production capacity approved and an additional 4,534 (+10%) quality bearing acres brought into winegrape production, Napa County permitted Post-WDO winery production will exceed total winegrape supply by 1.02 million gallons.
3. Post-WDO permitted winery production capacity is approximately 19% of total permitted production capacity in Napa County.

### Conclusion:

- In order to ensure the integrity of Napa County's longstanding agricultural protections, and assure that permitted wine production capacity (both existing and proposed) remains in alignment with the current 75% Post-WDO requirement; Napa County should begin to limit the development of wine production capacity.

Given the significant number of winery eligible-parcels (4,941 (County Staff Report 4.27.2015)) currently eligible for winery development, with no existing policy in place to limit approved capacity beyond percentage coverage, the continued development of wine production capacity using current County statutes does not appear to be sustainable.

The most straightforward approach to limiting wine production capacity development is to increase the minimum parcel size eligible for consideration of a winery use permit. There is precedent for the County taking this action in the interest of furthering the integrity of its agricultural protections as recently as 1990.

The supply of plantable acreage in Napa County is finite, and approaching its limit. Sacrificing producing vineyard land to build additional wine production capacity is no longer warranted. In the long term, an increase in minimum parcel size would engender the necessary balance between producing vineyard acreage and permitted wine production capacity in Napa County.

The market for Napa County winegrapes is now well established, no longer warranting the creation of additional production capacity within the Agricultural Preserve in the interest of establishing a market for Napa County winegrapes, as existed when the WDO was implemented in 1990.

The advent of the virtual winery model and the availability of custom crush capacity in Napa County has mitigated the need for wineries to be constructed in the Agricultural Preserve.

Embracing a 40-acre minimum parcel size for winery development in the Agricultural Preserve will establish consistency between the parcel size considered appropriate to both economic agricultural usage and winery operation, while reducing densities and thereby lessening local visual, traffic, air, noise, and groundwater impacts and reducing the conversion of viable agricultural land.

**Motion**

I move that the Committee recommend to the Board of Supervisors an increase to the minimum parcel size required for consideration of a winery use permit from 10 acres to 40 acres in the Agricultural Preserve. In the interest of maintaining the finite agricultural resources of Napa County, such winery development should result in no net loss of vineyard acreage and comply with all existing county regulations governing the approval of winery use permits in the Agricultural Preserve.

## **PROPOSAL L:**

### **PRINCIPLES & ASSUMPTIONS**

- Guiding Principles:
  - The Ag Preserve and Watershed are protected to serve the highest and best use of the land which is farming
  - Wineries should be placed in the Preserve in order to process, sell and showcase the grapes grown on the winery parcel

### **RATIONALE**

- Placing Wineries in the Ag Preserver has Negative Impacts
  - Displace vineyard and /or local ecosystem required for sustainable grape growing
  - Creates impermeable surfaces that limit water recharge & increase erosion
  - Increase demand for water
  - Create increases in traffic, noise ....

**Therefore**  
Winery projects that are primarily sourcing fruit from non-estate vineyards should be located in industrial areas, municipalities, the airport area and existing custom crush facilities.

### **GUIDELINES**

- Permitted Gallons
  - Distinguish between Max. Permitted Gallons and Current Active Permit
  - Maximum Permitted Gallons should include existing and proposed acres to be planted
    - Not overall parcel size or theoretical maximum acres plantable
  - Active permit should be issued based on current planted and yielding acres
    - Can be increased to the approved upper limit but only when the approved acreage has been planted and is yielding
    - Reduced if permanent acreage is permanently removed
- Permitted Visitation
  - Should be based on Current Active Permit not the Permit Maximum
    - Should be scaled to the gallons produced and NOT the approved upper limit of the winery production
  - Should be appropriate for road access and impact on adjoining properties
  - Wineries self report active acreage/County reviews every three years

### **SUGGESTED GUIDELINES**

- Permitted Gallons
  - Percent of estate fruit
    - Preserve – 33%
    - Watershed – 50%
- Minimum Acreage
  - 10 acre parcel/5 acres planted

- Visitation

- Special Events limited to wineries on parcels larger than 20 acres
  - Special Events evaluated based on Access and local impact
  - Limited to .1 person per year per gallon produced
  - Daylight hours only events in the Ag Watershed

- Winery Type/Business Model

- NO custom crush facilities in the Ag Watershed
  - Winery proposed capacity is consistent with the Gallons permitted (no 100,000 gallon wineries on 20 acre parcels)

**PERMITTED GALLONS AND VISITATION MATRIX**

Parcel acres	Acres planted	Estate tons	Preserve Permit gal.	Watershed Permit gal.	Visit per yr. Pres./water
10	5	25	12,000	8,000	1200/800
20	15	75	35,000	25,000	3500/2500
40	35	175	85,000	55,000	8500/5500
80	70	350	170,000	110,000	17K/10K
120	100	500	240,000	160,000	24K/16K

Example of near maximum permit for 5 representative parcel sizes

\*5 acre minimum planted acreage for a winery on any size parcel

**PROPOSAL M:**

I sent in the following proposal to Melissa Frost on May 6th that was not included in the staff report:

"Before we begin to discuss and deliberate on recommendations I propose we organize a list of issues and/or problems we are trying to solve. This will let us focus on whether our recommendations address the problems that initiated the APAC committee by the BOS. Will our recommendations make things better, worse, or have no impact at all? It will also let us see whether we have addressed all the issues/problems or if some remain for round 2 of APAC."

Not sure if my proposal was not received or if it was not included as it's a procedural proposal not specific to the 3 topics on our agenda. I believe it is important to make sure that we are truly solving/resolving the issues and problems that were the catalyst for the March 10th meeting and formation of APAC.

Many thanks,

Eve

May 10, 2015

Napa County Agricultural Protection Advisory Committee  
c/o Melissa Gray and David Morrison  
1195 Third Street  
Napa, California 94559  
Email: [Melissa.Gray@countyofnapa.org](mailto:Melissa.Gray@countyofnapa.org); [David.Morrison@countyofnapa.org](mailto:David.Morrison@countyofnapa.org)

To the Members of the Agricultural Protection Advisory Committee:

We, the undersigned, are a group of grape growers, winemakers, and agricultural entrepreneurs who live and work in Napa County. We strongly believe in the preservation of the Agricultural Preserve and that agriculture should continue to be the predominant land use for Napa County.

An increase of the minimum parcel size for winery development in Napa Valley threatens to bring an end to the innovative, vibrant, and entrepreneurial rural community that has made Napa what it is today. Further, it would foster a market that would only allow large corporations to develop a new winery, and turn away the artisan farmer-winemakers that our community should welcome.

While we share many of our neighbors' concerns about growth, traffic, and the environment, we believe a blanket rule forbidding winery development on parcels less than 40 acres does not directly address these concerns and would have a significant negative impact on Napa's ability to maintain its position as a world leader in grape growing and winemaking. We, therefore, ask the Committee to reject any proposal that would change the minimum parcel size for winery development from 10 to 40 acres, encourage the Committee look to other policies that have a more direct relationship to the community's concerns, and ask that any adopted proposal include provisions that allow for small wineries to succeed.

**Napa County's historical reliance on agricultural entrepreneurs has made it a premiere grape growing and wine making region.**

Napa has had a rich history of attracting and retaining hard working agriculturalists striving to make world class wine from the grapes they grow. In 1966, Robert Mondavi bought property in Oakville and built his eponymous winery. Over the years, he was able to attract top talent from around the globe, including winemaking pioneers such as Warren Winiarski, Mike Grgich, and Zelma Long. Mondavi's initial parcel size: 11.6 acres. Where would Napa be today if local regulations had effectively forced Mondavi, Winiarski, Grgich, and Long and other future winegrowing leaders to take their talents to Sonoma or other regions?

Napa's ability to attract and retain entrepreneurial grape growers and winemakers was a key concern in the debate that led to the adoption of the Winery Definition Ordinance. In 1989, the county considered adopting a minimum parcel size of 1, 10,

or 40 acres for winery development in the AP. During a special hearing before the Planning Commission, Andy Beckstoffer, on behalf of a joint Vintner-Grower Committee, stated:

“We’re saying that ten acres is an acceptable minimum, and in doing that, we need to remember that much of the image, much of the real quality of the wines that are made here are made by those thinly capitalized new wineries that come here, simply to make a personal wine, a personal statement, and to get the best they can out of our grapes. . . . [S]ome of those people would be disallowed if it went to a 40-acre minimum or a larger acre minimum. So, we have picked a 10-acre minimum to promote those activities, but yet *to preserve the agriculture.*” (emphasis added).

The same holds true today.

**Raising the minimum parcel size will thwart Napa County’s ability to foster a vibrant and innovative rural community.**

Increasing the minimum parcel size will significantly raise the “cost of entry” for new agricultural entrepreneurs wishing to make their mark in Napa. This may force them to seek opportunities in other wine growing regions, meaning that the “best and brightest” in viticulture will no longer make their home in Napa. Moreover, the higher cost of entry means that the proprietors of new wineries in Napa will be corporations or deep-pocketed individuals, many of whom may be absentee owners.

Such a result will not only erode the vibrant rural community that made Napa a premiere wine region, but will also hinder the region’s ability to compete. Already, other wine growing regions are painting themselves as innovative and Napa as stodgy. Take, for example, the following text which appeared in *Sunset Magazine*: “Sonoma vintners constantly push the envelope, while our friends in Napa dwell comfortably inside it.”

In order to preserve the agricultural core of what makes Napa unique, we must create a regulatory environment that attracts and fosters the next wave of winegrowers; continues Napa’s tradition of innovation and exploration; and promotes Napa’s ability to compete on the world stage while continuing to stay true to the goals of the Agricultural Preserve. For all these reasons, we ask the members of the Committee to reject the proposed increase of the minimum parcel size.

Sincerely,

./s/ \_\_\_ Tom Garrett \_\_\_\_\_  
Oakville, CA

./s/ \_\_\_ Sarah Lewis \_\_\_\_\_  
Oakville, CA

./s/ \_\_\_ Ketan Mody \_\_\_\_\_  
Calistoga, CA

./s/ \_\_\_ John Lockwood \_\_\_\_\_  
St. Helena, CA

./s/ \_\_\_ Alex MacDonald \_\_\_\_\_  
Oakville, CA

./s/ \_\_\_ Graeme MacDonald \_\_\_\_\_  
Oakville, CA

./s/ \_\_\_ Jill Matthiasson \_\_\_\_\_  
Napa, CA

./s/ \_\_\_ Steve Matthiasson \_\_\_\_\_  
Napa, CA

./s/ \_\_\_ Tegan Passalacqua \_\_\_\_\_  
Napa, CA

./s/ \_\_\_ Austin Peterson \_\_\_\_\_  
Napa, CA

./s/ \_\_\_ Mario Sculatti \_\_\_\_\_  
St. Helena, CA

./s/ \_\_\_ Jake Stover \_\_\_\_\_  
St. Helena, CA

./s/ \_\_\_ Rory Williams \_\_\_\_\_  
St. Helena, CA

To: Fellow APAC members, County Staff and fellow members of the community  
From: David Graves  
Re: Process

Having reviewed the submitted proposals and comments for today's meeting, and reflecting upon our prior two meetings and the recent events (e.g. the March 10 Board meeting) leading up to the creation of the APAC, I want to make a few observations germane to our enterprise.

To me it is obvious that our group has a very disparate understanding not only of the proper recommendations we might make to the Planning Commission, but of the very nature of what we intend to undertake. We do not even agree on the same set of facts about underlying conditions of issues like traffic, let alone the framework in which we might analyze them, let alone synthesize a recommendation.

Of course we are not the first community to be faced with such a predicament. Almost fifty years ago, coincidentally around the time our Ag Preserve was created, the planning community and the operations research community began to recognize and describe a class of issues they called Wicked Problems.<sup>1</sup>

"Wicked" in this sense does not mean "evil"—it means that these problems are not suitable for conventional linear analysis and solution. In the course of trying to come to grips with the tasks set before us, I have become convinced we are faced with a "Wicked Problem", and in sharing with you the traits of Wicked Problems, I think you will likely agree. (There is a rich literature on the topic, as our contemporary world has no lack of examples.)

There are many related formulations of what makes a problem "Wicked". Here is one that I found that seemed remarkably apt:<sup>2</sup>

- "1. The solution depends on how the problem is framed and vice versa (i.e. that problem definition depends on the solution).
2. Stakeholders have radically different worldviews, and different frames for understanding the problem.
3. The constraints that the problem is subject to and the responses needed to solve it change over time.
4. The problem is never solved definitively."

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<sup>1</sup> Horst Rittel and Melvin Webber, "Dilemmas in a General Theory of Planning," *Policy Sciences* 4, 1973

<sup>2</sup> Jeff Conklin, **Wicked Problems and Social Complexity**, John Wiley and Sons, 2005

Two related observations:<sup>3</sup>

“Wicked problems always occur in a **social context** -- the wickedness of the problem reflects the diversity among the stakeholders in the problem.

Because the group or team's understanding of the wicked problem is evolving, productive movement toward a solution requires powerful mechanisms for getting everyone on the same page. There will be volumes facts, data, studies and reports about a wicked problem, but the shared commitment needed to create durable solution will not live in information or knowledge. Understanding a wicked problem is about collectively making sense of the situation and coming to a common understanding of who wants what”

Those four points and the two paragraphs describe all too well the nature of the issues we are trying to address. We do not share a common understanding even of the nature of the issues we face, and individually we are often relying on conjecture and opinion (rather than data and facts) to support conclusions that we have already reached.. Unless we step back and have the wisdom and humility to understand that we are dealing with a Wicked Problem, we risk a rush to judgment. September will come very quickly, perhaps too quickly for a single set of well-considered recommendations, supported by more than wishful thinking.

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<sup>3</sup> Cognexus Institute

## Proposal C

1. Allow a limited number of winery permits per various parcel sizes.
  - a. Rather than setting a single parcel size minimum (i.e. 10, 20, 40 acres), allow xx number of permits for parcels up to 20 acres, xx number of permits for parcels between 20+ to 40 acres, and xx permits for 40+ acre parcels.
  - b. No size is strictly prohibited and a variation of size of development projects would be encouraged.
2. Limit the number of permits available to purchase for winery development
  - a. Similar to ABC alcohol permits, winery permits could be connected to the parcel if a change of ownership occurs.
  - b. Permits have different categories to fit different parcel sizes or production capacities.
3. New winery development or substantial renovations/increases in production levels result in a monetary assessment that will fund a County workforce proximity housing fund
  - a. Fee similar to CSA4 farm worker housing assessment
4. Assessment formula based on permitted number of visitors allowed on a parcel as well as production capacities.
5. Establish a fee as part of winery production permit to fund enforcement officer position with Napa County Planning Commission dedicated to monitor and enforce regulations.
6. One year moratorium on new winery production facility applications
  - a. Allows impacts of development production permits already approved and under construction
7. Protect non-vineyard ag lands
  - a. Not just about protecting parcels planted to vine, but should include other ag uses