

**POLICY ANALYSIS OF
PLANNING COMMISSION RECOMMENDATIONS**

In this document, staff presents each recommendation from the Planning Commission; provides relevant goals, policies, action items, and language from the General Plan; and includes a brief evaluation regarding whether further action is needed.

1. Recommendation:

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

Policies:

CC-4: Consistent with current regulations regarding road setbacks and fences, the County shall preserve the existing significant natural features by requiring all development to retain the visually open, rural character of the County and by allowing solid sound walls only in unique circumstances and where acceptable noise levels are exceeded.

CC-10: Consistent with the County's Viewshed Protection Program, new developments in hillside areas should be designed to minimize their visibility from the County's scenic roadways and discourage new encroachments on natural ridgelines. The County shall continue implementation of the Viewshed Protection Program and shall apply the protective provisions of the program to all public projects.

Analysis:

The two policies provided above address the issue of maintaining the County's visually open, rural character. Setbacks, lot coverage, and height restrictions are tools that are used to maintain this landscape, as well as to maintain important health, safety, and nuisance buffers. Variances are intended to provide equity for property owners who are adversely affected by unique circumstances, but when allowed they can be detrimental to the County's aesthetic values and neighboring properties. A General Plan policy acknowledging the limited role and intent of variances, as well as the need to balance individual property rights and community impact, is recommended.

2. Recommendation:

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

Policies:

H-6b: In its site development standards for major projects, the County shall promote and encourage design and landscaping to reduce the use of fossil fuels and water and encourage utilization of solar energy and recycled water, through such means as mixed-use guidelines,

drought-resistant vegetation, solar access design, shading standards, modified parking standards when appropriate, and reduced street widths.

Analysis:

There are no policies that address the specific standards included in the draft matrix of Proposal X. However, there are similar references to creating site development standards, as mentioned above. A General Plan policy is recommended to indicate what the standards in Proposal X are intended to achieve. This would ensure that as the standards are being developed, that they remain focused, internally consistent, and supportive of the policy objective. Otherwise, the standards have the potential of becoming a catch-all of disparate narrow topics, without any overall coordination.

3. Recommendation:

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.

Policies:

AG/LU-118: The County is committed to maintaining the quality of life in Napa County through enforcing regulations and codes. The County shall uniformly and fairly enforce codes and regulations, and shall assign high priority to abatement of violations that may constitute potential threats to public health or safety or that may cause significant environmental damage.

Analysis:

Staff believes that the current policy is sufficient to support the recommendation of the Planning Commission with regards to code compliance.

4. Recommendation:

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.

Policies:

AG/LU-60: The existing density of development in the Angwin area and the County's desire to be protective of water quality precludes future subdivision activity based on septic tanks. Also the County shall encourage replacement of existing septic systems that may impact surface or ground water with sewer services or alternative wastewater treatment systems.

CON-50.(d): Maintain minimum lot sizes of not less than 160 acres in Agriculture, Watershed, and Open Space (AWOS) designated areas to reflect desirable densities based on access, slope, productive capabilities for agriculture and forestry, sewage disposal, water supply, wildlife habitat, and other environmental considerations.

Analysis:

There are no goals, policies, or action items that directly address the issue of hold and haul facilities. However, the two policies above indicate that in areas of special concern (Angwin and small parcels within the AWOS zone), it is necessary for the County to set higher wastewater treatment standards. A General Plan policy is recommended to acknowledge the importance of wineries to be sized and designed not to exceed their on-site carrying capacity with regards to waste water, so as to reduce truck traffic, encourage sustainable practices, and minimize the potential for accidental spills.

5. Recommendation:

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.

Policies:

AG/LU-126.5: The County seeks to engage incorporated jurisdictions and other agencies in collaborative planning efforts, particularly efforts aimed at ensuring adequate infrastructure capacity, vibrant city-centers, sufficient housing, and agricultural lands and natural resource protection.

Analysis:

Staff believes that the current policy is sufficient to support the recommendation of APAC to encourage shared reporting methodology between local governments.

6. Recommendation:

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.

Policies:

CC-4: Consistent with current regulations regarding road setbacks and fences, the County shall preserve the existing significant natural features by requiring all development to retain the visually open, rural character of the County and by allowing solid sound walls only in unique circumstances and where acceptable noise levels are exceeded.

Analysis:

The above policy indicates that “the visually open, rural character of the County” is an important consideration in land use development. As such, it can be interpreted that minimizing the development footprint of a winery facility, and expanding that definition to include any residences and other permitted uses, would be consistent with such a goal. An amendment to the above policy is recommended to specify that minimizing the footprint of new development is needed to further protect the aesthetic of the agricultural landscape that defines Napa and to further protect farmland.

7. Recommendation:

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.

Policies:

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.

AG/LU-2.1: Amend County Code to reflect the definition of “agriculture” as set forth within this Plan, assuring that wineries and other production facilities remain as condition 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.

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 non-commercial 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.

Analysis:

Staff believes that the current policy is sufficient to support the recommendation of the Planning Commission to further refine the definition of winery accessory uses, as defined in the General Plan.

8. Recommendation:

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.

Policies:

AG/LU-16: In recognition of their limited impacts, the County will consider affording small wineries a streamlined permitting process. For purposes of this policy, small wineries are those that produce a small quantity of wine using grapes mostly grown on site and host a limited number of small marketing events each year.

AG/LU-16.1: Consider amendments to the zoning ordinance defining “small wineries,” a “small quantity of wine,” “small marketing events,” and “mostly grown on site,” and establishing a streamline permitting process for small wineries which retains the requirement for a use permit when the winery is in proximity to urban areas.

Analysis:

Staff believes that the current policy is sufficient to support the recommendation of the Planning Commission to develop a streamlined small winery use permit approval process.

9. Recommendation:

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.

Policies:

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 non-commercial 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.

Analysis:

As indicated in the above policy, the County has previously limited the scope of new regulations depending on the requirements in effect at the time that the winery was originally approved. For the reference of future members of the public, staff, and decision makers, a General Plan policy is recommended to clearly define how new regulations would be applied.

10. Recommendation:

Strongly encourage elected and appointed of the County, and their staffs, to take the following actions:

- Implement the land use policies identified in the Napa County General Plan update

Policies:

This Implementation Section of the General Plan repeats the Action Items from each of the seven elements and both assigns them a relative priority and indicates who will be responsible for their implementation.

Analysis:

Staff believes that the current text of the General Plan is sufficient to support the recommendation of the Planning Commission to implement policies.

- Enforce all current regulations fairly and consistently.

Policies:

GOAL AG/LU-6: Create a stable and predictable regulatory environment that encourages investment by the private sector and balances the rights of individuals with those of the community and the needs of the environment.

AG/LU-106: The County shall seek to ensure that equal treatment is provided to all persons, communities, and groups within the county in its planning and decision-making processes, regardless of race, age, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, gender, self-identified gender or sexual orientation, or economic status.

AG/LU-107: The County shall provide a clear, consistent, timely, and predictable review process for all proposed projects, ensuring that all applicants are treated fairly, that staff's analysis is objective, and that decision-makers and interested members of the public received information and notice as required by law.

AG/LU-108: With the proviso that no rights are absolute, that we will all best be served by striking a balance between private property rights and all other rights and our other important community values, this General Plan explicitly acknowledges that private ownership provides valuable incentives for the proper care of property and the environment, that preservation of property rights is an important cultural, economic, and community value, that protection of property rights is one of the primary and necessary functions of government at all levels, and that private property rights are therefore deserving of respect and consideration whenever land use decisions are made.

Analysis:

Staff believes that the current policy is sufficient to ensure fair and consistent enforcement of regulations.

- Deny any unrealistic use permit applications and modifications that are depending on the excessive use of variances.

Policies:

There are no goals, policies, or action items that address the denial of unrealistic applications.

Analysis:

Staff has concerns regarding the definition and implementation of the proposed wording. The words “unrealistic” and “excessive” would be challenging to define in a zoning ordinance and/or enforce in a future legal action. However, a General Plan policy acknowledging the limited role and intent of variances, as well as the need to balance individual property rights and impacts to the community, is recommended.

- Consistently follow existing procedures.

Policies:

See discussion above.

Analysis:

Staff believes that the current policy is sufficient to ensure consistent implementation of procedures.

- Discontinue creative efforts to justify projects on non-conforming parcels.

Policies:

AG/LU-46: All existing and legally established nonconforming uses shall be allowed to continue to operate and to use existing buildings and/or facilities provided they are not determined to be a public nuisance or voluntarily abandoned as defined by the zoning ordinance. Legal nonconforming buildings and facilities may be rehabilitated or rearranged, as long as there is no increase in the intensity of use.

Analysis:

The above policy refers to non-conforming uses, not non-conforming parcels. The analogy is relevant in that it supports the principle that non-conforming uses may be modified, so long as they are not intensified. A General Plan policy is recommended to establish a similar principle with regards to new projects on non-conforming parcels, to provide guidance concerning variances. For instance, where there are existing buildings within a setback, they could be included in a winery application, but their use would not be intensified.

- Be consistent in the interpretation, application and enforcement of all use permits.

Policies:

AG/LU-118: The County is committed to maintaining the quality of life in Napa County through enforcing regulations and codes. The County shall uniformly and fairly enforce codes and regulations, and shall assign high priority to abatement of violations that may

constitute potential threats to public health or safety or that may cause significant environmental damage.

Analysis:

Staff believes that the current policy is sufficient to ensure interpretation, application and enforcement of use permits.

- Complete items the County Board of Supervisors and Planning Commission identified at the joint special hearing on March 10, including:
 - County Climate Action Plan

Policies:

CON-73: The County shall monitor the ecological effects of climate change in Napa County over time, including sea level rise, effects on water resources, local microclimates, native vegetation, agriculture, and the economy. Consistent with the principle of adaptive management, the County shall adapt policies and operations to address identified effects as feasible.

CON-75: The County shall work to implement all applicable local, state, and federal air pollution standards, including those related to reductions in GHG emissions.

CON CPSP-2: The County shall conduct a GHG emission inventory analysis of all major emission sources in the County by the end of 2008 in a manner consistent with Assembly Bill 32, and then seek reductions such that emissions are equivalent to year 1990 levels by the year 2020. Development of a reduction plan shall include consideration of a “green building” ordinance and other mechanisms that are shown to be effective at reducing emissions.

Analysis:

Staff believes that the current policy is sufficient to authorize preparation of the Climate Action Plan.

- Circulation Element of the General Plan

Policies:

CIR-41: The County shall review this Circulation Element periodically to ensure that it embraces future technological innovations that improve vehicle emissions, transportation options, and airport operations.

Analysis:

Staff believes that the current policy is sufficient to authorize preparation of the Circulation Element update.

- Summit of County, City, and Town officials to discuss joint efforts to address regional land use and transportation issues.

Policies:

AG/LU-115: The County will seek to work cooperatively with the private and non-profit sectors, municipalities, special districts, and other local, state, and federal agencies to plan for services and facilities such as housing, transportation, economic development, parks and recreation, open space, and other County needs.

Collaborative efforts will be aimed at further the goals and policies contained in this Agricultural Preservation and Land Use Element and other elements of the General Plan.

Analysis:

Staff believes that the current policy is sufficient to encourage a joint summit of city and county officials to discuss regional land use and transportation issues.

11. Recommendation:

Adopt a rule that would not prohibit the net loss of vineyards as a part of new and/or amended winery use permits.

Policies:

CC-5: Recognizing that vineyards are an accepted and attractive visual feature of Napa County, but that visual changes can cause public concern, the County shall require the retention of trees in strategic locations when approving conversion of existing forested land to vineyards in order to retain landscape characteristics of the site when viewed from public roadways and shall require the retention of trees to screen non-agricultural activities and other proposed developments.

Analysis:

There are no goals, policies, or action items that directly address the issue of net loss of vineyards related to winery development. The above policy indicates that vineyards are “an accepted and attractive visual feature,” but also indicates that visual changes can cause public concern. A General Plan policy that reinforces the visual benefits and agricultural importance of vineyards, while also acknowledging that the loss of vineyards may be necessary to further the development of agricultural processing, production, and accessory facilities, or residences, is recommended.

12. Recommendation:

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.

Policies:

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.

Analysis:

This recommendation takes the language found in the Action and pulls it directly into the Policy that the Action supports. As such, it increases the consistency between the Policy and Action. Staff believes that the existing language is sufficient to support the amendment.

13. Recommendation:

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.

Policies:

E-13: The County is committed to monitoring the Napa County economy on an ongoing basis and to adapting its economic development goals and policies to meet changing needs.

Pp. SV 6-7: Monitoring progress during General Plan implementation will be important if we want to achieve the community’s vision, since the policies and actions in the Plan may have to be adjusted from time to time in order to be effective. As a result, the Plan embraces the concept of “adaptive management”, whereby monitoring data is collected and used to determine which policies and practices are effective which policies and practices should be adjusted or abandoned. This continual process of measurement and adjustment is critical to the long-term success of this Plan.

Analysis:

Staff believes that the existing General Plan policy and language is sufficient to support the recommendation.

14. Recommendation:

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 amount of wine crushed within Napa County, amount of grapes imported into Napa, and amount of grapes exported out of the County;
- c. Total production, tasting room visitation, marketing visitation, and variances permitted by the County;
- d. Gross and net loss of vineyards and farmland;
- e. Average and median visitation numbers for groups of wineries based on production levels;
- f. Number of temporary event permits issued, and number of visitors allowed.

Policies:

See discussion above.

Analysis:

Staff believes that the existing General Plan policy and language is sufficient to support the recommendation.