

**Presentation to the Board of Supervisors  
by Ted W. Hall, Chair  
Agricultural Protection Advisory Committee  
December 8, 2015**

Good Morning.

Thank you, Supervisors, and interested members of the public, for this opportunity to speak to you.

I am here on behalf of the Agricultural Protection Advisory Committee that was appointed by the Board Supervisors, which is now infamously known by its acronym, APAC. I served as its Chair.

I am here with the Vice Chair of the committee, John Dunbar, who is the mayor of Yountville. As you know, APAC was directed by the Board of Supervisors to make recommendations to the Planning Commission, which, in turn, was directed to make recommendations to the Board of Supervisors.

But, before we get into the recommendations, I would like to offer a little context for today's discussion.

You will recall that on March 10th the Board of Supervisors and the Planning Commission held a joint special hearing to discuss and provide direction regarding concerns about the cumulative impacts of new development on the County.

Over 400 people attended the hearing.

As I think we all know, the concerns revolved largely around water, traffic, and the jobs/housing imbalance. These were the big topics. Traffic was probably the key irritant. However, there were also concerns expressed about the perceived rapid expansion of the wine industry and the intensification of use in the Ag Preserve.

From that meeting, four actions were taken by the Board of Supervisors:

1. Direct staff to return with a draft resolution and guidelines to establish an ad hoc advisory committee to review the Winery Definition Ordinance and Conservation Regulations;
2. Form a Board of Supervisors ad hoc committee to plan a forum with the cities to discuss joint efforts to address regional land use issues;
3. Direct staff to revise the Circulation Element of the General Plan, including preparation of a draft traffic mitigation fee;
4. Direct staff to complete the Climate Action Plan.

So, as Item One of the response to the joint hearing, the Board of Supervisors created the Agricultural Protection Advisory Committee (APAC) on March 24th.

Twelve representatives were appointed, two each from the six arenas of Agriculture, Business, Community, Environment, Municipalities and Wineries. Five at-large members were also appointed directly by the Board. Thus, total membership of the committee was seventeen (17). Further, APAC was required to reach a super majority to make any recommendations.

To be sure, this organizational format was not an easy one.

Our 17-member committee was tasked with a mandate to develop recommendations regarding some specific questions, for example:

- What should be the minimum parcel size for new wineries
- Should we establish a minimum percentage of the grapes used in a winery to be grown on-site ("estate grapes")
- Should there be a requirement that new or expanded wineries result in no net loss of vineyards; and so on.

One of the areas of frustration – especially early in the committee’s process – was that APAC was not addressing the “higher level” issues of water, traffic, and housing imbalance (the so-called “real issues”). In fact, many – including committee members – called for us to define “the problem” before we took any action.

But, the mandate from the Board of Supervisors was clear. Our charter was to focus on the preservation of agriculture and the implementation of the Agricultural Preserve and the related Winery Definition Ordinance (WDO).

So, to be very clear, we are not here today to discuss water, traffic or the jobs/housing imbalance directly.

We are here today to talk about land use and the patterns of land use in the Agricultural Preserve. These questions are not insignificant. Consider for a moment - in your mind’s eye - the landscape and the pattern of use across the Napa Valley. For most of us, it is a beautiful scene – one well worth preserving in its current form.

So, we are here to discuss issues, policies, and specific recommendations that will shape that landscape going forward. Importantly, we are not going to try to alter – or unwind – the pattern of land use that has already evolved, but we are here to address the future pattern of land use in the Ag Preserve.

With this mandate, APAC held nine meetings and conducted public discussion totaling more than 30 hours.

Perhaps not surprising to you, much of the public comment was directed at the past actions of the Planning Commission. In the early days I felt like I was chairing meetings of a kind of “truth and reconciliation committee” regarding the Planning Commission.

Many differing views were expressed, but several important themes clearly emerged as expressed by the public; painting a clearly unfavorable picture of public perception of the Planning Commission:

- The Planning Commission has been primarily focused on individual projects, one at a time, without consideration for the precedent of its previous decisions, the cumulative impacts of its decisions, nor the resulting pattern of land use
  - The culture of “every project is unique” is deeply imbedded and jealously guarded as a prerogative of the Commission
  - Variances are granted frequently with varying levels of analytic support for the findings, with a bias to finding a path to approval
  - Use permits conditions (for example, visitation, production, hours of operation) are granted unevenly, seemingly conveying advantage to some wineries over others without a clear rationale
  - Approvals of “after the fact” major modifications to use permits has created the perception that “asking for forgiveness” is a viable strategy for winery development
  - Few overall policy statements have been created to guide the Commission and the Commission has not sought policy guidance nor clarification from the Board of Supervisors
  - No consistent policy can be discerned from the cumulative body of “case law” as reflected in the decisions of the Planning Commission
  - Lack of consistency raises significant uncertainty for applicants and, as a result, the cost of making a application to the Commission
- Compliance with existing use permits is uneven and there is no broad-based systematic process to enable or encourage compliance; furthermore, the level of compliance is not transparent
- An intensification of use is occurring in the Ag Preserve, partially as a result of many wineries undertaking direct marketing to consumers, but also as a result of an expansion of activities which may not be directly related to agriculture
  - Permissible and non-permissible activities in the Ag Preserve are not well understood and are subject to wide interpretation (for example, extent of food service, range of retail products, site rentals, role of temporary events)

- The change in the preamble to the WDO in 2010 created confusion regarding the definitions of permissible activities and the changes to the preamble language have been largely viewed as loosening restrictions (although there were no changes to specific provisions defining permissible activities)
- The use permit process is expensive, time-consuming and a significant obstacle to potential small winery entrepreneurs and the process has the unintended consequence of causing applicants to seek large, high-impact projects.

Significantly, after this initial period of public venting, APAC solicited written proposals from its own membership – and from the public – for policies and measures that addressed areas of concern. This solicitation of written proposals was a very significant part of our process as it moved us from listening to concerns – often expressed with high emotion – to the consideration of specific proposals. In the course of its work the committee addressed each of these proposals, although it did not take action on all of them.

As we now turn to the APAC recommendations (You might want to follow along in a copy of the report.), the report is organized by the degree of consensus reached by the committee. The committee made twelve (12) affirmative recommendations by super majority and one (1) negative recommendation by super majority vote.

However, if you look more closely, the recommendations can be grouped into four categories, which largely correspond to the comments we heard during the public hearings.

- I. Establish a consistent set of guidelines and processes for use permits
  - Limit the use of variances (#1)
  - Adopt a structured framework for consideration of use permit conditions (#2)
  - Implement a process for small winery use permit approval (#8)
  - Apply guidelines and new measures only to new winery use permit applications after January 1, 2016 (#9)
  - Do not adopt a guideline regarding no net loss of vineyards (#1, Not Recommended)
- II. Ensure consistent and transparent compliance
  - Employ a specific definition of agriculture (#3)
  - Establish a self-certification process (#4)
- III. Adopt measures that limit the intensification of use in the Ag preserve
  - Limit aggregate development footprint (#5)
  - Alter the calculation of area assigned to accessory uses (#6)
  - Do not permit hold and haul (#7)

IV. Recommend that the Board of Supervisors take other actions

- Complete actions from March 10<sup>th</sup> (#10)
- Engage other jurisdictions (#10 & #11)

John and I are prepared to answer your questions today about the specific recommendations contained in the report as well as to discuss those items on which the committee did not reach agreement.

However, before we do so, we want to caution you about looking at each of the recommendations as a stand-alone item.

As you go forward, we are concerned that you might engage in a process that attempts to redo or reexamine the work of APAC on a disaggregated, issue-by-issue basis. We are particularly concerned that you lack the time and the benefit of the balanced perspective that was an essential part of the design of APAC.

Please remember that we cast a wide net in soliciting proposals and that a supermajority was a very high hurdle for a diverse, representative group to achieve for a recommendation. We worry that you will be distracted by attempts to amend the individual recommendations by issue advocates – including some APAC members - who were not able to persuade a super majority of the committee as to their merit. Given the design and inclusive, deliberative nature of the APAC process, making changes now will be done at the public's peril.

So, we are pleased to present to you today these four groups of APAC recommendations and we urge their adoption in their original form.

My colleague, John Dunbar, would now like to elaborate on a few of the specific recommendations and to provide some additional context for your consideration.