



Agenda Date: 5/26/2015

Agenda Placement: 6A

A Tradition of Stewardship  
A Commitment to Service

## 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:** Recommendations on Minium Parcel Size, Vineyard Loss, Estate Grape Production, and Other Proposed Ordinance Changes

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### **RECOMMENDATION**

This meeting is being conducted by the Agricultural Protection Advisory Committee and County staff to allow for input, discussion, and action regarding proposals for amending the County Zoning Code. The focus of this meeting concerns four topics: (1) the minimum parcel size for establishing new wineries; (2) the net loss of vineyards associated with winery development and/or expansion; (3) the role of estate grapes in winery production; and (4) other amendments related to the first three topics.

### **EXECUTIVE SUMMARY**

#### **Proposed Actions:**

That the Agricultural Protection Advisory Committee:

1. Receive the staff presentation and ask any clarifying questions;
2. Accept public testimony regarding the proposed options;
3. Discuss and take action on the draft options included in the staff report as well as those received during the meeting.

**Discussion:**

This meeting is being conducted by the Agricultural Protection Advisory Committee and County staff to allow for input, discussion, and action regarding proposals for amending the County Zoning Code. The focus of this meeting concerns four topics: (1) the minimum parcel size for establishing new wineries; (2) the net loss of vineyards associated with winery development and/or expansion; (3) the role of estate grapes in winery production; and (4) other amendments related to the first three topics.

**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**

**SUPPLY AND PRODUCTION TABLE:**

The Committee directed staff to review and where appropriate revise the table submitted regarding total County supply and production. The table as originally submitted is provided below:

	2013 (Actual) *	2014 (Estim.)	2034 (Proj.)	Variance	%
<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>

Permitted Winery Capacity gallons)**	Surplus Production Capacity		
	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		

Staff made several changes to the table, as follows:

- ) The producing acreage for 2014 was updated from the Ag Commissioner's report.
- ) The estimated wine grape yield in 2014 was recalculated, based on the updated acreage.
- ) Total Gallons was revised for both 2103 and 2014, based on the standard of 160 gallons per ton of grapes, instead of 60.
- ) Permitted Wine Capacity was expanded to include several subcategories (e.g., cities, Airport Industrial Area Specific Plan (AIASP), pending applications, etc.). The numbers were also revised based on the most recent update to the County Winery Database.
- ) The permitted production utilization rate was reduced from 70% to 40%, based on data for the past two years.
- ) The projected year forward was revised to 2030, to coincide with the General Plan horizon timeline. The Preferred Scenario in the General Plan Environmental Impact Report looked at a potential increase of 10,000 to 12,500 new acres of vineyards during this time period. Staff used the lower projection of 10,000 acres, as the addition of new vineyard acres since 2005 (the General Plan baseline year) has not been meeting the estimated rate of growth.
- ) For production, the Preferred Scenario in the General Plan EIR estimated that 225 new wineries would be added during this time, half of which would have a production level of less than 50,000 gallons. For purposes of this exercise, staff assumed that all 225 wineries would have an average of 50,000 gallons production.
- ) To be conservative, staff assumed that all 225 wineries would be fully subject to the WDO and the 75% rule (e.g., no new wineries would be located in the AIASP).

	2013 (Actual)	2014 (Actual)	2030 (Projected)
Total Acreage (Bearing Acres)	43,568	43,591	51,910
Total Wine Grape Yield	174,272	174,364	207,640

(assume 4 tons/acre)			
Total Gallons (assume 160 gallons/ton)	27,883,520	27,898,240	33,222,400
Total Wine Grape Sourcing Capacity @75% Napa County Content (total gallons x 1.333)	36,464,537	37,197,560	44,296,423
Permitted Winery Capacity gallons)			
Total:	126,799,292	126,799,292	138,049,292
Cities:	10,293,530	10,293,530	
AIASP:	47,912,500	47,912,500	
Pending:	1,373,340	1,373,340	
WDO-Exempt:	35,060,015	35,060,015	35,060,015
Post-WDO (75% Rule Applies):	13,038,048	13,038,048	
Expansion of pre-WDO (75% Rule Applies)	19,121,599	19,121,599	
Total Subject to the 75% Rule	25,472,537	25,472,537	36,722,537
Gallons Required to Comply with 75% Rule	19,104,403	19,104,403	27,541,903
@40% Permitted Capacity Utilization:	50,719,717	50,719,717	55,219,717
@40% Production Post-WDO (75% Rule Applies):	7,641,761	7,641,761	14,689,015
@40% Production WDO-Exempt:	43,077,956	43,077,956	40,530,702

This table makes a number of assumptions that can significantly affect the outcome. It assumes that the utilization of permitted production capacity is the same in wineries that are subject to the 75% rule, as those wineries that are exempt from it. The table does not assume that and grapes or juice from Napa are exported out of the valley. As the General Plan EIR only looked at new wineries, it does not include an estimate of increased gallons subject to the 75% rule associated with the expansion of pre-WDO wineries. Nor does it assume any growth in winery production in the AIASP.

As noted previously on several occasions, only 20% of all permitted production is required to comply with the 75% rule. If all wineries subject to the 75% rule utilized 100% of their permitted production, it would require about 19 million gallons of Napa sourced wine. The 19 million gallons equals about 68.5% of total County wine grape production. Even assuming the levels of new vineyards and wineries projected in the 2008 General Plan, Napa would need about 27.5 million gallons of the total 33 million gallon yield to comply with the 75% rule.

### **PROPOSALS:**

At the meeting of May 11, 2015, the Committee directed staff to consolidate the previously submitted proposals into 3 to 5 broad categories, for use in developing motions for consideration at the May 26, 2015 meeting. After working through more than a dozen draft proposals, staff believes that there are six options for the Committee to consider at this time:

- ) A – Retain the existing 10-acre minimum parcel size or all new wineries
- ) B - Increase the minimum parcel size for new wineries to 40 acres in both the AP and AW zones
- ) C - Establish a small winery use permit for new facilities located on parcels of 10 to 40 acres
- ) D - Require a minimum amount of estate grapes for all new and/or amended winery use permits
- ) E - Require that new and/or amended winery use permits result in no net loss to vineyards

- ) F - Proposals that do not directly address minimum parcel size, estate grapes, or vineyard loss

With most of these options, there are various sub-options and alternatives. The Committee may choose to consider any and all items as described in this report, modify any of the items listed, or may choose to entertain additional options at their discretion. The Committee may also choose to consider Option F at a future meeting, once recommendations regarding the tasks assigned to the Committee have been made.

As a reminder, any recommendation being forwarded to the Planning Commission for their consideration must have support of a super-majority of those Committee members present. For the full Committee of 17 members, a minimum of 12 votes is needed to move an item forward.

Finally, please note that these and future recommendations will be considered again at the end of this process as a part of the final report of the Committee to the Planning Commission.

### **Option A:**

Retain the existing 10-acre minimum parcel size for all new wineries.

#### Pros:

- ) *Maintains a lower threshold for entry for wine makers who can bring innovation, diversity, and competition into the market.*
- ) *Does not reduce the value of existing private investments, current assessments, or potential property tax revenues.*
- ) *Allows for a greater range of visitor experiences.*

#### Cons:

- ) *Allows hobbyists and economically infeasible operations into the market which may rely more on marketing to survive rather than wine quality.*
- ) *Allows a potential 2,350 new wineries, the majority of which would occur in the AW zone, where there is generally less water, greater fire hazard, and fewer roads.*
- ) *Smaller parcels tend to require more variances and have the potential to result in more frequent conflicts with adjoining rural residential uses due to closer proximity.*

### **Option B:**

Increase the minimum parcel size for new wineries to 40 acres in both the AP and AW zones.

#### Sub-options:

1. Increase the minimum parcel size to 40 acres only in the AW zone;
2. Increase the minimum parcel size to 40 acres only in the AP zone;
3. Increase the minimum parcel size to 40 acres only in the AP zone with the following requirements:
  - a. Require that 90% of the winery parcel shall be used for grape production;
  - b. Require that 50% of the fruit processed be sourced from the winery parcel;
  - c. Require that 100% of the fruit processed be "estate" grown, using the TTB definition for "estate bottled wines;"
  - d. Limit events/marketing allowed on-site.
  - e. Limit visitations and hours for visitation.
4. Increase the minimum parcel size to 400 acres in AW zone

Pros:

- ) *Reduces the number of potential winery sites by nearly half, from 4,941 to 2,593.*
- ) *Potentially reduces conflicts with neighboring residences, since winery facilities can be located in the interior of the larger parcel. Also reduces the likelihood of variances.*
- ) *Increases the potential for estate sourced grapes to be used in production.*

Cons:

- ) *Increases the entry costs for the development of new wineries. Increased establishment costs could lead to less innovation, as owners and investors pursue low-risk ventures in order to recover their investments.*
- ) *Of the 2,593 parcels larger than 40 acres in the agricultural zones, 7% are located in the AP zone, while 93% are located in the AW zone. This will continue to concentrate new wineries into the Carneros and hillside areas of the county.*
- ) *Larger parcel sizes will allow larger winery and hospitality facilities, as a percentage of the total parcel area. For a 10-acre facility, up to 1-acre can be devoted to hospitality, compared to a 40-acre parcel where 4 acres can be used for tastings and events.*

**Option C:**

Establish a small winery use permit for new facilities located on parcels of 10 to 40 acres.

Sub-options:

1. Limit tasting visitation to an absolute maximum of 10 visitors per week;
2. Prohibit marketing events and/or food events of any kind;
3. Require that a percentage of grapes used at the winery are grown on the property or on other property under the same ownership:
  - a. Require at least 75% estate grapes; or
  - b. Require 100% estate grapes;
4. Prohibit the use of off-site water for growing grapes or making wine;
5. Prohibit any net reduction in vineyard acreage;
6. Limit production to 15,000 gallons (allow production to be increased by 1,500 gallons for each additional acre over 10 in the parcel where the winery is located);
7. Limit all non-permeable development (including agricultural outbuildings, paved areas, and residences) to 40% of the entire parcel area. The remaining 60% must be retained as agriculture and/or open space.
8. Amend the County Code to define "small wineries," a "small quantity of wine," "small marketing events," and "mostly grown on site;"
9. Require a full use permit when small wineries are located in proximity to urban areas;
10. Require that at least 50% of the parcel must be planted in vineyards; and/or
11. Prohibit any future changes to these restrictions for any reason.

Pros:

- ) *Provides an alternative for winemakers who need production facilities, but may not require high levels of visitation and/or marketing as a part of their business plan.*
- ) *If wineries are no longer allowed on small agricultural parcels, their highest and best economic use of the property will likely be new homes. Napa could see a significant increase in rural residences, which would be governed under the 1% cap.*
- ) *Could create a range of production and visitation levels, depending on the size of the parcel, which would provide flexibility for future wineries, as opposed to a one-size-fits-all approach.*

Cons:

- ) *The range of restrictions imposed may make small wineries economically infeasible, which could create a permit that is rarely used and/or result in more hobby vintners who are able to offset losses from other income sources.*
- ) *Requiring high levels of estate grapes or on-site planting would significantly limit the number of available sites. A 50% planting requirement would eliminate 20% of the 10-40 acre parcels in the AP and 85% of the parcels in the AW, assuming current conditions. A 90% planting requirement would eliminate 70% of the AP parcels and 98% of the AW parcels.*
- ) *For approved 15,000 gallon wineries (17 total), the average weekly tasting visitation is 28; the median is 8. The proposal for a maximum of 10 tasting visitors per week lies between the two measures.*

**Option D:**

Require a minimum amount of estate grapes for all new and/or amended winery use permits.

Sub-options:

1. A percentage based on the amount of vineyards owned;
2. Require new wineries in the AP Zone to include a minimum of 33 percent estate fruit. Require new wineries in the AW Zone to include a minimum of 50 percent estate fruit;
3. Limit production to only those grapes owned by the applicant.

Pros:

- ) *Promotes a connection between the winery and the land, supporting the ideal that the wine is reflective of the unique soils and climate of Napa, rather than clever branding or advertising.*
- ) *Ensures that the establishment of a new winery is accompanied by existing or new vineyards, reducing the demand on the existing limited wine grape supply.*
- ) *Encourages wineries that do not want to include vineyards in their operations to locate within urban downtowns or the airport industrial area.*

Cons:

- ) *Prevents winemakers from blending different varietals, or the same varietal from different terroirs, thereby restricting the creativity and diversity of wine products.*
- ) *Shifts production away from custom crush facilities and will encourage the development of more wineries.*
- ) *Limits winery production for a vintner if they decide to replant all or part of an existing vineyard, or if there is blight, fire, drought, flood, or other disaster. In either case, they would be unable to offset their losses with non-estate fruit or juice.*

**Option E:**

Require that new and/or amended winery use permits result in no net loss to vineyards.

Sub-options:

1. Require that all new development (including outbuildings and homes) result in no net loss to vineyards;
2. Require that all new discretionary development (e.g., use permits) result in no net loss to any farmland (whether vineyard or not);
3. Require that all new development result in no net loss to any farmland.
4. Require that historically planted areas be considered as existing vineyard acreage, and not considered

as "replacement/new" areas;

5. Prohibit the removal of vines for purposes of marketing or hospitality areas, enclosed or open.

Pros:

- ) *The amount of land available for grape growing is finite and needs to be strictly protected.*
- ) *Could encourage the efficient use of land and reduced footprint in the construction of new homes, yards, driveways, and other accessory uses if broadly applied.*
- ) *Reinforces the ideal that agriculture is the highest and best use of land in agricultural zoned areas.*

Cons:

- ) *Applicants may not always have land available in which to offset potential vineyard losses.*
- ) *Would deter or prevent projects like the Napa River Rutherford Reach Restoration project, or future road improvements, where the removal of existing vineyards may be necessary.*
- ) *Could make landowners reluctant to plant new vineyards in order to provide flexibility to accommodate future facility expansion.*

**Option F:**

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.

Pros:

- ) *The Board allowed the Committee to make recommendations in addition to those specifically charged.*
- ) *Several proposals (housing fees, visitation matrix, additional code enforcement staff, increased reporting, required compliance, amend County Code, etc.) are already implemented or are in process.*

Cons:

- ) *Some proposals (e.g., moratorium, listing problems and issues) would not provide recommendations within the timeframe adopted by the Board of Supervisors.*
- ) *Some proposals, such as cap and trade, would significantly increase the complexity of processing new permit applications.*

**SUPPORTING DOCUMENTS**

- A . Draft APAC Minutes April 27, 2015
- B . Public Comment

Recommendation: Approve  
Reviewed By: LASHUN FULLER