



Agenda Date: 8/24/2015

Agenda Placement: 6A

A Tradition of Stewardship
A Commitment to Service

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 Acton Regarding Final Recommendations to the Planning Commission

RECOMMENDATION

This meeting is being conducted by the Agricultural Protection Advisory Committee and County staff to allow for input, discussion, and action regarding Final Recommendations to the Planning Commission.

EXECUTIVE SUMMARY

That the Agricultural Protection Advisory Committee:

1. Receive the staff presentation and ask any clarifying questions;
2. Accept public testimony; and
3. Take action to adopt Final Recommendations to the Planning Commission.

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**STAFF RESEARCH:****Comparison of Maximum Lot Coverage Requirements:**

Summarized below are the applicable zoning requirements for permitted and conditionally permitted uses with the AW and AP zoning districts. See attached for the complete analysis.

Winery Coverage Requirements:

-) Minimum gross lot size of 10 acres
-) 25% of the parcel or 15 acres, whichever is less (Coverage is "...aggregate paved or impervious ground surface areas of the production facility, storage areas (except caves), offices, laboratories, kitchens, tasting rooms, paved areas and access roads to public or private roads or rights-of-way and aboveground sewage treatment systems." County Code Section 18.104.220
-) 600 ft. setback from arterial roads, and 300 ft. setback all other public and private roads (variances not withstanding) *
-) 20 ft. building (structure only) setback from property lines
-) Stream setback ranging from 35 ft. to 150 ft. from top of bank of defined stream reaches

Single Family Residence Requirements:

-) No minimum lot area – parcel must be a legal lot of record
-) No lot coverage requirement
-) Road setback, for structures only, ranging from 28 ft. from private roads to 70 ft. from arterial roads
-) Building setback of 20 ft. from all property lines, and road setbacks **
-) Well 100 ft. from both on site and off site septic systems
-) Septic system outside of road setback
-) 100% reserve area designated on site for potential replacement septic system in the event initial septic system fails

Secondary Dwelling Unit Requirements:

-) Second units only permitted within AW zoning district
-) Limited to 1,200 square feet in living area (interior) ***
-) Must be free standing structure unless alternative design is approved by Planning Director which contains features to preclude expansion (such as an open breezeway separating a garage from the second unit)

-) Cannot be located greater than 500 ft. from primary unit
-) No lot coverage requirement
-) Road setback, for structures only, ranging from 28 ft. from private roads to 70 ft. from arterial roads
-) Building setback of 20 ft. from all property lines, and road setbacks **
-) Well 100 ft. from both on site and off site septic systems
-) Septic system outside of road setback
-) 100% reserve area designated on site for potential replacement septic system in the event initial septic system fails

Guest Cottage Requirements:

-) Permitted within both AP and AW zoning district, but is not a legal dwelling unit and cannot contain a kitchen
-) Limited to 1,000 square feet in living area (interior)
-) Must be free standing structure unless alternative design is approved by Planning Director which contains features to preclude expansion
-) No lot coverage requirement
-) Road setback, for structures only, ranging from 28 ft. from private roads to 70 ft. from arterial roads
-) Building setback of 20 ft. from all property lines, and road setbacks **

Accessory Building (to Residential or Agricultural Use) Requirements:

-) No lot coverage requirement
-) Road setback, for structures only, ranging from 28 ft. from private roads to 70 ft. from arterial roads
-) Building setback of 20 ft. from all property lines, and road setbacks **

Agricultural Building (Barn / Farm Management) Requirements:

-) No lot coverage requirement
-) Road setback, for structures only, ranging from 28 ft. from private roads to 70 ft. from arterial roads
-) Building setback of 20 ft. from all property lines, and road setbacks **
-) Road setback – ranging from 28 ft. to 70 ft.*
-) Farm Management uses with structures over 5,000 sq. ft. subject to Commission level use permit

Churches / Public Facilities / Utility Use Requirements:

-) No lot coverage requirement
-) Road setback, for structures only, ranging from 28 ft. from private roads to 70 ft. from arterial roads
-) Building setback of 20 ft. from all property lines, and road setbacks **
-) Well 100 ft. from both on site and off site septic systems
-) Septic system outside of road setback
-) 100% reserve area designated on site for potential replacement septic system in the event initial septic system fails

Farm Labor Dwelling Requirements:

-) No lot coverage requirement
-) 12 units permitted per legal lot (pursuant to State Law)
-) Primary occupant of each unit must be bona fide farm laborer as define by State
-) Road setback, for structures only, ranging from 28 ft. from private roads to 70 ft. from arterial roads
-) Building setback of 20 ft. from all property lines, and road setbacks **
-) Well 100 ft. from both on site and off site septic systems
-) Septic system outside of road setback

-) 100% reserve area designated on site for potential replacement septic system in the event initial septic system fails
- * Winery and road setbacks are measures from the centerline of the road. When a road bisects a parcel, the setback applies to both sides of the road. If a road does not directly abut the property containing the subject structure, the winery and/or road setback does not apply on that property.
- ** 6 ft. to 9 ft. side yard setbacks apply on legal lots of 2 acres or less
- *** Standard for detached second units. Second units attached to main dwelling are limited to 50% the size of the main dwelling or 1,200 sq. ft., whichever is less.

Comparison of California County Winery Regulations

Sonoma County has prepared a table comparing various zoning code requirements for wineries from counties around the state. Staff provides this solely for the Committee's reference. See attached.

NEW PROPOSALS

Over the past week, staff has received various new proposals, with requests to forward them to the Committee for its consideration.

Proposal AA – Peter McCrea:

On August 8th, Peter McCrea submitted the following recommendations on behalf of the Napa Valley Vintners for the Committee's consideration. The proposal is summarized here, please see attached.

We strongly recommend that the elected and appointed officials of the County and their staffs implement the following actions:

1. Implement the land use policies identified in the Napa County General Plan update.
2. Enforce all current regulations fairly and consistently.
3. Deny any unrealistic use permit applications and modifications that are depending on the excessive use of variances.
4. Consistently follow existing procedures.
5. Discontinue creative efforts to justify projects on non-conforming parcels; and
6. Be consistent in the interpretation, application and enforcement of all use permits.

APAC encourages and supports the County to complete each of the other items it identified at the special March 10 meeting:

1. Complete the County Climate Action Plan.

2. Revise the Circulation Element of the General Plan.
3. Hold a summit of County and city officials to discuss joint efforts to address regional land use and transportation issues.

Proposal BB – Anonymous:

On August 17th, an anonymous contributor provided an alternative to Proposal X. The proposal is summarized here, please see attached.

1. All winery Use Permits would be considered by the Planning Commission.
2. The maximum hospitality area would include outdoor visitation, lawn areas, compacted crushed aggregate, and Type 2 and Type 3 caves. It would also assume no net loss of planted vineyards.
3. The proposed guidelines would apply prospectively to any modification of a Use Permit, only if the applicant is not in breach of any provisions of the existing Use Permit. If there is a breach of the existing Use Permit, the guidelines shall be applied retroactively to the existing Use Permit.

PROPOSAL CC – John Dunbar:

On August 18th, John Dunbar submitted the following recommendations for the Committee's consideration. The proposal is summarized here, please see attached.

1. No more than a cumulative total of 25% of parcels up to 40 acres in the AP or AW may be developed for winery, residential, and/or other permitted uses.
 - a. Cumulative total development area for parcels larger than 40 acres would be capped at a fixed eight (8) acres maximum.
2. New wineries that qualify under Napa Green or LEED certification are eligible for up to 10% higher limits on use permits relating to wine production capacity, total land development area or accessory use activity.
3. Full-service kitchens would not be permitted as part of any new daily winery operations.
 - a. Limited non-commercial food service would be restricted to having a direct, educational and subordinate relationship to wine tasting (i.e. a single presentation of small bites).
 - b. Use of full-service kitchens would be restricted to special or temporary events as allowed by use permit (i.e. third party catering of special or temporary events).
4. Special and temporary events requiring ticket purchase and open to non-industry or non-wine club member guests are limited to no more than four (4) events per year.
5. Winery tasting hours of operation would be limited to no later than 4:30 p.m. for all new wineries in the AP and AW.
6. Hold and haul of waste products would be prohibited on all parcels with new wineries.
7. Parcels 20 acres or smaller would fall under a "Small Winery Definition" with the following conditions:

- a. Maximum production capacity of 30,000 gallons.
 - b. Maximum hospitality area of 25% of winery development area.
 - c. On-site food preparation is prohibited.
 - d. Sale of retail products is prohibited.
 - e. All other new restriction levels would apply to special and temporary events, wine tasting hours of operation, and waste removal.
8. New permit restrictions would take effect for all winery development permits submitted on or after January 1, 2016

PROPOSAL DD – Harvest Duhig:

On August 18, 2015, Harvest Duhig submitted the following revision to Proposal X, which integrates and summarizes the Committee's discussions to date. The proposal is summarized here, please see attached.

1. A column is added indicating the status of current County regulations.
2. A column is added describing the County's small winery exemption.
3. A column is added detailing the votes of the APAC.
4. Several rows have been added to include all issues discussed by APAC to date.

PROPOSAL EE – Eve Kahn:

On August 5, 2015, Eve Kahn submitted the following proposed revision to the consolidated definition of agriculture for the Committee's consideration:

On August 20th, Ms. Kahn rescinded her proposal to revise the definition of agriculture. Instead, she requests that the Committee consider the following:

1. Amend County Code section 12421 to include outdoor visitation and type 3 caves in the calculations to determine accessory use.

For reference, Section 18.104.200 of the County Code reads as follows:

18.104.200 - Accessory structures related to wineries in AP/AW districts—Maximum square footage.

The maximum square footage of structures used for accessory uses that are related to a winery shall not exceed forty percent of the area of the production facility. "Production facility" for the purpose of this section means crushing, fermenting, bottling, bulk and bottle storage, shipping, receiving, laboratory, equipment storage and maintenance facilities, but shall not include wastewater treatment or disposal areas which cannot be used for agricultural purposes.

FINAL REPORT TO THE PLANNING COMMISSION:

Summary of Final Recommendations:

1. Do not adopt a rule that prohibits the net loss of vineyards as a part of new and/or amended winery use permits.
2. Variances are not a principal tool for achieving compliance with land use regulations, and approved only when there is specific evidence supporting all of the necessary findings.
3. Support the format of Proposal X (see attached).
4. Use the working definition of agriculture (see attached).
5. Implement the use permit compliance strategy described in Proposal Z (see attached).

Unresolved Issues:

1. Should the minimum parcel size for new wineries be increased?
2. Should wineries be required to include a minimum percentage of estate grapes?
3. Should a majority of winery employees be engaged in vineyard and/or production operations?
4. Should temporary events be included as a part of winery use permits?
5. Should there be different development standards for AP and AW zoning?
6. Should there be a small winery exemption?
7. Should there be new guidelines for evaluating winery use permit applications?
8. Should the maximum area of winery development include residences and other uses?

Issues:**A. Increase the minimum parcel size for new wineries:****Arguments in Favor:**

-) Increasing the minimum parcel size for new wineries reduces the number of potential winery sites countywide by nearly half, from 4,941 sites to 2,593. The County already has adequate production capacity. Maintaining agriculture does not require the extent of expanded wineries that could be realized if all potential sites were developed. Decreasing the number of permits will address public concerns about traffic and water. The easiest and cleanest way to limit the number of new wineries is to restrict parcel size.
-) Increased parcel sizes potentially reduce conflicts with neighboring residences, since winery facilities can be located in the interior of the larger property. They also reduce the need for variances. Small parcels don't have sufficient room for water, parking, waste water disposal, or setbacks.
-) Larger parcels increase the potential for estate sourced grapes to be used in production. We need to protect agricultural land, not agricultural businesses.
-) Increasing parcel size will not prevent people with smaller parcels from making or selling wine, as custom crush facilities are available and many alternative sites exist in non-ag zoned areas. Ten acres isn't enough for a production facility, but new businesses can still have virtual wineries.
-) Regulating parcel size may not be the best metric, but it's the one at hand. There is an elegant consistency to making the minimum parcel size to create a new parcel consistent with the minimum parcel size needed for a new winery. There is no other way to effectively address our problems right now. While other tools are available, the County isn't making use of them.

-) Permitting wineries to locate on smaller parcels allows hobbyists and economically infeasible operations into the market. These operations may rely more on marketing to survive rather than wine quality or wine volume. New or expanded small wineries are looking for same intensity of use as facilities on larger parcels. Small parcels can't sustain a winery and we're seeing too many such proposals lately. Winery business model has changed, so County has to change.

Arguments Against:

-) Increasing the minimum parcel size raises the entry cost for the development of new wineries. In turn, increased establishment costs could lead to less innovation, as owners and investors pursue low-risk ventures in order to recover their investments. Small parcels are stakeholders tied to the land, not absentee landowners looking for development opportunities. Allowing for wineries on small parcels preserves the economic value of those properties which allow locally-based families to stay in community. Small wineries allow for a greater range of visitor experiences.
-) Over 93% of vacant parcels larger than 40 acres are located in the AW zone. Since the winery development area is regulated as a percentage of the underlying parcel, increasing the minimum parcel size will continue to concentrate new wineries into the Carneros and hillside areas of the county.
-) Increasing parcel size will result in unintended consequences. Limiting new wineries to larger parcels will allow for more large-scale wineries, which will have a greater potential to impact the community. Similarly, if wineries aren't allowed on parcels of less than 40 acres, those smaller properties will be more likely to convert to rural residential uses. It's possible that the increase in residential development may lead to more AirBnB and/or rental uses, which in turn will require additional regulation.
-) This is a zoning problem not a parcel size problem. It's not the size of the parcel that is the issue for new winery development; it's where the winery is proposed to be located. We should be focusing our efforts on the site-specific impacts of future development, not looking to regulations that only address the symptoms of the problems that the community faces. It may be easy to adopt a larger parcel size, but that won't substantively change traffic, water, housing, or other challenges. There are broader concerns involved, including hospitality businesses within the cities, hotel growth, low-wage jobs and expensive housing, and commuting. These are all issues that are external to the discussion of wineries. This committee should focus on the larger issue of visitation, not on the narrower focus of future winery development.
-) Not all 10 acre parcels are the same. Water isn't a limiting factor for small parcels where there is recycled water. Owners of multiple parcels will simply shift new winery development to the larger parcels within their holdings and pursue even larger production levels.
-) The government shouldn't dictate economic viability. The County should regulate the use and development of small parcels, but shouldn't prohibit their ability to support a winery. Smaller parcel sizes maintain a lower threshold for entry for wine makers who can bring innovation, diversity, and competition into the market. The value of existing private investments, current assessments, or potential property tax revenues should not be reduced.

Actions Taken:

The Committee did not make a recommendation on May 26th.

However, the Committee's recommendation for the format of Proposal X (see No. K below) may be interpreted as implicit support for allowing wineries on 10-acre parcels, as this concept was included in the format of Proposal X.

The vote to continue to retain the existing 10-acre minimum for all new wineries in both the AP and AW zones failed 11-6.

The vote to increase the minimum parcel size for new wineries to at least 40 acres in both the AP and AW zones failed 8-9.

B. Require that a minimum percentage of grapes used in any new or expanded winery be grown on-site ("estate grapes"):**Arguments For:**

-) This requirement could be applied to not just the subject parcel, but to adjoining parcels under common ownership by the winery, to reduce disruption.
-) We should use as little farmland as possible for non-production uses. It's important to ensure that grapes are protected on the site itself.
-) The requirement for estate grape production should apply primarily to AP zoned land, since that is where there is the most concern for protecting vineyards.
-) It 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. Currently, there is no requirement that the production facilities and primary agricultural use of the land be integrated.
-) The establishment of a new winery would be accompanied by existing or new vineyards, reducing the demand on the existing limited wine grape supply. Wineries that do not want to include vineyards in their operations would be encouraged to locate within urban downtowns or the airport industrial area.

Arguments Against:

-) If this provision were to apply to existing permits, it could disrupt operations. If a winery came in for a use permit modification and couldn't meet the estate grape requirement, they could be forced to acquire vineyard property or reduce production.
-) The intent of this requirement is already met by the 75 percent rule.
-) The definition of "estate" is not clearly established and enforcement could be cumbersome if construed to mean grapes from a parcel or nearby group of parcels. In the marketplace, "estate"

means grapes owned by, or under multi-year contract to, a winery. There is no requirement that estate grapes come from the winery facility parcel or contiguous parcels.

-) Requiring minimum estate grape production will have the opposite of the intended economic effect. It would disrupt the market for grape growers by (1) limiting the amount of grapes that could be purchased by wineries under this rule; and (2) limiting production by the amount of grapes available on the winery's parcel, so that grape sales will be further reduced by production reductions.
-) It creates an incentive for every grape grower to build a winery, in order to ensure a market for the grapes they grow. This could result in small wineries being located on every available parcel.
-) Requiring every winery to produce a portion of its production from on-site grapes would prevent winemakers from blending different varieties, or the same variety from different terroirs, thereby restricting the creativity and diversity of wine products. It would also limit winery production for a vintner if they decide to replant all or part of an existing vineyard, as they would not be able to replace estate grapes with outside fruit or juice. Finally, it leaves winery owners vulnerable; if there is blight, fire, drought, flood, or other disaster, they would be unable to offset their losses with non-estate fruit or juice.

Actions Taken:

The Committee did not make a recommendation on May 26th.

The vote to require a minimum amount of estate grapes for all new and/or amended winery use permits failed 6-11.

C. Require that new or expanded wineries result in no net loss of vineyards:

Arguments For:

-) The committee's task is to protect agriculture. Once we build on farmland, we will never get it back. The amount of land available for grape growing is finite and needs to be strictly protected. This provision should be expanded to apply to all agriculture, including cropland and grazing land. It reinforces the ideal that agriculture is the highest and best use of land in agricultural zoned areas.
-) Habitat restoration doesn't preclude future agriculture, but development does.
-) Preventing the loss of vineyards could encourage the efficient use of land and reduced footprints in the construction of new homes, yards, driveways, and other accessory uses if appropriately applied.

Arguments Against:

-) There doesn't seem to be a big problem. We've lost very small amounts of vineyard land to development historically
-) This is a crude instrument for achieving the intent. If the issue is intensification of use, then other

policy options are more effective. It may be better to limit the footprint of commercial wineries.

-) This creates a disincentive, in that any land that may be considered for a future residence or winery will not be planted during the interim. As this would apply to the parcel(s) affected by the use permit, it may unnecessarily encumber other parcels where there is no structural development associated with the winery.
-) Some parcels may be better used for crops other than grapes. This provision could prevent people from diversifying the agricultural economy. It protects vineyards at the expense of other agricultural lands. Similarly, it would deter or prevent projects like the Napa River Rutherford Reach Restoration project, the Vine Trail, or future road improvements, where the removal of existing vineyards may be necessary.
-) Applicants may not always have land available in which to offset potential vineyard losses. When wine demand falls again, it would be overly restrictive and prevent land owners from adapting to market changes.
-) It would disaggregate production from growers, by placing the needs of vineyards above the needs of production. In the past, Napa has treated vineyards and processing as co-equal parts of agriculture.

Actions Taken:

The Committee made a recommendation on May 26th.

The vote to require that new or amended winery use permits result in no net loss of vineyards was defeated 13-4.

D. Require that a majority of employees be directly engaged in vineyard or production operations:

Actions Taken:

The Committee did not specifically take up this item.

E. Limit variances allowed for new wineries:

Arguments For:

-) The County has not always based their decisions for variances on sound findings. The legal obligation to require clear and factual evidence in support of findings needs to be re-emphasized for both applicants and staff.
-) Variances should be strictly limited to remain consistent with the WDO and the General Plan, and the environmental documents associated with those regulations and policies.
-) Specific percentage guidelines for maximum variance for road setbacks should not be applied to variances, as the practice would lead to inconsistent and arbitrary treatment of applicants. It would

be more appropriate to change the road setbacks, rather than set percentages for variances. The use of percentages is a blunt instrument and would only apply to wineries while allowing other structures (residences, barns, etc.) to continue to be placed near roads. Variances should not be abused, however, there are situations where they are justified and need to be evaluated on a case-by-case basis.

-) The issue is not the variances, but the discretion with which they are being applied by the County. Instead of wineries being made to fit the regulations, the regulations have been made to fit the wineries' business plans. The subjectivity that has been relied upon by the County in approving variances has eroded our landscapes and community.

Arguments Against:

-) No arguments were offered in opposition to the motion.

Actions Taken:

The Committee made a recommendation on July 27th.

The vote to support the statement that variances are not a principal tool for achieving compliance with land use regulations, and approved only when there is specific evidence supporting all of the necessary findings; passed 16-0.

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

Actions Taken:

The Committee did not specifically take up this item. However, the Committee's recommendation for the format of Proposal X (see No. K below) may be interpreted as implicit support for the inclusion of temporary events in the winery use permit as this concept was included in Proposal X.

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

Actions Taken:

The Committee did not specifically take up this item. However, the Committee's recommendation for the format of Proposal X (see No. K below) may be interpreted as implicit support for differing development standards in the AP and AW zones as this concept was integrated into Proposal X.

H. Create a small winery exemption:

Arguments For:

-) The proposed exemption provides an overall conceptual approach without getting into any specifics. The details can be discussed and debated later. The Committee has recommended that wineries be allowed on 10-acre parcels. Now we should talk about what types of wineries to allow on such

parcels.

-) County has allowed a small winery exemption in the past. The adopted General Plan directs staff to prepare a new small winery exemption, which has not yet been implemented. This action will implement existing County policy.

Arguments Against:

-) The small winery exemption needs to be considered within the context of allowing wineries in 10-acre parcels. Committee members cannot commit to the idea of a small winery exemption in concept without understanding the scope and intensity that would be allowed.
-) The small winery exemption should be included as a part of Option F, with the other activity specific considerations. It can't be considered separately from the discussion of the range of activities and intensities being considered for various parcels sizes and zoning.
-) The types of activities described in the proposed exemption are too narrowly defined; they need to be expanded.

Actions Taken:

The Committee did not make a recommendation on May 26th.

The vote to establish a small winery exemption for new wineries on parcels of between 10 and 40 acres failed 11-6.

I. Strengthen the Use Permit compliance process:

Arguments For:

-) Proposal Z commits every winery to attest that they are complying with each condition of the use permit.
-) Allowing wineries to continue to violate permit requirements while pursuing permit modifications to come into compliance creates an unfair business advantage, allows operators to continue to impact health and safety and/or the environment, and establishes a CEQA baseline that reduces the need for mitigation of potential environmental impacts.
-) The code enforcement program is largely supported through the general fund. Penalties and fines have helped to offset the cost of the program in the past, but would not likely cover the cost of code enforcement to meet its new expanded mandate. A fee to cover the cost of the broader compliance program would reduce the impact to the taxpayers in paying for additional policing of the wine industry.
-) Food and wine pairings are already addressed through the use permit conditions and the self-certification process.

Arguments Against:

-) All aspects of the winery operation should be included in the reporting, not just the production. In particular, wineries should be required to report on visitation and major marketing events. Marketing events should be noticed in advance to surrounding landowners.
-) A transition period should be included to allow wineries to assess the requirements of the program and how they may need to adapt their operations.
-) The code enforcement program should eventually be expanded to all County use permits, not just those associated with wineries.
-) The wine industry urged the Board of Supervisors to enforce food and wine pairing requirements. However, this proposal would not provide the public with this information.

Actions Taken:

The Committee made a recommendation on July 27th.

The vote to support Proposal Z as written passed 16-0.

An amended motion to include enforcement of the cost of food and wine pairings failed 5-11.

J. Use a consistent and comprehensive definition of agriculture:**Arguments For:**

-) The definition reaffirms the County's existing policy and regulatory foundations, to ensure that any recommendations are consistent with the current framework.
-) Education of the wine experience is enhanced when it's accompanied by food, or music, or art. People expect more sophistication to wine tasting when they come to Napa. We shouldn't punish the wine industry for being creative when it comes to presenting their product.
-) Temporary events should not be included in the definition, as they are a separate part of the law, related to freedom of assembly and expression, as opposed to events that are only associated with commercial activities.
-) Rather than refer to some uses as "accessory," which causes confusion with accessory uses as utilized in the County Zoning Ordinance, such uses should be referred to as "compatible," which is the language used in Winery Definition Ordinance.

Arguments Against:

-) Over the years, wineries have emphasized marketing and hospitality activities, at the expense of their agricultural tradition. This refocus has been at the expense of the general public, with increased traffic, water usage, and loss of open space. There currently is no sensitivity to the cumulative impacts of the wine industry on Napa valley. The definition needs to reflect the need to balance the needs of businesses with the needs of community.

-) Marketing and hospitality activities should be accessory to the winery operation. Food service should not be included as a part of the primary definition of agriculture. The definition should be clarified to indicate that the right-to-farm ordinance does not protect land owners with regards to winery marketing and hospitality activities.
-) Permitted uses should not be characterized as accessory uses. The Committee should be working effectively off of the language in the General Plan and County Code. If the language we are using is confusing, then we need to amend the General Plan and Code to prevent our recommendations from becoming flawed.

Actions Taken:

The Committee made a recommendation on June 22nd.

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

A substitute motion to redefine marketing activities and food service from the definition of agriculture to accessory uses failed 7-9.

K. Create guidelines for evaluating winery use permits:

Arguments For:

-) Each winery is site specific and needs to be individually considered. The guidelines are designed to consider various site-specific criteria and to allow for Commission discretion and flexibility. The focus should be on the intensity of use, such as visitation and marketing events, rather than incidental uses such as kitchens.
-) All items are inter-related and should be addressed comprehensively, with the expectation that individual cells within the matrix will be considered at a later time.
-) Without a consistent framework for considering winery proposals, applicants cannot make reasonable business decisions and the public cannot anticipate where and what intensity of wineries may be located in their neighborhood.
-) Existing businesses shouldn't be punished under these guidelines, but existing residents shouldn't be punished by not having these protections.
-) The proposed guidelines are a big step forward, but they need to be refined. The AP and AW zones should be treated differently. It is important to keep the distinction between the valley floor and hillsides, with regards to impacts on neighbors, traffic safety, water availability, and number of potential winery sites. We need to specifically include a small winery exemption. A column should be included to allow wineries on 10-acre parcels in the AP zone. Visitation without production should be allowed, to assist winemakers who cannot afford to develop permanent facilities.
-) The Committee is not bound by law or policy. We should step out of the box and provide the necessary direction to form future County actions. Instead we are muddling in the minutiae of

legalities. The Committee has not talked about taking away or diminishing existing permit rights. The guidelines are not meant to be punitive, they are meant to regulate future development. We need to move beyond narrowly defined interests and show leadership to address the broader concerns that are of benefit to the community.

-) The proposed guidelines are an organizing tool intended to provide clarity. There are issues with the details, but this Committee may not be the best vehicle for addressing them.
-) Temporary events should be included to allow wineries greater range of services, while ensuring that the total impacts of the winery are accounted for in the Use Permit.

Arguments Against:

-) It is critical that the Committee clarify whether the proposed guidelines will apply only to new wineries or whether it will also be used to evaluate future modifications of existing winery use permits. Existing wineries could be subject to the guidelines and forced to give up existing rights in order to comply with the new restrictions. Many of the existing and largest wineries were built on small parcels that would not comply with setbacks and other guidelines, which could their due process and property rights.
-) If these guidelines are adopted, an Environmental Impact Report (EIR) should be prepared to determine their potential impact, just as there was in 1990 with the adoption of the Winery Definition Ordinance. The Committee should review the EIR mitigations approved in 1990. They were never implemented, but instead were to be applied to individual projects.
-) The Planning Commission is already looking at a visitation matrix, as well as other policies. These guidelines are redundant to that effort.
-) The proposed guidelines represent a ceiling which would be strictly enforced. It would not allow for individual variations in operations and would hamstring the Commission and Board's discretion in decision-making. Each project should be judged on its own merits, and not subjected to a one-size-fits-all approach.
-) Several of the issues listed in the guidelines are operational in nature and do not fall within the purview of agricultural protection. Many of the guidelines appear arbitrary.
-) The current limits included in the proposed guidelines are too restrictive. They will significantly limit the entry of new and small wineries. The County should not discourage economic development. This will require the County to compensate landowners for the devaluation associated with these new regulations. These guidelines will result in a taking that will have to be paid for by the public.
-) Napa competes globally. We need to connect with individual consumers, which is critical. Wineries are dependent upon direct to consumer marketing and these guidelines would severely restrict the ability of wineries to survive. This proposal is not based on environmental impacts, and does not take any economic impacts into consideration.
-) If temporary events are made part of the Use Permit, then they would become permanent and could not be individually denied. Temporary events already have limits and restrictions, they don't need

additional regulations. By including temporary events in the winery regulations, we may inadvertently affect the ability of other non-winery users to hold such events.

Actions Taken:

The Committee made a recommendation on June 22nd.

The vote to support the format (but not the specific content) of Proposal X, with the inclusion of a column for 10-acre wineries in the AW zone, passed 16-0.

The Committee did not make a recommendation on August 10th.

The vote to adopt the contents of Proposal X as guidelines or benchmarks to be used for evaluating new or modified winery use permits failed 6-10.

The vote to adopt Proposal X as guidelines or benchmarks for evaluating only new winery use permits failed 8-8.

L. Establish a maximum area of development that includes both residences and wineries:

Arguments For:

-) The goal of this Committee is to protect agricultural land. While the number and scale of wineries is a concern to cumulative vineyard loss, it is not the only factor. Increasingly, private homes are being built in the rural areas that are getting larger, with more expansive and intensive amenities. Stricter regulation of home sites is needed to ensure that farmland is protected to the greatest extent. The biggest threat to the valley isn't wineries; it is the proliferation of mansions
-) Currently, a parcel may be covered up to 65%. The County Code allows wineries to develop up to 25% of a parcel, while a residence may cover up to 40%. These requirements are not cumulative. Napa could lose over half of land available for agriculture if this formula is used to its fullest extent.
-) Winery owners may choose to not construct a residence. But if they do, the total impact of the development footprint should be considered.

Arguments Against:

-) If homes and accessory residential uses are included in the maximum development area, it would reduce the area available to wineries for their development.
-) There are other types of uses that could contribute to the maximum development footprint of an agricultural parcel. This requirement should not be limited only to housing and wineries.
-) Winery development areas do not currently include lawn areas and other ancillary features, which should be captured in the maximum footprint.
-) Residential development is separate from winery development. If there is interest in regulating the activity, it should be considered on its own.

Actions Taken:

The Committee did not make a recommendation on August 10th.

The vote to adopt an ordinance that would set a maximum area of development for wineries that included any on-site residences failed 8-8.

SUPPORTING DOCUMENTS

- A . August 10, 2015 Minutes
- B . Attachment A - Lot Coverage Memo
- C . Attachment B - Winery Regulations Comparison
- D . Attachment C - Proposal AA
- E . Attachment D - Proposal BB
- F . Attachment D - Proposal CC
- G . Attachment E - Proposal DD
- H . Attachment F - Proposal EE
- I . Attachment G - Final Recommendations (Proposal X, Ag Definition, Proposal Z)

Recommendation: Approve

Reviewed By: Melissa Frost