



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 3/21/2017  
Agenda Placement: 9B  
Set Time: 10:00 AM PUBLIC HEARING  
Estimated Report Time: 1 Hour

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

---

**TO:** Board of Supervisors  
**FROM:** David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** David Morrison, Director, Planning, Building & Environmental Servi - (707) 253-4805  
**SUBJECT:** Agricultural Definition Ordinance

---

### **RECOMMENDATION**

First reading and intention to adopt an ordinance amending Sections 18.08.040, 18.16.030, 18.20.030, 18.64.030, and 18.104.220 of Title 18 (Zoning) of the Napa County Code regarding the definition of agriculture.

**ENVIRONMENTAL DETERMINATION:** The proposed amendment is consistent with the 2008 General Plan as adopted by the Napa County Board of Supervisors, and is consistent with the Environmental Impact Report as certified by the Board for the General Plan. Therefore, pursuant to 14 California Code of Regulations (State California Environmental Quality Act (CEQA) Guidelines), Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), no additional environmental review is required and CEQA is not applicable.

### **EXECUTIVE SUMMARY**

The purpose and intent of the proposed ordinance amendments are to conform the definition of agriculture in the County Code with the definition adopted in the 2008 General Plan. Specifically, the ordinance would include three additional categories within the definition of agriculture: (1) production and processing of agricultural products; (2) marketing, sales, and other accessory uses that are related, incidental, and subordinate to the main agricultural use; and (3) farmworker housing. The General Plan recognized that these uses are important to the historic and ongoing relationship between the making and marketing of wine, tourism, and the value of Napa County agriculture; support the County's goal of providing affordable housing; and are essential to preserve the future economic viability of agriculture.

The proposed ordinance would implement Action Item AG/LU-2.1 of the 2008 General Plan, which calls for

amendment of the County Code to reflect the definition of agriculture as set forth in the General Plan. The County-initiated text amendment would implement this Action Item by amending Title 18 of the County Zoning Code.

### **PROCEDURAL REQUIREMENTS**

1. Open the Public Hearing;
2. Staff reports;
3. Public comments;
4. Close the Public Hearing;
5. Clerk reads the Ordinance Title;
6. Motion, second, discussion and vote to waive the balance of the reading of the ordinance; and
7. Motion, second, discussion, and vote on intention to adopt the ordinance.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

The proposed amendment is consistent with the 2008 General Plan as adopted by the Napa County Board of Supervisors, and is consistent with the Environmental Impact Report as certified by the Board for the General Plan. Therefore, pursuant to 14 California Code of Regulations (State California Environmental Quality Act (CEQA) Guidelines), Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), no additional environmental review is required and CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

#### **BACKGROUND**

The adopted 2008 Napa County General Plan includes Policy AG/LU-2, which states:

"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."

This policy is implemented by Agricultural Preservation Action Item AG/LU-2.1, which states:

"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."

To date, the County Code has not yet been amended to incorporate the change directed in Action Item AG/LU-2.1. However, the question of how agriculture should be defined was raised in the meetings of the ad hoc Agricultural Protection Advisory Committee (APAC), during their deliberations in 2015. After some debate, the APAC ultimately recommended to the Planning Commission that they recommend the language provided in Attachment C (on a 12-4 vote). A substitute motion to redefine marketing activities and food service as accessory uses, instead of as part

of the primary definition of agriculture, failed on a 7-9 vote.

The Planning Commission did not adopt the APAC recommendation. Instead, the Commission recommended that the Board of Supervisors should consider changing the General Plan to be consistent with the County Code. Specifically, the Commission recommended a General Plan Amendment be initiated to revise 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. Agricultural also includes farm management businesses and farm worker housing."

Following consideration of the recommendations from both APAC and the Planning Commission, the Board of Supervisors unanimously directed staff on December 8, 2015, as follows:

"Take no action with regards to the definition of Agriculture, re-confirming the existing definition as provided in Policy AG/LU-2 of the currently adopted General Plan. Complete General Plan Action Item AG/LU-2.1 that would amend the County Code to make it consistent with Policy AG/LU-2, to: (1) ensure that wineries and other production facilities remain as conditional uses except as provided for in Policy AG/LU-16; and (2) that marketing and other accessory uses remain incidental and subordinate to the main use."

## **ISSUES**

### **Farm Bureau:**

On February 27, 2017, a letter was received by staff from Ellison Folk, of the law firm Shute, Mihaly, and Weinberger, representing the Napa County Farm Bureau (see Attachment D). The letter expresses the following concerns expressed by the Farm Bureau regarding the proposed draft ordinance:

- 1 The County Code already reflects the intent of the General Plan with regards to the definition of agriculture. The inclusion of production, marketing, sales, and other accessory uses would create new inconsistencies within the County Code (particularly the Right-to-Farm Ordinance) and the General Plan.
- 1 Including permitted activities that are subordinate and incidental to farming erodes the County's mission to support agriculture.
- 1 If the County does choose to amend the definition of agriculture in the County Code, the Farm Bureau recommends the definition used in the State right-to-farm legislation.

Staff respectfully disagrees with the Farm Bureau's stated position. The proposed ordinance carries out the intent of the General Plan. It is not clear how implementing a General Plan Action Item would conflict with the General Plan. If the Board of Supervisors were to choose not to adopt the proposed ordinance, or similar language, staff would recommend a General Plan Amendment to remove Action Item AG/LU-2.1.

Staff also does not agree that the draft language would create inconsistencies within the County Code, including the right-to-farm ordinance (Chapter 2.94 of the Code). The definition of agriculture under Chapter 2.94 does refer to Section 18.08.040, which is the subject of this draft ordinance. As such, if this ordinance is adopted, the definition of agriculture for right-to-farm would also be revised by reference. Staff points out, however, that the definition of agricultural land in the right-to-farm ordinance (Section 2.94.010) includes both Agricultural Preserve (AP) and Agricultural Watershed (AW) zoning, both of which allow for wineries and accessory uses upon approval of a conditional use permit. The definition of agricultural operation in the right-to-farm ordinance includes "...processing of any living organism having value as an agricultural commodity or product, and any commercial practices performed incident to or in conjunction with such operations..." Since the right-to-farm ordinance clearly

acknowledges and references production and incidental commercial uses, staff does not believe that the proposed ordinance amending the definition of agriculture would create a conflict.

Staff also disagrees with the idea that the proposed ordinance amendment would erode the support of agriculture. It recognizes a broader and more dynamic agriculture that encompasses on-site production and directly links the public with farmers, as occurs not only here in Napa, but increasingly throughout California and across the nation. The State right-to-farm law narrowly defines agriculture. Under this definition, production is not specifically described. Retail sales or tasting would not be allowed. Farmworker housing is not mentioned at all. The recommended ordinance supports a robust vision of agriculture, consistent with the demands of a global market and diverse local economy.

### **CURRENT DRAFT ORDINANCE**

In their consideration of the proposed ordinance, the Planning Commission heard from several parties expressing concern with the draft language. In general, their concerns focused on the potential for allowing non-agricultural uses (such as marketing and sales) by right; inconsistency with the General Plan, Measure P, and/or the County Code; and the need for full environmental review under CEQA. The Napa Valley Vintners, the Wine Growers of Napa, and individuals all supported the proposed change. On September 21, 2016, the Planning Commission unanimously recommended approval of the draft ordinance, with some suggested wording to clarify the intent that any new production, marketing, sales, and/or other accessory uses are clearly subject to grant of a conditional use permit.

The proposed ordinance amendment (Attachment A) would implement Action Item AG/LU-2.1 as adopted in the General Plan. It would modify Section 18.08.040 of the County Code to make the following changes to the list of activities that would be included in the definition of agriculture:

- | Add sub-section D, to include the production and processing of agricultural products, including agricultural processing facilities upon grant of a conditional use permit;
- | Add sub-section E, to include marketing, sales, and other accessory uses that are related, incidental, and subordinate to the main agricultural processing use, upon grant of a conditional use permit; and
- | Add sub-section F, to include farmworker housing.

Since the above revisions result in the renumbering of paragraphs within Section 18.08.040, the proposed ordinance also makes several corrected references to the renumbered paragraphs in Sections 18.08.040.G; 18.08.040.H; 18.08.040.I; 18.16.030.L; 18.20.030.P; 18.64.030.E; and 18.104.220.

A red-line version of the draft ordinance, showing the proposed changes, is provided in Attachment B.

### **SUPPORTING DOCUMENTS**

- A . Attachment A - Ag. Definition Ordinance (Clean Version)
- B . Attachment B - Ag. Definition Ordinance (tracked version)
- C . Attachment C - APAC Recommended Ag Definition
- D . Attachment D - February 27, 2017, Letter from the Farm Bureau

CEO Recommendation: Approve

Reviewed By: Helene Franchi