



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 11/4/2015

Agenda Placement: 10A

Continued From: 9/2/15, 9/15/15 & 9/30/15

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: Charlene Gallina for David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: David Morrison, Director, Planning, Building & Environmental Servi - (707) 253-4805

SUBJECT: Presentation and Tentative Action on APAC Final Report

RECOMMENDATION

PRESENTATION & TENTATIVE ACTION ON FINAL AGRICULTURAL PROTECTION ADVISORY COMMITTEE (APAC) RECOMMENDATIONS

CEQA Status: Feasibility and planning studies for possible future actions are Statutorily Exempt under 14 California Code of Regulations 15262 (State CEQA Guidelines) and CEQA is not applicable. These recommendations, in and of themselves, do not have a potential for resulting in a direct, physical change in the environment or a reasonably foreseeable indirect physical change, and therefore are not considered to be a project under 14 California Code of Regulations 15378 (State CEQA Guidelines). Also, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable pursuant to the General Rule contained in the Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3).

Request: The Resolution adopted by the Board of Supervisors that formed the Agricultural Advisory Committee (APAC) directed the Committee to report its final recommendations to the Planning Commission by September 2, 2015. The Board of Supervisors directed the Planning Commission to provide its recommendations by November 10, 2015.

Staff Recommendation: Ask any clarifying questions, take public comment, discuss the Final Report, and take action on APAC recommendations and associated policies.

Staff Contact: David Morrison, Director; (707) 253-4805; david.morrison@countyofnapa.org

CONTINUED DISCUSSION FROM THE SEPTEMBER 16, 2015 REGULAR MEETING, SEPTEMBER 30, 2015 SPECIAL MEETING & OCTOBER 7, 2015 REGULAR MEETING

EXECUTIVE SUMMARY**Proposed Actions:**

That the Planning Commission:

1. Accept a brief presentation from and ask any clarifying questions of staff;
2. Take public comments;
3. Discuss the Final Report; and
4. Take tentative votes regarding APAC recommendations and associated policies.

Discussion:

On March 10, 2015, 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. The hearing was attended by over 400 people. From that meeting, four direction was given to return with a draft resolution and guidelines to establish an Ad Hoc advisory committee to review the Winery Definition Ordinance and Conservation Regulations.

The Agricultural Protection Advisory Committee (APAC) was created by the Board of Supervisors on March 24, 2015. The 17-member committee was tasked with developing recommendations regarding a series of seven specific issues. The APAC completed its tasks on August 24, 2015, and submitted its Final Report to the Planning Commission on September 16, 2015.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Feasibility and planning studies for possible future actions are Statutorily Exempt under 14 California Code of Regulations 15262 (State CEQA Guidelines) and CEQA is not applicable. These recommendations, in and of themselves, do not have a potential for resulting in a direct, physical change in the environment or a reasonably foreseeable indirect physical change, and therefore are not considered to be a project under 14 California Code of Regulations 15378 (State CEQA Guidelines). Also, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable pursuant to the General Rule contained in the Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3).

BACKGROUND AND DISCUSSION**Background**

On March 10, 2015, 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. The hearing was attended by over 400 people. From that meeting, four actions were taken:

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; and
4. Direct staff to complete the Climate Action Plan.

The Agricultural Protection Advisory Committee (APAC) was created by the Board of Supervisors on March 24, 2015. The APAC was made up of 17 representatives from agriculture, wineries, environment, organizations, community associations, cities, and business groups, as well as members chosen from at-large. An additional 12 alternates were selected for each appointee, except for the at-large members.

The committee was tasked with developing recommendations regarding the following questions. Recommendations required support from a supermajority (67%) of the APAC, in order to be forwarded to the Planning Commission.

- | the minimum parcel size for new wineries;
- | the minimum percentage of grapes used in the winery to be grown on-site ("estate grapes");
- | requiring that new or expanded wineries result in no net loss of vineyards;
- | requiring that a majority of employees be directly engaged in vineyard or production operations;
- | limiting the amount of variance allowed for setbacks on new wineries;
- | requiring that wineries include the number of temporary events in their use permit approval as part of marketing and tasting room visitation; and
- | requiring different development standards for wineries located in the Agricultural Preserve (AP) and Agricultural Watershed (AW) zoning districts.

The APAC completed its tasks on August 24, 2015. Staff prepared an initial draft report on September 2, 2015, which was subsequently edited by a subcommittee of the APAC to create the Committee's Final Report to the Planning Commission. The Final Report was presented to the Commission on September 16, 2015.

The Final Report includes a summary of the recommendations made by the Committee; items considered but that did not receive a supermajority vote; and those issues that were not voted upon. The Report also includes an appendix of selected comments that represent the range of input received on each of the issues under consideration.

Final Recommendations

1. 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.
2. Develop guidelines and benchmarks for consideration of future winery use permits based on the format of Proposal X.
3. Use the working definition of agriculture.
4. Implement an annual self-certification reporting process, requiring a report to be submitted by the principal officer of each winery certifying the amount of wine produced, compliance with the 75% rule, as applicable, and compliance with all conditions of use permit approval. All data collected shall remain confidential to the extent

allowed under the law.

5. 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 other permitted uses. The total development area for parcels larger than 40 acres would be capped at a fixed eight (8) acres maximum.
6. 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.
7. 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.
8. 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):
 - | Include less than 5,000 square feet in size excluding caves;
 - | Involve either no cave excavation, or excavation sufficient to create no more than 5,000 additional square feet with all of the excavated cave spoils to be used on site;
 - | Produce 30,000 gallons or less per year;
 - | Generate less than 40 vehicle trips per day and 5 peak hour trips except on those days when marketing events are taking place;
 - | Hold no more than 10 marketing events per year, each with no more than 30 attendees, except for one wine auction event with up to 100 persons in attendance; and
 - | Hold no temporary events.
9. Limit the implementation of the recommended new requirements for winery use permits, including maximum winery development area, small winery use permit approval processes, and hold and haul restrictions to new use permit applications for wineries submitted after January 1, 2016.
10. We strongly recommend that the elected and appointed officials of the County and their staffs implement the following actions:
 - | Implement the land use policies identified in the Napa County General Plan update.
 - | Enforce all current regulations fairly and consistently.
 - | Deny any unrealistic use permit applications and modifications that are depending on the excessive use of variances.
 - | Consistently follow existing procedures.
 - | Discontinue creative efforts to justify projects on non-conforming parcels; and
 - | Be consistent in the interpretation, application and enforcement of all use permits.
 - | Complete items the County Board of Supervisors and Planning Commission identified at the joint special hearing on March 10, including:
 - | Complete the County Climate Action Plan.
 - | Revise the Circulation Element of the General Plan.
 - | Hold a summit of County and city officials to discuss joint efforts to address regional land use and transportation issues.
11. 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 incorporated areas for the purposes of capturing more complete data.

12. Appoint a five-person subcommittee of APAC to review language prior to the final report being presented to the Planning Commission and Board of Supervisors and to confirm accuracy or recommendations.

13. Do not adopt a rule that prohibits the net loss of vineyards as a part of new and/or amended winery use permits.

At their meeting on September 16, 2015, the Commission recommended that the Board of Supervisors support and implement APAC Recommendations 1, 2, 4, 7, 10, and 11.

At their meeting on September 30, 2015, the Commission recommended that the Board of Supervisors support and implement APAC Recommendations 3, 5, 6, 8, and 13, as modified. The Planning Commission continued APAC Recommendation 9, to allow staff additional time to confer with County Counsel.

At their meeting on October 6, 2015, the Commission recommended that the remaining APAC items be passed along to the Board of Supervisors with APAC comments for context and information. These include the following: Items that did not received supermajority support (Items 1, 2, & 4) with exception of Small Winery Use Permit (Item 3) which was previously addressed with APAC recommendation #8; and Items that were not specifically considered or discussed (Items 1 & 3) with exception to Temporary Events (Item 2). Therefore, the Commission continued discussion on Temporary Events to the November 4th Planning Commission regular meeting in response to a request of a public member. The Commission further decided for the November 4th meeting to have a discussion on outstanding items that were not addressed through the work of the APAC. These items included Art as Signage and Outdoor Visitation Areas as it relates to the calculation of the Production to Accessory Ratio (Section 18.104.200, Accessory Structures Related to Wineries in AP/AW Districts - Maximum Square Footage).

Given this direction, items to be discussed at the November 4th meeting are as follows: 1) Temporary Events; 2) Outdoor Visitation Areas; 3) APAC Recommendation #9 - Establishing an effective date for new regulations and its applicability to existing wineries; and 4) A summation of final Planning Commission recommendations to the Board of Supervisors.

It should be noted that Art as Signage will not be discussed at this meeting, but instead discussed at the November 18th regular Commission meeting along with a discussion of the Use Permit Modification Process. This direction was given at the Commission's October 21st regular meeting with a desire to have the full Commission be a part of these discussion items.

Please note that additional time was needed in preparation of staff final assessment of the above mentioned remaining items for Commission discussion. This Supplemental Report will be available by Friday, October 30th.

In preparation of discussion on Temporary Events, the following items have been provided with this report as background information.

Temporary Event Definition: A temporary event is any festival, fair, show, showcase, house or garden design tour, concert, dance, rally, parade, demonstration of competition of creative athletic form to which the public is invited or admitted with or without the payment of an admission charge. Temporary events include, but are not limited to, music, dance, theater, speech, athletics, or any other visual, audio, or tactile arts or combination thereof, including incidental retail sales of the products of such activities, as long as such sales are not advertised off-site. This includes any other gathering or assemblage of individuals for the purpose of observing or engaging in expressive activities within the ambit of the First Amendment of the United States Constitution and Section 2, 3, and 4 of Article

1 of the California Constitution.

A temporary event is held at any place other than a highway (as defined in Section 10.24.010 of the Napa County Code), a permanent building or installation constructed and primarily used for the purpose of conducting public assembly.

Guidelines: Please see Attachment A

Standards: Please see Attachment B

For context and discussion purposes, staff has also attached information regarding Winery Marketing Events as it relates to the Winery Definition Ordinance. (Please see Attachments C & D)

SUPPORTING DOCUMENTS

A . Temporary Event Guidelines

B . Temporary Event Standards

C . Marketing Event Resolution No. 2010-48

D . Winery Definition Ordinance & Temporary Events - 2009

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina