



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 9/2/2015

Agenda Placement: 8A

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 of Preliminary APAC Recommendations

RECOMMENDATION

PRESENTATION OF PRELIMINARY AGRICULTURAL PROTECTION ADVISORY COMMITTEE 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. A subcommittee of the APAC is working with staff to edit the Committee's Final Report to the Planning Commission. Ted Hall, the Chair of the APAC, is unable to attend the September 2 Planning Commission meeting, as he will be out of state. He will present the Final Report to the Commission on September 16, 2015 and will be available at that time to answer any questions about the APAC's work and recommendations.

Staff Recommendation: Ask any clarifying questions, take public comment, and continue the presentation to September 16, 2015.

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

EXECUTIVE SUMMARY**Proposed Actions:**

That the Planning Commission:

1. Accept a brief staff presentation, and ask any clarifying questions;
2. Take public comments;
3. Continue the presentation to September 16, 2015.

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. A subcommittee of the APAC is currently working with staff to edit the Committee's Final Report to the Planning Commission. Ted Hall, the Chair of the APAC, is unable to attend the September 2 Planning Commission meeting, as he will be out of state. He will present the Final Report to the Commission on September 16, 2015 and will be available at that time to answer any questions about the APAC's work and recommendations. The Final Report on September 16, 2015, will include a more complete perspective on the Committee's deliberations, including arguments both for and against recommendations, failed measures, and the votes taken.

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 17-member committee was tasked with developing recommendations regarding the following questions:

- | 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. A subcommittee of the APAC is currently working with staff to edit the Committee's Final Report to the Planning Commission. Ted Hall, the Chair of the APAC, is unable to attend the September 2 Planning Commission meeting, as he will be out of state. He will present the Final Report to the Commission on September 16, 2015 and will be available at that time to answer any questions about the APAC's work and recommendations. The Final Report will include a more complete perspective on the Committee's deliberations, including arguments both for and against recommendations, failed measures, and the votes taken.

The following is a summary of those motions that received support from a supermajority (67%) of the APAC. Please keep in mind that these recommendations are still in draft form and are being reviewed by the subcommittee and Committee for final wording.

(Draft) Final Recommendations

1. Do not prohibit the net loss of vineyards as a part of any new and/or amended winery use permit application.
2. Variances are not a principal tool for achieving compliance with land use regulations, and should be approved only when there is specific evidence supporting all of the necessary findings.

3. Improve the compliance review process for wineries by implementing the following:

- | Reporting must be submitted annually, by all wineries that have use permit approval within the unincorporated area;
- | The principal officer of each winery shall sign a document certifying the amount of wine produced, compliance with the 75% rule, as applicable, and compliance with all conditions of approval;
- | Copies of ATTB and CDFA forms shall be provided to the County to verify the above information;
- | All data collected shall remain confidential to the extent allowed under the law;
- | Enforcement and compliance review fees shall be adopted to support the cost of the expanded compliance review;
- | Subject to applicable law, the County shall prepare a formula for calculating civil penalties associated with violating wineries;
- | A more in-depth compliance review will be held if the winery is exceeding their annual production limit, or is in violation of the 75% rule. In-depth compliance reviews will also be held to investigate complaints received from the public;
- | If it is determined that a violation has occurred, then the winery must immediately comply with the conditions of its use permit. An application to modify the use permit to correct the violation may not be submitted for one year;
- | Staff will provide an annual report to the Planning Commission regarding the number of wineries found to be in violation during the previous year, and a summary of production, crush, and 75% compliance aggregate data.

4. Refer to the following definition of agriculture when considering policies or applications related to wineries:

Agriculture is the raising of crops, trees, and livestock; the production and processing of agricultural products; farm management activities; farm worker housing; and related accessory uses.

- | Agricultural processing includes crushing; wastewater disposal; aging, processing; bottling, storage, and shipping of bulk wine; office and laboratories; retail sales of wine; marketing activities for the education and development of consumers and members of the wine trade regarding wine produced by the winery; and limited non-commercial food service.

Accessory uses must be related, subordinate and incidental to the main use. They must also be reasonably compatible with and cannot change the character of the primary agricultural uses.

- | Permitted Uses that are compatible with agriculture include dwellings and guest cottages; small care homes; minor communications facilities; kennels and veterinary offices; non-commercial energy systems; limited recreational uses; campgrounds and related lodging; sanitary landfills; levee repair and maintenance; and agricultural processing facilities (other than wineries).
- | Uses accessory to a winery include tours and tastings; retail sale of wine-related items; display of art or items of historical, ecological, or viticultural significance; child care centers; and temporary events.

5. Use the following format for to develop guidelines and benchmarks for evaluating applications for new wineries:

	AP			AW			
	10 – 20 Acres	20-40 Acres	40+ Acres	10-20 Acres	20 – 40 Acres	40-80 Acres	80+ Acres
Review Authority							
Production Capacity							
Winery Development Maximum Area							
Maximum Hospitality Area							
Tasting Room Visitors							
Food Service							
Marketing Event Visitors							
Hours of Operation							
Temporary Events							
Retail Products							
Hold and Haul							

6. For parcels up to 40 acres in the AP and AW zones, no more than a cumulative total of 20% of any parcel may be developed for 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.

7. New winery applications that meet the following standards of the small winery exemption in the adopted Napa County CEQA Guidelines should be fast tracked to the Zoning Administrator.

- | Less than 5,000 square feet in size excluding caves;
- | Will 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;
- | Will produce 30,000 gallons or less per year;
- | Will generate less than 40 vehicle trips per day and 5 peak hour trips except on those days when marketing

events are taking place;

- | Will 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
- | Will hold no temporary events.

8. Hold and haul of waste water and related liquid products would be prohibited for wineries on all AP or AW zoned parcels, except in either an emergency or on a temporary basis not to exceed one year from use permit approval

9. The maximum winery development area, small winery exemption, and hold and haul restrictions apply only to applications for new winery use permits submitted after January 1, 2016.

10. Direct staff to recommend modifications to County Code to include outdoor visitation and Type 3 caves in the calculation the accessory use area for new wineries.

11. 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.

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

- | 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.

SUPPORTING DOCUMENTS

None

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina