

8/10/15

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## 2010 WINERY DEFINITION ORDINANCE CHANGES SHOULD HAVE BEEN A **MEASURE P** VOTE

Somebody recently asked why the 2010 Winery Definition Ordinance changes were not a Measure P vote. In 2008 Napa County Citizens voted for Measure P - one of the provisions requires voter approval before agricultural land in the Ag Preserve can be converted to other uses.

In 2010 the WDO was changed to allow intensified food service and marketing events in the Ag Preserve. These changes, along with compliance and enforcement issues, now allow wineries to operate like restaurants and tourism attractions upon Ag Preserve lands that Measure P was passed to protect from such urban uses.

The 2010 WDO changes gave inadequate notice to the general public of possible consequences from the changes. There was no Environmental Impact Report on what is essentially a wholesale re-purposement of our entire county zoning, allowing intensified commercial tourism on our Ag lands, impacting every road and citizen. Why was this not a Measure P vote? Why no EIR?

At three county meetings between February 2 and May 11 2010 when the WDO changes passed, Board Agenda letters stated there would be No Fiscal Impact and no potentially significant environmental impacts, that the resolution "would neither encourage nor discourage additional wineries or additional activities at wineries..."

This has proven untrue as intensified financial gain of increased marketing events and food service most certainly encourages more wineries and activities at wineries, with precisely the commercial tourism element Measure P was meant to protect us from. We now have close to 23,000 events permitted at wineries each year, creating tremendous cumulative impacts.



The 2010 WDO changes compromise our county zoning integrity. Zoning is an insurance of stability for a property owners' investment and quality of life. Citizen stakeholders are investors here too, thousands of properties. And we were left out of the conversation in 2010, left out of the vote.

With lot line adjustments, almost every acre of county Ag and residential land, as well as every citizen stakeholder and property owner, are vulnerable to intensified commercial tourism impacts.

When zoning is compromised, the value of one property can be usurped by impacts created by a neighboring property. Measure P was passed to insure that ALL OUR stakeholders, including the citizens, are included in decisions that impact our Ag Preserve and our own lives and investment in Napa County.

We MUST suspend all approvals related to wine tourism until impacts are analyzed and due process given the citizens. The citizens, not APAC, must have the vote we were entitled to five years ago. Our first commitment must be to the rights of our fellow citizens of the State of California and of the United States, not to any one industry or private concern.

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## Gallina, Charlene

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**From:** Jeff Dodd <jdodd@dpf-law.com>  
**Sent:** Sunday, August 09, 2015 5:53 PM  
**To:** Frost, Melissa; Morrison, David; Gallina, Charlene  
**Subject:** APAC - Comments on Proposal X

Dear Chair Hall,

It is my understanding that APAC will address the Proposal X matrix which provides caps on governing production capacity, winery development area, and visitation. While I believe a matrix limiting production and visitation based on parcel size is a good idea for new wineries, the cap levels set out in Proposal X (and in other similar proposals) are not based on environmental impacts. Further, the proposed cap levels do not consider the economic impacts to an industry that is responsible for 46,000 jobs and has a \$13 billion dollar impact on the County's local economy.

As a starting point, it is important to recognize that the Board of Supervisors has determined that certain new winery projects are exempt from CEQA if visitation and production levels are under a certain cap. (See *Napa County's Local Procedures for Implementing the California Environmental Quality Act*, § 505, Appendix B Page 2 [copied below].) The thresholds provided in the CEQA exemption are significant because the Board has found, as a matter of County policy, that these types of projects do not have a significant impact on the environment. However, Proposal X and similar proposals provide caps that are less—significantly less, in most cases—than the levels set out in the CEQA exemption. If APAC is looking to mitigate environmental impacts through caps on production capacity, winery development area, and visitation, it needs to start with the levels set out in the County's CEQA exemption for small winery applicants as the County has already deemed that these projects have do not have a significant environmental impact.

I believe that County staff had a rationale for selecting the caps in Proposal X. But, without knowing the rationale behind those caps, the numbers appear to be arbitrary. With so much at stake, we need to be very thoughtful about whatever caps the County may put in place and the effect of those caps on the community, neighbors, and the industry.

In July, the Planning Commission considered a framework for winery visitation where a winery's visitation level would be based on gallons of production—that is, a winery could have 126 visitors (including both tasting and marketing events) for every 1,000 gallons of production. This ratio was calculated by averaging visitation levels of current wineries (excluding wineries in the Airport Industrial Area, within cities, or those established prior to the WDO) based on their level of production. While such a proposal may give the County an accurate average or baseline for CEQA purposes, the ratio does not take into account environmental and economic impacts. Any proposal that provides for such caps needs be driven by meaningful data.

As a side note, any proposal addressing visitation that speaks to number of visitors does not address a critical issue that many have complained about: traffic. If we really want to address the issue we need to start thinking in terms of "car trips" as opposed to number of visitors.

I suggest that APAC recommend to the Planning Commission that the County consider a 3<sup>rd</sup> party study to address the potential levels of production, winery development area, and visitation, etc. in consideration of both environmental and economic impacts. There is too much at stake for the committee to agree on specific numbers without knowing the ramifications of doing so.

Thank you for your consideration.

- Jeff Dodd

*Construction and operation of small wineries, other agricultural processing facilities . . . that:*

- (a) are less than 5,000 square feet in size excluding caves;*
- (b) 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;*
- (b) will produce 30,000 gallons or less per year;*
- (c) will generate less than 40 vehicle trips per day and 5 peak hour trips except on those days when marketing events are taking place;*
- (d) 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***
- (e) will hold no temporary events.*

## Gallina, Charlene

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**From:** Morrison, David  
**Sent:** Sunday, August 09, 2015 8:13 PM  
**To:** Anderson, Laura; McDowell, John; Gallina, Charlene  
**Subject:** FW: supplemental recommendation  
**Attachments:** Supplemental APAC Recommendations.pdf

Sent with Good ([www.good.com](http://www.good.com))

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**From:** Peter McCrea  
**Sent:** Sunday, August 09, 2015 8:05:26 PM  
**To:** Morrison, David  
**Cc:** Frost, Melissa; Ted Hall; Linda Reiff  
**Subject:** supplemental recommendation

David:

At tomorrow's meeting I plan to introduce this recommendation for consideration by APAC. I will bring sufficient copies for the committee and staff. My hope is that it will be discussed at our meeting of August 24.

Peter McCrea

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## SUPPLEMENTAL RECOMMENDATIONS

*Submitted by Peter McCrea on behalf  
Of the Napa Valley Vintners*

Over many decades Napa County has thoughtfully created and enacted comprehensive policies and regulations to protect our natural resources and ensure a sustainable future.

At a special meeting on March 10, 2015, the Napa County Board of Supervisors and Planning Commission voted to establish a group to review certain aspects of one important part of those regulations, the growth of wineries and vineyard. This work has now been completed, and the results will be forwarded to the Board of Supervisors.

It was recognized at the time of APAC's formation that while the winery development was an important factor in the of growth in Napa County, that it was not the only factor, and that many other issues needed simultaneous review by the Board. In and of themselves the APAC recommendations will not provide any significant change in the growth issues facing the County. Therefore, we strongly recommend that the elected and appointed officials of the County, and their staffs also 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 dependent 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.

Finally, 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



**Definition of Agriculture, as tentatively recommended by the APAC on June 22, 2015, by a 12-4 vote:**

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.



## Gallina, Charlene

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**From:** Morrison, David  
**Sent:** Friday, August 07, 2015 4:41 PM  
**To:** Gallina, Charlene; Anderson, Laura; Frost, Melissa  
**Subject:** RE: APAC Meeting of August 10, 2015

Chair Hall and members of the APAC,

In the staff report for Monday, I made an error. Under the section on "Proposal X," it says the following:

On June 30, Michelle Benvenuto submitted a revised Proposal X, including a column for the existing County requirements. See Attachment E of the staff report.

I inadvertently implied that Ms. Benvenuto had submitted a revised version of Proposal X. The information she provided includes the existing County requirements, but does not modify the content of Proposal X.

Ms. Benvenuto made clear her intent in her email from June 30, where she said:

"I thought it would be helpful to list the County's current regulations on the same page as the proposed regulations."

By referring to the column of existing County requirements as a revision, I implied that the proposal itself had changed. That was not the case. I apologize for the error.

Respectfully,

David

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