

**COMPARISON OF PLANNING COMMISSION RECOMMENDATIONS AND  
BOARD OF SUPERVISORS' APPROVED DIRECTION REGARDING  
AGRICULTURAL PROTECTION MEASURES**

|          | <b>Planning Commission Recommendations</b>  | <b>Board of Supervisors' Approved Direction</b>   |
|----------|---|---|
| <b>1</b> | Avoid the use of variances as a principle tool for achieving compliance with land use regulations. Variances may be used only when there is specific evidence supporting all necessary findings.  | Prepare guidelines for use by staff and decision-makers regarding the legal standards for the evaluation and consideration of variances, with an emphasis on avoiding the use of variances as a principal tool for achieving compliance with land use regulations.  |
| <b>2</b> | Develop guidelines and benchmarks for consideration of future winery use permits based on the format of Proposal X.   | Take no action with regards to Proposal X, as guidelines for infrastructure and site constraints are already addressed in the visitation comparison charts and locational criteria provided in Planning Commission Recommendation No. 13.   |
| <b>3</b> | Amend 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. Agriculture also includes farm management businesses and farm worker housing.  | 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 activities and other accessory uses remain incidental and subordinate to the main use.   |
| <b>4</b> | Implement an annual code compliance process, including the following: <ul style="list-style-type: none"> <li>a. Reporting must be submitted annually, by all wineries that have use permit approval within the unincorporated area;</li> <li>b. 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;</li> <li>c. Copies of ATTB and CDFA forms shall be provided to the County to verify the above information;</li> <li>d. All data collected shall remain confidential to the extent allowed under the law;</li> <li>e. Enforcement and compliance review</li> </ul> | Prepare a plan to implement a phased, self-certification compliance program.<br><br>The first phase would require all wineries to report their production and grape sourcing data to the County. An ordinance to require production and grape sourcing would be considered late in 2016; would be implemented in 2017, and the first reports would be due in 2018. During this phase, staff would review the existing methodology for calculating wine production for consistency with the ATTB (Alcohol, Tobacco, Tax and Trade Bureau) definition, as well as current types of winery operations. Staff would also work with County Counsel to prepare a series of papers explaining the legal guidelines by which existing vested rights are |

|   |   |  |
|---|---|--|
|   | <p>fees shall be adopted to support the cost of the expanded compliance review;</p> <p>f. Subject to applicable law, the County shall prepare a formula for calculating civil penalties associated with violating wineries;</p> <p>g. 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; and</p> <p>h. 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.</p> <p>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.</p> | <p>determined.</p> <p>The second phase would involve an opportunity for wineries to come in for a voluntary review of their use permit to: (1) consolidate and streamline existing use permit conditions of approval; (2) determine and specify existing vested rights; (3) clarify the scope of activities addressed; and/or (4) consider alternative effective measures of tasting and marketing visitation. The reviews would not involve any change to legally established vesting or permitted rights. Depending on the volume of such requests and the extent of the Planning Division workload, outside planning and legal consultants may be needed to implement this second phase. The current practice of the wine audit would continue through the first and second phases.</p> |
| 5 | <p>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 permitted uses. The total development area for parcels larger than 40 acres would be capped at a fixed eight (8) acres maximum.</p>   | <p>Prepare an ordinance to limit the total development area of residential development within AP and AW zoned parcels. Take no action with regards to changing the existing development area of wineries.</p>  |
| 6 | <p>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.</p>  | <p>As a part of the guidelines referenced in Planning Commission No. 13, staff reports shall include a calculation of the impermeable outdoor areas (not located within an enclosed structure) proposed for hospitality, and express that calculation as a percentage of the production facility for each Use Permit or Major Modification winery application. In addition, a site plan showing permeable areas designated for hospitality (i.e., lawns, gardens, etc.) shall be included as a part of the winery application, for the purpose of CEQA review.</p>   |
| 7 | <p>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</p>  | <p>Take no action at this time with regards to the use of hold and haul facilities. Return to the Board of Supervisors in one year to: (1) further evaluate the feasibility of</p>   |

|   |  |   |
|---|--|---|
|   | one year from certificate of occupancy, or in an emergency situation.  | redirecting hold and haul waste to proper disposal site(s) located within Napa County; and (2) determine the compatibility of future hold and haul uses with the new Winery Discharge Waiver and Local Agency Management Plan (LAMP) requirements.  |
| 8 | <p>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):</p> <ol style="list-style-type: none"> <li>Include less than 5,000 square feet of enclosed building space;</li> <li>Involve no more than 5,000 square feet of cave excavation, with all of the excavated cave spoils to be used on site;</li> <li>Produce 30,000 gallons of wine or less per year;</li> <li>Generate less than 40 passenger vehicle (or equivalent) trips per day, except on those days when marketing events are taking place, or host no more than 15 tasting room visitors per day;</li> <li>Hold no more than 10 marketing events per year, each with no more than 30 attendees, as well as one Auction Napa Valley event with no more than 100 attendees;</li> <li>Produce at least 75 percent of wine production from grapes grown on site (“estate grapes”), unless the farm has experienced a catastrophic event; and</li> <li>The use permit may not be modified for at least 5 years after initial approval by the County, to discourage speculation and/or a piece meal project, to the extent allowed by law.</li> </ol> <p>If any of the above criteria are exceeded in either the initial application or future modifications, the request may not be considered categorically exempt and will be heard by the Planning Commission as the decision making body.</p> | <p>Prepare an ordinance to establish a process to streamline the consideration of use permits for those small wineries that meet all of the following criteria:</p> <ul style="list-style-type: none"> <li>Have structures that total less than 5,000 square feet in size, excluding caves;</li> <li>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;</li> <li>Produce 30,000 gallons of wine or less per year;</li> <li>Generate less than 40 vehicle trips per day and 5 peak hour trips, except on those days when marketing events are taking place;</li> <li>Hold no more than 10 marketing events per year, each with no more than 30 attendees, with one additional wine auction event of up to 100 attendees; and</li> <li>Hold no temporary events.</li> </ul> |
| 9 | Implement the recommended new requirements for winery use permits so that they become effective no later than January 1, 2017. Prioritize requirements to be implemented as soon as possible. Review new winery requirements to ensure that they do  | As a part of any ordinance that implements one or more APAC recommendations, include a statement of policy in the Findings which states that wineries that were legally established prior to adoption of [the effective date of the ordinance] are an integral part of the  |

|           |  |   |
|-----------|--|---|
|           | <p>not affect existing permitted and legally conforming property rights.</p>   | <p>Napa Valley economy. The Board of Supervisors recognizes the legal existence of such wineries and their need to operate as legal conforming uses, and permits their continued right to operate within the conditions of their approved use permits or certificates of exemption or, in the case of wineries established prior to 1974, at the level which legally existed as of July 31, 1974; provided, however that expansion above and beyond that allowed by the approved use permit or certificate of exemption or, in the case of pre-1974 wineries, the level that existed as of July 31, 1974, would only be permitted upon securing a use permit or modification to the use permit in accordance with the zoning ordinance. The Board further declares that the conforming structures and uses of legally established wineries are rights that cannot be rescinded in whole or in part except in the case of the revocation, suspension, or modification of the use permit under County Code Section 18.124.120 or any other applicable law that authorizes the County to revoke, suspend, or modify an existing entitlement.</p> |
| <p>10</p> | <p>Strongly encourage elected and appointed of the County, and their staffs, to take the following actions:</p> <ol style="list-style-type: none"> <li>a. Implement the land use policies identified in the Napa County General Plan update</li> <li>b. Enforce all current regulations fairly and consistently.</li> <li>c. Deny any unrealistic use permit applications and modifications that are depending on the excessive use of variances.</li> <li>d. Consistently follow existing procedures.</li> <li>e. Discontinue creative efforts to justify projects on non-conforming parcels.</li> <li>f. Be consistent in the interpretation, application and enforcement of all use permits.</li> <li>g. Complete items the County Board of Supervisors and Planning Commission identified at the joint special hearing on March 10, including: <ul style="list-style-type: none"> <li>• County Climate Action Plan;</li> <li>• Circulation Element of the General Plan; and</li> </ul> </li> </ol> | <p>Establish a working schedule for implementation of actions identified in the Napa County General Plan. Develop a Code Compliance Policies and Procedures Manual to ensure that all current regulations are enforced fairly and consistently, for consideration by the Board of Supervisors. Prepare an updated Checklist for Development Projects to ensure consistency in application material requests. Complete the direction provided by the Board of Supervisors at the joint special hearing on March 10, including: adoption of the Climate Action Plan; adoption of the revised Circulation Element of the General Plan; and continuing discussions among County, City, and Town staff to coordinate on regional land use, water, and transportation issues.</p>   |

|    |  |  |
|----|--|--|
|    | <ul style="list-style-type: none"> <li>Summit of County, City, and Town officials to discuss joint efforts to address regional land use and transportation issues.</li> </ul>  |  |
| 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 unincorporated area for the purposes of capturing more complete data.   | 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 and comprehensive data regarding industry-wide issues.   |
| 12 | Adopt a rule that does not prohibit the net loss of vineyards as a part of new and/or amended winery use permits.  | Take no action regarding the net loss of vineyards, confirming the County's historic and continuing practice of allowing the incidental removal and replacement of vineyards as a part of winery operations.   |
| 13 | <p>Include the following information in staff reports regarding winery use permits for consideration by the Commission in decision-making:</p> <ol style="list-style-type: none"> <li>Comparison with wineries that have similar production as the proposed project;</li> <li>Comparison with wineries within one mile of the project site; and</li> <li>Site-specific criteria.</li> </ol>  | Prepare guidelines to include comparison and locational criteria information in staff reports for consideration by decision-makers of winery use permits.  |
| 14 | <p>Provide an annual report to the Planning Commission on prior year winery activity that includes the following information:</p> <ol style="list-style-type: none"> <li>Total permitted and actual wine production;</li> <li>Total wine grape acreage and production;</li> <li>Total amount of wine crushed within Napa County, amount of grapes imported into Napa, and amount of grapes exported out of the County;</li> <li>Total production, tasting room visitation, marketing visitation, and variances permitted by the County;</li> <li>Gross and net loss of vineyards and farmland;</li> <li>Average and median visitation numbers for groups of wineries based on production levels;</li> <li>Number of temporary event permits issued, and number of visitors allowed.</li> </ol> | <p>Provide an annual report to the Planning Commission on prior year winery activity that includes the following information:</p> <ol style="list-style-type: none"> <li>Total aggregate permitted and actual wine production;</li> <li>Total wine grape acreage and aggregate production;</li> <li>Total aggregate amount of wine crushed within Napa County, aggregate amount of grapes imported into Napa, and aggregate amount of grapes exported out of the County;</li> <li>Total production, tasting room visitation, marketing visitation, and variances permitted by the County;</li> <li>Gross and net loss of vineyards and farmland;</li> <li>Average and median visitation numbers for groups of wineries based on production levels.</li> <li>Number of temporary event permits issued, and number of visitors allowed.</li> </ol> |