

Members of the Napa County Planning Commission

re: Changes to Definition of Agriculture (§18.08.040)

Ostensibly, "The purpose and intent of the proposed ordinance is to conform the definition of agriculture in the County Code with the definition adopted in the 2008 General Plan."

Action Item AG/LU-2.1: 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.

AG/LU-2.1 does NOT mandate amending Napa County Code §18.08.040 to include additional uses. These additional uses have already been populated into the code, ie: §§ 18.08.370, 18.08.620, 18.16.030 and 18.20.030. Marketing activities at wineries have been further clarified by Ordinance No. 1340 and Resolution No. 2010-48.

The mandate of AG/LU-2.1 is to ensure that the identified uses remain conditional uses that require a use permit - NOT to allow them by right as this proposed change will require.

1) The change to §18.08.040 as presented violates the mandate and intent of the Napa County 2008 General Plan.

Adding these uses into the definition of agriculture §18.08.040 will create consequences that perhaps are unintended, or perhaps intended by certain interested parties.

Regardless of intent, the addition of these uses to §18.08.040 will allow them by right, without a use permit, in any zone that allows "agriculture" as defined by §18.08.040.

Napa County Code mandates that "Agriculture", as defined in §18.08.040 is allowed by right, not a conditional use which requires a use permit.

If the additional uses are added into the base definition of §18.08.040 you will be mandated by at least §§18.16.020 and 18.20.020 to allow such uses without a use permit:

Chapter 18.16 AP AGRICULTURAL PRESERVE DISTRICT

§18.16.020 - Uses allowed without a use permit.

The following uses shall be allowed in all AP districts without use permits:

A. Agriculture;

Chapter 18.20 AW AGRICULTURAL WATERSHED DISTRICT

§18.20.020 - Uses allowed without a use permit.

The following uses shall be allowed in all AW districts without use permits:

A. Agriculture;

In addition, the uses will be protected by:

Chapter 2.94 AGRICULTURE AND RIGHT TO FARM

§2.94.010 - Definitions.

"Agriculture" shall have the same meaning as "agriculture" as defined in Section 18.08.040 of

this code.

§2.94.010 (4)

"Agricultural operation" means all operations necessary to conduct agriculture as defined in Section 18.08.040 of this code...

§2.94.020 - Right to farm - Conditions.

No existing or future agricultural activity, operation or facility, or any of its appurtenances, ... shall be or become a nuisance, public or private, due to any changed condition in or about the county, ...

(Emphasis added)

The word "shall" is mandatory and legally binding - it allows no discretionary interpretation. Once the proposed definition is adopted, all uses identified in §18.08.040 will be allowed by right and will be protected by Napa County right-to-farm regulations. Napa County will have no means to mitigate the detrimental impacts of such uses.

2) In addition, the proposed change to §18.08.040 does not limit, nor does it provide the discretion to limit, the processing of agricultural products to those grown on the parcel nor even to those grown within Napa County.

While all wineries permitted or expanded on ag land after adoption of the 1990 WDO are mandated to process 75% grapes grown within Napa County, any other production/processing facilities (*distillery, dehydrator, brewery*) permitted by this definition change will not be required to process any Napa County agricultural products at all. A distillery would be allowed by right (*without a use permit*) to locate on any ag parcel and to process all imported grains while protected by Napa County right-to-farm regulations. A jam-making processing plant would be allowed by right and allowed to import all ingredients so processed.

3) The proposed change to the definition of agriculture in §18.08.040 violates voter-mandated Measure P by redesignating thousands of acres of ag lands to allow industrial and commercial uses by right instead of by use permit. As such, the proposed change to §18.08.040 requires a vote of the people per Measure P.

4) The expansion of industrial and commercial uses on ag lands that will be mandated by right by the proposed change to the definition of agriculture §18.08.040 was not anticipated by the 2008 General Plan nor its environmental review. The processing of agricultural products (*ie: wineries, canneries, distilleries*) is traditionally an industrial use which is becoming increasingly commercial. The adoption of the definition as proposed has broad consequences, intended or not, and, as such, a CEQA environmental review is mandated.

Wineries (*industrial processing facilities*) have been allowed by use permit on Napa County ag land to facilitate the processing of grapes; thus, the argument goes, increasing the economic incentive to keep land in farming (*grapes*).

But to include processing facilities (*without even a requirement to process product from the parcel or from within Napa County*), marketing events (*medieval jousting tournaments*), sales and any "other" accessory uses that may be dreamed up as equal to agriculture is an insult to every farmer who ever existed.

For all these reasons, I urge you NOT to approve the changes to the definition of agriculture, §18.08.040. The consequences, unintended or otherwise, will ultimately facilitate the destruction of

our ag lands, which we are losing daily, inch by inch, through conversion to increasingly urban uses.

I also note with dismay that this very critical issue is being moved forward just as the farmers of Napa County are deeply immersed in harvest. Many who should be commenting cannot - we are focused on bringing our crop to market. We only have one chance - we only get paid once a year.

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