



Legislation Details (With Text)

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**Title:** SET MATTER 10:00 AM - 1 Hour

Director of Planning, Building and Environmental Services (PBES) requests direction on the attached draft ordinance establishing limits on residential site improvements for parcels within the Agricultural Preserve (AP) Zoning District.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Draft Ordinance, 2. Ag Conversion Tables, 3. Public Comments

Date	Ver.	Action By	Action	Result
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**TO:** Board of Supervisors  
**FROM:** David Morrison, Director of Planning, Building and Environmental Services  
**REPORT BY:** John McDowell, Supervising Planner  
**SUBJECT:** Residential Development Ordinance - Board Workshop

**RECOMMENDATION**

SET MATTER 10:00 AM - 1 Hour

Director of Planning, Building and Environmental Services (PBES) requests direction on the attached draft ordinance establishing limits on residential site improvements for parcels within the Agricultural Preserve (AP) Zoning District.

**EXECUTIVE SUMMARY**

It is requested that the Board conduct a workshop on the attached draft ordinance that, if implemented, would establish limits on residential site improvements for parcels zoned AP. Current zoning regulations do no limit the amount of an AP property that can be developed with residential uses and structures. The proposed

ordinance would limit by-right residential uses on an AP property to a contiguous one-acre building envelope that would be established at the time a building permit is issued. Projects that result in over one-acre of contiguous residential use would be subject to approval of a discretionary use permit before the Zoning Administrator. The draft ordinance has provisions allowing preexisting legally established residential uses that exceed the threshold to continue, and be rearranged, provided that a use permit would be triggered if the area of preexisting residential development area is expanded.

The AP zoning district applies to the vast majority of valley floor properties between Cities of Napa and Calistoga, as well as two other valley floor locations in Gordon and Wooden Valleys. Napa County Code Section 18.16.010 states that “[t]he AP district classification is intended to be applied in the fertile valley and foothill areas of Napa County in which agriculture is and should continue to be the predominant land use, where uses incompatible to agricultural should be precluded and where the development of urban-type uses would be detrimental to the continuance of agriculture and the maintenance of open space which are economic and aesthetic attributes and assets of the county.” Over the last several decades, the AP district has proven to be a desirable location for development of wine country estates. Annually approximately 10 acres of AP land develop into residential uses. Conversion of AP land to residential estate developments was first identified by the Agricultural Protection and Advisory Committee (APAC) in 2016, and subsequently raised on several occasions leading to Board directing staff to develop a concept for limiting the scale of by-right residential development. The Board addressed this matter in the Napa County Strategic Plan (2019-2022) under Action Item 9.C.

## PROCEDURAL REQUIREMENTS

1. Staff reports.
2. Public comments.
3. Motion, second, discussion and direction to staff.

## **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No  
County Strategic Plan pillar addressed: Vibrant and Sustainable Environment

## **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: This study session is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

## **BACKGROUND AND DISCUSSION**

In 2016 the APAC and Planning Commission provided recommendations to the Board of Supervisors regarding possible changes to winery and residential land use regulations in agriculturally zoned areas. As part of the Board's final action, APAC action item #5 directed staff to: "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."

In 2018, the Board conducted a study session on residential uses in agricultural areas and the Viewshed ordinance. The Board evaluated several options ranging from limiting home size, requiring design review to setting a general coverage requirement. The Board directed staff to develop a concept limiting all residential development, including structures and site improvements, to a single contiguous land area, or envelope.

## **ORDINANCE COMPONENTS**

In response to Board direction, staff has developed the attached draft ordinance. The ordinance, if enacted, will limit new residential projects on AP district land to one contiguous acre, but allows administrative exceptions for noncontiguous one-acre developments when warranted by certain environmental or legal constraints. It also enables granting a Zoning Administrator level use permit for developments exceeding the one-acre threshold subject to required findings addressing farmland protection, visual effects, and housing demand. Lastly, it addresses legally established preexisting conditions by allowing such uses to continue and be rearranged as preexisting legal conformities provided that such uses do not expand or be relocated.

Specific components of the ordinance are discussed below:

Section 18.08.536 (Residential development envelope - definition) - This section defines which improvements are subject to the residential coverage limits prescribed in subsequent sections. The definition also expressly states site improvements that are not included within the definition, such as structures and areas used for agriculture.

Section 18.104.440 (Residential development envelope - general standards) - This section contains requirements limiting residential development envelopes, and the implementing requirements to apply the limit. This section also provides for administrative exceptions to the requirement that residential development envelopes be contiguous, and enables the process and granting of use permits for projects that exceed the general standard.

18.104.440.A (Easement or deed restriction) - This section requires that prior to issuance of residential structure or improvement permit within the AP zoning district, that the residential development envelope be identified

and placed within an easement or deed restriction. The section limits the size of the envelope to one acre, and stipulates that it must be a contiguous area. It does not otherwise specify what the shape of that area is other than to encompass all residential improvements as defined.

18.104.440.B (Preexisting conditions) - This section addresses legally established residential uses and improvements that predate the ordinance, acknowledging that existing improvements that do not comply with the standards are considered conforming (as opposed to nonconforming) with zoning, and are allowed to be revised, rehabilitated, remodeled, or rearranged provided that the preexisting condition does not expand and/or relocate into new areas of the parcel unless in compliance with the ordinance. Relocation or expansion is possible with grant of a use permit as set forth in Sections 18.104.440 and 18.104.442.

18.104.440.C (Revisions to prior envelopes) - This section enables the relocation or enlargement of a previously recorded development envelope provided that the new configuration conforms to standards.

18.104.440.D (Administrative exceptions) - This sections provides for an administrative exception (i.e. - staff approval during building permit review) to the requirement that a development envelope be contiguous if certain site conditions preclude a contiguous envelope. When approving a non-contiguous envelope, it remains limited to one acre in aggregate area and the exception can only be approved for the following site constraints: 1) Slopes greater the 30% based on the Conservation regulations; 2) Stream, wetland and watercourse setbacks based on the Conservation regulations; 3) Floodway setbacks based on the Floodplain Management Ordinance; and 4) Public and private easement that prohibit residential improvements.

18.104.442 (Use permits) - This section enables Zoning Administrator processing and granting of use permits for projects that exceed the one acre limit, or that expand or relocate a larger legally established envelope existing prior to the adoption date of the ordinance. Use permit processing would be subject to a public noticing and hearing before the Zoning Administrator, and the Zoning Administrator would be required to make the following findings:

Environmental - Residential envelope expansion would require CEQA review, and the finding requires that the project not result in significant unavoidable environmental impacts;

Visual - Requires that the views of the project from public roads are limited and insignificant;

Farmland - Requires that the project results in no net loss of prime farmland or farmland of Statewide Importance;

Housing - Requires that the project results in a net positive impact on provision on housing within Napa County;

Easement - Requires that an easement or deed restriction is recorded.

Sections 18.124.010 (Use permit granting) and 18.124.020 (Application) - This section will be amended to add

the Zoning Administrator as a decision maker in addition to the Planning Commission. These are technical changes linking Sections 18.10.020 and 18.104.442 to the general use permit requirements and process contained in Chapter 18.124 addressing Use Permits.

## DISCUSSION ITEMS

**Maximum lot coverage requirement:** One acre was selected as the maximum coverage threshold after evaluating existing residential envelopes throughout the AP district (see attached examples) and comparing them to residential densities in urban settings. A subdivision with 6,000 sq. ft. lots and public streets will typically has a density of 5-6 units per acre. Large lot urban estates like those present in Silverado Country Club can range from 1-3 units per acre. In rural densities, lots with densities lower than one unit per acre typically are not fully utilized solely by residential improvements; instead it is common for agricultural uses, such as small gardens and animal husbandry to occupy portions of lots greater than 1 acre in size.

**Implementation:** In addition to the operative language of the code, staff anticipates implementing a Department Procedures memo detailing how to determine residential coverage envelope boundaries with the intent of consisting applying the regulations. For example, there is typically not a hard boundary where a vineyard ends and a residential landscape begins. Instead vineyards tends to be separated from residential areas by some found of transitional space, such as a tractor road at the end of vine rows. How these transitional areas are interpreted will influence project designs in the future.

**Agricultural Watershed -** The proposed ordinance does not include Agricultural Watershed (AW) zoning district, which generally corresponds to hilly/mountainous terrain outside of the Napa Valley floor although most of Carneros and the valleys of Eastern Napa County are also zoned AW. Board direction in 2018 was limited to focusing staff's efforts on addressing residential development in the AP. In addition, development in hilly/mountainous terrain indicative of the AW district is subject to significantly more requirements than the AP district, including viewshed, conversation/tree protection, water course protection (streams, wetlands, ephemeral drainages), and fire protection.

## PUBLIC INPUT

Prior to this workshop in August and September, two emails soliciting feedback on the draft ordinance were sent to the County's interested parties list. Attached are comment letters and emails from interested parties. In addition, approximately a dozen interested parties contacted staff by phone and/or Zoom. The vast majority of callers expressed concerns about the regulations negatively affecting their property values or disrupting real estate deals and/or development plans. These customers also questioned what problem or issues this ordinance was attempting to address.

**Conversion of Agricultural Land -** Concern over the loss of producing agriculture land and visual impacts to

Napa Valley were two factors contributing to the APAC's original recommendation to limit development on agriculturally zoned properties. Agricultural land uses are tracked in the County's Geographic Information System, and tables indicating the rate of conversion are attached to this report. To summarize, between 1993 and 2018, an average of 10.3 acres of AP land were converted annually to non-agricultural use per year of which an average of 3.2 acres/year was for residential uses.

The draft ordinance may not significantly change the conversion rate of AP land to residential uses, but will allow additional County review for proposed residential developments exceeding one-acre due to the use permit requirement. New developments exceeding the one-acre threshold would be subject to a process similar to what is required review of a winery, except that these residential applications would be considered by the Zoning Administrator as opposed to the Planning Commission. The use permit process also includes evaluation of the project's potential to result in environmental impacts and triggers preparation of CEQA document, which does not presently occur because these residences are allowed by-right. It is possible that the use permit process may deter some projects from occurring, or result in projects being redesigned to stay within the one-acre threshold. Two story structures are common, but to stay under one acre and avoid both CEQA and a public process, developers may increase building massing.

Lastly, it appears that large estate development in most areas zoned AW is becoming increasing difficult due to increased fire hazards and corresponding upgrades to State fire safety design standards, as well as purported greater difficulty obtaining fire insurance. Also, in 2019 the County increased water course and tree protection standards in the Conservation Regulations which affects many properties in the AW zone. Given this, there is some possibility that interest in developing estates on AP land may increase.