

ACTION MINUTES

LAND USE & COMMUNITY DEVELOPMENT COMMITTEE

April 28, 2022

MEMBERS PRESENT: Frank Axe, Supervisor District 4
Richard Forster, Supervisor District 2

MEMBERS ABSENT: None

STAFF PRESENT: Glenn Spitzer, Deputy County Counsel
Chuck Beatty, Planning
Mary Ann Manges, Recording Secretary

OTHERS PRESENT:

Margaret Schroeder, Executive Director, Amador Vintners Association
Daniel D'Agostini, Shenandoah Valley resident and grape grower
Jamie Lubenko, Fiddletown resident
Mara Feeney, retired planner, grape grower and Fiddletown
Dave Horner, Executive Director of Amador Council of Tourism
Bob Knebel, President of Rombauer Vineyards
Megan Foley, Director of Regional Operations at Rombauer Vineyards
Jane O'Riordan, Terra de Rouge and Easton Wines
Emily Haines, President of the AVA, and winemaker for Tierra de Oro
Come Lague, La Mesa Vineyards
Paul Sobon, Sobon Wines
Scott Harvey, Scott Harvey Wines
Brian Jobson, District 5 resident, Foothill Conservancy board member, and former Planning Commissioner
Robin Peters, Delta Engineering

OTHERS PRESENT VIA ZOOM:

Andy Friedlander
Beth
County Counsel
David Helwig
Jack Stanton
Jenae
Katherine E
Katherine Evatt
Kathleen Mahan
Krista Ruesel
Ruslan Bratan
2092577608
Evan Price
Lynn Sletto
jcloughlin

Supervisor Forster called the meeting to order at 2:04 p.m.

AGENDA: Approved

PUBLIC MATTERS NOT ON THE AGENDA: None

APPROVAL OF MINUTES: March 24, 2022 approved with corrections

CORRESPONDENCE: None

ITEM 1: Airport Land Use Compatibility Plan update, direction to staff.

Supervisor Forster introduced the item.

Mr. Beatty stated that the last time there was a public hearing on the revised draft of the airport compatibility plan was in December of 2017. He shared that there was considerable public pushback on the proposed draft primarily because it included a 5 mile wildlife hazard area around the airport. He said that it potentially would have required that any new projects inside that area to need a wildlife hazard assessment to make sure there were no issues with wildlife crossing the flightpaths or that it would cause wildlife to cross the airport. He added that since that time, consultants reported back that only projects requiring a CEQA analysis would have required wildlife review. He stated that he has not proceeded to get the plan adopted since then and that as projects develop, particularly in Martell, the Airport Land Use Commission has to compare whether or not projects are compatible with both plans. He asked for some direction on whether to proceed forward so that a final draft can get back to ALUC and the wildlife hazard issue can be settled. He shared that one of the issues is that acceptance of FAA grant funds may require a wildlife hazard area to be adopted.

Supervisor Axe asked how long it will be before proceeding forward.

Mr. Beatty replied that if the process begins soon, a final draft would be complete by the end of the calendar year.

Supervisor Axe stated that there is a project with a food truck had this issue and staff should move forward.

Supervisor Forster asked Mr. Beatty if he is needing direction.

Mr. Beatty responded that he is.

The Committee directed to move forward with a final draft plan as quickly as possible.

ITEM 2: Review and discussion of the County's zoning ordinances related to wineries, wine tasting rooms, and their associated events.

Supervisor Forster introduced the item stating that this meeting will be an hour long, that this meeting is not to establish another committee to prepare changes to the winery ordinance, but there will be additional meetings for input. He shared that he has been hearing that the Shenandoah Valley is becoming what we do not want it to be. He commented that the Vintner's meetings on winery ordinances have resulted in a stalemate and that we are now out of time.

He voiced that input and discussion is desired and that the Land Use Committee will put language together and occasionally go back to the Board for input.

Supervisor Axe stated that he concurs with most of what Supervisor Forster said and that he has been hearing for quite some time that there are issues such as noise and traffic in the Valley. He shared that recently an applicant wanted to change their permit and that it would be nice to have something in place, especially for the R1A zoning, for what is allowed. He commented that a business that has a lot of events should not be close to a residence.

Supervisor Forster stated that he wants to address areas that need to be looked at.

Supervisor Axe shared that he had read a comment that an applicant should not be able to apply for a change for at least 2 years.

Supervisor Forster stated that it is not just one winery's fault and that there have been other applications turned down by the Planning Commission and the Board of Supervisors. He shared a letter had previously been received by Katherine Venturelli asking the County to consider:

1. To not allow conditions to be amended to expand uses for at least 2 years;
2. To place time limits on conditional use permits; and
3. Periodic review for longer use permits, if issues

Mr. Beatty said length of permits can be established in an ordinance or use permit.

Supervisor Forster shared a letter previously submitted by Jane O 'Riordan wines focusing on:

1. Wineries masquerading as event centers;
2. Night time noise from evening events where neighbors cannot enjoy their own backyards;
3. Bright lights at night;
4. Tasting rooms too close to neighbors;
5. Wineries selling wine from tasting rooms that are not making wine in the county (wanted answer for this);
6. No way to monitor how many weddings or evening events that are happening at wineries or music;
7. No one enforcing the wine ordinance tasting rooms to have a winery in the County.

Supervisor Forster asked staff and County Counsel to analyze duplicate tasting room licenses instead of spending time here.

Ms. O'Riordan said that she was on the committee both times that the winery ordinance was amended. She shared that there are different levels of making wine and that the criteria for the 02 Winegrower license with the State is not much different so the definition of a real legitimate winery was included in parentheses in the last County code amendment. She added that one of the reasons this was done is to prevent agricultural areas from being commercialized with lots of tasting rooms that are not connected to a winery. She stated that she thinks this is not being examined by the County.

Supervisor Forster shared that he would like to look at:

- A, AG and R1A zoning areas

- By-right uses
- What should be granted beyond by-right and that it might not be appropriate to even be granted in some areas
- What kind of events are allowed in each area
- Parcel size
- Proximity to residences
- A & AG zoning sitting right next to residential property which can override why people moved to the country

He added that he wants everything to go to the Planning Commission with no more staff discretion over some of the permits, and wants tasting rooms to have to go through the whole process. He added that there are multiple places in the code that he wants to take the ministerial permits out and have a very public process.

Mr. Peters asked which code sections.

Supervisor Forster said this has to do with wineries in A and AG.

Mr. Beatty shared that uses are typically the same in A and AG.

Supervisor Forster stated that it is problematic and that a public process is needed. He added that the Planning Commission can analyze and vet it out and then it does not have to be appealed. He added that staff does a good job, but it is one of the most problematic areas that he has seen.

Mr. Beatty shared that each application is evaluated on its own merits.

Supervisor Forster commented that placing a tasting room 50 feet from a neighbor's house is not far enough and that he is thinking more like 500 feet is appropriate. He said that we really need to be respectful of neighbors and where the tasting room goes and look at broader impacts.

Supervisor Axe said he has no additional comments at this time.

Mr. Beatty pointed out the zoning differences between A, AG, and R1A zoning for wineries that include tasting rooms.

Supervisor Forster said that his expectation is to add language to make it more discretionary and to define the standards in advance so that it does not end up like a free for all where people think they can get all these by-right uses.

Ms. Lubenko asked if changes would be retroactive to wineries currently operating.

Supervisor Forster said they would if he could make them that way, but that it probably will not happen.

Counsel Spitzer said it will be considered a nonconforming use and be allowed to continue unless the County decides otherwise.

Supervisor Forster shared that they would be grandfathered in.

Ms. Lubenko commented that she believes one of the wineries on the list is a nonconforming use and asked how that works.

Counsel Spitzer responded it is a nonconforming use until the use stops for a period of time.

Ms. Lubenko shared that she is concerned about grape growers and how it will impact them. She explained that market conditions can change to where they become vintners and asked if there is a way for vintners with a certain number of grapes can be grandfathered in. She explained that many of them are who made the Valley what it is today.

Supervisor Forster said that he recognizes that there are legacy growers as well as new people moving in. He shared that we want to protect the area and that if uses change in the future that they can be able to pursue a different direction.

Supervisor Axe asked Ms. Lubenko how changes would adversely impact the grape growers.

Ms. Lubenko responded that it depends on the changes and that she is concerned about possible impacts. She shared that other entities such as the grape growers need to be noticed as well with thought given on how changes impact multi-generational growers and also perhaps have their rights grandfathered in.

Supervisor Forster asked for introductions. All present in person introduced themselves (see OTHERS PRESENT and OTHERS PRESENT VIA ZOOM above).

Mr. Peters commented that Supervisor Forster's introduction is a good way to start the process and suggested that impacts associated with a winery are very minor and since there is a rather small subset of impacts that the Committee focus on what matters early in the process.

Supervisor Forster said that he wants to begin by throwing everything into the pot and then sift it out from there that he appreciates Mr. Peters input.

Mr. Jobson shared that the Foothill Conservancy is concerned primarily with preserving the rural character of the valley and protecting its agricultural integrity and that, ideally, the General Plan and zoning should be used to put commercial uses like restaurants and entertainment venues in commercially-zoned areas. He explained that it minimizes conflicts and makes better use of services with less impacts on traffic and parking. He shared that the fairgrounds is an excellent venue for large entertainment events with parking off the street and that it has all the services and infrastructure. He suggested to develop a set of best practices policies:

1. Good neighbors
2. Sustainability
3. Rural character
4. Limits on signage and food service
5. Certifying that people are voluntarily complying through incentives
6. Enforcement

He stated that impacts are not distinguishable between the R1A, A, and AG zonings and that it is more of what goes on there. He added that eventually regulations need to be refined and enforced or we can lose control over the valley.

Supervisor Forster added to the record some points from comments from the Foothill Conservancy from another project:

1. Level of CEQA review may not be up to par
2. Notice to nearby properties may be insufficient
3. Develop a Specific plan in the Shenandoah valley

Supervisor Forster added that he believes that by-right uses can create capacity constraints in an area and questioned if some of those events should be allowed to take place.

Mr. Sobon asked if Supervisor Forster is proposing for zoning of R1A, A, and AG to be looked at to make them more similar or different.

Supervisor Forster said each zone should be looked at for what by-right uses are allowed and also to go outside the Shenandoah Valley and protect people who live in other areas.

Ms. O’Riordan said there is a definition of a social gathering and asked if there is a code definition for an event and also asked if there is a permit and process for events.

Mr. Beatty responded yes, but the special permits for events that are for events that attract more than 1,000 people.

Supervisor Forster commented that maybe that should be changed, too.

Ms. O’Riordan said there a broad range of views amongst wineries about what a normal tasting room business is and what an event is. She stated that it comes up many times in the use permit process with limiting the number of events they can have with not a whole lot of difference between 100 people coming to an event or a tasting room as far as impacts. She added that there are differences such as live music and that code section has neighbors concerned.

Supervisor Forster asked how to control large events such as Four Fires that is concentrated that can have 1,000 people versus an event such as wine pick-up days with smaller numbers that is a sporadic event. He stressed that they both impact on roads, but are not comparable.

Mr. Sobon said that we need to be very sensitive to the time of the event and asked why we would want to discourage an event between the hours of 10 and 5, if a business is viable. He stressed to be careful and reminded that there is an amazing group of wineries making amazing wine.

Ms. O’Riordan said the wineries are trying to encourage more people throughout the week.

Daniel D’Agostini said that we need to watch that we do not become so successful that we cannot turn onto Highway 49.

Supervisor Forster shared that Jeff Runquist wrote a letter about how he could not make left turns in Napa, but we are not quite there yet.

Ms. Haines shared that the AVA just completed their strategic plan which included:

1. Protection of the Valley – be good neighbors

2. Instead of driving more people to the area – want to drive the right people spending more
3. Attract those that love Amador and promote Amador County

She added that she does not think that any wineries want to become Napa.

Mr. Sobon responded that he does.

Supervisor Forster voiced that we are past that point and people already show up in masses.

Mr. Jobson said we are at a crescendo and that this is timely to get in place now.

Ms. Schroeder said there is a plan to try to drive more traffic to the middle of the week and we really need a definition of an event. She stated that Mr. Beatty said there have been no formal complaints sent in and that she wants to know what complaints we are trying to solve so they can be solved quickly.

Supervisor Forster said earlier in the meeting he shared some of the complaints and asked if this should be about tasting wine or about going to events. He added that it is more about protecting those who live there.

Ms. Schroeder said that in a lot of regions wine tasting is about the experience and about the music and food and that we need to stay relevant.

Mr. D'Agostini said that he does not believe following the trends is what we want and that wine bars in the Valley have a whole different energy. He stated that this is going to be an issue with a lot of people that he knows. He expressed that we have some of the best wine in the world.

Ms. Haines stated that there are only a handful of event centers and is interested to see where the clustering of complaints are coming from and that if they are in an isolated area that maybe not everyone needs to feel the pain. She asked why we can't become the dark night sky community and then everyone is doing it and we can all get to see the stars. She stated that she is concerned about it getting too big and too wide and ruining the Valley.

Mr. Jobson said signage is an issue that should not be overlooked and that signs should be neutral and conform or it can take away from the aesthetic, rural beauty. Also, food service needs to be addressed to where it is incidental, prepackaged, and not the main attraction. He added that restaurants belong in towns where there are services and parking and that it is good for the economy there.

Ms. Lubenko said she is concerned about going through the process and if it is going to get the support of the Board since the dark sky ordinance did not pass.

Supervisor Forster shared that we are dealing with a Board that voted 3-2 on the dark sky ordinance. He stated that, as Chair, he can take the dark sky ordinance back to the Board, but that he is not going to do that until he is pretty sure he can get 3 votes.

Ms. Lubenko continued that if there are small primary concerns such as lights, noise, traffic, and events and then look at existing zoning and have more enforcement out there. She can't help but wonder if some of this would be taken care of if there was enforcement. She stressed that there already are sign and noise ordinances.

Supervisor Forster shared that we have to look at zoning because there are zoning conflicts.

Ms. Lubenko said with R1A zoning, there is an opportunity for the County to mitigate some of the growth by recognizing that not all parcels are equal. She added that some of this could be cumulative. She stated that even though the process is not equal it does not mean that the process is broken. She voiced concern about the possibility of the zones becoming alike.

Supervisor Forster said that is why need to get a conditional use permit.

Ms. Lubenko questioned the earlier comment of making the zonings similar.

Supervisor Forster said that was an earlier question and that he thinks we are going the other way and maybe taking some things out of them.

Ms. O'Riordan said that traffic on Shenandoah Road is increasingly bad and that it is not just winery traffic.

Traffic was agreed by a number of participants in the meeting to be from a variety of sources besides tasting rooms such as skiers, construction, tree removal from the Caldor fire, and those heading toward El Dorado County.

Mr. Sobon said that he agrees with Mr. Peters that the impetus for this is evening events and that if problems are there they should be addressed.

Supervisor Forster said that one comment that he has read repeatedly is that by-right uses are granted but very rarely are there that many events held with Helwig probably being an exception.

Mr. Sobon added that Helwig concerts are fun and usually over by 9.

Supervisor Forster asked do we need that many events as by-right uses.

Ms. Haines said people like to have the opportunity and the freedom because things can change.

Supervisor Axe asked if it would be a problem to get an event permit for larger events.

Mr. Sobon responded that it depends upon how the land is zoned. He elaborated that by signing the deed one is agreeing to the zoning. He added that we need to be realistic about what the problems are and that it is important to work with neighbors in the beginning of the process.

Supervisor Forster said he does not believe that there is not a problem and that complaints have grown over the years and not just from the environmental community.

Mr. Jobson stated that this is what planning is about and that we want to avoid problems.

Come Lague said he looked at 40 wineries in the Valley with most having A or AG zoning with 22 of them within 500 feet of the house and 6 that are even closer. He stated that we have a situation where a by-right use can build right up to the property line. He stated that what makes an ordinance work is fairness and knowing there is minimum set of conditions to make a

business viable. He added that if evening events or evening music is desired they should know if they can. He added that if a winery is within 500 feet have to work with neighbors. He said the greater the distance from other homes, the more events could be allowed.

Supervisor Forster said that an investor needs to go to the County and have more disclosure and have the County help them analyze weaknesses and limitations of a property and asked staff what the process is now.

Mr. Beatty said with a conditional use permit each location is different and that you need to get into the environmental analysis before can you determine what the conditions are going to be. Somethings are obviously immediately such as a public water system, and a septic system to accommodate discharge, or a commercial encroachment. He said that the specifics come down to how often the tasting room is open, how many events occur, how long events last, and how many people will attend. He shared that, currently, there are no parameters for use permits in R1A and that it is widely assumed that the limits are the same as A or AG. He stated that if limits are desired in R1A as far as size of the parcel or where buildings are located, we can do that and that it will make it easier for someone applying for a tasting room.

Mr. Peters said what seems arbitrary to a prospective business owner is the articulations that the use permit process injects and it is the conditional use permit that drives people crazy. He stressed that right now history of prior use permits is the only guide.

Mr. Beatty shared that tasting room location, event size or frequency, and the number of people that show up to the public hearing make a difference on the permit that is granted. Two identical permit requests can have very different conditions depending on location.

Mr. Peters added that who is absent at the hearing make a difference, as well.

Ms. Evatt shared that the County needs to identify what it really wants to protect and preserve and identify those real issues. She asked, for instance, if quiet time after 6pm, a dark sky, or certain aesthetics are desired, then they should to be protected. She added that aesthetics were important to County residents but were cut short in the General Plan update. She added that people do care about night lighting, noise, traffic, water, waste water, emergency services and that a solution for traffic could be to use the fairgrounds for parking and run shuttles. She said to look at other successful counties. She suggested that if a specific plan is not desired, then develop a zoning overlay in certain areas such as the Shenandoah Valley.

Ms. Feeney requested data for the number of A, AG, and R1A parcels.

Mr. Beatty said that there are about 5,700 R1A parcels.

Ms. Feeney asked if there is a size limit.

Mr. Beatty replied it depends on the General Plan density.

Ms. Feeney commented that it is crazy that we could have almost 6,000 more wineries and that precedence setting is key.

Supervisor Forster shared that currently there are about 40 or 45 wineries, up from 25, and that he is concerned there will be 65.

Ms. Feeney said that there needs to be a level playing field and that it will be good to have data and clarify the rules. She asked when is the line crossed where a tasting room becomes a commercial activity.

Supervisor Forster said we have a lot of information and staff needs to get together information on the ordinance itself as to whether people are in compliance with producing the product.

Ms. O'Riordan said the number one question should be where is the wine being made, and if the winery is on the parcel.

Ms. Lubenko added that issues are also happening outside the Shenandoah Valley and questioned whether this just pushes all this out to different parts of the county.

Mr. Jobson shared that they got into litigation with Toscano and that there is a settlement agreement with some prescriptions with what is okay and not okay. He said that it would be informative to get that and asked what the lay of the land is and if we are enforcing that.

Mr. Beatty responded that the outcome is that wineries could do prepackage foods and that there is no specific definition of what that is.

Mr. Jobson said it is not limited anymore, right.

Mr. Beatty replied that on a daily basis most tasting rooms can have events with 125 people, and those events can be catered, so many tasting rooms have their own kitchens to self-cater rather than serve pre-packaged foods.

Mr. Jobson said it still is an unresolved issue.

Supervisor Forster commented that what is allowed now for pre-packaged foods was allowed by the Department of Conservation for Williamson Act areas.

Mr. Jobson asked for a copy of the settlement agreement.

Supervisor Forster said that he thinks that area has calmed down and is not a real problematic area, but we can look for that document.

Mr. Knebel said they also have operations in the Napa Valley and that this is a time worthy and thoughtful exercise. He said that this area is growing and that it is important to think carefully so that everybody knows where we are going. He added that residents and consumers are coming and he knows we have water issues and traffic. He shared that traffic in the Napa Valley on the weekends is tough from a winery part of view. He explained that in the evenings the traffic is not from the wineries, but from the restaurants and that in the morning and late afternoon it is from the winery workers who cannot afford to live in Napa. He shared that it is important to have some more conditions better defined with special attention and care given to the investments made from multiple generations.

Comments received in the chat included having a hard time hearing and a suggestion to reduce the speed limit on Shenandoah Valley from 55 to 35.

The meeting was adjourned at 3:32 p.m. The next meeting date is tentatively scheduled for May 26, 2022 at 2:00 p.m.