

ACTION MINUTES

LAND USE & COMMUNITY DEVELOPMENT COMMITTEE

May 25, 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 Director
Mary Ann Manges, Recording Secretary

OTHERS PRESENT:

Jamie Lubenko, Fiddletown resident
Bailey Lubenko, Fiddletown resident
Come Lague, La Mesa Vineyards
Dave Horner, Executive Director of Amador Council of Tourism
Kathleen Mahan, Helwig Winery
Amy Water White, Plymouth
Robin Peters, Delta Engineering
Brian Oneto, Supervisor District 5
Brian Jobson, District 5 resident, Foothill Conservancy board member

OTHERS PRESENT VIA ZOOM:

Andy Friedlander
Dominick Chirichillo
Jenae
Krista Ruesel
Margaret Schroeder
Ruslan Bratan
Valerie V.
Beth
Emily Haines
Nick C.

Supervisor Forster called the meeting to order at 2:05 p.m.

AGENDA: Approved.

PUBLIC MATTERS NOT ON THE AGENDA: None.

APPROVAL OF MINUTES: April 28, 2022 approved with minor corrections.

CORRESPONDENCE: Michael Baldinelli letter.

ITEM 1: **Continued review and discussion of the County's zoning ordinances related to wineries, wine tasting rooms, and their associated events.**

Supervisor Forster introduced the item

Discussion began with Mr. Beatty sharing that there is a clause in the Williamson Act contracts where the

Board of Supervisors cannot take by right uses away without written permission by the owner. Supervisor Forster commented that if we make changes, only properties going forward could be affected. Mr. Beatty agreed. Supervisor Axe asked how and if they could still apply. Mr. Beatty responded that the new contract language would have to reflect the ordinance changes and that and people could still apply, subject to the new rules.

Mr. Jobson shared that by right uses only arose when the winery ordinance was passed with Williamson contracts and asked that if those can be taken away.

Mr. Beatty responded that this bears more research and he needs to consult County Counsel.

Counsel Spitzer commented that it is something to look at and that the Board is just not allowed to take anything away.

Discussion continued amongst the Committee with Supervisor Forster stating that at the last meeting Ms. O'Riordan said that in order for someone to have a tasting room, they you have to produce wine on site. Supervisor Forster asked if it applies to all the wine that they make. Mr. Beatty responded that an exception exists with duplicate 02 licenses. He continued that there is some ambiguity in the language in the ordinance on whether wine sold tasting rooms has to be produced in Amador County. Supervisor Axe asked if there is a constraint on the percentage and if they can bring wine in and if that is cost effective. Mr. Beatty said that it has been alleged to have occurred. Both Supervisor Axe and Forster asked that this be put on the list so that the language can be tightened up.

Ms. Jamie Lubenko stated that she believes there is a 50% requirement by the State. She shared that it is important to recognize that some of the conditions are the conditions of the winery as well. She added that grape growers do not want that here. She said that she believes the master license has to be in Amador in order to have a duplicate 02 license.

Mr. Beatty said there is ambiguity in the code in that the County code requires the master winegrower license to be in Amador County but he does not know if the State has the same requirement, but that language can be cleaned up.

Supervisor Forster and Supervisor Axe commented that language should be cleaned up and that State language should be included so that it is crystal clear.

Supervisor Forster read a submitted letter by Mr. Come Lague and referred to Mr. Lague's suggestion that a meeting be scheduled by the Planning Department between neighbors that live within 500 feet of a proposed tasting room in order than to decide if any further permissions can be agreed upon. If so, he said an amended set of conditions can be granted without going through the intense CEQA process. Supervisor Forster asked for Mr. Beatty and Counsel's input on this.

Mr. Beatty agreed that the more prescriptive, defined requirements that you have - even with use permits - the easier the permitting process is going to work. Right now, the only guide is permit history.

Supervisor Forster stressed the, due to parcel variations, that there is never going to be complete consistency.

Mr. Beatty stated that if we include some of the prescriptive requirements in the Agriculture and Williamson Act zones that may prevent request for use permits to exceed the current event limits.

Mr. Peters stated that he would like clarification on what the Committee trying to accomplish through these discussions. He suggested that a short list with concerns be made and asked to push the other issues aside or the one-year process is going to take five years.

Supervisor Axe said that the issues he has been hearing about, and that potentially are the issues affecting quality of life, are noise, lighting, traffic, and possibly water use.

Supervisor Forster said this is not going to be over in just a couple meetings and that it will go to the full Board to get their input and then back to Land Use again. He commented that at the last meeting issues were discussed and one issue is having a tasting room without a winery. He said there is a need to clean up that language.

Mr. Peters asked if the percentage of wine made in the County matters to this conversation.

Supervisor Forster said it is a State rule that was brought up that should be enforced.

Mr. Peters said there are pent up frustrations within the industry and that not all of them should be tackled.

Supervisor Forster said that we are not going to do that and stressed that setbacks are going to affect adjoining properties and as well as their rights.

Mr. Lague said that it is not true that La Mesa is the closest tasting room to a residence and shared a list he compiled. He stated that a lot of issues he faced were tied to proximity. He suggested to create a process with clarity for business owners and a known basic set of operating conditions such as wine club events. He said that the ordinance should be clear about basic rights so wineries do not have to fight for every right possible and that it should apply equally to R1A, A, and AG with maybe a minimum size parcel since there are so many R1A parcels.

Supervisor Axe asked if there is a list of wineries and acreage for R1A parcels and asked if there is a minimum size.

Mr. Beatty responded that there isn't a minimum acreage required, but most wineries are on at least 40 acres. R1A parcels can be as small as an acre.

Mr. Jobson asked to add language to minimize commercialization so rural quality, character, and agricultural activities which involve signage and food service are not destroyed. He said that this has happened in Napa. He stressed that normally commercialization is centered in urban or town areas, but there is mixed use in the Valley so rules are needed to avoid conflicts and to preserve our rural quality and uniqueness. He reminded that at the last meeting the CEO of Rombauer commented that we have a very special treasure here, but if let get commercialized it can get away from us.

Ms. Lubenko stated that she agrees with Mr. Peters that it is hard to understand what issues we are trying to address and that some rules are already in place. She asked to focus on issues such as noise and signage, individually. She shared that she believes that Ms. O'Riordan is talking about a nonconforming winery question. She asked if Zoomers have any comments and for the number of complaints.

Discussion continued amongst the Committee. Supervisor Axe said Ms. O'Riordan has a concern and that clearly wine should not be brought in from somewhere else. He added that noise and lighting can be addressed through hours of operation and that traffic at the last meeting was mentioned, but that it is hard to address.

Supervisor Forster added that The Vintners Association is trying to address traffic by bringing people in during the week. He stated that noise is a big issue for residents, is less bearable, and that some locations are worse on neighbors. He said that wineries such as Helwig are located appropriately and do not have as much as an effect.

Ms. Lubenko asked if enforcing existing ordinances would solve most of the issues. She stated that she believes setbacks referred to on the spreadsheet sheet created by Mr. Lague are for homes owned by the wineries.

Mr. Beatty clarified that the homes listed on the spreadsheet were measured from the closest tasting

room on an adjacent parcel. Supervisor Forster stated that he would like setbacks for tasting rooms in R1A, A, and AG parcels and shared that the noise issue is much broader, and is a quality of life issue.

Supervisor Axe asked to circle back to traffic and consider that in more remote areas roads can be treacherous and events might need to be limited. He added that the two biggest things are noise and lighting from activities.

Supervisor Forster said that some of these changes may not even apply to a lot of the wineries already grandfathered in. He shared that new standards on lighting can address the dark sky. He stated that he would like more discussion on setbacks and that he agrees with Mr. Lague that it should apply to R1A, A, and AG.

Supervisor Axe stated that existing facilities should be grandfathered.

Supervisor Forster asked if Mr. Baldinelli would be grandfathered in based on his letter.

Mr. Beatty said he and County Counsel will figure that out based on a review of the Williamson Act contract, and suggested that setbacks for the tasting rooms could affect the placement of future home on adjoining parcels.

Supervisor Axe said that setbacks could be less than 500 feet, but that it would trigger more limitations.

Supervisor Forster asked for a lot more discussion on staff having the ability to give ministerial permits on A and AG parcels for events.

Supervisor Axe said that having an unlimited number is not realistic because things have changed.

Mr. Beatty said there is no problem doing that in R1A, but staff is not involved in permitting events in A and AG.

Mr. Friedlander shared that the speed limit of 55 is too high for Shenandoah Road and the majority of the speeders come from River Pines.

Supervisor Forster said that there is not much that can be done, but he can talk to the Public Works Department. He shared that there is a formula that is used to determine speed limits and that usually the speed limit can only be lessened by 5 mph.

Mr. Jobson commented that it would be good to know that if it is within the discretion of the Board of Supervisors to revise the ordinance for by right uses in non-Williamson Act parcels. He stated that it is good to know if it is okay to change things like unlimited events and if have good grounds to do so.

Supervisor Axe responded as long as we're not taking away from somebody that already exists.

Supervisor Forster responded that it is not the intent to take rights away from those on the books. The Committee asked for clarification. Counsel Spitzer said it would have to be analyzed for a potential takings claim on a case by case basis and that he would like to look at it.

Supervisor Forster said that at the last meeting it was discussed that businesses already having the rights would be grandfathered in. He added that it sounds like the wineries are not even coming close to utilizing all the by right uses, but going forward that he does not see the harm of putting a lower threshold on it. Supervisor Axe suggested that if already have the wine operation they would qualify for all the by right uses and their property would be valued higher. Counsel Spitzer said that it makes sense and if a tasting room is not using all available events there is less of a takings issue.

Discussion ensued amongst the Committee regarding reasonable event numbers such as 10 events per year at 125 people and then maybe 2-5 events for 450 people. Supervisor Forster asked to exclude

private wine club events. It was discussed that it would be nice to hear from some of the wineries and get business input.

Ms. Mahan, Helwig Winery, said that very few wineries are putting on these events and that very few that are doing it constantly. She said that we are really looking at weddings or wine club events. She added that the biggest issue is a setback issue and that it is not fair to purchase and build something and then have rules change on you. She stressed that, overall, everyone works very hard to get along, be respectful, and are mindful of noise and light. She believes that maybe a few individuals possibly are not being policed and that traffic is not just from wineries. She wants to have mindful growth. She stated that many of these facilities cannot handle 450 people at events, nor do they want to, asked to slow down a bit and enforce what has not been enforced.

Supervisor Forster said that he wants to make the correct decisions and that he believes the most reasonable change is a 500 foot setback from the property line. Supervisor Axe said he does not know what she means about going slow and said setbacks would be a change in a positive direction.

Supervisor Forster stated that he expects to have one more meeting and right now there are two areas for clean up by staff: setbacks and should by right uses reduced for new projects. Supervisor Axe said to have this written down on a document for next time and to work with staff.

Bailey Lubenko, Amador Vintner's Association, said that she believes we are shooting in the dark on how many events everyone has. She suggested that the AVA survey their members on how many events they are currently having and how many events are successful for them to thrive.

Supervisor Forster thanked her for her offer and said that he will get some questions to her.

Mr. Peters said that there is not a lot of science behind the 500 feet setback and made a suggestion to just say a setback.

Supervisor Axe asked if there is a more scientific way. Discussion ended with Supervisor Forster stating that for now it is 500 feet with Supervisor Axe recommending that it will be revisited in more detail.

Ms. Lubenko shared that she is curious about noise issues coming from Airbnbs in the area, not just the wineries while stressing that lodging is needed. She added that it is important to realize how each piece impacts the whole. She shared that wineries are serving food and that food is absolutely needed out there. She asked to establish goals and suggested that an agenda for a meeting can help them prepare. She said that wine tasting traffic is typically slow and that commuters usually are the ones speeding. She said that Mr. Knebel from Rombauer at the last meeting had great insight on traffic.

Supervisor Axe said that she raised some good points and commented that maybe the ordinance for short term rentals can be revisited. Supervisor Forster inquired about her not wanting to exclude food events and said he agrees that there should be food, but there should not be restaurants.

Ms. Lubenko said that food is done often and with food trucks frequently. She added that a model was created by Villa Toscano and is used throughout the Valley.

Supervisor Axe referred to Ms. Lubenko's earlier comment stating that some are using the unlimited event provision to serve food.

Ms. Lubenko said that she does not know how they are doing it, but does not want to speak on behalf of anyone. She stressed that she does not want to remove food from the Valley until Plymouth gets their act together.

Supervisor Axe said others have brought it up as an issue but that it is primarily events and impacts around them.

Mr. Jobson suggested to add standardized signage. He shared that the ordinance works well, but starting to see food signs pop up which detract from the rural quality and asked to include that as a concern.

Supervisor Forster asked if there are any further comments. There were none.

Supervisor Forster said they would try to put together an agenda, put together a questionnaire for AVA, and that two areas of concern so far are the setbacks and by-right use discussion.

The meeting was adjourned at 3:33 p.m. The next meeting date is tentatively scheduled for June 23, 2022 at 2:00 p.m.