

**ACTION MINUTES
LAND USE & COMMUNITY DEVELOPMENT COMMITTEE**

May 25, 2023

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

STAFF PRESENT: Chuck Beatty, Planning Director
Mary Ann Manges, Recording Secretary

CALL TO ORDER: Supervisor Axe called the meeting to order at 2:00 p.m.

AGENDA: Approved by consensus.

PUBLIC MATTERS NOT ON THE AGENDA: None.

APPROVAL OF MINUTES: April 20, 2023 approved.

CORRESPONDENCE: John Di Stasio, Amador Vintners Association (AVA)

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

Supervisor Axe introduced the item. He shared that at the last meeting the message heard was that people want the flexibility to operate their tasting rooms so that they can market their wine and engage in the type of events dedicated to wine marketing and wine sales as opposed to other types of more ancillary events. Changes were made to the proposed ordinance revisions to reflect this need, and Supervisor Axe reviewed the changes.

Supervisor Axe asked Mr. Beatty which zoning districts the proposed changes would apply to. Mr. Beatty stated that all of the proposals would apply to new wineries and tasting rooms in the R1A, A, and AG zones going forward.

Supervisor Axe asked for public comment on the current draft of proposed changes.

John Di Stasio, President of the Amador Vintners' Association and owner of Di Stasio Vineyards, stressed that the Vintners want to be good neighbors and want development to occur so that it doesn't create a public nuisance. He stated the most important things from their discussion is to be open an adequate number of days in order to be economically viable. He stated that they understand setbacks and parcel size are important, and agree with the ability to be open 7 days a week and to be able to have some flexibility in the numbers and types of events. He said that things like corporate and special events are not the same as a wedding, and shared that the typical wedding is 150 people and that most of the existing wineries do not have infrastructure to support weddings bigger than that. He shared that four- and five-hour events bring large numbers of people to the Valley, but that traffic is spread out throughout the day among 45 wineries.

Supervisor Axe said the Committee is still integrating and looking at AVA's comments.

Mr. Di Stasio suggested to inform people up front with R1A properties that it might be permissible to have a winery, but that there are going to be limitations.

Supervisor Forster said spreading the traffic load makes sense. He added that nobody seems to like using road designations, but that the Board hears about the problems regarding road conditions.

Mr. Di Stasio said that the way the current draft is written is better, that setbacks are very important, and

that Road Maintenance Agreements can be critically important.

Supervisor Axe asked how many wineries can handle parking of 50 cars.

Mr. Di Stasio said not without a setback and that most tasting rooms have overflow parking, and that their interpretation of an event includes 125 people at one time.

Supervisor Forster said the County does not want to be a watchdog, and want the wineries to go into compliance on their own and most are going to be chastised by their own membership if they don't.

Mr. Di Stasio said they are going to share the proposed ordinance at their annual meeting.

Brian Jobson, Foothill Conservancy, shared that using the phrase 'all existing uses will be grandfathered' should be discouraged. He stressed that a rogue operation should be treated as noncompliant that the County should address it.

Mr. Beatty said the proposal allows all legally operating wineries and tasting rooms to be grandfathered.

Mr. Jobson asked for clarification that legally includes the existing winery ordinance. Mr. Beatty confirmed.

Patrick Enright, representing Domenico Winery, said he has a couple concerns. He said that he sees that there is a strong setback requirement and asked to consider for it to depend on the property and how noise carries and that maybe this a place for a good noise ordinance. He asked for clarification about grandfathering with everybody who is legally operating today and being restricted to further expansion to 10% per the County's Code. He asked if disaster occurs if someone can only rebuild on their current site or if they did not meet the setback if they would have to move their location further away from the property line.

Mr. Beatty responded that as far as nonconforming uses, if it can be moved so that it is consistent with current codes, that the owner will be encouraged to do so. If it cannot be moved and be compliant, it can be replaced at its current footprint, but not enlarged, unless the Planning Commission reviews it to determine whether or not it is more intense than the prior use. He explained that if it is a nonconforming use, based on the proposed ordinance, then expansions will be limited to the 10% allowed in the nonconforming use ordinance.

Supervisor Axe asked if a tasting room is grandfathered if they want to exercise a new entitlement and it complies with the new ordinance if they can do that.

Mr. Beatty responded yes, but if it is an expansion of a use that is deemed excessive once a new ordinance is in place that it will take a special level of review.

Supervisor Axe asked if expanding a non-conforming tasting room is an example.

Mr. Beatty responded if they want to expand their square footage, it would be limited to 10%.

Mr. Enright asked if they do not meet the setback if they can expand 10%.

Mr. Beatty responded that he believes they could not.

Supervisor Forster asked if someone submits plans before this is approved if it is grandfathered.

Mr. Beatty responded yes because the permits were applied for in good faith based on the rules at the time.

Supervisor Axe said noise is talked about in the General Plan and one of the mitigations is setbacks,

architectural features, berms, and landscaping.

Mr. Jobson asked if the format of the existing ordinance will stay in place and that this will be added to it.

Mr. Beatty responded that the existing winery ordinance can stay in place and another one adopted going forward or otherwise institutional knowledge can disappear.

Mr. Jobson stated that a lot of licensing and operational requirements are in that and that the existing ordinance should be kept in place for the existing wineries, with the new proposal an additional step. He shared that frequency and hours are not present in this draft.

Supervisor Axe responded that they wanted to focus on setbacks this time and that next time we can put in more details like that.

Mr. Jobson said a lot of problems that he has heard from the neighbors are loud noise from events in the evening and that hours need to be addressed. He suggested that with less setback or parcel size to not go so late into the evening or not have one every week late into the evening.

Supervisor Axe said we can take that up again. He said that they did not want to reduce the ability to operate as a tasting room 7 days a week or to have events for a winery to market its wine.

Katherine Evatt, Volcano resident, shared that the General Plan Noise Element has defined noise limits for daytime hours (7am to 10pm) and nighttime hours (10pm to 7am), and that any adopted proposal needs to be consistent with the General Plan.

Scott Harvey stated that he has been involved in the wine industry in Amador County for 50 years and asked if a grandfathered winery sells if the new owner needs to abide by the new rules.

Mr. Beatty responded that the existing use would run with the land, but if it is a nonconforming use and it ceases for 2 years, that future uses would need to be consistent with the new code. He expounded that the nonconforming use section of the code allows a 10% expansion of nonconforming uses without a hearing. That, alone, is a good reason to have two separate ordinances.

Supervisor Axe said with Williamson Act parcels, it would definitely run with the contract until it expires.

Supervisor Forster asked if people could ask for an extension if they are trying to negotiate a lengthy deal and know they are going to continue with the operation.

Mr. Beatty replied that it would conform to its current ordinance at the time so it would not become nonconforming if this is worked out as a pair of ordinances.

Mr. Jobson said if two ordinances are contemplated, we need to consider that there are some wineries with something less than the 7 days a week operating and they may not want to be grandfathered in.

Supervisor Forster said that two ordinances might or might not be the way to go and that he agrees with Mr. Jobson that a level playing field is wanted for everyone.

Mr. Beatty stated that unless a tasting room is operating with a use permit in R1A, there are not any limits to the hours of operation other than the 10 p.m. quiet time.

Mr. Enright asked for clarification about the 400 foot setback for special events. Does the setback apply to the tasting room building, the vineyard, or other outdoor areas?

Supervisor Axe asked what specifically the setback is applied to.

Mr. Beatty said that we have applied to the bonded premises with use permits.

Kevin Walker asked if the economic impact of the wine industry has been calculated.

Supervisor Axe said in order to do it comprehensively that it could be pretty involved.

Mr. Walker said baseline numbers such as sales tax are easy to get.

Supervisor Axe added how that trickles through the economy could be more difficult.

Supervisor Forster stated that usually problems related to wineries are not economic, but about quality of life issues to neighbors.

Mr. Walker said it seems that a lot of attention is on the Shenandoah Valley and suggested to consider some sort of overlay since overlays can be very helpful to a developer.

Supervisor Forster asked if a list of criteria instead of an overlay could work.

Mr. Walker responded that it might, but that an overlay could provide the latitude to create something more specific when the concern is concentration in an area. He said that he believes we are on track trying to balance quality of life and being pro- business. He voiced that uses are by right in the agricultural zones, but still have use permit process for R1A. He shared that he encourages the food aspect of tasting rooms.

Supervisor Axe said there is language in the original ordinance regarding food and it is not being considered at this time.

Mr. Walker said that food is maybe a balance in the scale and that it is another draw and does not bring the noise of an event.

Supervisor Forster said that he agrees that food should go with wine, but that it should be an incidental use. He encouraged the AVA to do their own monitoring and said the State will let us know if there is a problem.

Mr. Walker shared concern that there are regulations that are not enforced now and that we are adding more of them.

Mr. Jobson said that the General Plan says that restaurants belong in commercial districts and to discourage any tradeoffs.

Evan Dudley said a lot of fresh ingredients are grown in Amador County and asked if the definition could be changed because he would rather serve guests fresh ingredients instead of packaged food. He referred to El Dorado County's non-residential and residential code regarding setbacks and asked that there be an even playing field between the counties that are near Sacramento.

Supervisor Axe asked if he had previously brought up corporate events. Mr. Dudley said he had. Supervisor Axe said that the maximum overnight accommodation is 10 people with a bed and breakfast use permit.

Mr. Dudley shared that glamping with outfitter tents can provide a high level event without infrastructure and that he has been doing these in Mendocino County with 600 people. He said 50 people overnight is not profitable.

Supervisor Forster said that he does not want to create problems by getting 150 people stay overnight at a rural location for a few days when the County lacks the infrastructure and support services.

Ms. Evatt thanked Supervisors Forster and Axe for recognizing that it may not be appropriate to have large overnight gatherings in rural parts of the county that have very limited services or infrastructure and

are in high fire zones. She added that traffic, water, fire, and emergency services need to be taken into account even if it is profitable for someone.

Mr. Jobson said he is alarmed about turning tasting rooms into large event venues, and that the last thing wanted is expanded uses to allow large numbers of overnight guests which takes away from the rural character and agricultural integrity.

Nick Churichillo, Domenico Winery, questioned how the definition of terms get drafted.

Supervisor Axe responded based on his limited experience.

Mr. Churichillo suggested that more work to be done on the definitions. He said that he does a lot of corporate events in the Silicon Valley and that he has never had anyone stay the night.

Supervisor Axe asked how many attend.

Mr. Churichillo responded that a typical event is 150.

Supervisor Forster asked what the zoning is.

Mr. Churichillo replied that it is commercial. He said that the term corporate does not tie to a size and asked to consider what legal definitions would stick.

Andrew Friedlander asked what the thoughts are about the casino in Plymouth.

Supervisor Axe said that it will change things and added that tasting rooms are usually closed in the evenings and that would be a good thing.

Supervisor Forster said that the County needs to mitigate any impacts of the casino and that there will be benefits and negatives.

Mr. Friedlander said that he is concerned about police coverage and that those coming from River Pines do not respect the speed limits.

Supervisor Axe said that an arrangement needs to be made for impacts but there is no intergovernmental services agreement at this point.

Supervisor Forster said they could talk to the Sheriff to try to encourage more presence in the Valley. He cautioned there is going to be a month's worth of road work on Shenandoah Road and warned that people could travel too fast. He suggested that maybe Public Works can do a speed study.

Supervisor Axe asked if there was additional comment on the current draft ordinance. There were no additional comments.

The meeting was adjourned at 3:11 p.m. The next regular Land Use Committee meeting is tentatively scheduled for July 20, 2023 at 10:00 a.m.