

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

September 14, 2023

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

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

CALL TO ORDER: Supervisor Axe called the meeting to order at 2:01 p.m.

AGENDA: Approved by consensus.

PUBLIC MATTERS NOT ON THE AGENDA: None.

APPROVAL OF MINUTES: August 24, 2023 approved.

CORRESPONDENCE: None.

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

Supervisor Axe provided an overview of the winery ordinance draft process. He shared that for circumstances and conditions that are not, nor can be, foreseen in this ordinance that there is an option to apply for a conditional use permit and/or to ask for a variance.

Supervisor Forster stated that he would like to address each of the letters received.

Jennifer Housler, Cooper Vineyards, shared that she spoke at the last Land Use Committee meeting and believes that she did not make the point that she thought she had made. She said she wants to clarify her position on the proposed number of guests allowed at wine club and winery social events and that the maximum number of guests be interpreted at any given time, not for the day. She said that at the last meeting she was responding to the gentleman from Foothill Conservancy who spoke before her who shared that the number of guests has always been understood as total for the day numbers. She added that that has never been her understanding nor the understanding for many of the winery people. She also said that at the last meeting she stated that she supports the Amador Vintners Association (AVA) and she meant that she supports the AVA in general.

Supervisor Forster asked as we go through the ordinance it is per day, correct.

Mr. Beatty responded that the existing ordinance does not specify and another letter submitted has a difference of opinion. He said that the proposed ordinance clarifies that it is a per day maximum which is probably the intent of the original ordinance because, if using the moment in time, there is no limit.

Supervisor Forster asked if 125 is really a good number and if increasing the number to 200 would be better.

Mr. Beatty responded that limits are not put on the day to day tasting operations or participation in AVA events and explained that limits are on the social and special events.

Ms. Housler said it would make a difference for winery owners to not have the moment in time interpretation on wine club events and advocated for leaving it without stipulation so people can come and go.

Deputy County Counsel Spitzer pointed out by leaving out the “per day”, the practice has been to read it as per day so the practice has some legal bearing.

Ms. Housler said that she does not know of that and previously the question has not been answered.

Deputy County Counsel Spitzer said that it has been the practice and if this were litigated the practice would prevail.

Ms. Housler said in that case she suggests to raise the number.

Supervisor Forster asked if going to from 125 to 200 people causes any problems.

Deputy County Counsel Spitzer responded that the County has not been enforcing the per day issue and has some wide discretion in how it enforces this.

Mr. Beatty stated that it has not been monitored and that there have not been significant complaints.

Supervisor Forster said that he believes by raising it to 200 that it will make it more consistent with what is actually happening now.

Larry Stanton, Amador Fire Protection District (AFPD), said when it is outside it is not such a problem but a lot of the tasting rooms are very small and if there are more than 49 people it becomes an assembly which brings about certain requirements. He reminded of the need to stay in compliance with building codes.

Deputy County Counsel Spitzer said the winery ordinance allows for a certain occupancy, but does not override the occupancy for the building code.

Brian Jobson, Foothill Conservancy, said raising the number to 200 is a better idea than leaving it blank and that the Conservancy could support that. He suggested that there be a footnote, or something similar, that other requirements need to be met besides the fire.

Mr. Beatty pointed out that there is language in the existing code that is mirrored in the proposed code where facilities have to meet all clearances from the Health and Building Departments.

Supervisors Axe and Forster suggested to also add health and welfare and fire.

Supervisor Forster read the letter received by Jane O’Riordan who had comments about better defining what an event is, reducing the number of guests attending events from 400 to 300 with an option to apply for a use permit, and her view that the number of people attending events are per day.

Mr. Beatty commented that this is the counter opinion that the number of people attending events are per day.

Supervisor Axe asked if there is anything more in El Dorado’s special event definition.

Mr. Beatty said what is in the proposed ordinance is a combination of two types of events and added that in the past there was no definition for an event.

Discussion ensued amongst the Committee about reducing the number from 400 to 300 and that a special use permit can be obtained if these numbers are desired to be exceeded.

Supervisor Axe referred to Robin Peters’ letter about being very concise and clear with how the rules apply to wineries and/or event centers. The Committee discussed to include wineries, tasting rooms, and event locations. Deputy County Counsel Spitzer said that language can be came up with and shared that

it had previously been discussed that the setbacks would apply where the events take place.

Mr. Peters asked what if the production facility is detached from a tasting room on the same parcel.

Supervisor Axe responded that as long as the production facility meets the setbacks, that events can be held there. He asked if people can still tour the facility.

Deputy County Counsel Spitzer said that he believes that the definition of events would not include a tour and that we can be clear about that. He added that we can pretty broadly define events.

Mr. Peters stated that tours do not create the impacts the Committee is concerned about.

Supervisor Axe said that he agrees and that he does not want to preclude tours if precluding wine production facilities from events.

Patrick Enright asked if the Committee is trying to clarify the setbacks so that they only apply to tasting rooms and event centers and all other buildings would be subject to the 50 ft. setback requirement.

Supervisor Axe responded pretty much and that it does not apply to a residence or anything like that.

Supervisor Forster stated that Board of Supervisors Chairman Brown had concerns about setbacks for parking, asked what the current setback is, and if setbacks for parking have been incorporated.

Mr. Beatty responded 50 ft. and that there currently is no setback for parking.

Supervisor Forster asked if there could be a setback for parking such as 25 ft.

Discussion ensued amongst the Committee about parking setbacks. Supervisor Forster shared that Mr. Enright had suggested to increase the parking setback to 100 ft.

Frank Moreno, resident of Shenandoah Valley, said he supports the residents, farmers, and wineries of Amador County. He stated that growth and tourism is needed and that most people want to keep a rural atmosphere. He shared that the winery ordinance was originally created in the 90's to develop a balance between wineries and residents in the Shenandoah Valley. He said he has voiced concern before and that since 2016 wineries and events have almost doubled. He stated that he is concerned about the increase in e-coli in several wells and wonders if there is a connection to an overuse of septic systems during large scale events. He said that he also has concerns about safety hazards from parking on main and access roads to the wineries when parking lots are full during large scale events and also for undue hardship on first responders. He asked if CEQA will be done related to environmental and community impacts and shared that the use of sandwich boards and signs often block visibility for vehicles. He asked if the County is aware on a monthly basis of the number of current events and if there is a way to monitor them. He ended by saying he has concern about road impacts and vineyards being removed or abandoned.

Supervisor Axe asked for Mr. Moreno to elaborate about parking on the road.

Mr. Moreno said on Shenandoah School Rd. he has seen cars parked on shoulders over the fog lines as well as accesses to the wineries parked on both sides of the egress where an ambulance could not have accessed the property. He stressed that parking should dictate how many people can be at an event.

Supervisor Forster asked if we can limit the number of people based on the estimate of parking spots on their site.

Mr. Beatty responded yes and that the code already requires adequate parking.

Deputy County Counsel Spitzer said it can be further specified with event numbers being "up to" a

number. He added that it can be further specified with clarity in the code about building capacity, parking, proximity to a residence, and safety and emergency access.

Supervisor Forster asked if that means we are going to abandon the parking setback from the property line based on how many a property holds being more important than setback.

Supervisor Axe suggested to say maybe a minimum setback from onsite parking to a neighboring property's inhabited residence.

Discussion ensued about parking setbacks and idling cars. Deputy County Counsel Spitzer suggested that one option is that there be a blanket for parking/idling for all wineries and that he does not see a takings issue there. Supervisor Forster suggested that within 50 ft. of residential property line no vehicle shall be idling. Supervisor Axe added and in order to have events there has to be adequate onsite parking. Deputy County Counsel Spitzer asked if this is going forward or for all wineries. Supervisor Forster shared that not taking away a right if it is in the ordinance now as health and safety and asked that parking be clarified for all. Deputy County Counsel Spitzer said that since it is already getting violated and in order to get greater compliance that it makes sense to at least reference it. Larry Stanton, AFD, said that he can get a paragraph out of the code for access requirements for width and height.

Craig Baracco, Executive Director of Foothill Conservancy, shared that in the AG zone the text implies that an existing Williamson Act contract is exempt from the new requirements and with bare ground or vineyards a new winery can be built and not be subject to the new requirements.

Mr. Beatty said the Board can change the ordinance but the by right uses are baked into the contracts for AG.

Deputy County Counsel Spitzer added that it is a contractual right.

Mr. Baracco asked if a property is not subject to a use permit in the general ag zone, if new requirements kick in with subsequent expansion.

Mr. Beatty responded that the new rules are going to apply for a new winery or tasting room. Expansions will be subject to the current rules.

Deputy County Counsel Spitzer said the County can clarify this issue in the ordinance.

Mr. Baracco asked for clarification of method(s) of expansion for wineries in the ag zone.

Deputy County Counsel Spitzer said that some of the older uses have contractual rights with Williamson Act contracts and that he will have to look at this further.

Supervisor Forster said he just wants people to be clear about their rights going forward and how far they can go with expansion.

Deputy County Counsel Spitzer stated that he assumes that they can expand to the full extent right now and that it is an issue for the Board if they want to curtail that.

Supervisor Forster said it takes a lot of money to operate a winery and that he does not have a problem helping them expand to the maximum amount legally.

Supervisor Axe began discussion about nonconforming uses ending with the Committee agreeing that existing wineries should have those rights preserved.

Mr. Peters stated that setbacks should only be applied to activities, not to buildings, and recommended a focus on the activity not the building.

Krista Ruesel recommended setbacks of 100 feet for parking, shared that headlights could be disruptive over property lines, and asked if someone adds a residence at a later date if the winery becomes noncompliant. She added that she is concerned that future property owners not being able to develop residential uses of residential properties without them being subject to impacts, especially in the case of smaller parcels adjacent to larger ones.

Brian's iPad said that adequate parking should be defined as not impeding emergency vehicle access or encroaching on public roadways.

Supervisor Axe addressed Mr. Peters' comment stating that the activities tend to occur at the tasting room and the event center, whatever that is. He added that it is hard to not focus on where the activities occur.

Supervisor Forster said that he agrees and that is why they are trying to mitigate the impacts on adjacent properties.

Supervisor Axe added that having the winery closer to the property line or somewhat exempt from the setback is fine as long as they are not going to be having activities or events other than making wine or showing the facilities.

Mr. Enright said he is surprised at how the Committee was discussing diverging from the two step approach with the two ordinances.

Supervisor Forster stated that AVA and others laid out our path and diverging from that sends out mixed messages. He said a lot of discussion was had at the last meeting regarding the suggestions shared by Mr. Enright.

Supervisor Axe stated that need to remember that these are agricultural lands and to use them for that purpose. He added that if precluded by this ordinance that there is a mechanism of a conditional use permit that can be applied for. He said that it is hard to foresee all the types of scenarios and that it is best to keep it as it is for now and that people can apply to modify their uses.

Mr. Enright said that the idea in proposing the numbers is to make a minimum floor that can assist with the profitability of the winery. He stated that the tasting room and events are an integral part of the wine business and that he is glad that the number is changed on the winery events to up to 200. He asked for a more balanced and fair number and that maybe 12 per month is too much and 12 per year is not nearly enough. He stated that he is hoping to find some kind of balance between the number that the winery can operate on and the neighbors being able to enjoy their properties.

Supervisor Forster responded that operating a winery is expensive, but that the core mission is to make a wine that people want to consume and purchase. He stated that these are ag areas and that he does not want to make them more commercial areas and asked what number Mr. Enright suggests.

Mr. Enright responded maybe 6 per month.

Supervisor Forster said that 6 per month is still a very heavy number and impacts residents all around the county every weekend.

Mr. Enright stated that these numbers are the maximum numbers you can have.

Mr. Baracco said this is a winery ordinance for regulation of wineries in the ag zone and that everything else being talking about is secondary and should be subordinate. He stated that increasing the level of events above what is in the draft now basically makes it an event center with a wine sideline. He shared that there are venues for event centers such as the Italian Picnic Grounds, the fairgrounds, and other buildings in areas that can handle that.

Supervisor Forster asked what the change is on social events.

Mr. Beatty said by definition it is anything over 125 and the change today caps it at 300.

Supervisor Axe stated that some changes have been made to allow some expansions in some areas. He added that it was reviewed by AVA, that some of their restrictions are greater than ours, and that he would like to leave it as is.

Mr. Moreno stated that he agrees with Mr. Baracco that it is ag and events are supposed to be secondary. He stated that his concern is if there is adequate groundwater to increase these events and if the septic is sustainable out there.

Supervisor Forster said he is trying to give Mr. Enright latitude, but that part of the problem is the numbers were unreasonable to begin with.

Supervisor Axe said that this can always be looked at in the future and that it was vetted by the AVA. He stressed that tasting room hours have been increased as well as the size of wine club events. He said he wants to help wineries market their wine, their ag product.

Supervisor Forster said that basically there is one entity advocating for this and that they are advocating on behalf of all the new entities. He said that the room is pretty empty right now and that problems have been mitigated or more people would be here.

Supervisor Axe said that he wants to make sure that the setback language is consistent with trying to target where the activity occurs and to not just blindly say winery buildings.

Deputy County Counsel Spitzer asked if this is exempting wineries provided they are not holding events and asked if this should include any structure that is not holding an event.

Supervisors Axe and Forster responded yes.

Supervisor Forster reminded that it was asked to be as concise as possible and asked where this goes from here and if the Board will look at this before passing the resolution.

The Committee decided to bring this back to the Land Use Committee, then on to the Board of Supervisors for a Resolution of Intent, and then to the Planning Commission with probably some kind of approval the beginning of next year. It was desired to make sure people have plenty of time to look at it with the new draft ordinance to go out in the next couple weeks.

The meeting was adjourned at 3:39 p.m. The next Land Use Committee meeting is scheduled for October 26, 2023 at 2:00 p.m.