

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

August 24, 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 2:06 p.m.

AGENDA: Approved by consensus.

PUBLIC MATTERS NOT ON THE AGENDA: None.

APPROVAL OF MINUTES: July 20, 2023 approved with minor corrections.

CORRESPONDENCE: Foothill Conservancy, Robin Peters, and Patrick Enright concerning Item 1.

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 the current ordinance will remain in place for existing wineries and the proposed ordinance will be the new criteria going forward.

Mr. Beatty clarified that going forward two separate codes will contain the same uses for tasting rooms established after adoption, with the exception of the new criteria being reviewed by the Committee.

Supervisor Axe stated that there was a question amongst the Board about the Public Nuisance Noise Ordinance and that it may need to be modified.

Deputy County Counsel Spitzer added that the Noise Ordinance, County Code 9.44, Section G., states that the chapter only applies to residential uses, so it does not apply to wineries and tasting rooms. He proposed that a quick fix is to say that the ordinance applies to wineries and tasting room uses and to residential uses.

Supervisor Forster asked if that would be consistent with how events operate now and if weddings would have to shut down the noise at 10:00 p.m.

Mr. Beatty responded yes and is consistent with the current ordinance.

Supervisor Axe said in the General Plan there is a decibel level at the boundary and asked if it also is enforceable.

Mr. Beatty responded that it is. He shared that the first of the major proposed changes to the A District separates the use criteria for wineries that were established prior to the adoption date of the new ordinance. He shared that there is no change nor impact to wineries and tasting rooms established before the adoption date. He added that there is one change that eliminates reference to the A-I, Agriculture-Intense General Plan designation which was eliminated in the General Plan update of 2016.

Supervisor Forster asked if the language in Mr. Peters' letter is correct in regard to just wineries or should it be something else.

Mr. Beatty responded that the language can be tweaked to make it specific to tasting rooms rather than just wineries in the A and AG zones and that the proposed changes can be referenced under tasting room operation and not just under winery operation.

Supervisor Axe referred to setbacks in Santa Barbara's ordinance which describes the point of sale of wine. He said he believes it is fine to use tasting rooms or where wine is sold and to maybe also include where events take place.

Mr. Beatty said a catch all could say where the events take place and that it should be concise.

Supervisor Forster shared that wording should encompass all wanted to be covered.

Supervisor Axe said that it should be concrete.

Mr. Beatty stated that a second major change to the A ordinance is with changes to wineries that are established after the adoption date. He shared that it mirrors the same uses that are allowed in the A District with the exception of setbacks, location on major roads, and intensity of events. He said that changes are listed at the beginning of the amendment so they are easily identifiable. He added that the same rules would also apply to new duplicate tasting rooms in the unincorporated area.

Supervisor Axe referred to Mr. Peters' letter which suggested that roads should be specified.

Supervisor Forster added that it should include all examples and be specific.

Mr. Beatty said that the adopted version will have to say specifically which roads are identified as major roads.

Supervisor Axe said a letter was received by Patrick Enright who represents Domenico Winery and asked if the owner of the winery would like to speak.

Dominic Chirichillo, Domenico Winery, said that they have asked Patrick Enright and Dianne Kindermann to look at the ordinance in hopes that the Land Use Committee considers a more lucrative approach for wineries to be successful in the future. He said that he appreciates that they are grandfathered, but has a big concern for future wineries and wants them to have an option to make their business successful. He asked if the Committee would consider increasing the number of events such as social and special events that meet the setback requirement on a major road. He suggested to consider changing special events from 12 per year to 12 per month, social and special events for wineries that meet setback requirements on a minor road from 12 per year to 24 per year and special events allowed 8 per year, social and special events for wineries that do not meet setback requirements to social events from 6 to 12 per year and special events 4 per year.

Mr. Enright stated that he wants to put together a compromise realizing that both they and the Board want wineries to succeed. He said that he knows that the County is trying to minimize noise, traffic, and parking and that he tried to address these things and used the General Plan for the noise standards. He asked if the setbacks could be doubled from the current 50 ft. to 100 ft. since noise, traffic, and parking issues are being addressed. He said it is a major commitment to operate a winery and that wineries need to know that they will be able to operate in a certain way and hold enough events and marketing and promotional activities to recoup their investment to success for themselves and the County.

Brian Jobson, Foothill Conservancy, said that both the Foothill Conservancy and the Amador Vintners Association believe that the 400 person limit is exceedingly high and not ever likely to be accommodated with limits on parking and with traffic problems. He added that the AVA suggested some lower levels that the Conservancy supports. He asked if there are any changes to food service.

Supervisor Axe responded that there are no changes and that it is recognized that food is necessary and that packaged food remains permissible.

Mr. Jobson said newcomers may not know what is going on and that it would be good to make it clear that prepackaged and catered events are allowed.

Mr. Beatty said that while anyone can have a commercial kitchen, it is what is done with it that matters and that events can be self-catered. He added that it was never the intent for meals to be made to order restaurant-style.

Mr. Jobson said there are a couple nonconforming uses and somebody driving through looking for an investment might misunderstand and asked if there is a way to clarify food.

Discussion ensued regarding numbers of people/cars allowed for current and proposed events.

Mr. Jobson said they support the 250 people suggested by the Vintners Association.

Supervisor Forster asked to look at the comments from Mr. Enright and compare them to what is currently allowed. He then said that the suggestion from Mr. Chirichillo for 12 a year to 12 a month is a bit aggressive and that there was not time to fully analyze it due to receiving the comment around noon. He stated that it kind of goes sideways from the direction we have been going.

Supervisor Axe said he agrees and said that maybe there is some kind of compromise, but that he does not want to make a decision now about it.

Supervisor Forster said that the problem he sees with the proposal is that it is making it more commercial and that their thoughts were to protect the agricultural integrity and quality of life for the whole county.

Supervisor Axe asked how many people are in Domenico Winery's wine club.

Mr. Chirichillo said about 1,000 and that number is kind of small compared to some of the bigger wineries such as Helwig in Amador. He said 200 people out of that many members is more realistic for wine club events. He added that he knows the Committee is concerned for the neighbors, but that not all properties are next to a neighbor.

Supervisor Forster said the majority of the complaints come from the Shenandoah Valley which has a lot of residential and is subject to events all of the time.

Supervisor Axe said that someone can always get a use permit for additional uses.

Mr. Chirichillo commented that most of the time people do not show up all at the same time.

Supervisor Forster said that is why he is not concerned about the 125 attendees as long as it is spread out over time where the impact is mitigated. He asked if there is a change requested by the AVA for that and said if it is not a problem now, why change it.

Mr. Beatty said the AVA suggested compensated and uncompensated events at 125 with a max of 48 per year and no more than 4 per month.

Supervisor Forster stated no one is monitoring or enforcing those limits.

Deputy County Counsel Spitzer added that is how the County has typically operated, but someone could come along in the future who is more of a stickler.

Supervisor Axe said the County has to look at it when someone complains and that he is not sure about changing that number.

Supervisor Forster said that a bigger problem was with the neighbor of Mr. D'Agostini where there was an

obvious impact with the tasting room being built so close.

Deputy County Counsel Spitzer said there is an issue about whether the 125 attendees is the maximum at any given time, or spread out over a day. He stated that clarifying it could be a potential resolution.

Mr. Chirichillo commented that it depends on the type of event and that usually they are spread out over a period of time and tickets can be staged.

Supervisor Axe said so they can potentially have more than 125 people during the day.

Deputy County Counsel Spitzer agreed and said that the way it is written it is not clear that the limitation is at a given time versus throughout the day.

Supervisor Forster asked how many wineries with wine club are going to invite all of them at the same time.

Various scenarios were then discussed.

Supervisor Forster said he would like to ask Mr. Enright for justification regarding the increase in numbers.

Mr. Enright said he has not done a detailed study, but worked with Domenico for what ideally they should be. He pointed out that currently there are no limits and that he was trying to reach a compromise for what is reasonable. He said that maybe 8 per month to include weekends would be a better number.

Supervisor Axe asked if social events of 12 per month would all be done on the weekends.

Mr. Enright said social events are things like small weddings, birthday and retirement parties with a lot of them on the weekends.

Supervisor Forster shared that a wedding facility, where weddings were wanted every weekend 7 months out of the year, was previously denied by the Planning Commission because of the impacts on the community.

Mr. Enright stated that the other way is too restrictive.

Supervisor Forster responded maybe, but how can we say when they all should occur.

Mr. Enright suggested to specify a number per month with a maximum per year.

Mr. Jobson said that it is important to remember that wineries make money on wine not on events. He stated that the AVA has made it clear that the numbers that they have proposed are reasonable and incidental to winery operation and going any further than that becomes more of a commercial activity with impacts on neighbors. He added that having events on every weekend both days is excessive. He shared that the AVA are best positioned to know and the Foothill Conservancy with 200 members supports them. He said last minute proposals to double the events has adverse impacts and added that the understanding for years is the total number of people at the event and suggested to stick with that.

Supervisor Axe said that a lot of input has been received, that we are moving forward and getting close, and that he would like to think about it.

Supervisor Forster said that he does not want this to go on endlessly and agrees with Supervisor Axe. He stated that by the next Land Use meeting we will be ready to come up with a final draft version to go to the Board.

Mr. Beatty said it then will go back to the Board for a Resolution of Intent.

Supervisor Axe asked if there is further comment.

Nick Chirichillo urged to redraft the language, as Mr. Peters indicated, to talk about tasting rooms and not the actual production facility of a winery.

Supervisor Axe said that it is an important detail and that the tasting room and eventually the event location is where the action is.

Supervisor Forster asked to meet before a month.

Jennifer Housler, Cooper Vineyards, said that 125 people for a wine club event is not truly big enough for the whole day, but that she is a member of AVA and supports them.

Supervisor Axe asked to clarify if it is the total number of people at any given time.

Dominic Chirichillo reminded that as we get into harvest fewer wineries will be able to comment.

Supervisor Forster said that public comment at the last meeting was not substantial and believes that most people have looked at it and the point is to move this forward.

The meeting was adjourned at 3:06 p.m. The next Land Use Committee meeting is scheduled for September 14, 2023 at 2:00 p.m.