

ACTION MINUTES
LAND USE & COMMUNITY DEVELOPMENT COMMITTEE

March 28, 2024

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

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

CALL TO ORDER: Supervisor Axe called the meeting to order at 2:02 p.m.

AGENDA: Approved by consensus.

PUBLIC MATTERS NOT ON THE AGENDA: None.

APPROVAL OF MINUTES: September 14, 2023 and November 30, 2023 approved.

CORRESPONDENCE: None.

ITEM 1: **Discussion and possible recommendation to the Board of Supervisors concerning the County's zoning ordinances related to events that can be conducted by breweries and distilleries in the AG/Exclusive Agriculture (Williamson Act) district.**

Supervisor Axe introduced the item.

Chuck Beatty, Planning Director, shared the staff report and explained that this item came up before about 4 years ago.

Supervisor Forster asked Mr. Beatty to clarify the Agricultural Advisory Committee's interpretation from the December 18, 2019 meeting.

Mr. Beatty responded that the Ag Committee's interpretation was that breweries and wineries couldn't be considered the same use because breweries are not specifically mentioned in the zoning ordinance. He added that the Agricultural Advisory Committee wanted the Board of Supervisors to change the ordinance to make them equal and to also make the language clear. He explained that a brewery or a distillery is a by right use and that the tasting and selling of beer or distilled spirits are by right uses. He added that events at breweries or distilleries may be a different issue. He added that if it is desired to include those ag products to have events, the zoning ordinance needs to state that. Otherwise, any ag product would get the same events as wineries and he does not believe that is the direction that is desired. He added that the winery ordinance was established after the industry was established to put boundaries on it.

Supervisor Axe shared concern that beer making is a water intensive endeavor and wants to have more data on that. He added that he believes that breweries that have popped up here usually have been in the cities and have public water. He added that wine is an agricultural product and that with beer the hops might be grown here, but not the barley. He voiced concern that beer tasting will turn into more of a bar operation with people being given a pint of beer versus a wine glass with just a tasting of wine and asked to check out how it works in El Dorado County. He stated that a brewery can be done right now and that a use permit can be applied for to have events. Mr. Beatty confirmed this.

Supervisor Forster said that he envisions craft breweries, not full commercial ones, with a pilot program that can be extended if running properly. He asked what the difference is when dealing with ag products and that he likes Supervisor Axe's suggestion to look at El Dorado County. He asked to also look at a couple more counties, such as Humboldt and Mendocino and see if any breweries are in zoning districts like Amador's. He added that this needs to be looked at thoughtfully and hopefully before he and

Supervisor Axe leave the Board.

Supervisor Axe asked if a brewery can satisfy the Williamson Act. Mr. Beatty responded yes.

Suzy commented that she is present to listen to another topic. She said that the only concern she has heard so far is that people might consume more beer than wine. She shared that, from her experience, people can choose to drink more at a winery also, that this is a behavioral issue, and does not see how these two things are not alike.

Supervisor Forster said that he agrees 100% with that and shared that when he is at a brewery that he wants to taste the different beers and does not see people getting drunk.

Mara Feeney commented that most of the product that goes into the wine is grapes and they are grown on site. She added that with beer that a much smaller amount of what is grown goes into the product to be served.

The Committee discussed allowing a brewery to do certain types of events and keeping it small right now, similar to the microenterprise kitchens, and to maybe start with 5 breweries. Also considered was whether a brewery and a winery can both be allowed on the same parcel. Supervisor Forster shared that he believes the whole intent of the winery ordinance was to put some kind of boundaries on it. Mr. Beatty said that events were what people were concerned about. Discussion continued about having the same rights to sell the product on site.

Mr. Beatty shared that there has to be ag production if on a Williamson Act parcel, but that it does not have to be related to wineries or a brewery. He said this is the reason they should be tied closer with specific language if there is a pilot project and added that the intent is that the brewery is there to support the ag use. Supervisor Forster asked what the difference is if there is a commercial brewery supporting the other ag use and believes that they should be craft beers. Mr. Beatty said that kind of large manufacturing facility without the ag product to supply it would not be consistent with the Williamson Act, that a craft brewery would be with hops grown on site.

Supervisor Axe asked if someone can grow grapes on their property and have a brewery. Mr. Beatty responded that they can.

The Committee asked to look at how much water is utilized by a beer making operation and the option of a pilot program with a preference to start a little smaller patterned after the new version of the wine ordinance. They asked what other counties are doing, especially El Dorado County, and to maybe take major and minor roads into account when it comes to events. Mr. Beatty said that there is currently interest for both breweries and distilleries with tasting and events consistent with wineries.

Supervisor Forster asked if the people growing the hops up on Carbondale brought this forward. Mr. Beatty responded yes.

Supervisor Axe said we should bring this back next time and have them here.

ITEM 2: Discussion and possible recommendation to the Board of Supervisors concerning the application of the County's Nuisance Noise Ordinance to roosters and other livestock noises in non-agricultural districts.

Supervisor Axe introduced the item and said he received a call from a constituent in Pine Acres who has a neighbor with a number of roosters and that the noise from them is bothersome. He explained that the constituent lives where there are CCRs, but that they are hard to enforce in that area and that he asked if chicken or roosters are allowed in R1.

Mr. Beatty said we have not had a practice of excluding chicken or roosters, sheep, goats or any other livestock in any zoning district unless it becomes a public nuisance.

Bill, constituent, stated that Elton Rodman never instituted an HOA in the subdivision so there is no way to pursue that avenue and that he would have to take the neighbor to court. He referred to ordinance "17.92" that he said appears to clearly allow for a reasonable person to say this is too noisy. He said that he saw a definition for R1 somewhere that allows up to 24 birds maximum with a specific exclusion for roosters.

Mr. Beatty said that he does not recall R1 having a limit on the number of animals allowed.

Supervisor Axe asked Bill where he read this.

Bill responded that he does not have it in front of him and that he believes that this is where the Public Nuisance Noise Ordinance originally came up, and that this appears to be a zoning violation. He shared that when he bought the property that he looked into the zoning, which was R1 not R1A, and about a year later the neighbors moved in and then about 6 months after that they got roosters. He said that it started with just one rooster, but that now there are two.

Supervisor Axe asked what time of day they crow and if they are in pens.

Bill responded throughout the day. He added that in the winter they tend to crow more in the afternoon and that in the summer they begin about 5:00 in the morning and then stop about noon. He said that he believes that they have some pens, but does not know for sure. He said that he understands that he lives in a rural county and believes that he has to put up with the geese and chickens, but not with roosters.

Supervisor Axe said he would take their roosters.

Mr. Beatty stated that our zoning code does not mention a livestock density in R1, that livestock is not mentioned at all, and that as far as farming goes the code just mentions crop and tree farming.

Supervisor Forster asked if they are not mentioned if it then means they are excluded.

Mr. Beatty responded no, at least it has not been applied that way, and from the description of the complaint that this could be a violation of the Public Nuisance Noise Ordinance.

Ms. Manges shared that there are certain prima facie hours in the Noise Ordinance.

Supervisor Forster said that he knows that people can have a certain decibel level until 10 p.m. and asked what time in the morning it goes to.

Mr. Beatty responded 7 a.m.

Supervisor Axe asked if maybe a physical barrier can be put up and suggested that with time that maybe Bill can get used to it.

Supervisor Forster asked if Bill has tried to speak to the neighbors.

Bill responded that someone else sent the neighbors a copy of the CCRs that say birds are clearly excluded. He added that he overheard the owner say that she is not going to get rid of her roosters until another neighbor gets rid of theirs. He added that the canyons act as megaphones and stated that this is the third year that he is trying to get used to it.

Mr. Beatty said the short-lived Livestock Density Ordinance excluded roosters on small parcels.

Krista Ruesel clarified that the Sheriff's Office would not go out when Bill called because this was not associated with Short Term Rentals or human caused noises, and asked if the language in the ordinance can be clarified. She added that the bird limitations Bill said he saw were probably in the Draft Livestock

Density Ordinance.

Supervisor Forster said that taking away someone's birds can be like fighting words.

Supervisor Axe said that it could be pushed to Code Enforcement and asked if there is a limitation. He asked if, ultimately, the Board of Supervisors is the final arbiter and, if so, if the Board would find with the plaintiff.

Mr. Beatty responded that unless it has become a public nuisance that it has not been enforced, and that the Planning Department doesn't receive many complaints about roosters.

Supervisor Axe said in another case near Bill that the neighbors were willing to build a coop to reduce the noise. He added that he has set a timer on his own coop to open the coop door later in the day and has also noise-proofed the inside. He suggested that this could be a compromise that Bill's neighbor might be willing to comply with.

Bill said he does not know what the neighbor is willing to do, but they are aware that there is not much anyone can do about it. He voiced that there is recourse if a dog barks for more than 20 minutes. He said his property is zoned R1, not R1A, and that he did not think he would have to put up with this. He added that it seems like someone would tell the Sheriff Department to at least look at this.

Supervisor Axe said they are not the final say on that.

Supervisor Forster asked Supervisor Axe to first talk to the Sheriff Department and then to talk to the property owner.

Supervisor Axe said he would be happy to go out to talk to them and asked Bill to provide where he saw the R1 zoning just to double check.

Supervisor Forster stated that he is just trying to do this in a progressive manner and that the final word would be the Board of Supervisors.

Supervisor Axe said that Board could ask Code Enforcement to look into it.

Ms. Ruesel said she does not believe that it can directly go to Code Enforcement, and added that the Sheriff's office is referencing the Right to Farm Ordinance when the Noise Ordinance is a better fit.

Supervisor Axe said he will try to get in contact with the neighbor.

The meeting was adjourned at 3:10 p.m. The next Land Use Committee meeting is tentatively scheduled for April 25, 2024 at 2:00 p.m.