

The Maple View Community held a public meeting on Wednesday, May 28th, at the Whitted Building in Hillsborough. The community showed their support with fantastic attendance at the meeting – there was standing room only with an estimate of 300 people attending.

The meeting was coordinated by neighbors of the Maple View community. Their concern was with the requested Agritourism improvements Union Grove Farm (UGF) made to Orange County Planning last year. The goal of the meeting was to help clear up any misrepresentations or misinformation circulating within the community.

Three presenters made PowerPoint presentations: Susan Walser, from Defend Maple View; Jane Saiers, from RambleRill Farm; and Derb Carter, who is a neighbor and lawyer with the Southern Environmental Law Center.

They covered a lot of ground regarding the history of the farm, the state's bona fide farm exemption and agritourism, conservation easements, the county's rural buffer, and the county Planning Department's Opinion Letter. A lot of it was information that is already available on the Defend Maple View site (www.defendmapleviewcommunity.com), but there was a lot of new information too. Susan Walser promised to post the PowerPoint of the presentation to the Defend Maple View site.

The first thing Susan said was that the Orange County Board of Adjustment hearing, that is scheduled for June 11, has been postponed and a future date is to be determined.

Union Grove Plan

When the first Board of Adjustment hearing scheduled for March was delayed, Union Grove Farm (UGF) made an amendment to their Master Plan, asking the county Planning Department for an updated Opinion Letter. Changes to the plan included many items including new equipment for their distillery operation, a new concert stage, new dressing rooms for artists, adding skyboxes to the large purple silo, and multi-story residential buildings. Also, the planned Amphitheatre is now being described as a "farm stage."

Susan Walser said that the county appears to be treating the changes to the plan as updates to the first plan and not as new uses. She also noted that the "multi-

story residential buildings” would probably require the Orange Grove Fire Department to purchase a hook-and-ladder truck – an expensive proposition.

Conservation Easement

The conservation easement that the Nutters entered into with Triangle Land Conservancy (TLC) in 1995 covers 107 acres of the old Maple View Farm (not the whole farm) and it says the owner cannot build new roads on the land or any new buildings without prior TLC approval. However, UGF has already put in new roads on the land (off of Meadow View Road), apparently without TLC’s knowledge or permission.

Within that 107 acres, there is a “farm operations envelope” and new buildings can only be built within that envelope (and with prior permission from TLC). However, the UGF Master Plan proposes to build structures outside the envelope.

Orange County Rural Buffer

The rural buffer was created via the Joint Planning Agreement between Chapel Hill, Carrboro, and Orange County. Part of its goal was to create a rural area in the county that was to remain rural in character, with dense development remaining in Chapel Hill and Carrboro. There were never plans for commercial development to be created in the rural buffer except for agricultural support services.

Derb Carter walked us through the history of the Orange County rural buffer land use category, which was implemented about 40 years ago. Its purpose is to preserve agriculture and provide for low-density residential development. (It is the reason for the 2-acre minimum lot rule around here.)

One feature of the rural buffer is that the county is prohibited from providing water and sewer services within it.

State Law on Agritourism

Jane Saiers and Derb both discussed the definition of agritourism under state law and the state prohibition on county zoning regulations that affect bona fide farm

use. Bona fide farm use includes agritourism. Bona fide farms are exempt from county zoning with the exception of a few things like electrical inspections, water, and septic regulations. Buildings that include overnight stays include building inspections.

Agritourism is defined in the law as (1) any activity carried out on a farm or ranch that (2) allows members of the public, for recreational, entertainment, or educational purposes, to (3) view or enjoy rural activities, including farming, etc. (it includes a list of farm-related activities). One key part of the equation is that the agritourism events are “taking place on the farm because of its farm or rural setting.”

Derb discussed court cases in North Carolina that have ruled on activities that are or are not within the definition of agritourism. One pertinent case, *Jeffries et al v. Harnett County*, 259 N.C. App. 473, 817 S.E.2d 36 (2018) held that a shooting range on a farm did not qualify as agritourism because (1) it did not derive some value from or require a farm or natural setting (a shooting range just needs open space, it doesn’t have to be on a farm); (2) its risk profile did not align with the risk profile of farm uses (misfires or accidental shootings are shooting-range risks but not farm risks); and (3) agritourism uses do not require much in the way of artificial structures or alterations to the land (the shooting range required the construction of berms, baffles, lights, targets, etc.).

Derb noted that there are other amphitheaters in the area — Red Hat, for example — that are in urban settings, so clearly an amphitheater does not require a farm or natural setting. The risk profile of an amphitheater (for example, drunk drivers after a concert) does not align with the risk profile of farm use. And the amphitheater itself is an artificial structure and requires alteration to the land.

County Zoning

Although state law prohibits county zoning that affects bona fide farm use, UGF apparently believed parts of the plan might not qualify as bona fide farm use, so it asked for an Opinion Letter from the county Planning and Inspections Department. Their preliminary opinion was that the hotel and restaurant and the Amphitheatre did not qualify as bona fide farm uses.

However, when their final Opinion was released months later, for some reason and

even though the plan had not been altered, Planning changed their mind and decided that the Amphitheatre does qualify as a bona fide farm use. This is when three neighbors and TLC appealed the Opinion (the 2,500 seat Amphitheatre) and a hearing will be held at the Board of Adjustment.

Other Issues

After the presentations, the crowd had many questions, especially issues of traffic, noise, light pollution, and water and sewer. Susan said that because this is farm exemption property, if the plan is approved, the DOT will not review it.

Responding to a question about noise, she said that Orange County sets a 60 dB maximum decibel level before 9 p.m. (11 p.m. on Friday and Saturday) (Orange County Code of Ordinances §16-53). (It drops to 50 dB after those times.) However, the sheriff's department has only one noise meter. Susan said several members of the group are meeting with the sheriff's department next week to discuss.

Someone brought up light pollution, but clearly this wasn't a topic Defend Maple View had considered before.

People also brought up the issue of water and sewer and how the current clear cutting on the land has already polluted nearby streams, however, because of UGF's standing as a bona fide farm and with an additional forestry management program in place, the NC Department of Water Quality (DEQ) and the Army Corp of Engineers have reviewed the areas in questions and have passed on the issue.

People also asked why TLC isn't doing more, such as filing for an injunction. They are a party to the Board of Adjustment hearing, but Derb said they are struggling to stay on top of this issue because they have never had to deal with a landowner who was so aggressively violating the spirit and letter of an easement before. And they need money.

One woman got up to defend UGF. She suggested that the project would bring jobs to the area and asked if people would be willing to meet to discuss compromises, such as a smaller amphitheater. She was shouted down (the crowd was pretty impatient even with the speakers agreeing with the crowd).

Susan emphasized that people would happily support UGF if it would stick to growing grapes and true farming and not try to sneak a commercial enterprise in through an agritourism loophole.

One of the people in attendance says that Sarah Kreuger at WRAL is working on a story in which she is talking to state legislators about fixing problems with agritourism. She passed her name on to Susan for follow-up.

What Can We Do?

Several people asked what can they do?

Number one is, TLC needs financial help if it's going to be able to mount any sort of lawsuit to enforce the conservation easement (<https://triangleland.org/>).

Another answer was to buy the various signs Defend Maple View are selling. Cash raised will go to the appellants' legal fees. There is also a GoFundMe page setup: www.defendmapleviewcommunity.com/gofundme The signs were sold out at the meeting. The Maple View Community will update on their website when more signs are available.

It was also suggested that we write to the county commissioners (www.orangecountync.gov/953/Board-of-County-Commissioners-BOCC). Although they are not directly involved in the Board of Adjustment decision, they need to hear support for the rural buffer and support for real agritourism.

Finally, we were told not to contact the Board of Adjustment.