

King County Adult Beverage Ordinance Invalidated by Growth Management Hearings Board

January 6, 2021

The Growth Management Hearings Board unanimously ruled that King County violated the State Environmental Policy Act (SEPA) and the Growth Management Act (GMA) when it adopted a broad array of zoning and other land use regulatory changes known as the Adult Beverage Ordinance. The Adult Beverage Ordinance, sponsored by former King County District 3 Councilmember Kathy Lambert, would have allowed alcoholic beverage sales businesses to locate on farmland and rural areas throughout King County.

In its January 3rd Order, the Board invalidated the Ordinance, ruling that King County failed to identify and evaluate environmental impacts, and did not ensure protection of agricultural lands, salmon habitats, open spaces and the character of rural areas as required by law. The Board determined that the County's amended development regulations were inconsistent with state law and the County's own comprehensive plan. The Board found that the Adult Beverage Ordinance would likely lead to proliferation of incompatible adult beverage businesses in rural and farming areas that are not served by sewers, storm drainage, roads, sidewalks, and other public infrastructure that is required for these urban type businesses. A finding of invalidity means that development applications for adult beverage businesses cannot be approved until a new ordinance that complies with state law is adopted by the County.

The nonprofit environmental organizations Friends of Sammamish Valley (FoSV) and Futurewise, together with other nonprofits, farmers, rural and urban residents, businesses, and environmental and community groups, challenged the County's action by filing petitions with the Growth Management Hearings Board in 2020. Petitioners contended the County failed to comply with legal requirements intended to ensure protection of agricultural lands, salmon habitat, open spaces, rural areas, and the environment. The Petitioners identified numerous negative impacts that would result from opening protected resource lands and rural area residential neighborhoods across King County to tasting rooms, wine bars, taverns, and event centers.

The Board rejected numerous County claims in defense of the Ordinance including the assertion that wine tasting is an agricultural experience and pointedly wrote it was like saying that "consuming a hamburger at a fast-food tasting room is an agriculturally-related experience if some portion of the meat, lettuce, tomato or other ingredient is produced onsite."

"Home to dozens of farmers, the Sammamish Valley is an epicenter of peri-urban regenerative market garden farming in the Seattle area, actively working to strengthen local environments, economies and communities." said Andrew Ely, Sammamish Valley farm owner and FoSV board member. "Our ecosystem depends on the health and rural nature of the surrounding land. The relentless pressure of completely unnecessary urban sprawl could displace our farm businesses in the blink of an eye. The GMHB decision is a breath of fresh air and vital to our continued success."

The Board agreed with the Petitioners that the Ordinance amounts to a de facto override of the Urban Growth Boundary established under the GMA, improperly allowing retail businesses which serve urban populations to set up shop in the rural area where there is no urban-level infrastructure and noted that “it is a [widely known] fact that land outside urban areas is less expensive, precisely because it does not have urban services and does have land use restrictions.” For these and other reasons, the Board specifically found that the Demonstration Project Overlay A, which had the effect of allowing formerly illegal retail uses south of Woodinville in the rural area, violated the GMA.

The County’s repeated argument that the Ordinance is a mere tightening of pre-existing zoning designations was deemed as flawed. The Board highlighted several areas where impacts of expansion were not considered, including repeal of the prior code provision limiting alcohol sales to products produced onsite, reducing lot size from 4.5 acres to 2.5 acres, and provisions allowing expansion of the number of events and exemptions from zoning limitations on events. The Board concluded that development allowed by the ordinance is inconsistent with the character of the rural and agricultural areas of the county including open spaces, can pollute groundwater, reduce instream flows, and adversely impact fish and wildlife.

The Board went on to rule that the Ordinance improperly thwarts governing King County Comprehensive Plan policy for protection of the rural area and violates the GMA. In reaching these conclusions, the Board criticized the County’s arguments for the Ordinance: “Once again the County ignores the illegal nature of some of the existing uses which could be addressed by code enforcement.” And the Board rejected as “clearly erroneous” the County’s argument that the GMA protects illegal “unpermitted, urban-style businesses” in the rural area.

Alex Brennan, Futurewise’s Executive Director, said that “the Board’s decision reiterated that working farms and rural areas throughout the state must be protected. This decision recognizes state protections for prime farmland from conversion to nonagricultural uses and from the adverse impacts of nearby uses such as polluted stormwater runoff. Preserving local farms is essential for a healthy, climate resilient food system.”

The Board first invalidated the Ordinance for lack of SEPA compliance in May 2020. King County appealed that Board decision to King County Superior Court on procedural grounds, resulting in a return to the Board several months ago. The Board this time took up review of the Ordinance on its merits to decide whether it violated SEPA and/or the GMA. The purpose of SEPA is to carefully consider the environmental impacts of local and state government decisions and serve as an environmental full disclosure law. The purpose of the GMA is to focus growth within cities and towns, conserve working farms and forests, and protect the desirable character of rural areas.

Friends of Sammamish Valley and Futurewise look forward to working with the County Executive and the County Council to adopt an ordinance that addresses the County’s legitimate goals and the concerns of the petitioners. We are confident working farms, rural areas, salmon habitat, and the environment can be protected.

About Friends of Sammamish Valley

Friends of Sammamish Valley (FoSV) is a group of citizens, businesses, and organizations with the goals of preserving the Sammamish Valley Agricultural Production District (APD), protecting the Valley's Sammamish River watershed and open spaces, and maintaining the rural area character and lifestyle.

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About Futurewise

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable and opportunity-rich communities, and that protect our most valuable farmlands, forests, and water resources. Futurewise has members across Washington State including King County.

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“The King County Council and Executive have worked long and hard to maintain and enhance the family farms in the county including the Sammamish Valley. These farms produce healthy, local food and farm products. Futurewise and Friends of Sammamish Valley appealed King County’s Adult Beverage Zoning Ordinance because we know that we can do better to achieve these shared goals,” said Tim Trohimovich, Futurewise’s Director of Planning and Law.

“As our region faces massive growth pressures, King County citizens, urban and rural alike, enjoy a quality of life enhanced by preservation of our rural areas, farms, forest lands and open spaces due to decades of land-use policies anchored by the State Growth Management Act of 1991,” said Michael Tanksley, Vice President, Hollywood Hill Association. “We are pleased with the Board’s decision.”

“It has been a long road to get to this decision. We are grateful that the Board agreed with our assertion that the Ordinance violates SEPA and the GMA, and further recognized that the foundational premise the Ordinance tightens up regulations was flawed,” said Serena Glover, Executive Director, Friends of Sammamish Valley