


PC March 9, 2023
Item #3
6 Pg's

Re: Comments for Planning Commission Meeting 3-9-23, Agenda Item #3, Legistar #23-0435

Sue Taylor <sue-taylor@comcast.net>

Thu 3/9/2023 8:23 AM

To: Planning Department <planning@edcgov.us>

 1 attachments (56 KB)

CEQA statement to PC 3-9-23.pdf;

Please attach this comment to the 3-9-23 Planning Commission Agenda for item #3.

Thank you,
Sue Taylor

3-9-23:

To the Planning Commission

The Planning Commission should not approve the Addendum to the Targeted General Plan Amendments & Zoning Ordinance Update Project Final Environmental Impact Report for the following reasons:

First, I would like to know if and how the County will be responding to the comments I submitted regarding the addendum to the TGPA/ZOU (State Clearinghouse Number 2012052074) on 2-24-23. I have not seen any response to my comments regarding this and which responses are required prior to the Planning Commission approving the Addendum. (I would also like to correct that my comments were incorrectly dated 2022, which I submit needs to be corrected to 2023).

Public participation is mandated and an essential component of the California Environmental Quality Act. The County submitted an addendum for public review on 2-11-23, (Saturday of a weekend holiday which included 2-13-23) and then ended on 2-24-23 stating, "This Addendum to the TGPA/ZOU FEIR is available for public and agency review for a 14-day period.", and "The Addendum to the TGPA/ZOU FEIR and supporting information **may be reviewed and/or obtained** at the following locations: (which were the County's 5 local libraries). During this time the library was closed on both Mondays with 2 snow days leaving 6 business days to review this document. On top of that, the addendum was not even at the Placerville library on 2-22-23 when I went to review the document. I inquired of the librarian of it's location and it was discovered that they had not received the addendum. Even though the County might state that they are not required to put an addendum out for a public review period, they must let the public have access to the substantial evidence that supported the determination to use an addendum. Since the county did post the notice of availability to the public, it should therefore actually be available to the public. Also, my comments (without a response from the county) to the addendum, that were sent in on 2-24-23, were not attached to the legistar until 3-8-23, so how has the Planning Commission had time to review and determine approval of the CEQA document? Also, the findings are required to be available to determine compliance to only do an addendum, but the findings were not made available until after the public comment period was closed for CEQA. The level of review has not been met nor has the public access to the information been met and there has been a serious lack of notification to, and participation by, those that will be most impacted by these amendments.

This Addendum to the TGPA/ZOU FEIR should not be approved by the Planning Commission and an environmental document should be prepared that is not tiered off of the TGPA/ZOU. Tiering off of the TGPA/ZOU would require an overview of the previous approved project, the proposed modification to that project, impacts of the modifications to be disclosed, and then an analysis of the impact to the previous project be prepared, creating a record of substantial evidence, which has not been done. The TGPA/ZOU consisted of 1000s of pages of documents that could probably fill up an entire room. I do not think that the County should start the practice of tiering off of this over convoluted TGPA/ZOU document. The Planning Department has already prepared a CEQA analysis for this current project, therefore they could simply modify

that analysis to address the impacts of this current project and give the public the opportunity to add possible mitigation measures to those impacts.

Second, The Planning Commission is being asked to approve the California Environmental Quality Act (CEQA) Addendum to the Targeted General Plan Amendment/Zoning Ordinance Update (TGPA/ZOU) Environmental Impact Report (EIR) consistent with Sections 15162 and 15164 of the CEQA Guidelines.

“The El Dorado County (County) staff has determined that an addendum is the appropriate document because minor, technical amendments to the Ranch Marketing Ordinance (Section 130.40.260 Ranch Marketing) and Winery Ordinance (Section 130.40.400 Wineries) are needed, but none of the amendments trigger any of the conditions for preparation of a subsequent or new document under the California Environmental Quality Act (CEQA). This addendum was prepared pursuant to the CEQA Statutes provided in California Public Resources Code section 21000 et seq. and CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.”

I would like to say that this current project has nothing to do with the TGPA/ZOU. **This is a new project, to implement more regulations, penalties and enforcement**, that is beyond what is allowed by El Dorado County Code Enforcement Ordinance into the Ranch Marketing Ordinance which creates new impacts to the industry of agriculture.

Also, if somehow evidence was discovered that the TGPA/ZOU and this project were related, CEQA Section 15162(a)(2) requires that a subsequent EIR shall be prepared if **new significant environmental effects** or a substantial increase in the severity of previously identified significant effects. Also 15162(a)(3)(A) requires a subsequent EIR to be prepared if “**the project will have one or more significant effects not discussed in the previous EIR.....**”

Per 15164 (e) The decision to not prepare a subsequent EIR, “must be supported by substantial evidence.” This evidence is missing from the Addendum. Rather the staff merely states in the findings, ...it has been determined that no subsequent mitigated negative declaration is required because there is no substantial evidence that the conditions described in Section 15162(a) have occurred.” The Staff has this backwards. Their decision to use an addendum **must be supported by substantial evidence**, not for substantial evidence to show up that would justify a negative declaration.

To use an addendum, the project must be within the scope of the TGPA/ZOU as mentioned in the **8.2.1 Future Use of the TGPA/ZOU EIR** discussion below. Also, these policies and statements from the TGPA/ZOU EIR below were the only ones that I could find in the TGPA/ZOU that could possibly be related but not “within the scope” (because they are supportive of Agriculture, not punitive), of the program EIR of the TGPA/ZOU:

General Plan Policy Amendments:

The proposed General Plan policy amendments are listed below:

Policy 2.2.5.10: Agricultural Support Services. The policy that requires a special use permit for agriculture support services would be amended; standards and permit requirements for such uses would be incorporated into the Zoning Ordinance.

Policy 8.2.4.2: Special Use Permit. This policy would be amended to eliminate the requirement for a special use permit for all visitor serving uses, and instead would establish standards, permitted uses, and requirements for permits, in the various zone districts in the Zoning Ordinance.

Policy 8.2.4.4: This policy provides that ranch marketing, winery, and visitor-serving uses (agricultural promotional uses) are permitted on agricultural parcels, subject to a compatibility review to ensure that the establishment of the use is secondary and subordinate to the agricultural use and will have no significant adverse effect on agricultural production on surrounding properties. The proposal considers amending the policy to allow for ranch marketing activities on grazing lands.

Basically, the TGPA/ZOU changes to Agriculture were to reduce the need for ALL special use permits for agriculture support services/visitor serving uses and to add Ranch Marketing to be allowed on grazing lands. **I do not see where this current project to implement more regulations, penalties and enforcement, that is beyond what is allowed by El Dorado County Code Enforcement Ordinance into the Ranch Marketing Ordinance, fits into the scope of the TGPA/ZOU.**

Furthermore, here are more supportive elements and policies of the General Plan in regards to Agriculture that shows that the Ranch Marketing Ordinance and Winery Ordinance Amendments will be impacting and in conflict to these elements and policies of the General Plan:

Objective 8.2.2 Agricultural Operations: **Protection** of the rights of agricultural operators to continue agricultural practices on all lands designated for agricultural land use and expand the agricultural-related uses allowed on such lands. Policy 8.2.2.1 (E) Commercial practices (ranch marketing) performed incidental to or in conjunction with such agricultural operations including the packaging, process, and on-site sale of agricultural products produced in the County; Policy 8.2.2.4: Agricultural activities shall be **protected from the encroachment of incompatible land use by the Right to Farm Ordinance**, which recognizes that nuisances such as noise, odors, dust, fumes smoke, and chemical usage are a part of recognized acceptable agricultural practices and production.

Objective 8.2.4 Agricultural Production Program: **Development of programs that provide alternative sources of capital**, reduce taxes or minimize expenditure for agricultural production: Policy 8.2.4.1 Programs shall be developed that provide tax benefits and enhance competitive capabilities of farms and ranches thereby ensuring long-term conservation, enhancement, and expansion of viable agricultural lands. Policy 8.2.4.2 (was modified by the TGPA/ZOU to be more supported of visitor uses by right.)

Policy 8.2.4.3 (lists visitor serving uses that may be included but not limited to...)

Policy 8.2.4.4 Ranch Marketing, winery, and visitor-serving uses (agricultural promotional uses) are permitted on agricultural parcels, subject to a compatibility review to ensure that the established of the of the use is secondary and subordinate to the agricultural use.....(grazing lands were added to this policy).

Policy 8.2.4.5 The County shall **support** visitor-serving ranch marketing activities on agricultural land, provided such uses do not distract from or diminish the agricultural use of said land.

Measure AF-A: To review the Zoning Ordinance (Title 130) to identify revisions that accomplish the following: E. Provisions setting forth appropriate by right, and conditional use permit development to **support** the agricultural industry [Policies 8.2.2.1, 8.2.4.2, and 8.2.4.3]

The following is from the TGPA/ZOU EIR:

8.2.1 Future Use of the TGPA/ZOU EIR

The primary purposes of the TGPA/ZOU EIR include examining the potential significant environmental impacts of this project (i.e., the TGPA, ZOU, and Mixed Use Design Guide), disclosing those impacts to allow informed decision-making, and identifying feasible, enforceable mitigation measures that would avoid or reduce the significance of those impacts. In addition, as a program EIR, the TGPA/ZOU EIR offers the potential to streamline the CEQA process for later actions (i.e., development projects) under certain conditions.

Broadly stated, once the Final TGPA/ZOU EIR is certified, **it can be used as the basis for approving later actions that are within its scope** without the need to prepare a new EIR for the action (CEQA Guidelines Section 15168). This provision of CEQA is intended to streamline the environmental review process for later actions that have already been adequately analyzed by the program EIR. **This does not apply to later actions that are not within the TGPA/ZOU EIR's scope.**

Certifying the TGPA/ZOU EIR does not eliminate the need to analyze the potential environmental impacts of later actions. CEQA Guidelines Section 15168 establishes two important limitations on this streamlined process.

First, the later action must be “within the scope” of the program EIR. That means that (1) **the action is part of the project described in the program EIR** and (2) **all of its significant impacts were examined in the program EIR.** **If the later action was not part of the project or would have new significant impacts that were not examined previously, then the action would be subject to CEQA’s usual requirements for preparation of an EIR.**

Second, when the later action is within the scope, it must be examined to determine whether it would result in a substantial increase in the severity of any of the significant impacts that were previously analyzed in the program EIR. The increase in severity could be related to any of the following: (1) the extent to which the later action is a change to the project; (2) the extent to which changes have occurred in the circumstances that existed when the program EIR was certified; or (3) whether there is new information that was not known and could not have been

known when the program EIR was certified. (CEQA Guidelines Section 15162) If the later action would increase a significant impact's severity, then a "subsequent EIR" would be required by CEQA. The subsequent EIR would focus its attention on that impact.

In conclusion, once it is certified, the TGPA/ZOU EIR will offer opportunities for streamlining the CEQA process for later actions. The extent to which this will occur will depend on the characteristics of proposed later action and will be determined on a case-by-case basis.

Lastly, the Farm Bureau comments from 7-23-2014 for the TGPA-ZOU stated, "While there are increases to the Districts' acreage, there were also decreases. The cumulative effect is shown as being "significant and unavoidable" but, clearly, completing an implementation measure that was adopted to mitigate against development impacts to agriculture should be significant in a desirable way, not a cumulative negative impact to be further mitigated. Farm Bureau requests this rationale be re-visited in light of the mandated Implementation Measure previously adopted. The response from the County to the Farm Bureau was "CEQA requires an EIR to disclose a project's significant adverse environmental impacts. Although aspects of a project may be both beneficial and adverse, CEQA requires the EIR to concentrate on the adverse aspects. To the extent that the project is beneficial, its benefits can be noted in the statement of overriding considerations that explains the benefits of the project that outweigh its significant and unavoidable impacts (State CEQA Guidelines Section 15093). This tells the public two things, the County sidestepped analyzing possible impacts to the loss of agriculture in the TGPA/ZOU which would have to be mitigated sometime in the future and only mentions a benefit from the 2004 General Plan, meant to protect agricultural lands, in a context that was not relevant to the project benefits (economic to development), therefore not offering any mitigation since the impacts were not addressed and have yet to be addressed from the TGPA/ZOU project.

Therefore, given the above evidence and considerations, this "Addendum to the Targeted General Plan Amendments & Zoning Ordinance Update Project Final Environmental Impact Report" must not be approved by the Planning Commission and this project must require a separate environmental analysis.

Thank you for the opportunity to comment,

Sue Taylor

El Dorado County Resident