

November 13, 2024

El Dorado County
Planning Commission
2850 Fairlane Court
Placerville, California 95667

Re: Planning Commission Agenda 11/14/2024, Item #6, 24-1860
Agriculture and Planning Department Proposed Changes to Zoning Ordinance
Code to Amend Ranch Makeg Winery Ranch Marketing Ordinance (§130.44) and
Winery Ordinance (§130.40.400)

Honorable Commission:

Neasham & Kramer LLP, Attorneys at Law, represents Black Oak Mountain Vineyard ("BOMV") which is a wine producing and a premier wedding venue site located in El Dorado County between Cool, California and Georgetown, California.

As to Item #6 on your Commission's November 14, 2024 agenda, we object to and oppose the proposed changes for several valid common sense and good legal reasons:

- (1) Since 2022 BOMV has had pending in the subject County departments an application for a Conditional Use Permit seeking an increase in its Special Events allowance for the subject site.

While it is not necessary to present the Commission here with a detailed history of how the BOMV application was not processed appropriately and now intentionally delayed for a specific goal, the proposed ordinance changes before the Commission are punitive and retributive in purpose, nature and effect-and are intended to put BOMV out of business as an agriculture enterprise. The County's process and intent from BOMV's start up to this ultimate goal is now apparent and reflected by the proposed follow-up ordinance changes before your Commission-seeking to set up and enforce a process whereby previously issued and unsubstantiated notices of claimed violations as a premise that BOMV unlawfully conducted its wedding venue business and thereby should be denied its Conditional Use Permit application and stripped of its ability to conduct what is a lawful and protected enterprise.

These proposed ordinance changes are intended to set up BOMV as being a "bad guy" recidivist zoning violator and thereby provide a basis for denial of the Conditional Use Permit.

The claimed violations and department efforts to put BOMV out of business are fundamentally sham transactions and are unlawful, inconsistent with and/or contrary the El Dorado County General Plan-specifically the El Dorado General Plan Agricultural and Forestry Element. They constitute an abuse of the County's legislative discretion and a regulatory "takings" (inverse condemnation) under California law and the United States Constitution.

- (2) The previously adopted June 2023 Zoning changes, as applied to the Notices of Violation issued against BOMV, and these proposed ordinance changes if adopted and enacted by the Board of Supervisors, also violate existing contractual rights protected under California and federal law against the retroactive impairment of pre-existing contracts by way of a post-hoc legislation to invalidate or penalize valid contracts.

BOMV timely filed its response against the issued NOV's. Unfortunately, the Planning Department has ignored the BOMV protest against the issued NOV's and now instead seeks to boot-strap its unlawful continuing course of conduct by interjecting into the ordinances proposed here for a retroactive enforcement of penalties entirely punitive and retaliatory in nature.

We urge your Commission to reject the proposed Ordinance changes and alleged the so-called policy mandate as identified by the Ag Commissioner and return them to staff for revision or, in the alternative, for the Commission to recommend against approval by the El Dorado County Board of Supervisors for the reasons outline below.

1. Summary of Objectionable Proposed Ordinance Changes.

- a. The proposed change to Ordinance Sections 130.40.05E(3)(a) and Section 130.44.102(C)(2)(c)-Reduce special events from 48 for wineries and 24 for ranch marketing establishments to 12 each year unless authorized by a special use permit or temporary permit, specifically

"3. Special Events. Special events, as defined in Article 8 (Glossary) of this Title, are any events such as charitable events, promotional events, and facility rental events that are not the tasting and marketing activities described in Subsection E.2.c (Tasting Facilities: Marketing) above in this Section.

- a. Number Allowed. Except as provided in Subsection in i. (Charitable Events) and Subsection b.2 (Administrative Permit Process) below, special events are limited to a total of twelve (12) events per calendar year for any Commercial Vineyard.

...

c. Special events that have, or are planned to have, up to 250 persons in attendance shall count against the total number of events allowed. A winery owner may only hold one special event per calendar day. If a special event is intended to last more than one calendar day, the winery owner shall submit separate notices for each day pursuant to Subsection f-h (Advance Notice) below, and each event will be included in the 48 maximum number of special events event limit calculated under Subsection 3.b. above...”

and

- b. Ordinance changes to the Enforcement Sections amendments that “clarify” the substantiated violations that occurred prior to implementation of these proposed changes would count for purposes, specifically

“4. Suspension for Repeat Violations. If a winery owner has received three substantiated violations or more occurring on separate dates related to a violation of Subsection E.3-e (Special Events) within any eighteen (18) month period then the County shall revoke any associated administrative permit that authorized the winery owner to hold special events, and that person will be ineligible to submit an application for an administrative permit to hold special events for six (6) months after the date of the last violation. For purposes of determining whether a substantial violation occurred within the eighteen month period, that period is calculated from the date of violation and not the date that the Notice and Order is substantial and includes any violation that occurred on a date after the effective date of Ordinance No. 5177 and before the effective date of the Ordinance amending this Subsection...”

2. Applicable El Dorado County General Plan Agricultural and Forestry Policy Elements.

BOMV produces wine and honey. It is both an agricultural enterprise and its wedding venue income aspect is used to financially support its existing winery operations and to provide funding and income incurred for the continuing and future expansion of its vineyards and wine production.

The severe reductions in the proposed regulatory ordinances-particularly as to draconian 75% reduction of annual allowable Special Events-will have an extreme negative impact upon the existence and future growth and expansion of the BOMV. The proposed ordinance changes are contrary to and, at a minimum, inconsistent with the express El Dorado County General Plan Agricultural Policy Elements as highlighted below.

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 Agricultural operations allowed by right on agricultural lands shall include, but not be limited to:

A. Cultivation and tillage of the soil, grazing, dairying, irrigation, frost protection, cultivation, growing, harvesting, sound devices, use of approved fertilizers, pesticides, and crop protection;

Processing of any agricultural commodity, including timber, Christmas trees, shrubs, flowers, herbs, and other plants;

C. Raising of livestock, fur-bearing animals, and all animal husbandry;

D. Culture or breeding of poultry and aquatic species;

E. Commercial practices (ranch marketing) performed incidental to or in conjunction with such agricultural operations including the packaging, processing, and on-site sale of agricultural products produced in the County; and

F. Agricultural resource management including wildlife management, recreation, tours, riding and hiking access, fishing, and picnicking.

Policy 8.2.2.2 The approving authority shall make the following findings when approving special use permits for agricultural support services:

A. The use will not substantially detract from agricultural production in the surrounding area; and

B. The use is compatible with and will not have a significant adverse impact on adjacent or nearby neighborhoods beyond that allowed by the Right to Farm Ordinance and other applicable law.

OBJECTIVE 8.2.4: AGRICULTURAL PRODUCTION PROGRAMS

Development of programs that provide alternative sources of capital, reduce taxes, or minimize expenditures 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. Examples of programs include but are not limited to, the following:

Policy 8.2.4.2 Visitor serving uses and facilities shall be allowed in the Zoning Ordinance when compatible with agricultural production of the land, are supportive to the agricultural industry, and are in full compliance with the provisions of the El Dorado County Code and compatibility requirements for contracted lands under the Williamson Act.

Policy 8.2.4.3 Visitor serving uses may include but are not limited to: recreational fishing, camping, stables, lodging facilities, and campgrounds.

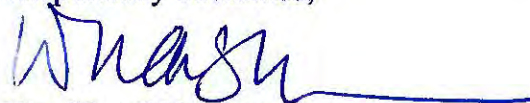
Policy 8.2.4.4 Ranch marketing, winery, and visitor-serving uses (agricultural promotional uses) are permitted on agricultural parcels, subject to a compatibility review to ensure that the establishment of the use is secondary and subordinate to the agricultural use and will have no significant adverse effect on agricultural production on surrounding properties. Such ranch marketing uses must be on parcels of 10 acres or more; the parcel must have a minimum of 5 acres of permanent agricultural crop in production or 10 acres of annual crop in production that are properly maintained. These uses cannot occupy more than 5 acres or 50 percent of the parcel, whichever is less.

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

3. Notice of the Unlawful EDC Planning Department NOV Enforcement.

BOMV was previously represented by attorney Skidmore who filed two (2) letter responses dated July 12, 2024 and September 4, 2024 to the 5 NOVs by Code Enforcement against the BOMV. Attorney Skidmore's letter response and requests for administrative hearings clearly state the legal prohibition of retroactive application of statutes and impairment of existing contracts. They are attached for your review and consideration before making your recommendation to the Board of Supervisors on the proposed ordinance changes.

Respectfully Submitted,



Wm "Sam" Neasham
Attorney for BOMV

ARONOWITZ • SKIDMORE • LYON
A Professional Law Corporation

530.823.9736
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Lawrence E. Skidmore

July 12, 2024

Lynda Jorgensen CCEO
Code Enforcement Supervisor
Planning and Building Department
Code Enforcement Division
2850 Fairlane Ct
Placerville, CA 95667

Re: Black Oak Mountain Vineyards

Dear Ms. Jorgenson:

I am Black Oak Mountain Vineyards (“BOMV”) attorney. BOMV has asked me to get involved in its relations with El Dorado County. As I believe you are aware, BOMV has an application pending with El Dorado County for a conditional use permit, CUP22-0013, and has sought guidance towards the approval of that application.

- A. **Special Events having less than 50 guests under contract before July 20, 2023 do not count against 24 special events allowed per calendar year.**
1. **The amendment to El Dorado County Ordinance section 130.40.400.E.3(a) to remove the exclusion for special events having less than 50 guests from those subject to limit of 24 cannot operate retroactively.**

Among the issues I have been asked to address is the County’s amendment to its Winery Ordinance in June 2023 to change the character of events which counted against the number of special events allowed during any calendar year. Before the county adopted the amendment to Section 130.40.400 E.3 on June 9, 2023, special events having less than 50 people in attendance did not count against the limited number of special events allowed during any calendar year. Section 130.40.400.E.3.a provided in part:

Special events that have less than 50 persons at one time shall not count against the total number of events allowed.

As amended, Section 130.40.400.E.3.a, no longer excluded special events having less than 50 persons from the total allowed during any calendar year. Instead, the ordinance as amended included all special events having up to 250 persons in attendance against the total count allowed each year. The amendment made other material and substantive changes the section that further limited the number of special events allowed each year.

That change to Section 130.40.400.E.3.a was material to BOMV and other wineries who relied upon the language of that section before it was amended to contract for special events in 2024 having less than 50 people attending. BOMV has fifteen wedding events under contract to be held at the winery between July 27, 2024 and November 12, 2024 that were made before the Winery Ordinance was amended. If that change is applied retroactively to BOMV and its clients, that will dramatically impact not only BOMV but also the wedding couples who have been planning for their wedding at BOMV for over a year.

Not only with the application of the amendment to Section 130.40.400.E.3.a have the profound effect of disrupting those wedding plans, application of Section 130.40.400.E.3.a to those wedding under contract before the section was amended would be an illegal retroactive change in the law. Statutes are ordinarily interpreted as operating prospectively in the absence of clear indication of a contrary legislative intent. (*Quarry v. Doe 1* (2012) 53 Cal.4th 945, 955.) As the Supreme Court in *Quarry* quoted from *Californians for Disability Rights v. Mervyns, LLC* (2006) 39 Cal.4th 223:

In general, a law has a retroactive effect when it functions to “ ‘change[] the legal consequences of past conduct by imposing new or different liabilities based upon such conduct’ ” that is, when it “ ‘substantially affect[s] existing rights and obligation

(*Quarry, supra*, 53 Cal.4th at p. 956.)

Here, there is no question that an application of Section 130.40.400.E.3.a as amended to those weddings, i.e. special events, which BOMV contracted before June 2023 to be held in 2024 would be an illegal retroactive application of the amendment. That amendment changes the legal consequences of those contracts rendering BOMV subject to fines for those events to be held in 2024 when before the amendment, there was no legal consequence or risk of fines. The ordinance before the amendment was clear, events having less than 50 people in attendance were not counted against the total number of special events allowed each calendar year. With the amendment, suddenly, BOMV was now in legal jeopardy of not only legal consequences to its clients but also legal consequences to the County.

Nowhere did the County expressly declare that the amendment to Section 130.40.400.E.3.a was to be applied retroactively. Accordingly, to apply that section as amended to BOMV and the remaining events on its calendar having less than 50 people in attendance is an illegal retroactive application of the amendment and cannot be enforced against BOMV.

2. The application of Section 130.40.400.E.3.a. to BMOV's special events under contract before July 20, 2023 violates the California Constitution prohibition against impairing obligations of contracts.

Application of Section 130.40.400.E.3.a to BOMV and the special events remaining on its calendar with less than 50 people in attendance also violates the California Constitution. Article 1, Section 9 of the California Constitution states that “A bill of attainder, ex post facto law, or law impairing obligations of contracts may not be passed.” Removing the threshold of special

events having 50 people or more before it counts against the number of special events allowed each calendar year is a substantial impairment of BOMV's contracts with its wedding clients for the events remaining in 2024. The proposed amendment expresses no public purpose behind removing that threshold as to contracts made before the amendment nor could there be a significant or legitimate public purpose behind the amendment to justify its application to those contracts. Application of Section 130.40.400.E.3.a as amended to those contracts BOMV made with wedding clients prior to July 9, 2023, the effective date of the amendment violates the California Constitution.

Currently, BOMV has special events scheduled with the corresponding contract dates reflected on the following table:

Client's Name	Wedding Date	Number of guests	Date Sold
Belinda Ong	Jul 27, 2024	19	03/07/2023
Kristina Guz	August 2, 2024	47	04/15/23
Tamara Kitsman	August 17 2024	48	01/03/2023
Tracy Crane	August 24 2024	45	04/30/2023
Kayla Richardson	Sept 3 2024	48	04/26/2023
Megan Jelinek	Sept 7, 2024	48	03/25/2023
Maya Matthews	Sept 12 2024	44	05/09/2023
Melanie Benitez	Sept 26, 2024	48	05/13/2023
Elizabeth Cash	October 5, 2024	46	12/06/2022
Edward Cieszkiewicz	October 15, 2024	40	12/12/2022
Trevi Herr	October 18, 2024	48	01/16/2023
Alex Evans	November 2 2024	48	06/02/2023
Desiree Ambourn	Nov 7, 2024	40	03/22/2023
Megan Kelly	Nov 9 2024	40	05/17/2023
Cielo Guzman	Nov 12 2024	48	05/27/2023

BOMV can provide copies of the contracts for those events to corroborate they were made before Section 130.40.400.E.3.a was amended. BOMV assumes that the County will levy no fines

against it for those events which were all under contract before the County amended Section 130.40.400.E.3.a.. If that assumption is incorrect, please let me know immediately.

B. **BOMV requests the County reverse the fine levied in October 2023 for events which BOMV had timely notified the Agricultural Commissioner but which the County's IT system had for unknown reasons removed from the list.**

Another issue to address is the \$250.00 fine which was recently levied on BOMV in October 2023 for allegedly failing to report upcoming events at least 14 days before the event. BOMV vehemently denies having failed to timely report those events. Jane Dildine, Venue Director, at BOMV is adamant she entered those events timely. There is no reason to doubt her veracity on that point. A look at BOMV's reporting history before the events for which the fine was levied instantly reveals complete and total compliance with the reporting requirement. BOMV has constantly reported its upcoming events more than 14 days before they were to occur. Why the events subsequently did not show up in the reported events is unknown. Upon observing they were not reflected on the log of events, she immediately contacted the County to bring them to the Ag Commissioner's attention and to report they had been timely listed but for an unknown reason did not reflect on the log. For its transparency and honesty, BOMV was issued a \$250.00 fine.

Although the County levied a fine for one event when a total of four events were upcoming, even that one fine conflicts with the stated intention of the County how the new reporting requirement would be administered. At the June 24, 2024 Ranch Marketing and Winery Ordinance Update and Discussion, Ag Commissioner Leeanne Mila told the audience that "We have been, we've promised the board that we would be soft in our enforcement of the [reporting requirement] so the first time that you got it on there late, I outreach to you, we discussed it and from that point on it was, you had to have it in." That was certainly not the approach the County took with BMOV. Despite BMOV denies it was late reporting the events, there was no outreach, no discussion of the requirement or warning of future fines. Instead, the County immediately imposed the fine. That action reflects a treatment of BOMV conflicting with the County's stated intent on how the reporting requirement would be applied.

C. **Marketing Events which BOMV had reported to the Agricultural Commissioner under the mistaken understanding that all events must be reported should not counted as Special Events.**

I have also been asked to clarify the number of special events BOMV has held so far in 2024 as it appears that BOMV included marketing events in the advance notice required for special events under Section 130.40.400.E.3.f. when no such advance notice was required for such events. BMOV has been informed that despite that those events were marketing events, because they were reported as special events, they would count against the limited number of special events allowed each calendar year. Because they were marketing events, not special events, despite they were reported to the Agricultural Commissioner, they should not be counted as special events.

Ms. Jorgenson
July 12, 2024
Page 5 of 5
Re: Black Oak Mountain Vineyard

Included with my letter is an appendix of events reported to the Agricultural Commissioner since February 1, 2024. I have highlighted those events on the lists which were marketing events, charitable events or community events for BOMV. Those highlighted in green were and are marketing events. The event highlighted in blue was a charitable event and identified as such when reported. The event highlighted in green was a community event, hosting a prom for Golden Sierra Junior Senior High School seniors at no charge to the high school.

Under the El Dorado County Winery ordinance, marketing events are not considered "special events" and do not count against limit of 24 special events allowed each calendar year. When those events were reported to the Agricultural Commissioner, BOMV understood that all events regardless whether marketing, special or otherwise had to be reported to the Agricultural Commissioner and were reported accordingly. The County has clarified for BOMV that marketing events, community events, and charitable events need not be reported, that only "special events" should be reported.

BOMV has attempted to correct its report of events with the County to exclude those marketing, charitable and community events it reported from being counted as special events but has been unsuccessful. The county has not explained why those events remain on the roster of special events. I am requesting the County reconsider its position and exclude and remove the events I have identified on the attached list from BOMV's count of special events for 2024.

Please let me know by July 22, 2024 whether the County will acknowledge and agree that (1) none of the special events having guests under 50 under contract before July 20, 2023 count against the limitation on special events allowed each calendar year, (2) the fine levied against BOMV claiming that events were not timely reported will be rescinded and (3) the marketing, charitable and community events I listed on the attached appendix will be not be counted as special events.

Sincerely yours,

ARONOWITZ SKIDMORE LYON
A PROFESSIONAL LAW CORPORATION



Lawrence E. Skidmore

LES/jch

Encl.

Cc: Lori Parlin, Supervisor District IV
Leeanne Mila, Agricultural Commissioner
Client

Legend

Marketing

Charitable

Community - Prom

Events

Business Name	Event Date	Event Time	Event Duration	Charitable Event	Event Number	Date Submitted
Power Ponds	1/6/2024	4PM	6 hours	No	1	1/21/2024
Black Oak Mountain Vineyards	2/14/2024	3pm - 9:30pm	6.5 hours	No	1	1/28/2024
Power Ponds (The White Barn)	2/17/2024	2PM	8 hours	No	2	1/22/2024
Power Ponds (The White Barn)	2/24/2024	2PM	8 hours	No	3	1/22/2024
Black Oak Mountain Vineyards	3/19/2024	4pm-10pm	6 hours	No	2	2/27/2024
Black Oak Mountain Vineyards	3/21/2024	9am-8pm	9	No	3	2/27/2024
Serene Ranch	3/30/2024	10AM	-4PM	No	14	3/14/2024
Black Oak Mountain Vineyards	4/2/2024	4pm-10pm	6 hours	No	4	2/27/2024
Power Ponds (The White Barn)	4/6/2024	2PM	8 hours	No	4	1/22/2024
Serene Ranch	4/6/2024	12PM	-10PM	No	1	3/14/2024
Serene Ranch	4/13/2024	12PM	-10PM	No	2	3/14/2024
Black Oak Mountain Vineyards	4/14/2024	4pm-10pm	6 hours	No	6	3/18/2024
Black Oak Mountain Vineyards	4/20/2024	4pm-10pm	6 hours	No	8	3/18/2024
Black Oak Mountain Vineyards	4/20/2024	4pm-10pm	6 hours	No	9	3/18/2024

Events

Business Name	Event Date	Event Time	Event Duration	Charitable Event	Event Number	Date Submitted
Black Oak Mountain Vineyards	4/20/2024	4pm-10pm	6 hours	No	8	3/18/2024
Power Ponds (The White Barn)	4/20/2024	2PM	8 hours	No	5	1/22/2024
Sauree Vineyards	4/20/2024	4:30	6 hours	No	9	5/3/2024
Serene Ranch	4/20/2024	12PM	-10PM	No	3	3/14/2024
Silverthorn Meadows	4/20/2024	3pm	6	No	1	4/16/2024
Jack Russell Farm Brewery	4/21/2024	1-6	5 hours	Yes	1	4/19/2024
Black Oak Mountain Vineyards	4/27/2024	4:30pm-10pm	5.5 hours	No	9	3/18/2024
Sauree Vineyards	4/27/2024	4:00	6 hours	No	10	5/3/2024
Serene Ranch	4/27/2024	12PM	-10PM	No	4	3/14/2024
Black Oak Mountain Vineyards	4/28/2024	4pm-10pm	6 hours	No	10	3/18/2024
Black Oak Mountain Vineyards	5/3/2024	4pm-10pm	6 hours	No	11	4/23/2024
Serene Ranch	5/3/2024	12PM	-10PM	No	5	3/14/2024
Sauree Vineyards	5/4/2024	4:00	6 hours	No	1	5/3/2024
Silverthorn Meadows	5/4/2024	4PM	6	No	2	4/16/2024

Events

Business Name	Event Date	Event Time	Event Duration	Charitable Event	Event Number	Date Submitted
Black Oak Mountain Vineyards	5/6/2024	12pm-7pm	7 hours	No	12	4/22/2024
Black Oak Mountain Vineyards	5/11/2024	11:30am - 6:30pm	6 hours	No	13	4/22/2024
Serene Ranch	5/11/2024	12PM	-10PM	No	6	3/14/2024
The Lake	5/11/2024	4PM	6 hours	No	2	4/16/2024
Black Oak Mountain Vineyards	5/17/2024	4pm-10pm	6 hours	No	14	4/22/2024
Fauser Ranch	5/17/2024	4-9PM	5 hours	No	1	5/9/2024
Power Ponds (The White Barn)	5/17/2024	1:00pm	9 hours	No	8	4/23/2024
Bluestone Meadow	5/18/2024	3:00 pm- 10:00 pm	7 hours	No	1	4/2/2024
HIGH HILL RANCH LLC	5/18/2024	4PM	6	No	1	5/3/2024
Sauree Vineyards	5/18/2024	4:00	6 hours	No	2	5/3/2024
Serene Ranch	5/18/2024	12PM	-10PM	No	7	3/14/2024
Silverthorn Meadows	5/18/2024	4PM	6	No	3	4/16/2024
The Lake	5/18/2024	4PM	6 hours	No	3	4/16/2024
Black Oak Mountain Vineyards	5/23/2024	3:30pm - 10pm	6.5 hours	No	15	5/2/2024

Events

Business Name	Event Date	Event Time	Event Duration	Charitable Event	Event Number	Date Submitted
Black Oak Mountain Vineyards	5/23/2024	3:30pm - 10pm	6.5 hrs.	No	15	5/7/2024
The Lake	5/23/2024	4PM	6 hours	No	4	4/16/2024
Black Oak Mountain Vineyards	5/25/2024	4:30pm - 11pm	6.5 hrs	No	16	5/7/2024
HIGH HILL RANCH LLC	5/25/2024	4PM	6	No	1	5/3/2024
Serene Ranch	5/25/2024	12PM	-10PM	No	8	3/14/2024
Silverthorn Meadows	5/25/2024	4 pm	6	No	4	5/14/2024
The Lake	5/25/2024	4PM	6 hours	No	5	4/16/2024
Black Oak Mountain Vineyards	5/26/2024	3:30pm - 10pm	6.5 hrs	No	17	5/7/2024
The Lake	5/27/2024	4PM	6 hours	No	6	4/16/2024
Serene Ranch	5/28/2024	2PM	-8PM	No	15	5/14/2024
The Lake	5/31/2024	4PM	6 hours	No	7	4/16/2024
Black Oak Mountain Vineyards	6/1/2024	4:30pm - 10pm	5.5 hrs	No	18	5/7/2024
Drew Bear Farms, LLC	6/1/2024	1630	5 hours	No	1	6/4/2024
HIGH HILL RANCH LLC	6/1/2024	4PM	6	No	2	5/3/2024

Events

Business Name	Event Date	Event Time	Event Duration	Charitable Event	Event Number	Date Submitted
Black Oak Mountain Vineyards	6/8/2024	4:00pm-10:00pm	6 hrs	No	19	5/7/2024
Fausel Ranch	6/8/2024	4PM	-10PM	No	2	5/9/2024
HIGH HILL RANCH LLC	6/8/2024	4PM	6	No	3	5/3/2024
Power Ponds (The White Barn)	6/8/2024	4PM	6 hours	No	7	4/23/2024
Saureel Vineyards	6/8/2024	4:00	6 hours	No	4	5/3/2024
Serene Ranch	6/8/2024	12PM	-10PM	No	10	3/14/2024
Silverthorn Meadows	6/8/2024	4PM	6	No	6	5/14/2024
The Lake	6/8/2024	4 pm	6 hours	No	9	4/16/2024
Black Oak Mountain Vineyards	6/14/2024	4pm-10pm	6 hrs	No	20	5/7/2024
Black Oak Mountain Vineyards	6/15/2024	4pm-10pm	6 hrs	No	21	5/7/2024
Saureel Vineyards	6/15/2024	4:00	6 hours	No	5	5/3/2024
Serene Ranch	6/15/2024	12PM	-10PM	No	11	3/14/2024
Silverthorn Meadows	6/15/2024	5PM	5	No	7	5/23/2024
Black Oak Mountain Vineyards	6/20/2024	4pm-10pm	6 hrs	No	22	5/7/2024

Events

Business Name	Event Date	Event Time	Event Duration	Charitable Event	Event Number	Date Submitted
Black Oak Mountain Vineyards	6/20/2024	4pm-10pm	6 hrs	No	22	5/7/2024
Blama Vineyards	6/22/2024	5:00pm	10:00pm	No	2	6/7/2024
Black Oak Mountain Vineyards	6/22/2024	4pm-9pm	5 hrs	No	23	5/7/2024
Drew Bear Farms	6/22/2024	1300	6 hr	No	2	6/4/2024
HIGH HILL RANCH LLC	6/22/2024	4PM	6	No	2	5/3/2024
HIGH HILL RANCH LLC	6/22/2024	4PM	6	No	4	5/3/2024
Indian Rock Tree Farm	6/22/2024	4:00pm	6 hours	No	1	6/12/2024
Power Ponds (The White Barn)	6/22/2024	4PM	6 hours	No	8	4/23/2024
Sa uti Cellars	6/22/2024	1800	6 hours	No	1	6/25/2024
Saureel Vineyards	6/22/2024	4:00	6 hours	No	6	5/3/2024
Serene Ranch	6/22/2024	2024-06-22	-10PM	No	12	3/14/2024
Black Oak Mountain Vineyards	6/24/2024	4pm-10pm	6 hrs	No	24	5/7/2024
Black Oak Mountain Vineyards	6/25/2024	4pm-10pm	6 hrs	No	25	5/7/2024
Fausel Ranch	6/26/2024	4PM	-10PM	No	3	5/9/2024

Events

Business Name	Event Date	Event Time	Event Duration	Charitable Event	Event Number	Date Submitted
Fausel Ranch	6/26/2024	4PM	-10PM	No	3	5/9/2024
Black Oak Mountain Vineyards	6/29/2024	2024-06-29	6 hrs	No	26	5/7/2024
Indian Rock Tree Farm	6/29/2024	4:00pm	6 hours	No	2	6/12/2024
Saureel Vineyards	6/29/2024	4:00	6 hours	No	21	6/26/2024
Serene Ranch	6/29/2024	12PM	-10PM	No	13	3/14/2024
Silverthorn Meadows	6/29/2024	4PM	6	No	8	5/20/2024
Rucksack Cellars	6/30/2024	6pm -9pm	3 hours	No	1	6/7/2024
Silverthorn Meadows	7/6/2024	4:00	6hrs	No	9	6/17/2024
Silverthorn Meadows	7/13/2024	4:00pm	6hrs	No	10	6/17/2024
Silverthorn Meadows	7/20/2024	4:00 PM	6hrs	No	11	6/17/2024
Saureel Vineyards	8/4/2024	2:00	6 hours	No	22	6/26/2024
Saureel Vineyards	8/10/2024	6:00	4 Hours	No	7	5/3/2024
Silverthorn Meadows	8/10/2024	4:00 PM	6hrs	No	12	6/17/2024
Saureel Vineyards	8/17/2024	12	8 hours	No	8	5/3/2024

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September 4, 2024

Roger Runkle
Deputy County Counsel
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Re: Black Oak Mountain Vineyards

Dear Mr. Runkle:

I am circling back to you regarding my letter to Lynda Jorgenson dated July 12, 2024. I understand from our conversation around July 16, 2024 that Ms Jorgenson has retired from the county. Based on that conversation and our subsequent conversation on August 2, 2024, I was anticipating a discussion with you regarding your response to my letter. You had informed me of meetings you had scheduled with code enforcement officials after which you would be prepared to discuss the issues I raised to Ms. Jorgenson. Black Oak Mountain Vineyard would like to resolve those issues, particularly with respect to the events Black Oak Mountain Vineyards contracted to provide before the county amended its code on July 20, 2023 and the marketing events inadvertently listed on the County's event roster, as soon as possible as the dates of those events are rapidly approaching. Please let me know when you are ready to discuss my comments to Ms. Jorgenson.

Also, since my letter to Ms. Jorgenson, Black Oak Mountain Vineyards has received from the County further requests to update studies it already provided in support of its application for a conditional use permit. Among the studies for which updates were requested was the septic system and the sound study. On August 15, 2024, County Associate Planner Matthew Aselage notified Black Oak Mountain Vineyards that Environmental Management Department requested a Small Water Systems Declaration and that Planning was requesting an updated Acoustical Sound Study.

To describe the County's requests as disappointing for Black Oak Mountain Vineyards would be an understatement. Black Oak Mountain Vineyards was not made aware of Environmental Management's request for a septic system evaluation and a Small Water System Declaration or Planning's request for an updated acoustical sound study until Mr. Aselage's August 15, 2024 e-mail. However, internally within the County, those departments had made their requests known back in January 2024. The seven-month delay conveying those requests to Black Oak Mountain Vineyards has delayed its ability to respond by a corresponding seven months.

That is not the only delay the County's handling of the conditional use application Black Oak Mountain Vineyards has suffered. It submitted the traffic study to the County in May 2024. The peer review comments from DKS were provided in June 2024. Responding to those comments delayed further consideration of its application and cost an additional \$9,690.00.

The peer review comments themselves were unreasonable considering the nature and location of Black Oak Mountain Vineyards. The level of scrutiny they reflect for the remote location of Black Oak Mountain Vineyards and the low level of traffic in that area is inordinate and arbitrary. Black Oak Mountain Vineyard's traffic consultant hired at the expense of \$37,000.00 and who produced a 57 page report concluded:

The conclusions developed in this study indicate that no mitigations are required of the project for any of the twelve analysis scenarios. The project does not have any VMT impacts, and in fact offers VMT reducing benefits for wedding venue traffic already on the road for numerous wineries and wedding venues, being centrally located between two east west freeway corridors (I-80 and US 50). The details of all analysis results are outlined in the body of this report.

Comparing all projects in El Dorado County from 2021 for which traffic studies were prepared against Black Oak Mountain Vineyards, only the Ranch at Stoney Creek may be comparable. All other projects were vastly more impactful on traffic than an event venue in Cool. Those projects include retail establishments including America Tire Stores, Grocery Outlet, Dutch Bros., Quick Quack Car Wash, Latrobe Self-Storage, Taco Bell and multifamily housing projects and housing subdivisions, including Creekside Village, Cameron Meadows and Country Club Apartments to name only a few. Those projects are of a type and character having a far greater impact on traffic than a venue in Cool hosting 150 events per year.

The updates the County requested to the Acoustical Sound Study as Mr. Aselage relayed lack any technical meaning. For instance, the County asked for sound measurements "on all sides at 50-feet from the speaker areas." Black Oak Mountain Vineyards ran that request and the others by their acoustic consultant. He could not understand the purpose of the requested updates. The property lines are much farther than 50' feet from the "speaker area." What would sound measurements within Black Oak Mountain Vineyard's property and far from any neighboring property have to do with a conditional use permit. At the property lines, Mr. Aselage has asked for sound measurements at multiple points with those points selected considering the location of residences and livestock agricultural uses. Not only has Black Oak Mountain Vineyards already provided sound measurements at the property lines, there is simply no basis upon which to request measurements considering livestock/agricultural uses. The County's noise standards apply within 100 feet of a neighboring sensitive receptor buildings. They do not apply to agricultural land or livestock on agricultural land.

He also relayed that that the County wants in the updates that there be a discussion whether mitigation measures would prevent sound from filtering onto any of the adjacent properties. If such mitigation measures existed, he asked for clarification regarding that noise in relation to the County's noise thresholds upon entering any other property. According to Black Oak Mountain Vineyards acoustic consultant, the requested update lacks any technical meaning. He has responded that there are no standards that prohibit "sound from filtering onto adjacent properties." The project must simply meet the County's standards.

Although Mr. Aselage recently told Black Oak Mountain Vineyards to not take any action on his requested updates, the County's requests are arbitrarily imposing conditions on Black Oak Mountain Vineyards which bear no relationship to the standards against which their application for a conditional use permit must be measured. They are meaningless requests which do nothing to further consideration of the application but rather create unnecessary expense to Black Oak Mountain Vineyards and delay processing the application which was submitted almost a staggering two years ago.


Mr. Runkle
September 4, 2024
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The delay and level of scrutiny of Black Oak Mountain Vineyard's application undermines Ms. Mila's remarks to an audience of community members when she explained the process to seek a permit to allow more special events. She told the audience members that all an operator need do to obtain a permit to allow more events was apply for a conditional use permit. Her comment suggested that conditional use permits of that type were routinely issued. That has not been Black Oak Mountain Vineyard's experience so far.

I look forward to receiving a response to my comments to Lynda Jorgenson. Also, please provide an update on the status of Black Oak Mountain Vineyards' application for its conditional use permit and review further requests for updates from County staff for having some rational relationship to the standards by which the application must be measured to avoid the type of arbitrary requests the County has imposed on Black Oak Mountain Vineyards.

Sincerely yours,

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