

handed out at mtg
PC 12/11/08
#15

River Pines Estates Zone of Benefit Advisory Committee
P O Box 252
Mount Aukum, California 95656

11 December 2008

El Dorado County Development Services
Planning Commission
2850 Fairlane Court, Building C
Placerville, CA 95667

Subject: Z03-0005 / Draft Winery Ordinance

The CEQA report is inadequate; it does not address traffic impacts. The Draft Winery Ordinance does not contain specific action language to mitigate traffic impacts of commercial businesses (wineries and vineyards) that use chip seal roads which run through the center of residential rural subdivisions.

A Notice of Preparation of a Draft Environmental Impact Report was circulated by Planning Services for public comment from February 20, 2008 through March 20, 2008, see attached notice. It states;

“Environmental impacts anticipated to be addressed in the Draft EIR will include: Aesthetics, Agricultural Resources, Air Quality, Biology, Cultural, Land Use, Noise, Public Services, Traffic, and Cumulative Impacts.”

On 21 October 2008 the Board of Supervisors agenda included an update on the Draft Winery Ordinance. Supporting documents detailed how County programs are in place to mitigate traffic issues. I made a presentation at that meeting that was very similar to what was presented here at the Planning Commission meeting on 13 November 2008. Two key points were made;

- 1) The programs that the County states are in place to mitigate traffic issues have in fact not been applied to Zone of Benefit roads.
- 2) The language used in the Draft Winery Ordinance is not specific and does not clearly detail the actions that will be taken to mitigate traffic on Zone of Benefit roads.

Now the El Dorado County Development Services Planning Commission Staff Report Zoning Ordinance Amendment for Z03-0005 (Winery Ordinance) states that:

“Environmental Review;

Based on the Initial Study, staff finds that the project could have a significant effect in areas of Aesthetics, Biological Resources, Cultural Resources, and Noise. Mitigation Measures are identified to reduce those impacts to less than significant. All other impacts were determined to be less than significant.”

It is false to believe that development and operation of commercial businesses (wineries and vineyards) that use chip seal roads running through the center of residential rural

subdivisions have no traffic impact, especially in situations where only the residents pay for the maintenance and repair of those roads.

Now in Attachment I, Mitigation Measures under aesthetics section MM 1-2 states;
"Tent structures that exceed 1,200 square feet of floor area and visible from a County maintained road shall be limited to 30 day periods."

It is interesting that tent structures are limited from view of County maintained public roads and not Zone of Benefit public roads.

In attachment 2, Findings for Approval, CEQA findings it states;

"The proposed Winery Ordinance Amendment, as mitigated, will not have a significant effect on the environment."

There is nothing that mitigates the traffic from development and operation of commercial businesses (wineries and vineyards) that use chip seal roads that run through the center of residential rural subdivisions, especially in situations where only the residents pay for the maintenance and repair of those roads.

The following comments apply to the September 8, 2008 Draft Winery Ordinance.

Paragraph E.5. Access Standards states;

"winery and tasting facilities open to the public."

Facilities, whether open to the public or not, still draw traffic and must be required to comply with access requirements.

Paragraph E.5.a. In Ag District states;

"shall be subject to the review and approval of a Site Plan Review by the Development Services Director, following a recommendation by the Agricultural Commission."

This does not specify and require action to mitigate traffic. After watching El Dorado County's actions for ten years it is obvious they have fostered the belief that commercial businesses (wineries and vineyards) that use chip seal access roads that run through the center of rural residential subdivisions and are roads maintained only by those subdivision residence has no environmental or traffic impact. River Pines Estates Zone of Benefit is an example. This paragraph needs specific action language detailing how much and how often contributions will be made toward the repair and maintenance of access roads.

Paragraph E.5.c. Not open to public states;

"A winery that is not open to the public and without on-site sales may be accessed by a non-County maintained road."

Any commercial business (wineries and vineyards) draws traffic and must be required to contribute toward the repair and maintenance of access roads.

Paragraph E.5.d. Road Maintenance states;

"or otherwise pay a fair share for road maintenance as determined by the approving authority."

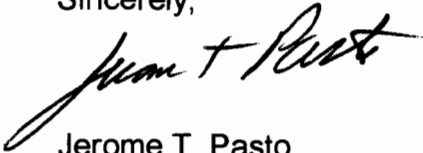
El Dorado County recently created a Road Maintenance and Repair Project Funding Agreement to accept donations from three parcels outside River Pines Estates Zone of Benefit boundaries. Text in that agreement states;

"The DONORS own property outside the boundaries of the River Pines Estates Road Zone of Benefit (the "Zone") and, thus, are not obligated to contribute to the maintenance or repair of those roads within the Zone;

The Winery Ordinance language must state a specific action requiring regular ongoing contributions that are justifiable to the impact they cause to the roads.

The County mitigation measures and CEQA findings stating there are no traffic impacts to rural residential subdivision chip seal roads, like River Pines Estates Zone of Benefit roads, from commercial businesses (wineries and vineyards) is not valid. The language in access portions of the Draft Winery Ordinance does not detail specific actions and therefore does not resolve environmental and traffic impacts. Both the CEQA report and this Draft Winery Ordinance must be returned to County Planning Services and not approved until these issues are appropriately addressed.

Sincerely,



Jerome T. Pasto
Key Contact
River Pines Estates Advisory Committee
530 620-7408
916 798-7408 cell
itpasto@pacbell.net



EL DORADO COUNTY PLANNING SERVICES

2850 Fairlane Court
Placerville, CA 95667

<http://www.co.el-dorado.ca.us/planning>

Phone: (530) 621-5355
Fax: (530) 642-0508

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE EI DORADO COUNTY WINERY ORDINANCE

El Dorado County is the Lead Agency for the preparation and review of an Environmental Impact Report (EIR) for the proposed WINERY ORDINANCE. The County is soliciting the views of interested persons and agencies on the scope and content of the environmental information which is germane to the proposed project. Additional information may be obtained by contacting Roger Trout at El Dorado County Planning Services (530) 621-5355.

Your response must be received no later than the end of the 30-day review and comment period beginning February 20, 2008, and ending March 20, 2008. All written public and agency comments must be received by that date and should be directed to: El Dorado County Planning Services; Attention: Roger Trout, 2850 Fairlane Court, Placerville, CA 95667. Please include the name of a contact person for your agency, if applicable.

The purpose of this request is to identify the issues that need to be considered in the EIR; it is not the time to comment on the project itself. Subsequent hearings will be held on the Draft EIR at which time the public may comment on the content of the EIR. Upon completion of the Final EIR, the County will consider action on the project. If you want to be notified of those hearing dates or to be notified of the release of the Draft EIR, please provide your name and mailing address to Planning Services.

A Scoping Meeting on the Draft EIR will be held on March 13, 2008, at 11:00 a.m., in the Building C Hearing Room, 2850 Fairlane Court, Placerville, CA 95667. This meeting is intended to provide for comment by the public on the scope and contents of the EIR.

PROJECT TITLE: Winery Ordinance (Z03-0005)

PROJECT LOCATION: El Dorado County

PROJECT DESCRIPTION: The County Zoning Ordinance is proposed to be amended to establish provisions for the construction and operation of wineries and accessory uses. Accessory uses include tasting rooms, retail sales, commercial kitchens, and various categories of special events that could result in assembly of up to 250 persons at one time. The proposed Zoning Ordinance dated September 11, 2007 is the "project description." The proposed ordinance establishes provisions for winery and accessory uses based on the lot's zoning, general plan designation, lot size, and vineyard acreage.

Environmental impacts anticipated to be addressed in the Draft EIR will include: Aesthetics, Agricultural Resources, Air Quality, Biology, Cultural, Land Use, Noise, Public Services, Traffic, and Cumulative Impacts.

PROJECT PROPONENT: El Dorado County

EL DORADO COUNTY PLANNING SERVICES
LAWRENCE W. APPEL, Deputy Development Services Director

February 20, 2008

PC 11/13/08
#12
(handed out at hearing)



~ WINEMAKING AT A HIGHER LEVEL ~

NOV 12 AM 11:17
RECEIVED
PLANNING DEPARTMENT

Roger Trout, Director
El Dorado County Planning Services
2850 Fairlane Court
Placerville, CA 95667

Re: November 13, 2008 Planning Commission Agenda Item: Zoning Ordinance
Amendment Z03-2005, Winery Ordinance

Dear Mr. Trout:

This letter is to inform you and the Planning Commission that the September 8, 2008 version of the Draft Winery Ordinance was unanimously approved and endorsed by a quorum of the El Dorado Winery Association at its regular meeting on November 3, 2008.

The El Dorado Winery Association urges your positive recommendation of this version of the ordinance (including any amendments found to be necessary for expediency in its enactment) to the Board of Supervisors for action at its earliest opportunity.

Sincerely yours,

Justin Boeger
President
El Dorado Winery Association



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hearing)

08 NOV 12 AM 11:17

RECEIVED
PLANNING DEPARTMENT

Roger Trout, Director
El Dorado County Planning Services
2850 Fairlane Court
Placerville, CA 95667

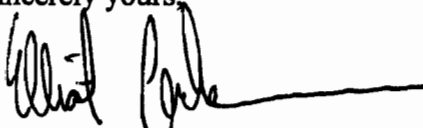
Re: November 13, 2008 Planning Commission Agenda Item: Zoning Ordinance
Amendment Z03-2005, Winery Ordinance

Dear Mr. Trout:

This letter is to inform you and the Planning Commission that the September 8, 2008 version of the Draft Winery Ordinance was unanimously approved and endorsed by a quorum of the Fair Play Winery Association at its regular meeting on November 3, 2008.

The Fair Play Winery Association urges your positive recommendation of this version of the ordinance (including any amendments found to be necessary for expediency in its enactment) to the Board of Supervisors for action at its earliest opportunity..

Sincerely yours,



Elliot Graham, President
Fair Play Winery Association

PC 11/13/08
#12
(handed out at
hearing)



ChateauLeidigh@aol.com
11/12/2008 08:36 PM

To rtrout@co.el-dorado.ca.us
cc
bcc
Subject Draft Winery Ordinance Language You Requested

Roger Trout -

Per our discussion outside the meeting room this evening about the language in Section D.10.c. of the proposed revisions to the Winery Ordinance, here is a possible revision that would improve clarity based upon your statements as to what is intended.

Wine sales. Wine sales shall be by internet, mail order, telephone, facsimile (and similar means), or off-site only. Public access is not allowed, nor are on-site sales to or wine tasting by members of the public.

Then in D.10.d there needs to be a comparable change in the second and third sentences, so that they read:

In no circumstances is public wine tasting allowed on-site. No CUP can be approved that permits public wine tasting, even if only by appointment.

I believe this captures what you are trying to clearly prohibit without causing later interpretation problems to arise that might lead to "unintended consequences."

I hope this helps!

Bob Leidigh
Chateau Leidigh

Get the Moviefone Toolbar. Showtimes, theaters, movie news & more!

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River Pines Estates Zone of Benefit Advisory Committee
P O Box 252
Mount Aukum, California 95656

13 November 2008

El Dorado County Development Services
Planning Commission
2850 Fairlane Court, Building C
Placerville, CA 95667

Subject: Z03-0005 / Winery Ordinance

This draft winery ordinance is inadequate and does not mitigate the traffic impact to River Pines Estates Zone of Benefit roads from winery and vineyard development and operations.

If a parcel exists outside the boundaries of a Zone of Benefit and its access is over Zone of Benefit roads it must contribute toward the upkeep and maintenance of those roads.

Civil Code 845 states:

- (a) The owner of any easement in the nature of a private right-of-way, or of any land to which any such easement is attached, shall maintain it in -repair.
- (b) If the easement is owned by more than one person, or is attached to parcels of land under different ownership, the cost of maintaining it in repair shall be shared by each owner of the easement or the owners of the parcels of land, as the case may be, ..

El Dorado County adopted the **Procedure Guidelines for Creation and Administration of Zones of Benefit within a County Service Area on 2 June 1987.**

El Dorado County Counsel letter states;

... has consistently opined in writing that the collection of assessments levied by the County through county service area and zone of benefit statutes for road maintenance and improvement purposes renders those roads public in nature.

Civil Code section 845 applies to private roads, rights of way and easements. It does not apply to public roads such as those maintained by public assessments collected by government entities.

El Dorado County General Services letter in 17 September 1996 states;

It appears that the sale of the parcels went through however the parcels were not annexed into the zone. There was no legal requirement to do so. The new buyers were requesting assurance that the Zone would agree to their annexation into the zone but it was not required.

El Dorado County Planning Department letter in 19 July 2000 states;

Future development - The one bright spot in this situation is that the **County does have an ability to impose conditions** on most future development of the property for other than single family homes on the existing lots and basic agricultural use of the property. Any commercial operation such as a winery with a tasting room would require either a special use permit or a change in the zoning, where there would be ample opportunity to

address the road and access issues. Certainly a condition of approval of any discretionary approval could be to require annexation to the zone. We will make sure that you are notified through the General Services Dept. of any proposal for development that might be submitted.

The regulations allow for annexation of parcels into Zones of Benefit to contribute toward the repair and maintenance of their roads. Over time there has been a total reluctance of El Dorado County to be a cooperative partner in achieving that end.

Now we are in the final stages of the Winery Ordinance and addressing the environmental impact. The following comments are to documents included with this Winery Ordinance agenda item. Specific paragraphs are referenced with comments.

Appendix B: 2004 General Plan Policies and Implementation Measures

Policy 2.2.5.10: It is recognized that there are large Rural Regions within the County wherein agriculture is pursued, and these areas need certain support uses that are unique to agriculture and its related uses. While allowing for the establishment of such agricultural support services, this policy will protect the permitted uses of such agricultural areas by only allowing the establishment of such support services with a special use permit which will require a finding that the establishment of the use will have no significant adverse effect on surrounding property or the permitted uses thereof.

This statement must apply to Zone of Benefit roads. The impact to River Pines Estates Zone of Benefit roads has been significant.

Policy TC-Xg: Each development project shall dedicate right-of-way and construct or fund improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. For road improvements that provide significant benefit to other development, the County may allow a project to fund its fair share of improvement costs through traffic impact fees or receive reimbursement from impact fees for construction of improvements beyond the project's fair share. The amount and timing of reimbursements shall be determined by the County.

There was no analysis of traffic impact conducted for River Pines Estates Zone of Benefit roads to assess the impact of the winery and vineyard development. There has been significant road damage from construction traffic and now on going businesses traffic over River Pines Estates roads.

Discussion Item 15-a: Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system.

Discussion:

A) Road maintenance is required pursuant to Draft Ordinance section E.5.d, including the provision to join and pay their fair share into any established Road Maintenance entity, including County Service Areas (CSA's), Road Zones of Benefit (ZOB's), or

Community Service Districts (CSDs) if they use those roads. The impact of road maintenance is a less than significant impact.

The impact to River Pines Estates Zone of Benefit roads is significant. Traffic equivalent to millions of cars traversed River Pines Estates roads during the initial development and business traffic continues to use and abuse these roads on a daily basis.

B) The potential for increased accidents and safety issues are normally addressed by the County through the Transportation Departments Traffic Safety Committee. The TIM fee update process may also allow re-assessment of rural road spot improvements and safety improvements if there is evidence of increased accidents and safety issues. The traffic increase from the Draft Ordinance should increase incrementally and allow these established County programs to function and minimize potential impacts to a less than significant level.

The County programs listed, TIM fees and Traffic Safety Committee, are not applied to Zone of Benefit roads. Mr. Gur-Arieh paid, on 10 January 2002, permit fees, TIM fees of \$21,681.98 and State TIM-RAZ2-5 fees of \$11,427.36. None of these monies were applied toward River Pines Estates Zone of Benefit roads.

Transportation Traffic

General Plan Consistency Checklist: There are no Checklist items directly related to transportation policies. Access provisions are addressed at the building permit stage of winery development, although not referenced in the Checklist. New winery buildings and conversions of existing buildings require a building permit. **This process includes review and approval by the DOT or Development Services for on-site access roads and encroachments (driveway connections) to the off-site access roads.**

Impact Discussion: A substantial adverse effect on Traffic would occur if the implementation of the project would:

- 1. Result in an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system;**

The checks and reviews ignore the impacts to Zone of Benefit roads during construction and after construction.

4.1.3 Cumulative Impact Analysis:

Transportation: The Draft Ordinance could result in potentially significant impacts by increasing traffic on some rural county roads, increasing maintenance of roads, and contributing to specific areas of traffic congestion. However, no potentially significant impacts were identified that are not minimized by existing programs and standards. Therefore the cumulative impacts identified in the General Plan EIR under Traffic and Circulation is not increased as a result of the Draft Ordinance and the Draft Ordinance will have no impact on cumulative traffic and circulation impacts in the region.

The impact to River Pines Zone of Benefit roads is significant. Traffic equivalent to millions of cars traversed River Pines Estates Zone of Benefit roads during the initial development and continues as these businesses use and abuse the roads on a daily basis.

An El Dorado County provided road pamphlet states;

That a typical 18-wheel truck semi-trailer has the equivalent loading effect of between 3,000 and 6,000 passenger vehicles.

Besides regular business and construction traffic, an example in a recent week three cement trucks and a Greyhound size tour bus. Three trucks rated at 6,000 cars and one bus rated at 4,000 cars for a total of 22,000 cars not including other vehicle traffic. This is a significant impact.

3.2.2 Existing Winery Facilities: There are 56 facilities currently identified as wineries or tasting rooms in El Dorado County. Most are located on agricultural zoned lands, contain a minimum of five acres of vineyards and have tasting rooms. Various accessory uses and activities are conducted on these winery sites. There are a few sites that are located on commercially zoned lands and are tasting rooms only. There are also a few small wineries located on residential zoned lands that have been approved by special use permit and have no tasting room or tasting by limited appointment only.

Any existing winery facility and uses that are consistent with the existing winery ordinance will be allowed to continue as a “non-conforming” structure or use after adoption of the Draft Ordinance, unless the Draft Ordinance contains specific provisions, or “sunset clause,” for specific uses.

The Draft Ordinance does not contain any sunset clauses, but does provide an ARP process to memorialize and document the nonconforming uses. Although the Draft Ordinance cites only the documentation of promotional and special events in the ARP process, it can also be used to document any other non-conforming structures and uses. Expansion of a nonconforming use requires approval of a special use permit pursuant to Section 17.20.040 of the County Code.

Using a Zone of Benefit access road and not contributing on a defined regular basis toward its repair and maintenance must not be considered a memorialized nonconforming use nor granted a “sunset clause”.

September 8, 2008 Draft Winery Ordinance

E.5. Access Standards: The access to winery and tasting facilities open to the public shall connect directly to a County maintained road, except as provided below. Access via a non-County maintained road for purposes of this subsection includes access to a winery that utilizes any portion of a non-County maintained road whether or not the road utilized is located on-site or off-site.

E.5.a. In Ag District. A winery and tasting facility accessed by a non-County maintained road, if located within an Agricultural District, shall be subject to the review and approval of a Site Plan Review by the Development Services Director, following a recommendation by the Agricultural Commission.

E.5.b. Not in Ag District. A winery and tasting facility accessed by a non-County maintained road that is not located within an Agricultural District shall require a CUP.

E.5.c. Not open to public. A winery that is not open to the public and without on-site sales may be accessed by a non-County maintained road.

If a business's primary access is over a Zone of Benefit road and they are located outside the Zone of Benefit boundaries they must be annexed into the Zone of Benefit and contribute to road maintenance and repair.

- E.5.d. Road Maintenance.** As a condition of approval for a Site Plan Review or CUP, the winery will be required to participate in any private road maintenance entity, annex into a road ZOB, or **otherwise pay a fair share for road maintenance as determined by the approving authority.**

The fair share for road maintenance needs to be on a defined ongoing basis. It should not be a one time donation with no mechanism to address contributions to future road maintenance and repair. The fair share should be supportive by analysis that it is equitable based on road use. El Dorado County recently created a **Road Maintenance and Repair Project Funding Agreement** to accept donations from three parcels outside River Pines Estates Zone of Benefit boundaries. Text of this agreement states;

The DONORS own property outside the boundaries of the River Pines Estates Road Zone of Benefit (the "Zone") and, thus, are not obligated to contribute to the maintenance or repair of those roads within the Zone;

Businesses have no commitment to ongoing contributions to repair and maintenance of River Pines Estates Zone of Benefit roads but they continue to use and abuse them on a daily basis. This is not acceptable.

- E.5.f. "County Maintained Road"** for this Subsection shall be a road that is listed by the Department of Transportation as being on the current County Maintained Mileage list. This list does not **typically** include County Service Area (CSA) or Zone of Benefit (ZOB) roads.

The word typically needs to be removed. This list does not include Zone of Benefit roads.

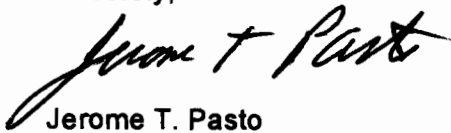
- E.4. Parking.** The following parking standards shall apply to wineries, tasting rooms, and accessory uses:
 - E.4.a.** Permanent parking spaces shall be provided for wineries, tasting room, and retail sales areas in compliance with Chapter 17.18, Off-Street Parking and Loading.
 - E.4.b.** Parking surfaces shall be surfaced with a Class 2 aggregate base or equivalent, with appropriate hard-surfacing for designated ADA compliant parking stalls.
 - E.4.c.** Temporary parking for marketing activities and special events may utilize overflow parking areas that are not surfaced. Limitations on the number of guests may be based on availability of off-street parking. All temporary parking shall be accommodated on-site, shall meet Chapter 17.18 standards for temporary parking, and meet any Fire Department requirements.

Parking must not be allowed on Zone of Benefit roads. A real time example; A Corvette club drives down D'Agostini Drive to the cul-de-sac just before C.G. Di Arie Winery. They take one

look at the gravel driveway and park in the cul-de-sac and walk in. Parking must not be allowed on Zone of Benefit roads and that must be clearly specified.

This Winery Ordinance provides El Dorado County an opportunity to mitigate the winery and vineyard traffic impacts to Zone of Benefit roads. Vineyards must be included because they are a requirement of a winery. A vineyard just like a winery draws traffic for its operation. The language needs to be specific so the desired actions will be carried out. A sunset clause for Zone of Benefit road access issues is not acceptable. Contributing toward Zone of Benefit road maintenance and repair when those roads are used for access must be a requirement of this Winery Ordinance just like other requirements.

Sincerely,



Jerome T. Pasto
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River Pines Estates Advisory Committee
530 620-7408
916 798-7408 cell
jtpasto@pacbell.net

San Diego County Planning Department
1000 Broadway, San Diego, California 92101
Tel. (619) 534-4400

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1000 Broadway, San Diego, California 92101
Tel. (619) 534-4400

There is a long history of trying to get El Dorado County
to contribute to the cost of San Diego County's
San Diego County Planning Department
1000 Broadway, San Diego, California 92101
Tel. (619) 534-4400

was taken. Enclosure 3) is an El Dorado County Department of Transportation letter reinforcing that Zone of Benefit roads are public roads and that annexation is not required. Enclosure 4) is a recent agreement between El Dorado County with three Twin Rivers parcel owners with the stipulation that it is a one time donation and there is no requirement to contribute again even though they continue to use and abuse the roads on a daily basis. There are twelve parcels in Twin Rivers. Enclosure 5) provided comments to El Dorado County policies, documents and draft Winery Ordinance paragraphs. The language used in these documents needs to be specific about the actions that will be taken to address the impacts and unfunded overburden on River Pines Estates Zone of Benefit roads. Enclosure 6) is a narrative discussion of the impacts that have occurred and still are occurring to River Pines Estates Zone of Benefit roads.

This Winery Ordinance provides El Dorado County an opportunity to properly address winery and vineyard impacts to Zone of Benefit roads. The language needs to be specific so the desired actions will be carried out. A sunset clause for Zone of Benefit road issues is not acceptable. Contributing toward Zone of Benefit road maintenance and repair must be a requirement of this Winery Ordinance just like other requirements.

Please let me know if additional information or clarification is desired.

Sincerely,

Jerome T. Pasto
Key Contact
River Pines Estates Advisory Committee
530 620-7408
916 798-7408 cell
jtpasto@pacbell.net

ENCLOSURE (1)

EL DORADO COUNTY GENERAL SERVICES DEPARTMENT

SPECIAL DISTRICTS
340 FAIR LANE
PLACERVILLE, CA 95667
Physical Location: 345 FAIR LANE
Phone: (916) 621-7402 Fax: (916) 621-5837

September 17, 1996

Debra Real
P.O. Box 245
Mt. Aukum, CA 95656

Dear Debra,

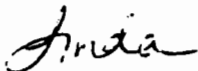
I took a few minutes to review the file after you left today and want to make sure there isn't a misunderstanding about the letter you had signed by Don Mehl. I found a note to file dated April 14, 1995 that I wrote (copy attached). The three parcels referenced in the letter are undeveloped parcels that were being sold. The buyer(s) wanted assurances that the parcels could be accessed over zone roads; the realtor worked with Don Mehl to get that particular letter written.

~~It appears that the sale of the parcels went through however the parcels were not annexed into the zone. There was no legal requirement to do so. The new buyers were requesting assurances that the zone would agree to their annexation into the zone but it was not required. I think it would be beneficial for the Zone Advisory Committee to understand what easements exist on the deeds for the properties in question.~~

It also appears that the parcels (046-081-51-100, 046-081-52-100, and 046-081-53-100) are undeveloped parcels - only one has a mobile on it with a current value of \$2,000. I don't know if these are the same parcels being represented by the woman and her family that we discussed.

At any rate, I hope that I've been able to help clarify the present situation and will answer any questions you may have after looking through the materials I've provided. Lastly, I've enclosed a current parcel owner mailing list for all the parcels within the boundaries of River Pines Estates Zone of Benefit #46.

Sincerely,



Linda Bloodsaw
Administrative Analyst

Enclosure

ENCLOSURE (2)



**EL DORADO COUNTY
PLANNING DEPARTMENT**

2850 Fairlane Court
Placerville, CA 95667

July 19, 2000

<http://co.el-dorado.ca.us/planning>

Phone: (530) 621-5355
Fax: (530) 642-0508

Jerome T. Pasto
River Pines Estates ZOB Road Committee
P.O. Box 557
Mt. Aukum, CA 95656-0557
Dear Mr. Pasto:

I have reviewed the letter sent to the Planning Director, Conrad Montgomery, dated May 16, 2000, and will try to address the various points that you raise regarding the use by Twin Rivers Vineyards

(TRV) of the roads within River Pines Estates (RPE.) These issues are: 1.) Does TRV have the right

to use the roads; 2.) Impact of truck traffic from TRV on the roads; 3.) Can the County assist in regulating use of the roads; and 4.) Can the County regulate the use of the TRV property to prevent

further impacts on the road. I will try to address each of these issues below:

Right of access - You indicated in your letter that Mr Bertone granted an easement to TRV across certain RPE roads, even though at least one of the lots had previously been sold. I cannot answer the question of his legal right to do so, and I recommend that you seek legal counsel if you wish to pursue this avenue.

Impact on the roads - If it is determined that the grant of easement to TRV was done properly, there

is little that we can do to limit the extent of use of the road easement unless specific restrictions were

spelled out at the time that the easement was granted. It would appear that the best course of action is to continue the good neighbor approach with the owners to have them repair any damage that might occur, and it may be possible to convince them to join the zone of benefit to pay their fair share of the costs of maintenance. I don't know if there is any way, except as discussed below under

future development, to force annexation to the zone, but you may wish to contact P.J. Reinhardt in the General Services Department to see if that is possible.

County regulation of road use - There is little that I am aware of that would enable the County to prohibit commercial vehicles and heavy trucks on the roads in RPE. Based on the fact that they are

zone of benefit roads, they are essentially "public." And if they were to be considered private roads, either through an abandonment of the public interest in those roads, or if the County were to change

its position regarding zone of benefit roads, the issue would then become strictly a civil matter. The comment regarding the lock on the emergency access and egress road across TRV property is one that the fire district should look into. The purpose of that emergency access is to allow an escape route in the event of a wildfire that might block the primary route. It certainly serves no purpose, in my mind, to have it locked.

Future development - The one bright spot in this situation is that the County does have an ability to impose conditions on most future development of the property for other than single family homes on the existing lots and basic agricultural use of the property. Any commercial operation such as a winery with a tasting room would require either a special use permit or a change in the zoning, where there would be ample opportunity to address the road and access issues. Certainly a condition

of approval of any discretionary approval could be to require annexation to the zone. We will make sure that you are notified through the General Services Dept. of any proposal for development that might be submitted.

I hope that this letter covers the issues that you raised regarding the use of the roads in River Pines Estates. It may sound as if the County is not interested in helping you in this situation, but the fact is there is little that the County can do. However, if you have any questions do not hesitate to contact

me.

Sincerely,

~ ~ ~
Peter N. Maurer
Principal Planner
cc: P.J. Reinhardt
Conrad Montgomery

ENCLOSURE (3)

COUNTY OF EL DORADO

DEPARTMENT OF TRANSPORTATION



MAINTENANCE DIVISION
2441 Headington Road
Placerville CA 95667
Phone: (530) 642-4909
Fax: (530) 642-9238

RICHARD W. SHEPARD, P.E.
Director of Transportation

Internet Web Site:
<http://co.el-dorado.ca.us/dot>

MAIN OFFICE
2850 Fairlane Court
Placerville CA 95667
Phone: (530) 621-5900
Fax: (530) 626-0367



January 31, 2007

Chaim Gur-Arieh, Ph. D.
P.O. Box 589
Mt. Aukum, CA 95656

Subject: Road Maintenance in River Pines Estates Road Zone of Benefit

Dr. Gur-Arieh;

This is in response to your request for information regarding the possibility of and procedure for either joining the River Pines Estates "Road Maintenance Association" or establishing a procedure to contribute toward the maintenance of D'Agostini Road. River Pines Estates is a County Service Area Zone of Benefit that was formed for the purpose of providing extended services within the geographic area. An annual assessment is collected from each property owner in the area, or "zone," through the County tax rolls to be used only for road maintenance and associated administrative costs. The roads within the zone boundaries are public roads. Additional information regarding Road Zones of Benefit is available on the El Dorado County website at http://www.co.el-dorado.ca.us/DOT/sp_qa.html.

Enclosed is an Application to Annex Territory into a Zone of Benefit. The procedure for annexation satisfies requirements of the State Board of Equalization for amending a tax rate area, and enables assessments upon the additional parcels of land to be collected on the public tax rolls. A copy of the Board of Equalization requirements is included for your reference. Pages 4 through 7 describe the requirements for preparation of the legal description and maps that must be submitted with the completed application. You may provide these to the licensed professional surveyor who prepares these documents for submittal.

Should you decide you prefer not to pursue annexing your parcel(s) into the zone of benefit, but would still like to contribute to the maintenance of D'Agostini Road, a funding agreement could be executed that would allow the County to accept your contribution on behalf of the zone. It may benefit all parties if you worked with the zone Advisory Committee to agree upon a specific project, and contributed toward specific work in order to avoid additional administrative costs associated with processing annual agreements for yearly contributions.

If you have further questions or would like to discuss any of the options presented herein, please contact me by telephone at (530) 642-4954 or by e-mail at ezangari@co.el-dorado.ca.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth S. Zangari".

Elizabeth S. Zangari
Department Analyst

Enclosures

ENCLOSURE (4)

RIVER PINES ESTATES ROAD ZONE OF BENEFIT # 98146 ROAD MAINTENANCE AND REPAIR PROJECT FUNDING AGREEMENT

THIS AGREEMENT, entered into by and between the County of El Dorado, a public entity, (hereinafter "DONEE") and the subscribing DONORS who own property outside the boundaries of the River Pines Estates Road Zone of Benefit within County Service Area #9 (hereinafter "DONORS").

RECITALS

1. The DONORS own property outside the boundaries of the River Pines Estates Road Zone of Benefit (the "Zone") and, thus, are not obligated to contribute to the maintenance or repair of those roads within the Zone;
2. Nevertheless, due to their use of D'Agostini Drive within the Zone, the DONORS desire to donate money for the repair of a specified segment of D'Agostini Drive;
3. D'Agostini Drive at the location of the contemplated work is a public road and is within the maintenance jurisdiction of the Zone;
4. The parties agree that road work contemplated by this Agreement is in the public interest; and
5. The DONORS desire to donate to the County of El Dorado the sum of \$7,000 (seven thousand dollars) for the express purpose of accomplishing the road work described below. The donation is a gift to the County of funds.

PROJECT DESCRIPTION

The road maintenance and repair work described herein will be performed by a licensed contractor and is subject to all applicable requirements for public works, including the payment of prevailing wages. The road maintenance and repair work described herein shall consist of the following:

the single application of emulsified asphalt Type II Micro-Surfacing with five percent (5%) Polymer on D'Agostini Drive beginning near the intersection of D'Arie Road and D'Agostini Drive and continuing eastward approximately 29,787 square feet.

The location of this road work shall be on D'Agostini Drive in the Zone. The exact location of repairs will be marked in the field by a road zone representative prior to the start of work.

PROJECT COSTS

The estimated maximum cost of the project is \$7,000 (seven thousand dollars). Funds provided by the DONORS will be used to pay for all of the labor, materials and equipment costs to complete the work described herein.

Funding received from DONORS is a gift/donation, not a loan, and will not be refunded or reimbursed or credited against any taxes or assessments that are due now or will become due in the future. If for whatever reason this project is not commenced before November 1, 2008 all donations will be returned to the DONORS.

All funds donated for this project shall be deposited in cash with the Department of Transportation prior to the execution of a contract to complete the work. The funds will be held in the separate operating account specifically identified for the River Pines Estates Road Zone of Benefit #98146. The account will be interest bearing and established with the County Auditor upon receipt of cash deposit.

PROJECT DATE

This project will take place during fiscal year 2008/2009 upon full execution of a contract with a qualified contractor.

MAINTENANCE

The newly resurfaced portion of D'Agostini Drive will remain under the control and responsibility of the Zone to maintain at its discretion.

The road work done pursuant to this Agreement shall not vest in the DONORS any greater rights to travel D'Agostini Drive than exist in the public, and do not commit the County to any duty of maintenance under the terms of this Agreement, or as a condition of the gift made.

CONTRACT ADMINISTRATOR

The County Officer or employee with responsibility for administering this Agreement is Tom Celio, Deputy Director, Maintenance, Department of Transportation, or successor.

EXECUTION IN COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each of which shall have the force and effect of an original and all of which together shall constitute one and the same instrument.

Requesting Department Concurrence:

By: 
Richard W. Shepard, P.E.
Director of Transportation

Dated: 7/22/08

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

COUNTY OF EL DORADO

By: _____

Dated: _____

**Board of Supervisors
"Donee"**

Attest: _____
Cindy Keck
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

DONORS

By _____
Chaim Gur-Arieh

Dated _____

By _____
Barbara Hodgins

Dated _____

By _____
David Helwig

Dated _____

ENCLOSURE(5)

River Pines Estates Zone of Benefit Advisory Committee

P O Box 252
Mount Aukum, California 95656

21 October 2008

To: El Dorado County Board of Supervisors
Rusty Dupray, District 1
Helen Baumann, District 2
James R (Jack) Sweeney, District 3
Ron Briggs, District 4
Norma Santiago, District 5

Subject: Winery Ordinance

This letter provides comments to documents listed on the Board of Supervisor's Winery Ordinance agenda item. Specific paragraphs are referenced with comments.

Appendix B: 2004 General Plan Policies and Implementation Measures

Policy 2.2.5.10: It is recognized that there are large Rural Regions within the County wherein agriculture is pursued, and these areas need certain support uses that are unique to agriculture and its related uses. While allowing for the establishment of such agricultural support services, this policy will protect the permitted uses of such agricultural areas by only allowing the establishment of such support services with a special use permit which will require a finding that the **establishment of the use will have no significant adverse effect on surrounding property** or the permitted uses thereof.

This statement needs to include Zone of Benefit roads.

Policy TC-Xg: Each development project shall dedicate right-of-way and construct or fund improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. For road improvements that provide significant benefit to other development, the County may allow a project to fund its fair share of improvement costs through traffic impact fees or receive reimbursement from impact fees for construction of improvements beyond the project's fair share. The amount and timing of reimbursements shall be determined by the County.

There needs to be a concern over construction and truck traffic on Zone of Benefit roads.

Discussion Item 15-a: Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system.

Discussion:

A) Road maintenance is required pursuant to Draft Ordinance section E.5.d, including the provision to join and pay their fair share into any established Road Maintenance entity, including County Service Areas (CSA's), Road Zones of Benefit (ZOB's), or Community Service Districts (CSDs) if they use those roads. The impact of road maintenance is a less than significant impact.

The impact to River Pines Zone of Benefit roads has been significant.

B) The potential for increased accidents and safety issues are normally addressed by the County through the Transportation Departments Traffic Safety Committee. The TIM fee update process may also allow re-assessment of rural road spot improvements and safety improvements if there is evidence of increased accidents and safety issues. The traffic increase from the Draft Ordinance should increase incrementally and allow these established County programs to function and minimize potential impacts to a less than significant level.

The County programs listed do not currently apply to Zone of Benefit roads.

4.1.3 Cumulative Impact Analysis:

Transportation: The Draft Ordinance could result in potentially significant impacts by increasing traffic on some rural county roads, increasing maintenance of roads, and contributing to specific areas of traffic congestion. However, no potentially significant impacts were identified that are not minimized by existing programs and standards. Therefore the cumulative impacts identified in the General Plan EIR under Traffic and Circulation is not increased as a result of the Draft Ordinance and the Draft Ordinance will have no impact on cumulative traffic and circulation impacts in the region.

The impact to River Pines Zone of Benefit roads and therefore maintenance has been significant.

September 8, 2008 Draft Winery Ordinance

E.5. Access Standards: The access to winery and tasting facilities open to the public shall connect directly to a County maintained road, except as provided below. Access via a non-County maintained road for purposes of this subsection includes access to a winery that utilizes any portion of a non-County maintained road whether or not the road utilized is located on-site or off-site.

E.5.a. In Ag District. A winery and tasting facility accessed by a non-County maintained road, if located within an Agricultural District, shall be subject to the review and approval of a Site Plan Review by the Development Services Director, following a recommendation by the Agricultural Commission.

E.5.b. Not in Ag District. A winery and tasting facility accessed by a non-County maintained road that is not located within an Agricultural District shall require a CUP.

- E.5.c. **Not open to public.** A winery that is not open to the public and without on-site sales may be accessed by a non-County maintained road.

If a business's primary access is over a Zone of Benefit road and they are outside the Zone of Benefit boundaries they need to be annexed into the Zone of Benefit and contribute to road maintenance and repair.

- E.5.d. **Road Maintenance.** As a condition of approval for a Site Plan Review or CUP, the winery will be required to participate in any private road maintenance entity, **annex into a road ZOB, or otherwise pay a fair share for road maintenance as determined by the approving authority.**

The fair share for road maintenance needs to be on an ongoing basis. It should not be a one time donation with no mechanism to address contributions to future road maintenance and repair.

- E.5.f. **"County Maintained Road"** for this Subsection shall be a road that is listed by the Department of Transportation as being on the current County Maintained Mileage list. This list does not **typically** include County Service Area (CSA) or Zone of Benefit (ZOB) roads.

The word typically needs to be removed. This list does not include to Zone of Benefit roads.

- E.4. **Parking.** The following parking standards shall apply to wineries, tasting rooms, and accessory uses:
- E.4.a. Permanent parking spaces shall be provided for wineries, tasting room, and retail sales areas in compliance with Chapter 17.18, Off-Street Parking and Loading.
 - E.4.b. Parking surfaces shall be surfaced with a Class 2 aggregate base or equivalent, with appropriate hard-surfacing for designated ADA compliant parking stalls.
 - E.4.c. Temporary parking for marketing activities and special events may utilize overflow parking areas that are not surfaced. Limitations on the number of guests may be based on availability of off-street parking. All temporary parking shall be accommodated on-site, shall meet Chapter 17.18 standards for temporary parking, and meet any Fire Department requirements.

Parking should not be allowed on Zone of Benefit roads.

Sincerely,

Jerome T Pasto
Key Contact
River Pines Estates Zone of Benefit

ENCLOSURE (6)

Environmental Impact Report for the El Dorado County Winery Ordinance

Comments from River Pines Estates Zone of Benefit Advisory Committee
Dated 29 February 2008

There can be significant environmental impact to residential roads used for access by wineries, tasting rooms and vineyards through their construction and running of wineries, operating tasting rooms and vineyard operations. It is not acceptable to cause an unfunded overburden on residential roads when the repair and maintenance is only paid for by those residents. River Pines Estates has been imposed upon by an unfunded overburden condition on its roads that still continues today.

There are several key issues that should be included in the Environmental Impact Report.

- The Environmental Impact Report and the Winery Ordinance should include impacts caused by commercial vineyards because El Dorado County will not allow a winery without a vineyard.
- Impact to the access roads should consider the weight that is transported over those access roads. This can be significant during construction of the infrastructure.
- Once a business is established there is surge traffic from special events and ongoing traffic to run a winery, tasting room and commercial vineyard.

The Environmental Impact Report must address the unfunded overburden of residential access roads and especially roads where the road repair and maintenance monies only come from the residents. River Pines Estates Zone of Benefit is a good example of a road overburden problem.

There are two broad categories of traffic overburden: those created from new construction traffic and those from sustained business traffic. The vehicle weight can be far more damaging to the road than vehicle count.

The following is an excerpt from a pamphlet provided to the River Pines Estates Advisory Committee by El Dorado County.

“Furthermore, today’s trucks weigh twice as much as the average fleet weighed in 1960. It is now estimated that a typical 18-wheel truck semi-trailer has the equivalent loading effect of between 3,000 and 6,000 passenger vehicles. The effect of this weight increase in terms of decreasing pavement life span has been estimated to be between 10% for thick pavements such as those on highways and 90% for the thin pavements on local roads and streets.”

Here is some background on the Twin Rivers Vineyard development and the subsequent unfunded overburden on River Pines Estates roads. Twin Rivers Vineyard is a 1564 acre development at the end of River Pines Estates, D’Agostini Drive. It was initially one vineyard with the majority of the land used for cattle grazing. The gate at the end of D’Agostini Drive was always locked and the un-improved dirt road that crossed Twin Rivers Vineyard was not passable in winter. Then the development started.

Think of weight and the damage it causes to a River Pines Estates chip seal road, damage caused by development at Twin Rivers Vineyard. The back way out of Twin Rivers Vineyard over the Cosumnes River connects to Upton Road in Amador County and goes over a non-rated bridge. That non-rated bridge causes all traffic of any weight and regular business and customer traffic to travel over River Pines Estates roads.

The first major impact and deterioration of River Pines Estates chip seal roads occurred during creation of the infrastructure in Twin Rivers Vineyard. The chip seal roads were never intended to withstand the magnitude of weight that transcended on its surface.

- Initial road surface, 50 gravel trucks @ equivalent loading effect of 6000 cars per truck. Total impact 300,000 cars.
- Construction equipment: graders, bulldozers, backhoes etc.
- Subsequent chip seal of main road.
- Subsequent paving of sections of the road.
- Power poles, transformers and electrical cable.
- Vineyard site preparation and planting.
- Firewood removal.
- Construction equipment: bulldozers, backhoes, trenchers.
- Vineyard equipment, tractors, discs, flail mowers, sprayers, etc.
- Deer fencing, end posts and T-posts.
- Vineyard Irrigation: well drilling equipment, pipe, water tanks, drip lines.
- Vineyard trellis materials: end posts, super stakes, pencil rods, drip, cordon and trellis wire and grapevines.
- Construction of structures: bulldozers, excavators, backhoes, cement trucks, concrete pump trucks, man lifts, cranes, forklifts.
- Weight of the winery construction materials and operational equipment.
- Weight of construction material and contents for multiple residences.
- All the employees and construction crews required to create the infrastructure.

The total equivalent loading effect of all this weight is HUGE, millions of equivalent cars. D'Agostini Drive suffered significant deterioration and abuse which is still reflected in the condition of River Pines Estates roads today.

Next phase is open for business. The traffic caused by sustained winery operations, tasting room operations, commercial vineyards, residents and parcel owners. There are different types of traffic at this stage: 1) significant increase in customer traffic for special events, 2) routine daily traffic from employees and customers as part of normal business and 3) delivery and receipt of everything required to operate a winery, tasting room and vineyards. In addition to the traffic flow of customers and employees, there is heavier traffic.

- Daily parcel delivery service. UPS, Fed-Ex, etc., sometimes with tractor trailer size trucks.
- Receipt of 180,000 empty bottles, ship 180,000 full bottles.
- Wine tanker trucks.

- Fuel tanker trucks.
- Bottling trucks.
- Propane trucks.
- Greyhound size tour busses.
- Limousines.
- Van delivery trucks.
- Grape harvest delivery trucks.
- The moving in and out of vineyard tractors and implements.

The unacceptable part of this is that River Pines Estates chip seal roads were established as a residential neighborhood. Road repair and maintenance is only paid for by the residents of River Pines Estates. Not a single winery, commercial vineyard or parcel owner in Twin Rivers is annexed into River Pines Estates nor contributes toward the upkeep and maintenance of the roads they use and abuse on a daily basis.

An important issue separate from road abuse, repair and maintenance is the safety of River Pines Estates residents. River Pines Estates roads were not constructed with sidewalks or shoulders. The edge of the chip seal road surface usually drops off or has a drainage ditch. On a typical day residents are out walking, taking their dog out or riding their horses. Because of the construction of River Pines Estates roads their activities require them to be on the edge of the chip seal road surface. The high speed drivers that work in Twin Rivers, frequent the winery tasting room or participate in winery special events are putting River Pines Estates residents in peril. The roads are curved and hilly making it impossible, in some sections, for drivers to have clear vision way out in front of their vehicle. Most drive toward the center of the road creating a hazard for oncoming traffic. The pedestrian and pets are also in peril especially should two way traffic emerge where they are. The only way to reduce that peril to residents is to limit the traffic, especially since El Dorado County DOT will not allow positive speed reduction items like speed limit signs or speed bumps.

I can be reached at the below listed contact information if clarification or additional information is needed.

Jerome T. Pasto
Key Contact
River Pines Estates Zone of Benefit
PO Box 557
Mount Aukum, CA 95656-0557
530 620-7408
916 798-7408 cell
540 620-5119 fax
itpasto@pacbell.net