

Tyler Hartsell

From: Sharon Arsenith <sharon70@att.net>
Sent: Monday, September 23, 2024 6:18 AM
To: BOS-Clerk of the Board
Subject: Public comment for Agenda item 24-1534 BOS meeting 9/24/24

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It is crucial that County staff make every effort to enforce the Ranch Marketing and Winery ordinances as they are written, as rules and regulations are meaningless if they are not upheld. If there is failure to take enforcement action it will undermine both the integrity of the County's regulations and the trust of the County's rural residents who rely on them.

This is the time for County staff to prioritize enforcement and ensure that these laws are respected and followed for the safety and peace of the County's rural residents.

To that end, County staff must allocate resources to ensure that Code enforcement officers are available to enforce the laws written into the ordinances and must be available to substantiate any potential violations. Therefore, accessory uses, especially special events, must be limited to the scheduled days and hours that Code enforcement has allocated officers to work on nights and weekends. Special events should only be allowed on those scheduled days. Increased monitoring and enforcement may alleviate some of the impact to surrounding rural residents that have to deal with commercial venues hosting multiple events weekly during the wedding seasons.

In addition, I have deep concerns about the implementation of the revised County ordinances, particularly regarding the language used in the documents and the subsequent practical challenges faced in their enforcement. I believe these concerns must be addressed as they are crucial to ensuring the well-being and harmony of our rural communities. First and foremost, my concern lies in the use of the word "may" instead of the word "shall" in critical sections of the revised ordinances. Phrases such as "the County **may** suspend the ability....," "the County **may** enforce any violation....," and "the County **may** take all reasonable actions..." indicate a lack of firm commitment to enforcing the ordinances. This use of more discretionary language raises questions about the County's dedication and commitment to ensuring that these laws are followed diligently, which could potentially lead to their ineffectiveness. I urge County staff to use the word "**shall**" in the ordinances which indicates that mandatory action will be taken when necessary.

I support a reduction in the number of special events allotted by right, however I must insist that the primary use/primary purpose clause of both the Ranch Marketing and the Winery ordinances must still be enforced to prevent the over commercialization of agricultural lands. This is the crux of both the Winery and Ranch Marketing ordinances - that accessory uses are secondary to the primary agricultural operations of the property. Businesses should have to demonstrate yearly to the Ag Commissioner that they qualify for accessory uses and that their accessory uses are not their primary source of revenue. In addition, there should be a permitting process in place to ensure that businesses qualify for accessory uses under these ordinances before these subordinate uses commence and that they can clearly demonstrate that their special events will not have a negative impact on the surrounding rural residents.

As far as qualifying for a CUP to earn revenue from additional special events beyond the number granted by right, those agricultural businesses seeking to host more special events must be required to demonstrate annually that their event venue revenue does not supersede their agricultural revenue. The primary use/primary purpose clause in the ordinances must be upheld and enforced. Additionally, there must be a cap imposed on the number of special events that properties operating within these ordinances may seek to ensure that our agricultural lands are not over commercialized.

It is well documented that noise nuisance affects health and is detrimental to well-being. Unwanted noise can create stress for humans and animals. Noise pollution can "trigger the body's stress response, one of its major health effects is chronic

stress and the high levels of stress hormone that go with it...and because chronic stress can lower your immunity to all disease, noise pollution is a general threat to health and wellness” (very well mind. com, 10 January 2024).

No property owner should have the right to strip a neighboring property owner from their right to peace and welfare and enjoyment of their own parcel.

To this point, a CUP should be required for any outdoor amplified music and any outdoor amplified speech. Noise from special events is not agricultural noise and is not protected by the “right to farm”. Noise nuisance is an unwelcome presence—something you can’t easily ignore or escape. It is an interference to public peace and welfare.

Furthermore, I find it disconcerting that the County staff has repeatedly declined the suggestion to reduce sound levels in the County noise ordinance by 5 dB in these instances. This seemingly minor adjustment, supported by well-established metrics, would not significantly impact special events, but could make a substantial difference for the well-being of the neighboring rural residents. Ignoring this repeated suggestion raises questions about the County’s commitment to balancing the interests of event organizers with the quality of life for the surrounding rural residential community.

Finally, raise the penalties in the fine schedule that are imposed for violations of the Ranch Marketing and Winery ordinances. These should be more punitive and should take into consideration the potential lucrative revenue that may be obtained with these specific types of accessory uses. There is a proposal to raise the fines in the VHR ordinance and the County staff should amend the fee schedule in the Ranch Marketing and Winery ordinances accordingly.

Thank you for your time and I trust that each of you will keep in mind the present and potential serious detrimental impacts to rural residents that live near or adjacent to these properties.

Sharon Arsenith

Tyler Hartsell

From: Anthony <major2@comcast.net>
Sent: Monday, September 23, 2024 6:37 AM
To: BOS-Clerk of the Board
Subject: Public comment for Agenda item 24-1534 Board of Supervisors meeting 9/24

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Sept 23rd 2024

Please submit this public comment

Re: Public comment for Agenda item 24-1534 Board of Supervisors meeting 9/24

Conditional use permits that would allow event centers to develop on agricultural lands undermines the spirit of the recommended changes to the Ranch Marketing and Winery Ordinances. One of the purposes of re-writing the ordinances is to prevent the over commercialization of our agricultural lands. In addition, I would like to see specific language included in the Ranch Marketing and Winery Ordinances that addresses specific qualifications that these businesses must meet in order to request a conditional use permit to have special events on agricultural lands.

Therefore, I would like to provide a proposed procedure for CUPs for properties operating within the Ranch Marketing and Winery ordinances for additional commercial events beyond those outlined in the ordinances. The County should implement a comprehensive review process for Conditional Use Permits (CUP) requests that seek approval for commercial special events on agricultural lands beyond the established limit in the Ranch Marketing and Winery ordinance. Such requests should only be submitted once the maximum allowable events have been reached.

To move forward, applicants must provide detailed justification outlining the necessity of additional commercial special events and demonstrate that these events will not interfere with the primary operations of their agricultural business. A thorough review would take place prior to consideration, with the primary goal of ensuring that the request for additional commercial special events would not supersede the applicant's core agricultural activities.

Also, the applicant must demonstrate that they are currently and have been in compliance with all regulations concerning accessory uses, in particular special events. Their record should reflect their commitment to adhering to the established County rules and standards.

In the event that an applicant is denied and chooses to appeal, they must convincingly demonstrate to the review committee that the maximum allowable events did not disrupt their primary business and that their income remains primarily derived from agricultural activities. Furthermore, they must validate that the requested additional events will not generate more revenue than their core operations.

If the applicant successfully establishes that they continue to be primarily an agricultural entity, the CUP request will progress through the standard review process within the County departments.

I would also like to provide a proposed procedure for defining primary use.

To ensure clarity for all agricultural property owners regarding the definition of primary business in relation to agricultural products, the County should adopt a comprehensive and straightforward communication strategy. The following are ways that the County could effectively define primary business.

Primary Business: The main activity or activities that generate the majority of a property's revenue, focus, and resources. For agricultural properties, this means that the cultivation, production, processing, and sale of agricultural products must constitute the primary business.

Key Points to Communicate to agricultural property owners:

1. Revenue Source

- **Threshold:** At least 75% (or another specified percentage) of the property's annual revenue must come from the sale of agricultural products, such as crops, livestock, dairy, wine, etc.
- **Revenue Documentation:** Property owners must maintain detailed and transparent financial records that separate agricultural income from income generated by commercial special events.

2. Operational Focus

- **Primary Activities:** The majority of the property's operational time and resources must be dedicated to agricultural activities. This includes farming, harvesting, processing, and marketing their agricultural products.
- **Commercial Special Events:** Events like weddings, concerts, or antique car shows are allowed but must clearly be secondary and accessory, limited to no more than outlined in the County ordinances. If a Conditional Use Permit (CUP) is obtained, it must not overshadow the primary agricultural operations.

3. Employment and Resource Allocation pool

- **Staffing:** The majority of employees should be involved in agricultural activities rather than management of the accessory uses.
- **Resource Use:** Resources such as land, equipment, and facilities should be primarily used for agricultural purposes.

In addition, enforcement and regulation of the Ranch Marketing and Winery ordinances must be a key focus for the County staff to protect all stakeholders, including the rural residential communities that live adjacent to these businesses.

1. Regular Inspections

- **Regular Scheduled Inspections for each business that operates under the Ranch and Marketing and Winery ordinance:** The Ag Commissioner must conduct regular inspections to ensure compliance with the primary business requirements and that the minimum cropland acreage is maintained.
- **Random Checks:** Code enforcement should perform random checks to prevent any potential violations - lighting, traffic, noise, parking, failure to provide advance notification for special events etc.

2. Enforcement and Penalties

- **Penalties for Non-Compliance:** Enforce penalties for failing to maintain agricultural activities as the primary business, including fines and potential revocation of accessory uses. Enforce strict adherence to the County noise standards. Enforce adherence to the number of special events allocated by right and the advance notification requirements that are outlined in both ordinances.
- **Increase Fines:** Finally, you must consider increasing the financial structure of the penalties as these violations can affect the health and safety of rural residents. See the proposed changes in the VHR ordinance and increase the penalties for violations accordingly. For example, the schedule for violations should be \$1,500 for the first violation, \$3,000 for the second and \$5,000 for the third and each subsequent violation.

Thank you for your time and consideration.

Regards
Anthony DeSipio

From: Kimberly Beal <kimberlyabeal@gmail.com>
Sent: Monday, September 23, 2024 1:58 PM
To: BOS-Clerk of the Board; BOS-District III; BOS-District I; BOS-District II; BOS-District IV; BOS-District V; Tiffany Schmid
Subject: BOS Agenda 9/24/24, Item 33, File 24-1534
Attachments: EDCAR Letter to BOS-Agenda Item 33 - 24-0924.pdf

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Dear Members of the Board of Supervisors,

Please find attached a letter from the El Dorado County Association of Realtors, regarding your consideration to require a real estate disclosure for the Ranch Marketing and Winery Ordinances.

Kimberly Beal
Government Affairs Director
EDC Association of Realtors

September 23, 2024

Wendy Thomas, Chair
El Dorado County Board of Supervisors
Being transmitted Electronically

Re: BOS Agenda 9/24/24, Item 33, File # 24-1534

Dear Wendy,

Tomorrow, the Board of Supervisors will consider amending the Ranch Marketing and Winery Ordinances to include a requirement for a real estate disclosure. Should the Board adopt a policy for a real estate disclosure, the El Dorado County Association of Realtor's request you update the attached Real Estate Transfer Disclosure Statement for Agricultural Protections and the EDC Right to Farm Ordinance to include the Ranch Marketing and Winery Ordinances.

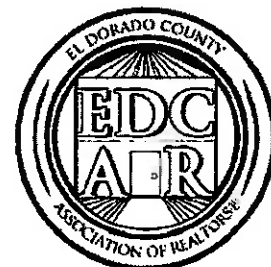
Our Association of Realtors would appreciate you incorporating any new real estate disclosure requirements within the existing disclosure for Agricultural Protections and the Right to Farm Ordinance, created by the County many years ago, rather than creating a second disclosure for Ranch Marketing and Winery properties.

We thank you for your consideration.

Kimberly Beal

Kimberly Beal
Government Affairs Director
El Dorado County Association of Realtors

Cc: Brian Frazier, President
Devin Woodard, Executive Officer



REAL ESTATE TRANSFER DISCLOSURE STATEMENT

AGRICULTURAL PROTECTIONS

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF EL DORADO, STATE OF CALIFORNIA, DESCRIBED AS _____ THIS STATEMENT IS A DISCLOSURE PROVIDED IN COMPLIANCE WITH CHAPTER 17.13 OF THE EL DORADO COUNTY ORDINANCE CODE, KNOWN AS THE RIGHT TO FARM ORDINANCE. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

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SELLERS INFORMATION

The seller discloses the following information with the knowledge that even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE DISCLOSURES MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF EL DORADO, AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S) IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

The County of El Dorado recognizes the statewide policy to protect and encourage Agriculture. Section 17.13.030 of Chapter 17.13 of the El Dorado County Code (*Nuisance*) states in substance that no present or future agricultural operation or any of its appurtenances conducted or maintained for commercial purposes and in a manner consistent with proper and accepted customs and standards of the agricultural industry on agricultural land shall become or be a nuisance, private or public, due to any changed condition of the use of adjacent land in or about the locality thereof; provided, that the provisions of this section shall not apply whenever a nuisance results from negligent or improper operation of any such agricultural operation and its appurtenances or if the agricultural activity or appurtenances obstruct the free passage or use in the customary manner of a navigable lake, stream, river, canal or basin or any public park, square, street or highway.

Intensive agricultural activity may take place on agricultural land. Therefore, if the property you are purchasing is in the vicinity of agricultural land, you may at times be subject to one or more inconveniences and/or discomfort arising from operations on the agricultural land. Such inconveniences may include (depending upon the type of agricultural operation) but are not necessarily limited to the following: noise, odors, fumes, dust, legal pesticide use, fertilizers, smoke, insects, farm personnel and truck traffic, visual impacts, night time lighting, operation of machinery, and the storage, warehousing and processing of agricultural products or other inconveniences or discomforts associated with the protected agricultural operations. For additional information pertaining to this disclosure and the Right to Farm Ordinance, or concerns with an agricultural operation, please contact the El Dorado County Agricultural Commissioner's Office.

AGRICULTURAL SETBACKS

Pursuant to Section 17.06.150 of Chapter 17.06 of the El Dorado County Code, your property may be subject to special setbacks for agricultural protection from the adjoining agricultural properties, as measured from the property line. Non-compatible uses such as residential structures, nursing homes, public schools, playgrounds, swimming pools, ponds and churches may not be built or placed within the agricultural setbacks, if applicable. For further information regarding applicable setbacks or other zoning regulations, please contact the El Dorado County Developmental Services Department- Planning Services Division.

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller: _____ Date: _____

Seller: _____ Date: _____

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT

Seller: _____ Date: _____ Buyer: _____ Date: _____

Seller: _____ Date: _____ Buyer: _____ Date: _____

Agent (Broker Representing Seller): _____ By: _____ Date: _____

(Associate Licensee or Broker-Signature)

Agent (Broker Obtaining the Offer): _____ By: _____ Date: _____

(Associate Licensee or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.