



Memorandum from Department of Agriculture/Planning and Building Department

Date: June 6, 2023

To: Board of Supervisors (Agenda Date: June 6, 2023)

From: LeeAnne Mila, Agricultural Commissioner/Sealer of Weights & Measures
Rob Peters, Deputy Director of Planning

Subject: **Proposed Title 130 – Zoning Ordinance Amendments for the Ranch Marketing and Winery Ordinances (OR23-0001)**

STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors (Board) consider the Planning Commission's recommendation to take the following actions:

1. Approve the California Environmental Quality Act (CEQA) Addendum to the Targeted General Plan Amendment & Zoning Ordinance Update (TGPA-ZOU) Final Environmental Impact Report (FEIR) consistent with Sections 15162 and 15164 of the CEQA Guidelines (Attachment C);
2. Approve the proposed amendments to the Zoning Ordinance, incorporating additional changes recommended by the Planning Commission, and adopt an Ordinance for Title 130 Zoning Ordinance of the El Dorado County Code (Attachment E) based on the findings as presented by staff;
3. Direct staff to return to the Ag. Commission and Planning Commission approximately one year following the effective date of the ordinance for an update; and
4. Direct staff to continue to define how to determine that agriculture production is the primary use or function of the property.

PURPOSE

The purpose of the proposed amendments to Title 130 (Zoning Ordinance) for Section 130.40.260 – Ranch Marketing (Ranch Marketing Ordinance) and Section 130.40.400 – Wineries (Winery Ordinance) is to bring forward recommendations to the Board to address longstanding land use conflicts between Ranch Marketing and Winery operations and neighboring properties resulting mainly from special events, specifically amplified music. The proposed amendments are also intended to provide additional clarity for Ranch Marketing or Winery operators, the

public, County staff, and County decision makers on how to interpret the Ranch Marketing and Winery Ordinances by addressing areas of ambiguity and ensuring consistency. Lastly, the proposed amendments seek to improve compliance with Ranch Marketing and Winery Ordinances through enhanced activity tracking and enforcement.

Staff is presenting for the Board's consideration proposed amendments to the Ranch Marketing and Winery Ordinances, along with associated conforming amendments, consistent with the recommendations from the Board Ranch Marketing/Winery Ad Hoc Committee (Board Ad Hoc), Agricultural Commission (Ag. Commission) Ranch Marketing/Winery Ad Hoc Committee (Ag. Commission Ad Hoc), Ag. Commission, and Planning Commission. The proposed amendments also incorporate some response to public comments received, as well as recommendations from the Ad Hoc Committees, Ag. Commission, and Planning Commission.

DISCUSSION / BACKGROUND

On December 15, 2015, the El Dorado County Board of Supervisors (Board) adopted Ordinance No. 5030 that established a comprehensive update to Title 130 (Zoning Ordinance). This update included revisions to Section 130.40.260 – Ranch Marketing and Section 130.40.400 – Wineries that authorized certain special events to occur by right. On September 1, 2020, the Board adopted Ordinance No. 5127, amending Section 130.40.260.H – Ranch Marketing Provisions for Agricultural Grazing Lands (Large Animal), to allow ranch marketing activities to occur on land zoned Planned Agricultural and Limited Agricultural when done in compliance with all applicable provisions and standards.

County staff received concerns from the community about special events held under the Ranch Marketing and Winery Ordinances. In response to those concerns, on September 8, 2021, the Ag. Commission formed an Ad Hoc committee to review the Ranch Marketing Ordinance consisting of two members, Commissioners Bolster and Bacchi and another Ad Hoc Committee to review the Winery Ordinance consisting of two members, Commissioners Walker and Boeger. Those two Ad Hoc Committees were later consolidated into a single Ad Hoc Committee consisting of Commissioners Boeger, Walker, and Bolster. On September 21, 2021, the Board established a Board Ad Hoc consisting of Supervisors Parlin (District IV) and Thomas (District III) to work closely with the Ag. Commission Ad Hoc and the agriculture community to identify the primary concerns with the existing ordinances and potential amendments for future consideration by the Board.

Since that time, four public meetings have been held on the proposed amendments. The first meeting was a joint Board Ad Hoc and Ag. Commission Ad Hoc public workshop on January 17, 2023. At that public workshop, the Ad Hoc Committees, through staff, presented to interested parties and the public the proposed amendments to the Ranch Marketing and Winery Ordinances for discussion. The second public meeting was the Ag. Commission public hearing

on February 8, 2023, where the full Ag. Commission evaluated the proposed amendments and provided recommendation for consideration by the Planning Commission and ultimately the Board. The third public meeting was the Planning Commission public hearing on March 9, 2023, where it evaluated the proposed amendments, provided input, and continued the item for further discussion. The fourth public meeting was the second Planning Commission public hearing on April 27, 2023, where it evaluated the proposed amendments.

RANCH MARKETING AND WINERY ORDINANCE AMENDMENTS

The initial proposed amendments to the Ranch Marketing and Winery Ordinances identified by the Board Ad Hoc and Ag. Commission Ad Hoc are summarized below:

- Amend the Ranch Marketing Ordinance to require an operator of a ranch marketing area to comply with the County Noise standards in EDC Ordinance Code Chapter 130.37 when holding special events and make conforming changes. This was added because under the current language of the Ranch Marketing Ordinance special events did not have to comply with the County Noise standards, while special events held under the Winery Ordinance did have to comply with County Noise Standards. This change ensures that special events are treated similarly between the two Ordinances.
- Revise and recast the Ranch Marketing Ordinance addressing ambiguous language and ensure consistency between both Ordinances. These changes were added to improve readability and clarity in the Winery Ordinance and the Ranch Marketing Ordinance.
- Amend the Ranch Marketing Ordinance and the Winery Ordinance to state that a special event is defined to be any event up to 250 persons in attendance and limited in duration to 24 hours. This change was added because under the current language of the Ranch Marketing Ordinance a special event is defined to be over 50 persons in attendance, while under the current language of the Winery Ordinance it states that a special event less than 50 persons in attendance is not counted towards the maximum events allowed. This has led to issues in implementation and enforcement.
- Amend the Ranch Marketing Ordinance and the Winery Ordinance to require the operator of the ranch marketing area or the winery owner to notify the Agriculture Commissioner no later than 14 calendar days in advance of each special event, and to add additional enforcement for potential violations relating to special events. This change was added because staff has currently had difficulty tracking the number of special events held. Currently, staff has implemented a voluntary tracking system that occurs quarterly. By requiring this advance notice, it will improve the ability for staff to track the number of special events and protects the operator of the ranch marketing area or winery owner if the County is contacted about a special event the County can respond on appropriate notification and posting. In addition, the operator of the ranch marketing area or winery owner would have to make a designated local contact available during the event to receive any complaints or concerns and keep a complaint log.

- Clarify when a conditional use permit is required for concerts held under the Ranch Marketing Ordinance and Winery Ordinance and update terminology consistent with Chapter 5.32 and Chapter 12.39. This change was added because the current language of the Ranch Marketing Ordinance and Winery Ordinance provides a conditional use permit is required for concerts, or other live outdoor amplified music, in which music is the primary attraction. However, in Chapter 12.39 a Sheriff's Permit is required for a live outdoor amplified concert that has more than 150 persons in attendance, and in Chapter 5.32 a conditional use permit is required for an outdoor music festival of more than 2,000 persons in attendance. The changes here would use consistent terminology as used in other portions of our Ordinance Code.
- Clarify the scope of the Agricultural Commissioner's review authority, and add procedures to appeal decisions, under the Ranch Marketing Ordinance and the Winery Ordinance.
- Make other minor clarifying and conforming changes.

Following the joint Board Ad Hoc and Ag. Commission Ad Hoc public workshop on January 17, 2023, staff developed language to develop a "Room Rental Event" allowing up to 20 persons that would not be counted for purposes of determining the maximum number of special events allowed in a calendar year. This was added to address concerns that rental of a conference room would count as a special event.

Modifications made pursuant to Agricultural Commission recommendations from the February 8, 2023 meeting:

- Revised the "Room Rental Event" to allow up to 40 persons.
- Allowance of three special events per calendar year for 501(c)(3) non-profits that would not be counted for purposes of determining the maximum number of special events allowed in a calendar year. This change was added at the recommendation of the Agricultural Commission to encourage charitable events.

Modifications made pursuant to Planning Commission recommendations from 2 Planning Commission meetings. The meetings were held on March 9, 2023 and April 27, 2023:

- Revised various provisions of the Zoning Code to allow the Agricultural Commissioner, rather than the Department of Planning and Building, to serve as the review authority of original jurisdiction for administrative permits issued under the Ranch Marketing Ordinance. This was added due to conversations with growers who expressed concern with the cost of an administrative permit processed through the Department of Planning and Building.
- Revised the Room Rental Event language to additionally require only one room rental event be allowed each calendar day and limited in duration to 8 hours and held during the normal business hours of the business. This was added due to public comment that this language could be abused.

- Various language changes, such as clarifying how the enforcement provisions would work, clarifying an existing ambiguity related to dining facilities, add an exception to the 14 day advance notice requirement in special circumstances, and language distinguishing a facility rental event and a special event.
- Added 501(c)(6) organizations as a type of organization eligible for the charitable events exemption.
- Added lighting to the list of issues that the designated local contact should provide a prioritized response.

Staff concurs with the recommendation of the Agricultural Commission and Planning Commission that the Board direct staff to return to both Commissions within one year of final adoption of these changes to address any implementation issues.

The Planning Commission also recommended the Board direct staff to continue the discussion on defining the primary use of agriculture and to the list of issues that the designated local contact should provide a prioritized response. Staff concurs with that recommendation.

CEQA ENVIRONMENTAL DOCUMENT

In accordance with the California Environmental Quality Act (CEQA) Sections 15162 and 15164 of the CEQA Guidelines (Addendum to an EIR or Negative Declaration), staff has determined that an Addendum is the appropriate environmental document to analyze the proposed Ranch Marketing and Winery Ordinance amendments (Attachment C – Clean Version and Attachment D – Redline Version) because minor, technical amendments to the Ranch Marketing Ordinance and Winery Ordinance are needed, but none of the amendments trigger any of the conditions for preparation of a subsequent or new document under CEQA. Therefore, this Addendum satisfies the requirements of CEQA Guidelines Sections 15162 and 15164.

Pursuant to CEQA, there is no requirement to circulate an addendum for public review. (CEQA Guidelines, § 15164(c).) The decision-making body will consider the addendum with the EIR prior to making a decision on the project. (CEQA Guidelines, § 15164(d).) In this instance, the County decided to release a Notice of Availability of the Addendum to FEIR for the TGPA-ZOU Project. The Addendum for the Ranch Marketing and Winery Ordinance amendments was available for public review for a 14-day period [February 11, 2023, through February 24, 2023] and will be considered with the Ordinance amendments by the Planning Commission, and through recommendation of the Planning Commission to the Board at this scheduled public hearing.

ATTACHMENTS

Attachments to Legistar File 23-0435 Referenced in Staff Memo

- Attachment CFinal CEQA Addendum (Clean)
- Attachment DFinal CEQA Addendum (Track Changes)
- Attachment EDraft Ordinance – Ranch Marketing and Winery
Ordinance Amendments (File OR23-0001)
- Attachment FDraft Ordinance – Ranch Marketing and Winery
Ordinance Amendments (Track Changes)
- Attachment GDraft Ranch Marketing and Winery Ordinance
Amendment Findings