

To: Agricultural Commission, El Dorado County

Re: Agenda Item 6/9/2120 Ranch Marketing Ordinance

From: Linnea Marengo, Owner, Penobscot Ranch

June 7, 2021

I am delighted to see the Ranch Marketing Ordinance on the Ag Commission agenda for 6/9/2021. While I support the intent of the Ranch Marketing Ordinance, the implementation and enforcement by the County of the ordinance is critical. It is important that the County properly regulates and enforces the Ordinance. And clear designation of responsibilities between departments and communication between each department responsible for proper implementation, will help with proper regulation and enforcement.

The Ranch Marketing Ordinance states a key criteria to qualify for Ranch Marketing uses, such as special events, is:

**“Agricultural production is the primary use or function of the property”.**

I repeat: “Agricultural production is the primary use or function of the property”. This criteria must be clear, defined and perhaps quantified. I would assert this statement means that agriculture production is the primary revenue producer, earning more income than the secondary uses, such as weddings or wedding receptions. Perhaps some sort of criteria such as the Williamson Act application could be required before a property owner is qualified and approved for Ranch Marketing uses.

Even to secure a Conditional Use Permit requires: “The use is secondary and subordinate to the agricultural use.” And this determination is required by the review authority prior to approving a Conditional Use Permit Under Section F.1.e.5 of the Ranch Marketing Ordinance.

Back in 2015 I went before the Board of Supervisors recommending that larger ag properties be allowed to supplement their ag properties through accessory uses. The purpose of the accessory uses was to supplement their revenue in order to protect the sustainability of their agricultural property and enterprise. Thus, ag would be the primary use and accessory uses would remain secondary to ag. My expectation was that the County would appropriately ensure that these accessory uses would be the secondary and not primary use, including revenue generation. I also assumed the County would implement practices and regulations which did not cause friction and conflict between neighbors and the rural community. I also expected the County would protect environmental safety and our quality of rural life.

There are other considerations:

How does the County determine if an agriculturally zoned property is allowed to operate under the Ranch Marketing Ordinance? How is the ag property owner officially notified that they officially qualify and thus can operate as a Ranch Marketing property? Is there a letter or certificate which records requirements? Are there written records of expectations or limitations or conditions? Williamson Act properties are quite clear in expectations of the property owner and there is a requisite application to qualify.

Shouldn't the property be required to sell their ag product commercially, including during a special event? Ag should not be simply defined as a crops in the ground, without proven and regular sales of the ag product, including at accessory events.

Enforcement and violations: What department of the County enforces and regulates the appropriateness of ranch marketing uses? What if there are violations? To send a citation repeatedly of \$500 per violation seems insignificant. At what point does the County take a position there is a track record of repeated violations? What then?

The Ranch Marketing Ordinance 130.40.260.A.3 states "Ranching marketing activities proposed on or adjacent to land zoned Planned Agriculture (PA), Limited Ag (LA)...AG, FR, or TPZ must be reviewed by the Director." What Director. How reviewed? Is a visit or contact required - something officially documented?

The property must be reviewed "for new uses by the Agricultural Commissioner and Ag Commission for compatibility with surrounding agricultural land uses or on agricultural zoned lands prior to action by the review authority." This is important and must happen. How does this criteria transpire? What is recorded and documented? By whom?

Why are special events allowed to be held throughout the year and are not limited to the harvest season?

What permits and uses should be approved by the County for the property itself. For example, can/should a single family residential structure be allowed to regularly and routinely hold commercial and loud special events for up to 250 people up to 24 times during the year - all without permits to modify and improve the single family residential structure from which it was originally constructed and permitted by the County. For example, does the property hold permits for sewage updates designed for the maximum quantity of sewage flow and fire safety approvals by the fire marshall to routinely hold large special events in a structure built strictly as a single family residence?

Are special events held in safe locations, easily accessible by the fire department and ambulance? Can up to 250 visitors vacate safely, including visitors who are completely

unfamiliar with County roads and wild animals which traverse our roads? Is alcohol served at events?

What happens if a commercial business operating under Ranch Marketing offers over night stays? Over night stays are not listed as a use in the Ranch Marketing Ordinance. Agricultural Lodging is separate under Table 130.40.170.1: Agricultural Lodging.. Overnight stays are not qualified under the Ranch Marketing Ordinance. As an aside, it is important to consider what impact might overnight stays have on adjacent neighbors (who might have their own agricultural activity, such as cattle, to protect)? What concern might overnight visitors have on the surrounding rural community? What rights do our rural residents have to expect for their privacy and peace and quiet? It appears that Lodging is not a permitted use.

How would the County receive TOT taxes for the overnight stays?

How would the Right to Farm apply? What might be the expectations of paying guests when they contract for an event such as a wedding and wedding reception? Would they expect an adjacent ag operation to stop their necessary ag functions? There is the potential to disturb good neighbor relationships between ag zoned properties.

Does/should the property carry liability insurance for accessory uses which invite paying guests on to their property?

The Ranch Marketing Ordinance allows 24 special events per year of over 50 people and up to 250 per event. Who tracks the number of events, what County department records the number of events, what happens when 24 events are realized at some point during the year? What happens, for example, when 24 events are reached and there are additional weddings still scheduled? We need to make it quite clear that there are enforced limits.

Are prospective properties reviewed for traffic issues and requirements?

Must the property hold an associated business license for an accessory business to be regularly conducted on the property? I suggest this could be a commercial business (e.g., weddings and receptions with amplified music and professional dj and up to 250 attendees) which brings numerous guests from out of town with expectations that everything is copacetic and recognized by the County. What inherent rights or expectations of the County are reasonable for paying customers?

If the Ranch Marketing Ordinance is revised, the revisions should apply to existing commercial enterprises operating now which would no longer fit or which never fit but operated under the radar. At least to existing operations which bring in a certain revenue and allow a certain number of guests and uses should not be grandfathered in. How are existing properties routinely regulated to ensure they still qualify?

The Ranch Marketing Ordinance reads: " For any events with amplified sound, occurring between 7-10pm, a noise analysis shall be submitted to the Department demonstrating that the noise standards will not be exceeded." This noise analysis, submitted by a professional noise analyst, should be submitted to and approved by the Planning Department before any Ranch Marketing special events shall ever be allowed to occur. Any associated equipment, staff training, and reprogramming of equipment by the noise consultant should be completed before ever allowing any special event to ever occur and before any approval is granted to qualify for Ranch Marketing.

What is the potential for noise nuisance? Commercial accessory uses under Ranch Marketing should not be allowed to disturb neighbors or the residential community with any noise. Commercial business conducted under ranch marketing accessory uses should not trump or supersede the rights for peace and quiet of our residential citizens and private property tax payers.

I refer to Title 9 Title 9 - PUBLIC PEACE, MORALS AND WELFARE which

"finds that the enforcement of this Code ("Code") throughout the County is an important public service, and enforcement of the Code is vital to the protection of the public's health, safety, and quality of life."

CHAPTER 9.16.010 - NOISE: "It is unlawful for any person to produce or emit any loud or raucous noise, including the human voice amplified, or the sounds of musical instruments ... to the extent that it carries onto private property..."

Sec. 9.16.040. - Loud and raucous noises—Definitions. "The human voice or any record or recording thereof when amplified by any device whether electrical or mechanical or otherwise to such an extent as to cause it to unreasonably carry on to public or private property."

Sec. 9.16.050. - Same—Prohibited. "Except as otherwise provided in this chapter, it is unlawful for any person to willfully make, emit, or transmit or cause to be made, emitted, or transmitted any loud and raucous noise upon or from any public highway or public thoroughfare or from any aircraft of any kind whatsoever, or from any public or private property to such an extent that it unreasonably interferes with the peace and quiet of another's private property."

In Conclusion:

I believe the Ranch Marketing Ordinance is important. I also believe it is just as important to properly enforce the Ranch Marketing Ordinance in order to preserve and protect our agricultural properties and ag production first and foremost. At the same time I believe we must also protect our rural environment, lifestyle, and quality of life. Ranch Marketing accessory uses should not override or supercede or dominate over agricultural uses or rural lifestyle or rural quality of life. Many people move to this County for a peaceful and rural quality of life.

I would hate to see our County, well known for its support, preservation and encouragement of agriculture, to change or lose that perspective and reputation and instead be replaced by commercial businesses which belong in more commercial areas - rural commercial or commercial centers in El Dorado County. I would be disappointed if we encouraged people to purchase ag land when their primary intention is to make their primary revenue through accessory secondary uses (including special events such as loud wedding receptions with amplified music/disc jockeys) rather than agriculture.

The Ranch Marketing Ordinance has value. The ordinance should be carefully regulated and enforced in order to protect our agricultural lands and their ag operations as well as to protect our rural quality of life and even protect the invited and paying guests. I recognize the County could take a 'hands-off', laissez faire approach to ranch marketing accessory uses and expect the property owner or commercial business owner to take all responsibility and liability for properly bringing paying guests onto their property and thus into El Dorado County. But I should think our County wants to think this through carefully.

We have a great website "Visit El Dorado County" which states: "El Dorado County is one of the most diverse, beautiful places you'll ever visit. We are a year-round vacation destination overflowing with outdoor adventure, a welcoming wine and agricultural scene, enriching family activities, and a proud Gold Rush history."

While the ranch marketing ordinance is important, let's remember its intent - to supplement and protect and preserve agricultural properties with income, not to overtake our ag lands with accessory uses having little to do with agriculture. And, while we invite visitors to our County, let's protect our rural lifestyle for those who have chosen to live here.