



AGRICULTURAL COMMISSION

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Greg Boeger, Chair – Agricultural Processing Industry
Lloyd Walker, Vice-chair – Other Agricultural Interests
Chuck Bacchi – Livestock Industry
Bill Draper, Forestry/Related Industries
Tom Heflin, Fruit and Nut Farming Industry
Dave Pratt – Fruit and Nut Farming Industry
Gary Ward – Livestock Industry

MINUTES

December 10, 2008

6:30 P.M.

Board of Supervisors Meeting Room
330 Fair Lane – Building A, Placerville

Members Present: Boeger, Bacchi,* Draper, Heflin, Pratt, Walker
**Mr. Bacchi arrived during discussion of Item V.*

Members Absent: Ward

Ex-Officio Members Present: William J. Stephans, Ag Commissioner/Sealer

Staff Members Present: Chris Flores, Agricultural Biologist/Standards Inspector
Nancy Applegarth, Clerk to the Agricultural Commission

Pierre Rivas, Developments Services/Planning

Others Present: Evelyn Abel, Bula Byrd, David Combelleck, John Olson,
John Smith, Caroll Tuttle, Katherine Tuttle, Brigitta
Weisshuhn

I. CALL TO ORDER

II. APPROVAL OF AGENDA

It was moved by Mr. Walker and seconded by Mr. Draper to Approve the agenda.

Motion passed

AYES: Draper, Pratt, Heflin, Walker, Boeger

NOES: None

ABSENT: Bacchi, Ward

III. APPROVAL OF MINUTES

Minutes of November 5, 2008 Special Meeting

It was moved by Mr. Pratt and seconded by Mr. Walker to Approve the Minutes of November 5, 2008 Special Meeting

Motion passed.

AYES: Heflin, Pratt, Walker, Boeger

NOES: None
ABSTAIN: Draper
ABSENT: Bacchi, Ward

Minutes of November 12, 2008

It was moved by Mr. Walker and seconded by Mr. Draper to Approve the Minutes of November 12, 2008.

Motion passed.

AYES: Draper, Heflin, Pratt, Walker, Boeger
NOES: None
ABSENT: Bacchi, Ward

IV. PUBLIC FORUM

V. Ranch Marketing/Winery Ordinance

Bill Stephans stated that the Winery Ordinance would be heard by the Planning Commission on December 11, 2008 and could then be forwarded to the Board of Supervisors with any further recommended changes.

Copies of the revised draft of the Ranch Marketing Ordinance (July 29, 2008 version) were provided to the Commission members. Bill Stephans said that very few revisions and/or additions were suggested at the last meeting of the Ranch Marketing Committee. Roger Trout, Development Services Planning Director, revised the final draft to incorporate the subcommittee's last requested changes. One of the biggest proposed differences between the current Ranch Marketing Ordinance and the Draft Ranch Marketing Ordinance is the requirement that special events are only allowed concurrent with the sale of products grown on the property. The Draft Ranch Marketing Ordinance, if adopted, would allow special events to take place at other times of the year, not necessarily when products are being sold. For example, a wedding at an Apple Hill ranch could take place in the spring or summer and would cause less of an impact at that time, than during Apple Hill Season. If the Apple Hill Association wanted to have a Spring Blossom festival, it would be allowed under the draft ordinance which would help level load the overall impacts. Another change from the current Ranch Marketing Ordinance is the identification of Christmas trees as a crop. The format of the new Ranch Marketing Ordinance will be similar to the proposed new Winery Ordinance.

The Draft Ranch Marketing Ordinance will be discussed further at the January 14, 2008, Agricultural Commission meeting. Bill Stephans has requested that the associations involved in helping craft the proposed Ranch Marketing Ordinance review the document for any further revisions.

Chair Boeger, mentioned that Valerie Zentner, El Dorado County Farm Bureau, had sent a detailed e-mail with her request to expand the inherent rights in the Ranch Marketing Ordinance to allow ranches to sell their value-added products from livestock ranches. She suggested in her correspondence that the ordinance might include the sale of ranch by-

products, specifically, the opportunity for livestock, small livestock, fiber animals, and emu ranches to sell their products from the ranch, by right. This could include USDA inspected meats, rendered oils, fiber (raw), or finished fiber (Value-added) products, as well as artisan cheeses, so long as health and safety regulations are met. As with other agricultural commercial operations, building permits and other requirements would be required, but a Special Use Permit would not be needed to sell from the ranch.

Bill Stephans explained that the issue of livestock has not been addressed because the General Plan, as currently written, allows ranch marketing with a minimum of five acres of permanent crop in production. Livestock was not addressed in the General Plan. There was discussion as to whether or not the issue of livestock should be addressed now or added later, as an amendment.

Pierre Rivas gave an example of an alpaca farm and the uses that were allowed based on the farm's current zoning.

Jerry Visman, of High Hill Ranch, stated that he feels the draft ordinance is "not too bad" but that it is a little too restrictive for Ranch Marketing operations. He stated that the amount of crafters should not be limited and felt that the requirement of a Conditional Use Permit could rapidly turn into a requirement for a Special Use Permit.

Chair Boeger thanked Mr. Visman for his comments and advised that he submit all his suggestions to Peter Maurer, Development Services/Planning. No action was taken.

- VI.** P 08-0030 – Harris Parcel Map (Mary Nugent/Wayne Swart): A request for a tentative parcel map to create a 25-acre and a 125-acre parcel from a 150-acre parcel. The property, identified by Assessor's Parcel Number 101-030-13, consists of 150 acres, and is located at the intersection of Blair Road and Badger Hill Road, in the Pollock Pines area. (District 2)

Mr. Heflin recused himself from this item.

Staff reported on the site visit. The 150 acre parcel consists of 125 acres of TPZ land, under a Non-industrial Timber Management Plan, written in 1999, and 25 acres of AE zoned land containing Christmas trees, orchards, and a residence. The parcel has a Low Density Residential land use designation and is in the Camino/Pollock Pines Community Region. Surrounding adjacent land use designations include LDR to the west, north, and east; MFR (Multi-family Residential) to the east; and HDR (High Density Residential) to the south. The parcel has TPZ and AE (Exclusive Agriculture) zoning and is surrounded by the following zonings: RE-10 (Estate Residential Ten-Acre) to the west and east, RE-5 (Estate Residential Five-Acre) to the north and south, TPZ to the southwest, R1 (One-Family Residential) to the south and R2 (Limited Multifamily Residential) to the east. The parcel is above 3,000 feet in elevation and the majority of the property contains choice soils (Cohasset Loam, Josephine Silt Loam, and Sites Loam).

California Government Code Section 51119.5 refers to timberland production parcels and states, "Parcels zoned as timberland production under this chapter may not be divided into

parcels containing less than 160 acres unless the original owner prepares a joint timber management plan prepared or approved as to content by a registered professional forester for the parcels to be created. The joint timber management plan shall provide for the management and harvesting of timber by the original and any subsequent owners, and shall be recorded with the county recorder as a deed restriction on all newly created parcels. The deed restriction shall run with the land rather than with the owners, and shall remain in force for a period of not less than 10 years from the date division is approved by the board or council. The division shall be approved only by a four-fifths vote of the full board or council, and only after recording of the deed restriction.” The applicants submitted their 1999 timber management plan with their application for the parcel split. Staff recommends that the applicants update their 1999 timber management plan to include a new, dated signatory page, the two proposed parcels and their respective acreages and legal property descriptions. The external borders of the 1999 timber management plan will not be affected by the creation of the 25 acre and 125 acre parcels, and the existing acreage within the plan, will remain the same.

The following General Plan Policies relate to lands zoned TPZ:

- Policy 8.3.2.1 – Lands zoned Timber Production Zone (TPZ) shall not be subdivided into parcels containing less than 160 acres.

Based on information received by our department, the creation of a 25 acre parcel from the 150 acre parcel has been mutually agreed upon by the courts and the affected parties through the settlement of the Harris Family estate.

- Policy 8.3.2.2 – Timber production lands within areas designated Natural Resource and generally above 3,000 feet elevation shall maintain a 160-acre minimum parcel size or larger, except where smaller parcels already exist, in order to ensure the viability of long-term operations and to maximize economic feasibility for timber production or otherwise meet the parcel size requirements of the Natural Resource designation. *(Not applicable as parcel does not have a Natural Resource designation)*
- Policy 8.4.1.1 – The subdivision of lands located adjacent to Natural Resource (NR) designation boundaries and lands zoned Timberland Production Zone (TPZ) shall not result in the creation of new parcels containing less than 40 acres. The subdivision of lands adjacent to NR designation and lands zoned TPZ containing 40 acres or less located generally below 3,000 feet in elevation may be considered for the creation of new parcels containing not less than 10 acres, as appropriate. Projects within Rural Center and Community Region planning concept areas are exempt from this minimum parcel size to encourage the concentration of such uses. *(Not applicable as parcel is within a Community Region)*
- Policy 8.4.2.1 – The County Agricultural Commission shall evaluate all discretionary development applications involving identified timber production lands which are designated Natural Resource or lands zoned Timberland Production Zone (TPZ) or

lands adjacent to the same and shall make recommendations to the approving authority. Prior to granting an approval, the approving authority shall make the following findings:

- A. The proposed use will not be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production value or conflict with forest production in that general area;
- B. The proposed use will not intensify existing conflicts or add new conflicts between adjacent proposed uses and timber production and harvesting activities;
- C. The proposed use will not create an island effect wherein timber production lands located between the project site and other non-timber production lands are negatively affected;
- D. The proposed use will not hinder timber production and harvesting access to water and public roads or otherwise conflict with the continuation or development of timber production harvesting; and
- E. The proposed use will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.

Bill Stephans explained the reason for staff's recommendation for Conditional Approval. The proposed creation of the 25 acre parcel is part of a settlement agreement under the direction of the courts, and the TPZ land will continue to be managed as one unit at the current acreage. The external boundaries of the Non-industrial Timber Management Plan will not change and as a condition, the proposed 25 acre parcel will not allow non-compatible development as long as it remains TPZ. Mr. Bacchi referred to the California Government Code and asked if it superseded General Plan Policy 8.3.2.1.

Bill Stephans stated that he had consulted County Counsel and was told that the County can be more restrictive than State Law but with the conditions being recommended, it is his opinion that it is not inconsistent with the General Plan Policy because both the proposed 25 acre parcel and the additional TPZ acreage would be managed as a single unit. The proposed project is consistent with the intent of El Dorado County's General Plan and State Law.

Pierre Rivas stated that Planning receives quite a few of these types of applications. He explained that the courts cannot override the Subdivision Map Act. The County is not compelled to subdivide property based on a court order. If an application request is found to be inconsistent with the General Plan and with the zoning, the County can deny it. In this particular case, because the property has a land use designation of Low-Density Residential (LDR), is in a Community Region, and as required by the stated Government Code, there is a Timber Management Plan that will manage the existing TPZ land, Mr. Rivas felt the Commission could make the appropriate findings to recommend the approval to create the new parcel. Mr. Rivas stated that since the creation of the parcel has not yet been approved, staff's recommendation be changed to "*proposed* creation of the 25 acre TPZ parcel".

John Olson, representing the applicant, stated that they were in agreement with the

recommendation and willing to comply with all of the conditions.

*It was moved by Mr. Pratt and seconded by Mr. Walker to recommend **CONDITIONAL APPROVAL** of P 08-0030 – Harris Parcel Map (Mary Nugent/Wayne Swart), if:*

- 1. The Harris Non-industrial Timber Management Plan is updated and amended to include the legal descriptions of the newly created parcels, is recorded with the county recorder as a deed restriction on the newly created parcels, and is signed and dated with the current year, which shall remain in force for a period of not less than 10 years from the date the parcel split is approved by the Board;*
- 2. No further subdivisions are allowed to occur on the TPZ zoned parcels; and*
- 3. No non-compatible development is permitted to occur on the 25 acre TPZ zoned parcel,*

Then the findings can be made for General Plan Policy 8.4.2.1, which states:

- A. The proposed use will not be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area;*
- B. The proposed use will not intensify existing conflicts or add new conflicts between adjacent proposed uses and timber production and harvesting activities;*
- C. The proposed use will not create an island effect wherein timber production lands located between the project site and other non-timber production lands are negatively affected;*
- D. The proposed use will not hinder timber production and harvesting access to water and public roads or otherwise conflict with the continuation or development of timber production harvesting; and*
- E. The proposed use will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.*

The Agricultural Commission finds that the creation of the 25 acre TPZ parcel is consistent with California Government Code § 51119.5 and is not inconsistent with General Plan Policy 8.3.2.1 because the proposed creation of the 25 acre TPZ parcel was due to the courts and affected parties mutually agreed upon settlement of the Harris Family Trust.

Motion passed.

AYES: Bacchi, Draper, Pratt, Walker, Boeger
NOES: None
ABSENT: Ward

- VII.** Evelyn Abel – request for administrative relief from agricultural setbacks for the proposed hardship mobile home to be located 125 feet from the northern side of the parcel. The subject parcel is adjacent to Select Agricultural (SA-10) zoned land and therefore subject to special agricultural setbacks in accordance with the Interim Interpretive guidelines adopted June 22, 2006. The proposed hardship mobile home does not meet the requirements for the Development Services Director to allow up to a 50 and/or 75 percent setback reduction and therefore requires the Agricultural Commission review for administrative relief.

Staff reported on the site visit. The applicant would like to reduce the setback to 125 feet from the north property line for a temporary hardship mobile home. The subject parcel is zoned SA-10 (Select Agriculture Ten-Acre), is 20.85 acres, has limited building sites due to its configuration, 200 foot agricultural setbacks against all property lines, utility and roadway easements, existing agricultural crops and existing buildings. The location chosen for the Temporary Mobile Home is 30 feet from Hassler Road across from the main residence. Its proposed location is on non-choice soil next to an existing barn. The parcel to the north does not have a current agricultural operation against its southern property line.

Brigitta Weissshuhn, representing the applicant, was present for questions and stated they were in agreement with the recommendation.

Caroll and Katherine Tuttle, the neighbors to the north of the applicant, were present to offer support and also submitted a letter to the Commission stating their agreement to the location of the TMA.

It was moved by Mr. Walker and seconded by Mr. Bacchi to recommend APPROVAL of Evelyn Abel's request for administrative relief from a 200 foot agricultural setback, allowing a setback of 125 feet from the northern property line for the placement of a temporary hardship mobile home, as the following findings can be made:

- a) No suitable building site exists on the subject parcel except within the required setback due, but not limited to, compliance with other requirements of the General Plan or other County development regulations;***
- b) The proposed non-compatible structure is located on the property to reasonably minimize the potential negative impact on the adjacent agricultural land; and***
- c) Based on the site characteristics of the subject parcel and the adjacent agricultural zoned land including, but not limited to, topography and location of agricultural improvements, etc, the Commission determines that the location of the proposed non-compatible structure would reasonably minimize potential negative impacts on agricultural use.***

The Commission also recommends that the applicant comply with Resolution No. 079-2007 Exhibit A of the Board of Supervisors pertaining to the adoption of the Criteria and Procedures for Administrative Relief from Agricultural Setback. Section B.5 requires the following action by the applicant: In all cases, if a reduction in the agricultural setback is

granted for a non-compatible use/structure, prior to the issuance of a building permit, a Notice of Restriction must be recorded identifying that the non-compatible use/structure is constructed within an agricultural setback and that the owner of the parcel granted the reduction in the agricultural setback acknowledges and accepts responsibility for the risks associated with building a non-compatible use/structure within the setback. In addition, the Commission notes that when the temporary mobile home is removed from the property, the Notice of Restriction shall also be removed.

Motion Passed.

AYES: Draper, Bacchi, Pratt, Heflin, Walker, Boeger
NOES: None
ABSENT: Ward

VIII. LEGISLATIVE ISSUES

- Bill Stephans stated that budget issues remain the priority for the Legislature at this time. The Williamson Act State Subvention to the counties is again proposed to be deleted. This funding source to protect ag lands may not be re-instated this year as in the past. If that occurs, the county could not renew any of the contracts which would start the roll out process.

IX. CORRESPONDENCE

- None

X. OTHER BUSINESS

- Recommendation to the El Dorado County Board of Supervisors – re-appointment of two members to the Agricultural Commission, Lloyd Walker, representing Other Agricultural Interests, and Dave Pratt, Fruit and Nut Farming Industry
- General Plan Policy 8.1.3.1 – will be heard by the Planning Commission on December 11, 2008.
- El Dorado County Board of Supervisors approved and certified the Notice of Non-Renewal for Agricultural Preserve #245 – Karen Feathers
- Boundary Line Adjustment 08-0056 – John Westsmith
- Boundary Line Adjustment 08-0057 – Ritz Naygrow/Varozza Trucking
- Pierre Rivas updated the Commission on the status of the Marcyan Parcel Map - ZO6-40/P06-43

XII. ADJOURNMENT

- There being no further business, the meeting was adjourned at 7:45 p.m.

APPROVED: Greg Boeger, Chair

Date: January 14, 2009