



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
Ron Mansfield – Fruit and Nut Farming Industry
Tim Neilsen, Livestock Industry
John Smith – Fruit and Nut Farming Industry

MINUTES

September 8, 2010

6:30 P.M.

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

Members Present: Bacchi, Boeger, Draper, Mansfield, Neilsen, Smith, Walker

Members Absent: None

Ex-Officio Members Present: Juli Jensen, Ag Commissioner/Sealer

Staff Members Present: Charlene Carveth, Deputy Ag Commissioner/Sealer
Chris Flores, Senior Agricultural Biologist
Nancy Applegarth, Clerk to the Agricultural Commission

Peter Maurer, Development Services/Planning Department

Others Present: Maryann Argyres, Bob Knapp, Valerie Zentner

I. CALL TO ORDER

Chair Boeger called the meeting to order at 6:30 p.m. He welcomed Juli Jensen to El Dorado County as the newly appointed Agricultural Commissioner, Sealer of Weights and Measures.

II. APPROVAL OF AGENDA

It was moved by Mr. Walker and seconded by Mr. Smith to Approve the Agenda.
Chair Boeger called for a voice vote for Approval of the Agenda.

Motion passed

AYES: Bacchi, Draper, Mansfield, Smith, Walker, Neilsen, Boeger

NOES: None

III. APPROVAL OF MINUTES

- Minutes of August 11, 2010

It was moved by Mr. Smith and seconded by Mr. Bacchi to Approve the Minutes of August 11, 2010 as submitted.

Motion passed

AYES: Bacchi, Draper, Mansfield, Smith, Walker, Neilsen, Boeger
NOES: None

IV. PUBLIC FORUM

- No comments

V. William & Kathleen Vaden – Requesting approval of agricultural setback relief for a new single-family residence. The subject parcel is adjacent to lands zoned Residential Agricultural (RA-20) with a Natural Resource (NR) land use designation and therefore subject to Agricultural Commission approval. As proposed, the residence would be located no less than 65 feet from the southern property line and 100 feet from the eastern property line. (District 2)

Staff reported on the site visit. The application is for Administrative Relief from two, 200 foot Agricultural Setbacks for a modular home and garage. The subject parcel is 10 acres in size and zoned RA-20 (Residential Agriculture – Twenty Acre) with a NR (Natural Resource) land use designation. The parcel is long and narrow and has 200 foot agricultural setbacks against the west, south and east property lines. The adjoining parcels to the east and south are also zoned RA-20, are ten acres in size and have Natural Resource (NR) land use designations. The parcel to the west has Open Space zoning and an NR land use designation. There are no apparent agricultural activities occurring on the parcels to the south, east or west. The soil types on the parcel consist of SkD (Sites Loam 15 to 30% Slopes), a Class IV “Choice” soil; MrD (Musick Sandy Loam 15 to 30 % Slopes), a Class VI “Choice” soil, GuF (Gullied Land), and JuF (Josephine Very Rock Silt Loam 50 to 70% Slopes). The parcel is located at an approximate elevation of 3200 feet. The parcel is not located within the Grizzly Flat Rural Center or an Agricultural District. Sheer Bliss Road and a man-made pond act as buffers to the east. A building on the parcel to the south would act as a buffer to any future agricultural operations on that parcel. The applicant’s proposed building site would limit development impacts on the subject parcel, leaving the remainder of the parcel undisturbed.

Bob Knapp, representing the applicants, was available for questions and review of the project. He said there is an access road that runs toward the back of the parcel. There are steep slopes on the northern part of the parcel which does not allow for a suitable building site outside of the 200 foot agricultural setbacks.

Commission Member Draper asked Peter Maurer, Development Services, if this parcel, under the new zoning proposals, would be rezoned to Rural Lands (RL). Mr. Maurer replied that it could be rezoned to Rural Lands (RL) or to Forest Resource (FR).

Mr. Draper asked if the parcels are rezoned to a designation without agricultural setbacks, such as Rural Lands, would the deed restriction that is required with a granted agricultural setback relief still apply. Mr. Maurer replied that applicants must abide by existing rules and if the rules change in the future, then future projects would be subject to those changes.

It was moved by Mr. Smith and seconded by Mr. Walker to recommend APPROVAL of William and Kathleen Vaden's request for administrative relief of two agricultural

setbacks, allowing a single family residence with an attached garage to be placed 65 feet from the southern property line and 100 feet from the eastern property line, as the need for such a setback can be reduced due to the existence of Sheer Bliss Road and a man-made pond located between the subject parcel and the parcel to the east, and an existing building located on the parcel to the south, adjacent to the proposed building site, and the Commission believes that 3 of the 4 findings that the Agricultural Commission is required to make by Resolution No. 079-2007 and adopted by the Board of Supervisors on April 17, 2007, can be made:

- 1. The proposed non-compatible structure will be located on the property to reasonably minimize the potential negative impact on adjacent agriculturally zoned land;*
- 2. Based on the site characteristics of the subject parcel and the adjacent agriculturally 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 or timber production use; and*
- 3. There is currently no agricultural activity on the agriculturally zoned parcels adjacent to the subject parcel and the Commission determines that the conversion to a low or high intensive farming operation is not likely to take place (adjacent to the proposed building site) due to topographic characteristics of the adjacent agriculturally zoned parcels.*

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 Setbacks. 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.

Motion passed

AYES: Bacchi, Draper, Mansfield, Smith, Walker, Neilsen, Boeger

NOES: None

VI. DRAFT ZONING ORDINANCE REVIEW

The Planning Department staff and Ag Department staff has requested review and input from the Agricultural Commission regarding sections of the draft zoning ordinance pertaining to agriculture. The Agricultural Commission was asked to comment on the following:

- Chapter 17.21 – Agricultural and Resource zones
- Article 4 – Specific Use Regulations

Other topics for discussion:

- Is the Ag Grazing Zone beneficial?
- Would an Ag Commercial Zone be beneficial?
- Should there be a Limited Ag Zone that restricts ranch marketing activities but is easier to obtain?
- Should AE/AP zoning on parcels no longer in Williamson Act contract be rezoned to something else?
- RA-20, -40, -80, and -160 zones are being eliminated and are being proposed to be changed to the new zone RL (Rural Lands), which does not have an ag setback requirement. Should RA zones be given the choice to choose an ag zoning if they wish?

Peter Maurer provided a Power Point presentation providing the reasons for updating the Zoning Ordinance. Work is being done by staff and various Commissions in striving for General Plan Consistency, which is required by State Law; to implement policies and measures, eliminate inconsistencies, to provide clear definitions and to improve effectiveness by Use Matrices rather than text. The goal is to fix problems identified by the Board of Supervisors, Planning Commission, staff, applicants and the public. The Zoning maps are also being updated to bring them into compliance with the General Plan and the Land Use maps. Parcels with zoning/land use inconsistencies have been identified and are being looked at for either a zone change or a General Plan Amendment to change the land use designation.

Peter Maurer stated that the Planning Department is proposing some new zones. One such zone is called Rural Lands (RL) and is intended to replace the Residential Agricultural zone (RA). The Rural Lands zone would not be an agricultural zone. It would allow residential use, but would be more resource based. Another newly proposed zone is Forest Resource (FR). FR is intended to identify timberland not zoned TPZ (Timber Production Zone), allowing residential use, but recognizing forestry and other resource extraction industries as the primary use. The Residential Agriculture (RA) lands above 3000' elevation are proposed to be re-designated Forest Resource (FR).

The RA Issue:

Mr. Maurer stated that the Residential Agriculture (RA) zone is frequently considered different things to different people. If a person owns RA land that is used for grazing or growing a crop it is agricultural. But there is also RA land with houses on them with no agricultural use at all. The agriculturalists, rightly believe, it is agriculture and want the various protections provided by agricultural zoning, such as the Right to Farm Ordinance, buffers and agricultural setbacks. This position has always been supported by the Planning Commission. But there are RA lands that are primarily residential and would not support an agricultural operation due to topography, soils, etc. The RA zone has been a “catch-all” for rural properties in the natural resource areas. Some of it is agricultural land, some of it is

steep canyon land, or so rocky nothing can be done with it. Some of the lands are not suitable for agricultural, commercial or residential use. Staff struggled for some time to come up with a name that appropriately describes what the intent of the zone is and eventually came up with Rural Lands (RL). It is a resourced-based zoning. A person can live out there and build a house but they would have to expect that there could be timber production nearby, mining or agricultural uses, so they should not expect that it is going to become a residential neighborhood as it is not a residential zone. It is categorized under the Agricultural and Resource Zones section of the ordinance but staff is trying to differentiate it from agricultural zones as RL would not have the rights and protections that other ag zones have.

Mr. Smith asked if the Right to Farm Ordinance would still apply if someone had agricultural activities on Rural Land. Mr. Maurer replied that it would not apply as the zoning is not an agricultural zone. If someone wanted the protections of the Right to Farm Ordinance, either they could make a request to the County that they remain in an agricultural zone or the County would go through a process of identifying those lands that should maintain agricultural zoning.

Chair Boeger questioned the complete conversion of all Residential Agricultural zoning to either Rural Lands or Forest Resource. He feels that an analysis needs to be made to ensure that those Residential Agricultural lands that are either in Agricultural Districts or have current agricultural operations, or soils that support agriculture, should maintain an agricultural zoning and the protections that go along with it. The RL zone would eliminate the buffering and setback protection afforded by the RA zoning. He does not want to see RA lands within an Ag District, in particular, but possibly in other areas as well, be designated RL with negative affects to agricultural operations, Williamson Act Contracts, etc. Mr. Boeger stated that the parcel owners should be given the opportunity to rezone to a recognized agricultural zone during this process.

Mr. Draper added that the Commission was asked to consider if landowners in RA zones should be given a zoning choice. He feels that a choice should be allowed.

Mr. Maurer explained that there are essentially three options. All property owners have the right, through the hearing process of the zoning ordinance, to stand before the Planning Commission, Ag Commission or Board of Supervisors and ask that their property be given a specific zoning. A more formal process could be created by notifying everyone that is zoned RA, giving the property owner zoning choices based on their land use designation, parcel size, elevation, etc. or staff could analyze the RA parcels and come up with criteria that would specify a certain zoning. Mr. Maurer said that this is one issue that will need to be addressed and taken to the Board of Supervisors for a directive.

Mr. Draper suggested that the RL zoning, if really intended to be rural lands, should be given a 100 foot setback to help maintain the property owner's rural lifestyle.

Valerie Zentner, El Dorado County Farm Bureau, said that there has been talk for a long time about consistency of the General Plan, land uses and zoning in general. Over a period

of

time there has been discussion about an “opt in/opt out choice” where those parcels that are identified with a land use designation that is not consistent with their zoning have the opportunity to “opt in” to a list of zones that would be appropriate. She feels that it would be an easy way to ensure that the RA parcels with agricultural operations or future agricultural intentions, remain in agricultural zoning. She expressed her concern about taking away agricultural protections outside of the Agricultural Districts. She added that these lands should be carefully identified and analyzed so as not to remove the buffering, setbacks and Right to Farm protections of agricultural operations outside of the Agricultural Districts. She added that the Right to Farm Ordinance is based on zoning so, as the process continues there should be a way to figure out how to bring in the appropriate zones, in and out of, the Agricultural Districts so any Right to Farm nuisance issues do not become a problem. Mrs. Zentner also mentioned that there are a lot of different zones within the Agricultural Districts, such as the RE-10's, that have agricultural operations on them with no Right to Farm protections, buffering protections, etc. and if agriculture, as an economic unit, is being directed to occur within the Agricultural Districts, the protections need to be there so that agriculture can continue to be viable.

Chair Boeger mentioned the potential expansion of the Agricultural Districts and the peripheral areas that may be incorporated into the existing Districts and how these areas may be affected.

Peter Maurer added that the Winery Ordinance and Ranch Marketing Ordinance have different “by right” allowances for different zonings. If changing RA to PA gives more “by right” allowances to a parcel, the County would need to look at the effects of such a change, through an environmental review process. An option that has been considered but is not in the ordinance currently, is coming up with another agricultural zone which is similar to the Agricultural Preserve (AP) zone, where the production and processing of agricultural products would be allowed “by right” but ranch marketing and winery uses would require a Conditional Use Permit.

Mr. Smith agreed that an equivalent zoning to the AP zoning, that does not give someone ranch marketing or winery benefits “by right” would be a reasonable alternative and would apply to a large number of parcels.

Mr. Smith asked what would happen to the RE zoned land with agricultural pursuits on them.

Mr. Maurer stated that Planning is not proposing to change those zones unless they are inconsistent with their land use designation. If the RE zoned parcel has a designation of Agricultural Land (AL) or Natural Resource (NR), then it would probably go to a Rural Land zone. With a land use designation of (NR) with a 40 acre minimum, the parcel would probably be changed to RL-40. Agricultural Land (AL) has a twenty acre minimum, so an RE parcel could be rezoned to RL-20, unless there is an agricultural operation on the parcel or its location warrants agricultural zoning.

Mr. Walker noticed that the Draft Zoning Ordinance is eliminating the Agricultural (A) zone, the Select Agricultural (SA) zone and the Residential Agricultural (RA) zones, leaving only

Exclusive Agricultural (AE) and Agricultural Preserve (AP) zones for Williamson Act Contracted parcels and the Planned Agricultural (PA) zone for all others.

Mr. Walker voiced his concern about RA parcels, especially those with current agricultural operations, being rezoned to non-agricultural zoning and losing their Right to Farm, buffering, and setback protections.

Mr. Maurer stated that what staff found was that most of the land that is zoned RA is not agricultural land.

Mr. Maurer explained that through this Countywide Zoning Ordinance update, there is an opportunity for any member of the public to request a certain zoning for their parcel. Mr. Maurer stated that there are several workshops scheduled to get the word out regarding the Zoning Ordinance. He has workshops scheduled at the Chamber of Commerce and at the Farm Bureau to explain what the County is doing, the process and how to get involved. The Planning Commission hearings may take several weeks to get through all of the information and receive public comment.

Mr. Bacchi asked Mr. Maurer if the Right to Farm protections and other agricultural protections could be grandfathered in, if the parcel loses its agricultural zoning. Mr. Maurer replied that the Right to Farm Ordinance is unique and he would have to check with County Counsel regarding Mr. Bacchi's question.

It was motioned by Mr. Smith and seconded by Mr. Bacchi to recommend that parcels currently zoned Estate Residential (RE) or Residential Agriculture (RA), in an Ag District, or with Agricultural soils (including the important vineyard soils that were recently identified by the Agricultural Commission) or with a current Agricultural operation on them, should not be given the proposed zoning designation of Rural Lands (RL) but should instead be given a new agricultural zoning (A*). This new zoning would have the Right to Farm, buffering and setback protections that other agricultural zones are afforded, but would not grant the ranch marketing and winery uses without a Conditional Use Permit.

AYES: Draper, Mansfield, Smith, Walker, Neilsen, Bacchi, Boeger

NOES: None

Chair Boeger asked if Bill Draper had any comments regarding timber operations on RA zoned land. Mr. Draper replied that timber is an agricultural product and therefore should be regarded as an agricultural operation.

Mr. Maurer reiterated that the Draft Zoning Ordinance has a new timber zoning called Forest Resource (FR) for timberland that is not under TPZ. The Forest Resource (FR) zone is not as limiting as TPZ but recognizes that this is timberland and residences built in these areas should expect logging trucks and activities associated with harvesting timber.

Mr. Neilsen asked if staff is looking at these lands with a specific elevation in mind.

Mr. Maurer explained that 3000' is what is required by the General Plan. Any RA zoned parcels above this elevation are proposed to be designated FR. This would apply to most of the Federal Land as well.

Mr. Draper added that owners of land in the mid to upper 2000' range should be able to petition in or out of the Forest Resource zone, as well.

The AE/AP Issue:

Mr. Maurer began the discussion with the question, "what do we do with the rolled-out Ag Preserves?" Mr. Maurer explained that there are parcels with AE zoning that have been rolled-out for a number of years or, are in the process of rolling-out. The County does not have the ability to complete an automatic rezone when a parcel rolls-out of contract. The rezone is a legislative act that requires action by the Board of Supervisors. When a parcel rolls-out of contract, it maintains its AE or AP zoning until such time as the parcel owner requests, through an application process, a new zone. There is pressure from development interests to have the County rezone all rolled-out AE or AP parcels to something else. There are lands within the Community Regions, designated LDR, that rolled-out years ago, that still have the AE or AP zoning. They could possibly be rezoned to an appropriate zoning within that land use designation.

Mr. Maurer stated that the original plan was to leave the AE and AP zoning alone until the individual property owners requested a zone change. Due to other requests, Development Services will have the Board of Supervisors address this issue.

There was discussion regarding AE and AP properties in Community Regions versus Ag Districts. It was suggested that the AE/AP parcels in Community Regions could be rezoned to a zoning that would match the parcel's land use designation and the AE/AP parcels in Ag Districts could be left alone until changed by the property owner.

Mr. Smith suggested that parcels in an Ag District, with ag operations on the AE parcel, be zoned a new "A*" zoning with no "by right" ranch marketing or winery allowances, but affording the parcel the Right to Farm, buffering and setback protections AND AE/AP parcels in Community Regions be rezoned to the new RL zoning or something that matches the parcel's land use designation.

Mr. Boeger mentioned that in an Ag District, it might make sense to rezone a rolled-out AE/AP parcel to Planned Agricultural zoning.

Valerie Zentner suggested that rezone language be added to Williamson Act Contracts to require a rezone application with a request for a roll-out or non-renewal. The land owner would be given the choice of appropriate zonings consistent with their land use designation. She questioned if anyone has ever talked to County Counsel about whether or not this is a viable consideration. Mrs. Zentner also mentioned that in Article 4 of the Draft Zoning

Ordinance, the criteria for an agricultural zone, is quite similar to the criteria for an Ag Preserve.

Mr. Smith said he thought it would be simple to do that in new Williamson Act Contracts but it would be very tough to make it retro-active to the hundreds of contracts that are already in existence.

Mr. Bacchi reiterated that for AE in a Williamson Act Contract outside of an Ag District it would still be AE zoned.

Mr. Boeger clarified that the Commission recommends removal of AE zones outside of an Ag District but not in a Community Region.

It was moved by Mr. Smith and seconded by Mr. Draper to make the following recommendation: All AE/AP zoned parcels, no longer encumbered by a Williamson Act Contract and located outside of a Community Region, shall be rezoned to Planned Agricultural Twenty-Acre (PA-20) if any of the following exists; 1) parcel is located within an Agricultural District, 2) parcel contains recognized agricultural soils, or 3) parcel has current agricultural operation. The Agricultural Commission also recommends that all AE/AP zoned parcels, no longer encumbered by a Williamson Act Contract and located within a Community Region, be rezoned to Rural Lands (RL) zoning or some other zoning consistent with the parcel's underlying General Plan Land Use Designation.

Motion passed

AYES: Bacchi, Draper, Mansfield, Smith, Walker, Neilsen, Boeger

NOES: None

Should there be a separate zoning for Ag Districts?:

Mr. Maurer said an issue that has been raised is the concept of coming up with another Ag zone to identify those lands within the Ag Districts. He questions the purpose and wonders how a PA zoned parcel in an Ag District would differ from a PA zoned parcel outside of an Ag District. This issue was raised by members of the Economic Development Advisory Commission, Regulatory Reform sub-group.

Mr. Smith asked if anyone had asked “why” the need for a new zone.

Chris Flores explained that the Regulatory Reform group had brought up the question of what makes an Agricultural District special and how is someone informed that they are buying a piece of property within a District? There was talk of creating an Ag District Overlay that explained what was different about parcels within an Ag District (such as the 20 acre minimum parcel size) and possibly attaching an –AD to the end of the zoning code to alert someone to look at the Ag District information. For example, an RE-10 parcel in an Ag District would be zoned RE-10-AD.

Mr. Smith added that the only difference in regards to Ag zoning inside an Ag District versus

outside of an Ag District is the 20 acre minimum parcel size. He added that the Right to Farm Ordinance, buffering and setback protections are the same for all agriculturally zoned parcels independent of where they are located.

Mr. Maurer suggested that staff could easily create an informational sheet for lands within an Ag District. It does not necessarily need to be in the Zoning Code, just a General Plan Information Sheet that describes an Ag District in greater detail. He feels that disseminating the Ag District information is a good idea and valid point, but the creation of a whole new zone or overlay zone is not necessary.

The Ag Commission did not have any other thoughts on the topic.

A Commercial Ag Zone:

Peter Maurer continued the discussion with a brief introduction to Commercial zoning. There has been a lot of discussion as far as creating more of a hierarchy of differentiation between commercial uses. Right now the current zoning ordinance has four Commercial Districts and there is a proposal to reduce the number down to three. Two of the zonings, Planned Commercial (CP) and Commercial (C), are duplicative anyway. There is also Commercial Professional Office (CPO) and General Commercial (CG). There has been talk about developing a Highway Commercial, differentiating between auto-oriented commercial businesses versus pedestrian oriented commercial; the big-box store versus the walk able downtown areas. Relevant to the Ag Commission is the idea of an Ag Commercial zone. There are a couple of questions to consider; are the commercial uses in the Rural Centers that support agriculture, different than those you might see in Diamond Springs or El Dorado Hills, and if so, do we need to create a different range of uses...maybe more industrial types of uses to support agricultural operations? This raises another issue...do we have enough Commercial zoned land, within those Rural Centers, to support the commercial needs of agriculture?

Chair Boeger suggested, as an example, that there might be a rancher who is a particularly good mechanic and maybe there should be some allowances for a mechanic's operation on agriculturally zoned land.

Mr. Maurer said that if someone wanted to perform farm machinery repairs on the side, they could probably do that by a Use Permit on their ag zoned property. The question is, within the Rural Centers, should we allow, under the ag zoning, more commercial uses like that?

Chair Boeger raised the question of restaurants in Ag Districts. He suggested that there could be a benefit to allowing food facilities in rural areas, such as the Ag Districts, especially out in the Fair Play area, with certain criteria for such operations.

Mr. Maurer answered that the concept of the Rural Centers was to allow commercial uses, such as restaurants, in Fair Play and Somerset and Mt. Aukum, so if you were in Fair Play, you could go to a restaurant in Fair Play, Somerset, or Mt. Aukum and not have to drive all

the way back into Placerville. Mr. Maurer stated that if you look at the land zoned in the Fair Play Rural Center, there is no commercial land available. There is a cemetery, a store, a winery and a restaurant. Staff will need to look at the maps to determine if there is a need to do a General Plan Amendment to expand or modify the land uses within the Rural Centers to provide commercial support. Mr. Maurer said that specific to his current needs, there needs to be a determination of whether the Matrices of Uses in the Commercial Zoning, provide for the needs of the agriculture and timber industries.

Valerie Zentner spoke of her trip to Kelowna, BC, where restaurants are allowed along the roadsides adjacent to the agricultural operations with different zonings for the different uses. This idea was considered as a solution to some of the winery/food serving concerns in our County. Industrial uses and the limited amount of Industrial zoning in Rural Centers, was mentioned by Mrs. Zentner, as well. She asked if a combined Commercial/Industrial zoning would be more appropriate in the Rural Centers as both are allowed uses. Mrs. Zentner felt it important to mention that the Rural Centers have fixed boundaries and that they may need to be examined for boundary adjustments and the ability to meet future commercial needs. She also mentioned that when looking at the Commercial Zoning Matrices, the uses in Mt. Aukum may be a lot different than commercial uses in El Dorado Hills. A rendering plant in El Dorado Hills may not be appropriate, whereas in Mt. Aukum, it would make more sense. She also mentioned that the bed and breakfasts and restaurants that are needed for the tourism industries, to help create the destinations, need identified areas or the process in place to be able to develop in the rural areas.

Mr. Smith added that someone may want to go beyond a bed and breakfast and build a motel.

Valerie Zentner said if Ag Districts are going to be areas where we direct agricultural development and the agricultural services and the tourism services, then we need to be looking towards the future and how we can make that happen. Another related issue is mixed use developments and how they should be different in a Rural Center versus a Community Region and what type of commercial uses would be allowed in an Ag District, for instance, versus El Dorado Hills. It is important that the mixed use development fit the needs and styles of the community.

Chair Boeger said he liked the idea of the Commercial/Industrial zoning where you might want to have a custom crush facility that would meet the needs of the growers, in the area, and that use should be allowed in a Rural Center.

Mr. Bacchi agreed that a tourist supporting commercial business, like a restaurant, should have the ability to be developed in a rural area, if it makes sense.

Chris Flores suggested that the County create a zoning code, such as the Ag Commercial zone, that allows commercial uses in the rural areas, that someone could request when the need arises. The County would not have to look at rezoning properties into a Commercial designation at this time, but would allow for the flexibility of future endeavors. Chair Boeger stated that he was thinking along these same lines.

Mr. Draper asked Mr. Maurer what the County does with timber operators, loggers or truckers that have large shops or parking areas for their fleet of equipment on their residential or agriculturally zoned properties. What if they bring in tractors to service or maintain?

Mr. Maurer replied that they have several options; some contractors are able to park their trucks at their home with just a business license, some apply for a Home Occupation permit, and others move to a General Commercial or Industrial site if their business is inappropriate for a residential parcel.

Mr. Maurer read from the Economic Element of the General Plan, Policy 10.1.5.4, Program 10.1.5.4.1: “The Zoning Ordinance shall provide for agriculture dependent commercial and industrial uses on lands within Rural Regions.” He stated that the County needs to meet the commercial needs in the rural areas while maintaining the rural character that appeals to so many people and drives the tourism industry.

Chair Boeger reiterated that he likes the idea of having a mixed Commercial/Industrial zone for the rural regions.

Mr. Smith stated that he likes the idea of having a ‘floating’ zone that someone could choose, if it fit their project.

No motion was made regarding the Ag Commercial issue.

Comparison of Uses between Present and Proposed Ordinance (AE, AP, SA & PA Zones):

Mr. Maurer created a matrix showing the current and proposed uses of the AE, AP, SA and PA zones, cross-referenced with Article 4, a compilation of the special rules and regulations, such as ranch marketing, riparian and agricultural setbacks, etc.

Housing on AE/AP Zones:

Chair Boeger asked if there is any difference between allowances for a second dwelling on AE or AP zoning, between the current and proposed Zoning Ordinances.

Mr. Maurer said that for awhile staff was interpreting the code as the Zoning Ordinance is written, that any zone that allows residential use must allow a second dwelling “by right”, including the AE and AP zones. Several years ago, Commissioner Bill Stephans, pointed out that State law does not permit more than one house per contract. The Planning Department then decided that our County code was over-written by provisions of the Williamson Act, and therefore decided that a second dwelling should not be permitted. Currently, the Planning Department will only allow a second dwelling on contracted land if it meets certain criteria; if the purpose is for ag labor housing, or a family member involved in the agricultural operation, etc.

Mr. Walker said he thought the State only allowed one dwelling per Williamson Act Contract.

Chris Flores reminded the Commission Members that the Department of Conservation, in a presentation to the Ag Commission and Planning Commission, a few years ago, stated that a second dwelling was allowed as long as it was for someone involved in the agricultural operation and wasn't detrimental to the operation or neighboring operations.

There was a lengthy discussion regarding housing on Williamson Act Contracts regarding what is allowed and what is not.

Produce Sales:

Chris Flores said that presently, produce sales are permitted in agricultural zoning whereas the new code would require a Minor Use Permit. She mentioned that the Food and Ag code supports direct marketing and produce sales, especially on site, where the produce is being grown.

Chris Flores read the definition of "Produce Sales" from the Glossary (Article 8) which defined "Produce Sales" as "The public sale of agricultural products grown on the same property where the sale is being conducted. This term specifically excludes the sale of products grown off-site and processed products."

The Commission asked why a person would need a Minor Use Permit to sell produce grown on-site.

Mr. Maurer stated he was not sure. He stated that the matrix refers to a specific section of Article 4, 17.40.240, which describes the General Standards in regards to produce sales in the County. The General Standards specify parking and access requirements and states that "...sales may occur by right on site subject to adequate off-road and/or road frontage parking." However, he is not sure about the requirement for a Minor Use permit. Mr. Maurer stated that he would be talking to Roger Trout regarding this issue.

Large Family Daycare Homes on Agricultural Zoning:

Chris Flores expressed concerns about the large family daycare home. Presently, large family daycare homes are not permitted on agriculturally zoned land. The new ordinance is proposing that they be allowed with an Administrative Permit. The Ag Department staff takes the position that a family daycare home on agriculturally zoned land could be incompatible and if allowed at all, should require a Conditional Use Permit with a recommendation by the Agricultural Commission.

Commissioner Juli Jensen added that large family daycare homes are incompatible with agricultural operations with the potential for nuisance and other complaints and increased investigative costs.

Chris Flores mentioned that she had asked another Planner about this issue and was told that State law allows a large family daycare home on any property that allows a residence.

Mr. Maurer described a large family daycare home as having up to 14 children – 12 plus 2 of the operator’s children. A small family daycare consists of 6 + 1 (up to 7 children). Mr. Maurer stated that there has been some fairly recent State legislation regarding daycare homes, but certain standards would have to be met. Mr. Maurer agreed with Ag staff in their belief that this is potentially an incompatible use.

Chris Flores asked if a large family daycare home could require a Conditional Use Permit (CUP) in an agricultural zone, to allow a review by the Ag Commission.

Discussion ensued regarding what kind of restrictions and/or conditions the Ag Commission could place on a CUP (agricultural setbacks, hours of operation, etc.)

Chair Boeger added that if State law does allow family daycare homes on agriculturally zoned land then this issue may have been missed at the State level, as there are many incompatibilities and possible public health issues that may not have been addressed. Not to mention the possibility of putting the neighboring farmer out of business.

Juli Jensen suggested that the State law be verified.

Mr. Maurer replied that staff will check into the law and if a Conditional Use Permit is applied as Ag staff has suggested, check to see if certain standards could be applied differently in Ag zones.

Mr. Bacchi mentioned that in Article 2 (Chapter 17.21 – Agricultural and Resource Zones), the matrix shows a CUP being required for large family daycare homes on AE and AP zoning.

Chair Boeger asked what would occur if the daycare was in an existing house that someone wanted to convert and only 30 feet away from a neighboring agricultural operation.

Mr. Maurer replied that the conversion to a daycare home would be a change in use and would require compliance with existing standards (i.e. 200 foot agricultural setbacks), but mentioned that an outdoor play yard could be an issue.

Mr. Draper stated that in some instances, a County can be more restrictive than State law, and asked if this was a possibility.

Mr. Maurer said there are certain areas where the State has “preempted the field” and the County is not allowed to be more restrictive. Mr. Maurer stated that this would be one of those instances.

Intensive Public Facilities:

Chris Flores stated that Intensive Public Facilities were previously not allowed on agricultural zones, but are proposed to be allowed through a Conditional Use Permit on PA and AG zoned lands. She read the definition of Intensive Public Facilities from Article 8,

“Public Services and facilities which may have the potential to cause impacts from noise, lights, odors, or the use of hazardous materials, typical uses include landfills, transfer stations, and correctional facilities.” It is staff’s opinion that these uses should not be allowed on agriculturally zoned land, especially on lands with “choice” agricultural soils.

Day Use Parks and Picnic Areas:

There was discussion regarding public parks being allowed on agriculturally zoned land. Mr. Bacchi mentioned that the new proposal would allow them on the new Ag Grazing Zone (AG) with a Conditional Use Permit. There was discussion about public uses versus private uses.

Mr. Maurer answered that a “park” under Civic Uses, is a public park, most likely owned by a public entity and that a “picnic area” under Recreation and Open Space, is more private, usually located on private land and affording visitors an outdoor place to eat.

There was discussion regarding picnic areas and the requirement to get an Administrative Permit to, for example, place picnic tables in an orchard. (Note: in the matrix in Chapter 17.21, picnic areas are permitted by right in all zones).

Mr. Maurer answered that the Administrative Permit comes out of the proposed Ranch Marketing Ordinance, and requires a staff level review to ensure that the standards are met.

Chair Boeger questioned the need for an Administrative Permit for a picnic area.

Mr. Maurer replied that he would raise these issues when staff does more refinement on the ordinance.

Commercial – Horse Boarding:

Chair Boeger noted that Commercial Horse Boarding currently requires a Conditional Use Permit on ag zoned land, whereas the proposed ordinance will allow it by right. He questioned the ability of someone to set up a commercial horse boarding facility on a five or ten acre ag zoned parcel with no review by Planning. He said he did not see any issues on grazing land or land that is in Williamson Act Contract, but there may be issues on other lands.

Mr. Maurer stated that El Dorado County does not regard horses as agriculture as they are not considered food or fiber. Whether it is 5 acres of horses or 5 acres of cattle, from a land use perspective, in general, if you are allowed to raise and graze animals, why not be allowed to board horses.

Mr. Bacchi said there is a difference between grazing cattle and boarding horses.

Chair Boeger stated the difference would be the density of the animals. A horse boarding facility would have a much higher density of animals per acre than a cattle grazing operation and would have a greater impact on the land.

Chair Boeger asked why horse boarding shouldn't maintain its current requirements of a Conditional Use Permit on agriculturally zoned land.

Mr. Maurer answered that he would make note of this suggestion.

Chris Flores mentioned that a livestock feedlot, which could have a similar intensity and impact to the land, still requires a CUP in the proposed ordinance.

Mr. Maurer agreed that a horse or two on five acres could have little impact but the problem occurs when people put five horses on one acre.

Valerie Zentner said she would like to suggest that when the Commission covers the specific Use Regulations (Article 4) they might want to focus on the following areas of concern:

Specific Use Regs – 17.40:

.030 Accessory Structures and Uses – Make sure it reflects needs and what is needed in farming operations, specifically outbuildings

.070 Animal Raising and Keeping – Concerns about FFA and 4-H student projects, and small hobby farmers, with the tie to zones and no allowance for on-site slaughter

.090 Bed and Breakfast Inns – There is still no provision for Farm Stays in the code

.170 Home Occupations – Look at it from the point of view of the equipment yard that Bill Draper mentioned and other rural businesses vs. a suburban environment

.180 Mixed Use Development – Consider what a rural center with mixed use ought to look like, to describe and define what is working

.190 Mobile/Manufactured Homes – Mentioned in light of .120 (commercial caretaker) that addresses agricultural employee housing

.220 Outdoor Retail Sales – Look at difference between permanent and temporary sales areas to see if it reflects what is occurring

.240 Produce Sales – Concerns about DOT encroachment permits, parking requirements, and air quality standards applied to a farm stand

.290 Right to Farm – Make sure that new zoning designations and the definitions fit for applying protections - - perhaps expand to ag districts?

.300 Secondary Dwellings – Just noting the manufactured home, ag employee housing, and secondary dwellings as they are being used in rural areas, how to define second dwelling in Williamson Act contracts, etc.

.390 Wind Energy Conversion Systems – New ordinance just being reviewed, to be adopted by end of year - - look at the language for these systems when added to agricultural lands and, in particular, the applicability to Williamson Act lands and the standards contained there

Other Sections of Interest:

Commercial and Industrial Zoning – Mrs. Zentner suggested the Agricultural Commission look at how ag commercial/industrial might work, where there could be more flexibility (i.e., the co-op or custom crush facility we talked about), and how there could be confusion with retaining the same zone description in a suburban and a rural area, specifically pointed to commercial kenneling of animals vs. working animals.

Mrs. Zentner concluded by requesting that the Agricultural Commission take a look at the Glossary (Article 8) and specifically, the new definitions that could affect agriculture.

Mr. Maurer wrapped up the zoning discussion stating that Planning hoped to get the Draft Zoning Ordinance before the Board of Supervisors within a month or so. He suggested that the Ag Commission continue the Ag Zoning discussion during their next meeting in October. Some of the other items (Article 2 – Ag and Resource Zones, Article 4 – Specific Use Regulations, Article 8 – the Glossary, Commercial and Industrial Zones) could be discussed.

VII. DRAFT RANCH MARKETING ORDINANCE REVIEW

Peter Maurer provided a brief overview of items of importance for the Ag Commission to consider.

It was agreed that the Draft Ranch Marketing Ordinance would be continued for further discussion to the October 13, 2010 Ag Commission meeting.

VIII. FUTURE BUSINESS

- None at this time

IX. LEGISLATIVE ISSUES

- AB 2595 (Huffman) – inactive file

X. CORRESPONDENCE

- Supervisor, Ron Briggs, copy of letter to Senator Denise Ducheny, in support of

Williamson Act funding

XI. OTHER BUSINESS

- None

XII. ADJOURNMENT

Chair Boeger adjourned the meeting at 9:15 p.m.

APPROVED: Greg Boeger, Chair

Date: October 13, 2010