



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
Vacant – Fruit and Nut Farming Industry
Gary Ward – Livestock Industry

MINUTES

April 8, 2009
6:30 P.M.

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

Members Present: Boeger, Bacchi, Draper, Mansfield, Walker, Ward

Members Absent: None

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

Staff Members Present: Nancy Applegarth, Clerk to the Agricultural Commission
Jason Hade, Development Services/Planning

Others Present: Greg Baiocchi, Sharon Baiocchi, Pat Kelley, Rita Kelley,
John Smith, LaDonna Smith, Bill Snodgrass, Trudy Theiss,
Kit Veerkamp

I. CALL TO ORDER

II. INTRODUCTION AND WELCOME OF NEWLY APPOINTED AGRICULTURAL COMMISSION MEMBER – RON MANSFIELD

III. APPROVAL OF AGENDA

It was moved by Mr. Bacchi and seconded by Mr. Ward to approve the agenda as submitted.

Motion passed.

AYES: Bacchi, Draper, Mansfield, Walker, Ward, Boeger

NOES: None

ABSENT: None

IV. APPROVAL OF MINUTES

- Minutes of March 11, 2009

Referring to Item V. Legacy Ranch Presentation, page 3, Mr. Bacchi noted that LaDonna Smith had mentioned keeping the Mustangs in “DG based pens” which will be used to minimize environmental impacts. He asked to have this information included in the Minutes.

Chair Boeger called for a voice vote for approval of the Minutes with the requested amendment.

Motion passed.

AYES: Bacchi, Draper, Walker, Ward, Boeger

NOES: None

ABSTAIN: Mansfield

ABSENT: None

V. PUBLIC FORUM

- No comments were received

VI. Ranch Marketing

Bill Stephans gave an update. The Apple Hill Growers have reviewed the draft ordinance and have a few questions regarding the ordinance. A meeting will be scheduled in the near future to review the Apple Hill Growers comments/questions. Staff will provide a draft for review by the Ag Commission at the May 13, 2009 meeting. The Commissions' suggested amendment from last month's meeting was incorporated into the draft to include TPZ zoning for Christmas trees. Additionally, after reviewing the draft, a revision was also incorporated that would allow both a ranch marketing/winery location to increase the "by right" uses through a Conditional Use Permit.

VII. American Mustang Foundation – (formerly known as Legacy Ranch) – Camille Courtney; Ranch Cortina Properties.

Bill Stephans gave a brief synopsis to the Commission regarding the American Mustang Foundation (Legacy Ranch) detailed presentation during the March 11, 2009 meeting. The proposed project would include a mustang training/riding facility and various activities that would be beneficial to agriculture, agri-tourism, and farming. At last month's meeting, the AMF requested a letter of support from the Commission. Before providing a support letter, the Commission members requested copies of previous support letters the foundation had received.

LaDonna Smith and Kit Veerkamp were available to answer questions and supplied additional information for the Commissions' review. As stated before, the primary focus of the foundation is to educate the public concerning the mustang's plight and the benefits of the mustang as a trail horse. To be successful, the foundation has developed a business based multifaceted approach that promotes mustang understanding, agricultural education, and agri-tourism in El Dorado County. Members of the Commission were concerned regarding the proposed amount of wild mustangs annually housed at the planned facility. The Commission discussed the mustang's environmental impact on the land and through the use of best management practices; the impacts may be able to be mitigated to a less than significant impact.

It was moved by Mr. Bacchi and seconded by Mr. Ward to direct staff to draft a letter of

support for the concepts in the proposal by the American Mustang Foundation (Legacy Ranch) as presented by the applicants which included plans to develop a regional equestrian facility, a working farm, educational facilities and overnight lodging. The Commission strongly encourages the foundation's utilization of Best Management Practices to mitigate impacts to the land.

Motion passed.

AYES: Bacchi, Draper, Mansfield, Walker, Ward Boeger

NOES: None

ABSENT: None

- VIII.** TMA 08-0009 Baiocchi, Greg & Sharon – the owner of the subject parcel is applying with Development Services to convert an existing permitted hardship mobile home into a temporary agricultural employee housing unit on the parcel. Planning Services is requesting written approval from the Agricultural Commission that the residents of the mobile home satisfy the criteria for agricultural housing on a Williamson Act Contracted parcel in order to approve and process the associated Temporary Housing of Agricultural Employees Application (TMA 08-0009). A Williamson Act contract (WAC 06-0014) was approved on the above referenced parcel on February 9, 2007. (District 2)

Bill Stephans offered a brief history of the project which was heard initially by the Commission in June 2008. At that time a Provisional Approval of the TMA was recommended which allowed the housing to remain on the property. The TMA was granted to a prior owner of the property for a temporary hardship and was not removed after the hardship no longer existed or when the property was sold. It is Bill Stephans' understanding that either Mr. Baiocchi was not aware or was not told that the additional house was for a hardship TMA when he purchased the property. He is now trying to make this housing legal by changing its use to Ag Worker Housing. Staff did not make a recommendation to the Commission for this item since it is staff's opinion that the applicant must convince the Commission of the agricultural need and agricultural worker verification.

Greg Baiocchi was present for questions and review of his application. He explained that the housing on the property is currently vacant. He would like to utilize this housing for four Ag workers who will work on his property helping him to establish a successful vineyard. They will also work at Latham Vineyard and Granite Springs Vineyard. Mr. Baiocchi provided an Agricultural Job Duties Description (Annual Farming Schedule) with approximate hours per month that will be needed for further development/management of his vineyard. This schedule addresses Item 4 of the Criteria for Agricultural Housing for Williamson Act Contracted parcels adopted for use by the Agricultural Commission. Additionally, information was presented to the Commission which established a local need for agricultural worker housing in the general area.

A neighbor, Elaine Hoyt, spoke in opposition of the project which she believes began as a code enforcement issue. She questioned the integrity and intent of the application. She

suggested that the Planning department somehow "flag" this type of Special Use Permit for a

periodic review.

The Commission asked if Worker's Compensation for the Ag Workers would be provided. Greg Baiocchi confirmed that it will be provided and that the workers will be on his payroll.

Discussion took place regarding a periodic review of the permit to ensure that the use does not change over time. Bill Stephans suggested that it could be similar to a hardship TMA which is permitted for only two years. It is the responsibility of the permit holder to provide evidence that the hardship still exists so that the permit can be renewed for another two year period. The permit is good as long as the hardship continues.

Jason Hade, Development Services/Planning, stated that an automatic review would occur every two years as part of the permit process for this type of use.

It was moved by Mr. Bacchi and seconded by Mr. Ward to recommend APPROVAL of TMA 08-0009, Greg and Sharon Baiocchi's request for temporary housing for agricultural employee(s) as sufficient documentation has been submitted that substantiates the agricultural need and the agricultural worker verification pursuant to the Commission's Criteria for Agricultural Housing; the property is currently in a Williamson Act Contract and continues to meet the criteria to qualify as such; the criteria for the agricultural operation is satisfied and consists of a 12 acre vineyard; the agricultural housing is needed for and incidental to the agricultural production and related uses on the site, and; the placement of the agricultural housing meets the Principles of Compatibility (Section 51238.1 of the California Government Code); (1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel(s) or on other contracted lands, (2) The use will not significantly displace or impair current of reasonably foreseeable agricultural operations on the subject contracted parcel(s), and (3) The use will not result in the significant removal of adjacent contracted land from agricultural use.

Motion passed.

AYES: Bacchi, Draper, Mansfield, Walker, Ward, Boeger

NOES: None

ABSENT: None

- IX.** Mark Regelbrugge and Trudy Theiss request for Administrative Relief from agricultural setbacks for a proposed single family residence and second residence, both to be located within building envelopes no less than 30 feet from the southwest property line, adjacent to agriculturally zoned (RA-20) land.

Bill Stephans reported on the staff site visit by Chris Flores on March 25, 2009. The parcel is accessed from Mica Street and is situated between Crystal Boulevard and State Highway 49. The subject parcel is zoned RA-20, has a Land Use Designation of Rural Residential, is not in an Agricultural District, has non-choice soils, and has very limited building sites due to

the topography of the parcel. Access to possible building sites is also limited. The applicants have proposed building sites within the 200 foot agricultural setback due to accessibility, slope factors, and leach field location requirements. Impacts to the oak

woodland would also be minimized, as access to the proposed building sites would be from an existing road. There is currently no agricultural activity on the agriculturally zoned parcels to the southwest, and due to the topographic characteristics of the land, it is not likely that a low or high intensive agricultural operation would occur.

The applicants were present for questions and review. Mark Regelbrugge stated he was not aware of any setback issues at the time he purchased the property. He expressed their appreciation for staff's recommendation.

The Commission discussed the fact that Agricultural Setback requirements have been in effect for approximately thirty years and the need for this type of information to be disclosed at the time of property purchase.

Bill Stephans stated that the 2004 General Plan included a policy (8.1.3.3) that addressed these types of situations by requiring a disclosure statement acknowledging that El Dorado County is a Right to Farm county and that special ag setbacks may be imposed on parcels that are adjacent to agriculturally zoned lands. This policy was satisfied when the Ag Commission recommended a disclosure statement and the Board adopted the mandatory statement in 2005. Since the property was purchased prior to the adoption by the Board, no disclosure of the setback was required to be given to the purchaser of this property.

It was moved by Mr. Walker and seconded by Mr. Draper to recommend APPROVAL of Mark Regelbrugge and Trudy Theiss' request for administrative relief from 200 foot agricultural setbacks, allowing a setback of 30 feet from the southwest property line for a proposed single family residence and granny flat, 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;***
- 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 structures would reasonably minimize potential negative impacts on agricultural use; and***
- d). 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 due to the soil and/or 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: Ward, Walker, Mansfield, Draper, Bacchi, Boeger

NOES: None

ABSENT: None

- X.** S 09-0005 – Hulett TPZ Residence (Michael & Kelly Hulett): A special use permit request for a 1600 square foot caretaker residence on a parcel within the Timberland Production Zone District. Additionally, the project site contains an existing 120 square foot tool shed. The property, identified by Assessor’s Parcel Number 011-100-11, consists of 40.00 acres, and is located on the north side of 11N386 approximately six miles east of the intersection with Ice House Road and Weber Mill Road, in the Kyburz area. (District 2)

Bill Stephans reported on the site visit conducted on March 25, 2009 by Commission Member Bill Draper and Chris Flores, where they met with owners, Michael and Kelly Hulett. The application is for a Special Use Permit to allow a 1600 square foot caretaker’s cottage on a 40 acre TPZ zoned parcel east of Ice House Rd. and north of Highway 50. Surrounding parcels have the following zonings; RA-160 and TPZ. All surrounding parcels have a Natural Resource land use designation. According to the topographic map, the parcel is located at an elevation of approximately 5000 feet. The applicants have a Forest Management Plan and have been managing their property according to the plan, including the removal of fire damaged trees, clearing of brush, and replanting of timber. Applicants have located the boundaries of their property.

Relevant General Plan Policies:

- **General Plan Policy 8.4.2.1** states, “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...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 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.”
- **General Plan Policy 8.3.1.1** states, “Lands suitable for timber production which are designated Natural Resource (NR) on the General Plan land use map and zoned Timber Production Zone (TPZ) or Forest Resource (FR) are to be maintained for the purposes of protecting and encouraging the production of timber and associated activities.”

El Dorado County Zoning Ordinance, Section 17.44.050 Criteria for Residential use in a TPZ District:

- A. Residential use of timberland is in general inconsistent with growing and harvesting of timber. However, it is recognized that in certain situations such as intensively managed minimum size acreages, nurseries, etc., in private ownership, living quarters and outbuildings are necessary in connection with the management and protection of the property. Therefore, by recommendation of the agricultural commission acknowledging that three consecutive years of intensive management of his lands have been shown by the landowner, the zoning administrator may grant a special use permit for construction of one owner or caretaker occupied single-family detached dwelling or mobile home on an approved foundation.
- B. The following criteria will aid the agricultural commission in determining what constitutes intensive management and must be in any case considered in granting a special use permit for a residence.
- C. Where a landowner has:
 - 1. A timber inventory of his stand;
 - 2. Conducted commercial harvesting operations;
 - 3. Provided legal and physical access to his property so commercial operations can be carried out;
 - 4. Made a reasonable effort to locate the boundaries of the property and has attempted to protect his property against trespass;
 - 5. Conducted disease or insect control work;
 - 6. Performed thinnings, slash disposal, pruning and other appropriate silvicultural work;
 - 7. Developed a fire protection system or has a functioning fire protection plan;
 - 8. Provided for erosion control on existing roads and skid trails and has maintained existing

- roads; and
9. Planted a significant portion of the under stocked areas of his parcel.

Mr. Draper stated he had concerns regarding the application. He believes the Huletts have done everything right to maintain the property but, in his estimation, there is no demonstrated need for them to be there on a full-time basis. He does not support the building of a permanent caretaker's cabin.

Staff explained that based on the site visit and provided information, all nine requirements have been met.

Mr. Draper explained that the property has been burned twice in the last twenty years. The Huletts have salvaged the wood, replanted and "brushed" the property and have also planted approximately 900 Christmas trees.

Jason Hade, expressed Planning staff's concern regarding not only the *need* for a residence, but asked for the Commission's opinion regarding the request for a 1600 sq. foot residence.

There was discussion of a similar application that was recommended for denial by the Agricultural Commission but ultimately approved by the Board of Supervisors for a larger residence of 3,000 square feet on approximately 119 acres with an estimated 33 acres being identified as capable for timber production.

Mr. Draper stated there is a maximum of 5 acres, out of the 40 acres, that grows very little vegetation due to rocky terrain. He described the slope of the property and said there is white fur and sweet birch which has come back since the last fire swept through the property but the Huletts have done a good job in managing the growth.

Bill Snodgrass, representing the applicants, referred to the Forest Management Plan to show the progress the Huletts have made. He believes they have made significant strides in protecting the acreage from the high fire hazard danger in the area. It is their hope to have a residence on the property to keep it maintained. Since purchasing this land seven years ago, they have invested approximately \$40,000 and Mr. Snodgrass feels they should be rewarded for their diligence and stewardship of the land.

The owner of an adjoining property, Clarence Dilts stated he had no problem with a caretaker residence being built but he does have concerns over the maintenance of Weber Mill Road.

Mike and Kelley Hulett were available for questions. They have applied with the state for water rights to their three springs; however, the approval has been slow. Regarding the use of Weber Mill Road, they began the application process in February to enter into an agreement with the Forest Service. Part of this agreement for the use of Weber Mill Road and Weber Brown Road (their access road) is for him to perform seasonal work on the road,

such as grading and maintaining the road. Mr. Hulett explained that their goal is to turn the property back into a forest stand, making it as fire resistant as possible.

Another neighbor, Patrick Kelley spoke of his support of the Hulett application (letter also submitted) stating the support facilities would provide for the repair and storage of necessary equipment, supplies and maintenance of the property. In his opinion, the residential structure would provide a shelter for labor and security for the property. He is in favor of the project.

It was moved by Mr. Bacchi and seconded by Mr. Ward to recommend APPROVAL of S 09-0005 – Michael and Kelly Hulett’s request for a caretaker residence as the findings can be made for General Plan Policy 8.4.2.1:

- 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 Commission also determines that all 9 criteria of the El Dorado County Zoning Ordinance, Section 17.44.050 Criteria for Residential Use in a TPZ District have been met by the landowner which constitutes the intensive management of the land and further recommends the allowance of the construction of a 1,600 sq. foot caretaker residence.

Motion passed.

AYES: Bacchi, Mansfield, Walker, Ward, Boeger
NOES: None
ABSTAIN: Draper
ABSENT: None

XI. LEGISLATIVE ISSUES

Bill Stephans provided a handout of approximately 55 bills that are related to agriculture and said he would keep the Commission updated on their progression in the next few months because at least 1/3 are “spot” bills. He also mentioned an email from a Board of Supervisors member asking for continued support for Assembly Bill 268 (Gaines) regarding

the repeal of the onsite sewage treatment systems code sections. (Copies of the email were

provided for the Commission members review.)

XII. CORRESPONDENCE

None received.

XIII. OTHER BUSINESS

Chair Boeger appointed Chuck Bacchi and Lloyd Walker to represent the Agricultural Commission on the Review Panel, Monday, April 13, 2009, to fill the Fruit & Nut Farming vacancy on the Commission due to Dave Pratt's appointment to the Planning Commission.

The Board Workshop regarding the Agriculture & Forestry Element of the General Plan will be heard on May 4, 2009.

The Agricultural Commission's recommended interpretation of General Plan Policy 8.1.3.2 regarding the Open Space, Natural Resource, Rural Residential and Ag Lands land use designations will be heard by the Board on May 12, 2009.

XIV. ADJOURNMENT

There being no further business the meeting was adjourned at 8:43 p.m.

APPROVED: Greg Boeger, Chair

Date: May 13, 2009