



# AGRICULTURAL COMMISSION

311 Fair Lane  
Placerville, CA 95667  
(530) 621-5520  
(530) 626-4756 FAX  
eldcag@edcgov.us

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

November 10, 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:** Chris Flores, Senior Agricultural Biologist  
Nancy Applegarth, Clerk to the Agricultural Commission  
Peter Maurer, Development Services/Planning Department  
**Others Present:** Cedric Twilight

### I. CALL TO ORDER

Chair Boeger called the meeting to order at 6:30 p.m.

### II. APPROVAL OF AGENDA

Juli Jensen requested a change to Item VI. to remove the suggested date of December 6, 2010 as a possible Review Panel date.

Chair Boeger asked for a Voice Vote of approval of the agenda with the change as suggested.

*Motion passed*

**AYES:** Boeger, Draper, Mansfield, Neilsen, Smith, Walker  
**NOES:** None  
**ABSENT:** Bacchi (*not present for this item*)

### III. APPROVAL OF MINUTES

- Minutes of October 13, 2010

*It was moved by Mr. Smith and seconded by Mr. Walker to Approve the Minutes of October 13, 2010, as submitted.*

***Motion passed***

**AYES:** Boeger, Draper, Neilsen, Mansfield, Smith, Walker  
**NOES:** None  
**ABSENT:** Bacchi (*not present for this Item*)

**IV. PUBLIC FORUM**

- No comments were received

**V. TIMBER PRODUCTION ZONE (TPZ) –** Ag Department staff requested discussion and recommendation on the issue of allowing residential structures “by right” on TPZ zoned land.

Chris Flores introduced the topic to be discussed. She explained that when Peter Maurer gave his presentation to the Board of Supervisors on the new draft zoning ordinance there was public comment received regarding residential rights on TPZ parcels. The current zoning ordinance does not allow a residence “by right,” but allows a residence/caretaker cottage if certain findings can be made. The request for a residence requires a Special Use Permit. The new draft zoning ordinance does not propose any changes to this policy. After receiving public comment that residences should be allowed “by right” on TPZ zoned land, at the Board of Supervisors hearing, it was suggested that the Agricultural Commission make a recommendation on the topic.

Chair Boeger asked Peter Maurer, Development Services, if he would give the Commission some background information and the Planning Department’s recommendation.

Peter Maurer stated that several months ago, the issue of residences “by right” on TPZ was raised and discussed. Planning staff considered various options for the new draft ordinance but ended up leaving the section on TPZ unchanged. Staff’s concern is that there are some inherent conflicts for residences on TPZ, including medical, fire and law enforcement access, infrastructure issues and impacts on roads. If an owner of TPZ zoned land felt the parcel is better suited for residential purposes, they could apply for a zone change to the recommended new Forest Resource Zone, which is timberland that is not under TPZ, does not have the tax benefit, but allows residential use.

Discussion ensued regarding the TPZ zone and how it differs from Williamson Act Contracts.

Mr. Bacchi mentioned that the State Law states that a residence or other structure necessary for the management of land zoned as timberland production is compatible. He feels the law is very specific in what the “use” is to be. The County is responsible for determining the compatible uses on land zoned TPZ per Government Code Section 51111. Furthermore, Government Code section 51110.1. (b) states, “...Land use under a TPZ will be restricted to growing and harvesting timber, and to compatible uses approved by the county (or city). In return, taxation of timberland under a TPZ will be based only on such restrictions in use.” Mr. Bacchi suggested that the “right” to have residences on TPZ zoned land may be a State level issue versus a County issue. Mr. Draper added that the criteria developed by the

County, to allow a residence on TPZ, may need to be looked at and amended in the future.

Chair Boeger opened up the discussion to the public.

Cedric Twight, Registered Professional Forester, representing Sierra Pacific Industries, gave some background information on the Timber Production Zone district, its formation, and the State laws that enacted it. He said TPZ started in 1978 as a means of reforming the way timberland was managed in California. Mr. Twight gave a synopsis of how timber was historically taxed and how the Timber Tax Reform Act changed the way timberlands were assessed. The Timber Tax Reform Act created the Timber Yield Tax. The Timber Yield Tax essentially said that the harvest value of trees would be assessed as personal property, stumpage value but only in the year they were harvested. That would allow landowners to have a much broader management strategy and would allow sustained yield planning to occur and an even flow of timber from timberlands which helps sustain sawmills. The genesis of the Timber Production Zone was the implementation of the Timber Tax Reform Act. During the process counties were required to identify timberlands where the highest and best use was growing and harvesting of trees. Those parcels that were identified as such would go into the Timber Preserve Zone (originally named) so that those lands would be assessed in a particular way consistent with the Timber Tax Reform Act. The county boards or councils were also required to develop and adopt a list of compatible uses for the newly created zone.

Mr. Twight went on to describe the key points of the Timber Productivity Act of 1982. It changed the name of the zoning from "Timber Preserve Zone" to "Timber Production Zone," emphasized the discouragement of the premature or unnecessary conversion of timberland to urban and other uses and more clearly defined "compatible uses."

Section 51104 (h) of the Timber Productivity Act states the following regarding compatible use; "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use: (1) Management for watershed. (2) Management for fish and wildlife habitat or hunting and fishing. (3) A use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas. (4) The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities. (5) Grazing. (6) A residence or other structure necessary for the management of land zoned as timberland production.

Mr. Twight added that some jurisdictions interpret (6) above as "the residence has to be necessary for the management of timberlands." He feels this is not how it reads. He interprets the section as a residence is compatible on TPZ *or* a structure necessary for the management of timberlands.

Mr. Bacchi asked Mr. Twight how other counties had resolved this issue.

Mr. Twight said one of the most sophisticated counties with regards to timber, Humboldt County, interprets the residential compatibility issue just as he does. Humboldt County

allows for a residence and a second residence on TPZ to forty acres. He reminded the Commission that all of the parcels that rolled into the Timber Production Zone in 1978 all had a right to a residence before their zoning changed to TPZ. Mr. Twight feels that in

1978, if the intent had been to strip those parcels of their essential right to a residence, there would have been a tremendous outcry.

Mr. Twight also mentioned Plumas County, saying they allowed a residence on an 80 acre piece of property.

Mr. Twight said that he has never seen a case where this issue has been litigated. He feels that a property owner that can build a residence on TPZ land “by right” is more likely to maintain the property in TPZ and less likely to rezone the parcel.

Chair Boeger asked how many parcels are currently owned by Sierra Pacific Industries in El Dorado County.

Mr. Twight said it is within the 100,000 acre range but does not know how many parcels this involves.

Chair Boeger replied that if every TPZ parcel was allowed to have a residence, from the County’s point of view, this could be a nightmare and could possibly be detrimental to timber harvesting activities.

Mr. Twight said most of these parcels under discussion would be used for secondary homes where people would just be there to enjoy their investment.

Mr. Draper said some of the Commission’s concern is that some people want to have a structure but they are not really participating in the management of their property. They use this as a guise to have the property out in these remote areas.

Mr. Twight questioned what would be wrong with wanting to do that.

Mr. Draper asked if the real intent would be to grow timber or is it intended for recreation.

Mr. Twight said the timber will grow whether someone has intent or not.

There was brief discussion about the tax benefit of timber harvesting. Mr. Twight provided the members a copy of the Timberland Values Manual to review. Referring to the manual he said that the tax benefit received is only that bit of benefit the land is taxed on; and its productivity. The benefit is the fact that local jurisdictions cannot rezone someone who is next to a recreational area and increase their taxes putting pressure on the parcel to convert to an urban use which is the intent of the productivity act – to prevent this from occurring. Those acres that are dedicated to timber are taxed on their site productivity, *but* any of the area dedicated to compatible use are taxed on Proposition 13 or base year values.

Mr. Twight also spoke about the benefit of having a residence on TPZ land if a fire occurred

in the area. He stated that due to the strict building requirements in this type of area, a residence is where any fire personnel would seek safety if needed. The perception that a house out on a large piece of timberland is incompatible to timber harvest is ludicrous.

Mr. Walker asked Mr. Twilight if he was representing SPI or himself, as a Registered Professional Forester and questioned the incentive of Sierra Pacific Industries to allow houses to be built on their TPZ parcels.

Mr. Twilight explained this is not what they are requesting. SPI is requesting to maintain the right, from mainly the straight timberland value and asset value perspective, because when the company does big business deals, they get big business loans and when they put up their collateral, if the collateral is worth more, they may not have to leverage as much of their timberlands. It is an asset value issue.

The Commission asked what other counties allow a residence "by right" on TPZ zoned land.

Mr. Twilight named a few (Humboldt, Trinity and Butte) but Chair Boeger suggested that Peter Maurer check into this question and provide the information at the next Ag Commission meeting.

***A motion was made by Mr. Smith and seconded by Mr. Neilsen that pending further clarification regarding Government Code Section 51104.(h)(6) of the California Timberland Productivity Act of 1982, to recommend that El Dorado County continue with the requirement of a Special Use Permit for a dwelling on TPZ land as listed in the draft Zoning Code.***

Mr. Mansfield asked for further discussion and asked Peter Maurer how often the Planning Department receives applications for residences on TPZ land.

Mr. Maurer replied, that to his knowledge, there have only been three or four applications for residences on TPZ land within the last 24 years and they have all taken place within the last four to five years. Mr. Maurer reiterated that it is Planning's interpretation that a residence is only compatible if it is necessary for the management of the timber on the parcel.

***Mr. Smith amended the motion which was seconded by Mr. Neilsen that pending further technical interpretation of Government Code Section 51104.(h)(6), it would be the Agricultural Commission's preference that El Dorado County continue with the requirement of a Special Use Permit for a dwelling on TPZ zoned land as listed in the Draft Zoning Ordinance.***

**AYES:** Draper, Smith, Neilsen, Boeger

**NOES:** Bacchi, Mansfield, Walker

***Motion passed***

Juli Jensen stated she would contact both the State Department of Forestry and County Counsel for their interpretation of the Government Code Section. She will also ask the State Department of Forestry if they have had any litigation or test cases regarding this issue.

This item will be continued at the December 8, 2010 meeting of the Agricultural Commission.

**VI. NOMINATION OF TWO AG COMMISSION MEMBERS FOR INDUSTRY REVIEW PANEL:** Agricultural Commission Livestock Industry and Fruit and Nut Farming Industry members “Term of Office Expiration”

Chair Boeger nominated Lloyd Walker and Tim Neilsen to represent the Agricultural Commission on the review panel scheduled for November 29, 2010. Both members accepted the nomination.

**VII. FUTURE BUSINESS**

- Ag zoning workshop requested by the Board of Supervisors – no specific date yet.

**VIII. LEGISLATIVE ISSUES**

- AB 2530 – (Nielsen): Williamson Act Contracts
- SB 863 – Williamson Act Contracts

Juli Jensen explained that SB 863 has replaced AB 2530 as a “clean-up” bill. SB 863 is legislation that allows counties, if they qualify, to recoup some of their property tax losses. Counties will be able to reduce the length of their Williamson Act Contracts by 10% (10 years to 9 years OR 20 years to 18 years), valuing the property based on the revised contract term. Copies of a Williamson Act Tax Calculator were provided to help explain the benefits and requirements of the bill.

Juli Jensen will meet with the Assessor and County Counsel to determine the savings to El Dorado County. She will report back on the results of that meeting at the December 8<sup>th</sup> Agricultural Commission meeting.

**IX. CORRESPONDENCE**

- Request for Agricultural Commissioner Concurrence of Ag Setback Relief Baker, Leslie and Sarah – APN 087-181-37 (Informational only)
- Request for Agricultural Commissioner Concurrence of Ag Setback Relief Prichard, Richard and Lauren – APN 091-900-18 (Informational only)
- Letter from SACOG TO Ag Commission members – asking for sponsorship of the Rural-Urban Connections Strategy Forum (Informational only)

**X. OTHER BUSINESS**

- Budget Update

Juli Jensen provided copies of the Chief Administrator’s Office Reduction Plan for FY 2011-12 (Phase 1)

**XI. ADJOURNMENT**

Chair Boeger adjourned the meeting at 8:10 p.m.

**APPROVED:** Greg Boeger

**Date:** December 8, 2010