



EL DORADO COUNTY PLANNING SERVICES

John Knight..... District I
John MacCready..... District II
Dave Machado..... District III
Walter Mathews..... District IV
Alan Tolhurst..... District V
Jo Ann Brillisour..... Clerk of the Commission

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MINUTES

**Regular Meeting of the Planning Commission
February 8, 2007, 2006 – 8:30 A.M.
BUILDING C HEARING ROOM
2850 Fairlane Court, Placerville, CA**

1. CALL TO ORDER

Called to order at 8:40 a.m. Present: Commissioners Mac Cready, Machado, Mathews, Tolhurst (after 8:45 a.m.), and Knight; Paula F. Frantz, County Counsel; and Jo Ann Brillisour, Clerk to the Planning Commission.

2. ADOPTION OF AGENDA

MOTION: COMMISSIONER MACHADO, SECONDED BY COMMISSIONER MAC CREADY, AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS MAC CREADY, MACHADO, MATHEWS, AND KNIGHT; ABSENT – COMMISSIONER TOLHURST, IT WAS MOVED TO ADOPT THE AGENDA, WITH ADDENDUM.

3. PLEDGE OF ALLEGIANCE

A Pledge of Allegiance was given by the Commission and those persons in the audience.

4. CONSENT CALENDAR (All items on the Consent Calendar were approved by one motion unless a Commission member requested separate action on a specific item.)

Minutes: January 25, 2007

MOTION: COMMISSIONER KNIGHT, SECONDED BY COMMISSIONER MATHEWS AND UNANIMOUSLY CARRIED, IT WAS MOVED TO APPROVE THE CONSENT CALENDAR.

5. DEPARTMENTAL REPORTS AND COMMUNICATIONS

These items were considered during the day as time permitted.

Steven Hust gave the Commissioners a packet of information on the Integrated Natural Resources Management Plan that has been considered by the Board. Chair Knight asked that the information be placed on the February 22 agenda for comment by the Commissioners.

Commissioner Machado asked that Bill Stephans, Agricultural Commissioner, give the Commission an update on the 200-foot setback issue. Mr. Stephans commented they are working with Paula Frantz, County Counsel, on the issue. There is a Williamson Act Contract on the agenda today that the Agricultural Commission would like continued until the new criteria are adopted. There were individuals present at the Agricultural Commission meeting that spoke in opposition of the setbacks on the application before the Commission today. Mr. Stephans said they are trying to get the modifications on the setbacks before the Board in about two weeks.

Peter Maurer gave the Commission an update on the Ormond parcel map which was approved by the Commission and ultimately approved by the Board. The Board does not want to see design waivers approved on a regular basis. A more firm line will be taken on meeting the standards. The Design Manual is currently being updated.

Commissioner Machado spoke about an article in the Sacramento Business Journal pertaining to oak trees.

ADDENDUM

GENERAL PLAN UPDATE

Quarterly Status Report: Agriculture and Forestry, Economic Development, and Parks and Recreation

Staff: Shawna Purvines went through her report. There will be an accomplishment report presented to the Commission on March 22. No action was necessary or taken.

ADDENDUM – 2

5. DEPARTMENTAL REPORTS AND COMMUNICATIONS

Resolution of Intention No. 2007-01: To consider amending the Zoning Ordinance to modify the Site Plan review process to include a General Plan Consistency analysis.

Staff: Roger Trout recommended adoption of the Resolution of Intention. There was no input.

MOTION: COMMISSIONER KNIGHT, SECONDED BY COMMISSIONER MAC CREADY, AND UNANIMOUSLY CARRIED, IT WAS MOVED TO ADOPT RESOLUTION OF INTENTION 2007-01.

6. COMMISSIONERS' REPORTS

Commissioner Mac Cready presented a newspaper article on a Land Trust formed to conserve El Dorado County land.

CONSENT CALENDAR/APPLICATIONS

7. RIVER USE PERMITS

Items a. and b. were taken as one item on the Consent Calendar/Applications.

a. River Use Permit #2 – Request submitted by TYMOTHY K. ARMSTRONG, owner of Gold Rush Outfitters, to transfer River Use Permit #2 to Gold Rush Outfitters, LLC.

Staff: Noah Rucker-Triplett recommended approval. There was no input.

MOTION: COMMISSIONER TOLHURST, SECONDED BY COMMISSIONER MACHADO AND UNANIMOUSLY CARRIED, IT WAS MOVED TO APPROVE THE TRANSFER OF RUP #2 TO GOLD RUSH OUTFITTERS, LLC AND APPROVE A ONE-YEAR PROVISIONAL RIVER USE PERMIT FOR GOLD RUSH OUTFITTERS, LLC, BASED ON THE FINDING PROPOSED BY STAFF.

Finding

This application for the transfer of River Use Permit #2 from Gold Rush Outfitters to Gold Rush Outfitters, LLC meets the standards required by River Management Plan Element 6.2.1.4.

b. River Use Permits #28 and #63 – Request submitted by PAT FISHER, owner of South Bay River Rafters, and CHRISTOPHER PYLE, owner of Christopher Robin, Inc., to transfer 6 weekend and 25 weekday user days from River Use Permit #28 to River Use Permit #63.

Staff: Noah Rucker-Triplett recommended approval. There was no input.

MOTION: COMMISSIONER TOLHURST, SECONDED BY COMMISSIONER MACHADO AND UNANIMOUSLY CARRIED, IT WAS MOVED TO APPROVE THE TRANSFER OF 6 WEEKEND AND 25 WEEKDAY USER DAYS FROM RUP #28 TO RUP #63, BASED ON FINDING PROPOSED BY STAFF.

Finding

The transfer of 6 weekend and 25 weekday user days from River Use Permit #28 to River Use Permit #63 meets the standards required by River Management Plan Element 6.2.1.4.

END OF CONSENT CALENDAR

PUBLIC FORUM/PUBLIC COMMENT – Ken Greenwood spoke about the encroachment that has been constructed at the Mira Flores Winery. Chair Knight asked that an action report be placed on a future agenda (in approximately 30 days).

8. WILLIAMSON ACT CONTRACT/REZONE (Public Hearing)

Williamson Act Contract WAC06-0014/Rezone Z06-0039 submitted by GREG and SHARON BAIOCCHI to establish a new agricultural preserve and rezone the same property from Estate Residential Ten-acre (RE-10) to Agricultural Preserve (AP). The property, identified by Assessor's Parcel Number 046-061-37, consisting of 35.2 acres, is located on the south side of Hidden Ranch Road, 0.5 mile east of the intersection with Mt. Aukum Road, in the **Somerset area** (Supervisory District II). (Categorically exempt pursuant to Section 15317 of the CEQA Guidelines)

Staff: Michael Baron recommended approval. Commissioner Mac Cready asked how the new setbacks would affect these properties. Bill Stephans, Agricultural Commissioner, said they have identified criteria for those areas where there have been problems over the past few years. Paula Frantz, County Counsel, explained further. Mr. Stephans again asked that this application be continued. Ms. Frantz said the Board is only taking action on the administrative relief at the present time.

Greg Biaocchi agreed to a continuance but would like action taken on his application this year.

A.L. Hamilton, representing Elaine Hoyt, said this is an effective taking of Ms. Hoyt's property because of the 200-foot setback. Her property is surrounded on three sides by the subject property. They do not object to the contract but do object to the setbacks. They have no problem with traffic that would occur should there be a tasting room in the future.

Commissioner Mathews asked if Hidden Ranch Road is paved. Mr. Baron commented it is gravel.

Peter Maurer said there are no plans for a tasting room today, but one could be allowed under a special use permit.

Art Marinaccio said agreed with the Board of Supervisors that more information needs to be provided on the adjacent properties when considering these types of applications.

Ken Greenwood commented this was not an Agricultural District when the surrounding property owners purchased their properties. If other people were creating this much of an impact and not an agricultural use, they would be required to obtain a permit. There are many issues that need to be discussed.

Dave Pratt said this application is about going into a Williamson Act Contract. It meets the necessary criteria. There are rules in place, and the Agricultural Commission made the necessary findings for approval.

There was no further input.

MOTION: COMMISSIONER MAC CREADY, SECONDED BY COMMISSIONER MATHEWS, AND UNANIMOUSLY CARRIED, IT WAS MOVED TO CONTINUE WAC06-0014/Z06-0039 TO THE MEETING OF JULY 12, 2007.

9. ENVIRONMENTAL IMPACT REPORT (Public Hearing)

Draft Environmental Impact Report/Floor Area Ratio (A06-0002) – Hearing to receive public input on the subject draft EIR.

Staff: Steven Hust presented this item, briefly going over some background information. Pat Angel, Pacific Municipal Consultants, gave a power point presentation.

Paul Raveling, El Dorado Hills Citizens Alliance, commented it is hard to separate the EIR from the impacts. They are concerned about the cumulative impacts. The population of El Dorado Hills is increasing and is larger than Amador County. There are many impacts. He read from a Citizens Alliance paper. They will be suggesting additional road building and rebuilding. They feel there needs to be more study.

Art Marinaccio is very disappointed in this document. Most of the discussion is about things that are impossible. Most of this is unnecessary. There needs to be a discussion on monitoring the industrial and commercial growth and how the mitigation measures are going to be implemented. There is only one exception in this document that merits further review, 5.2.1. If you increase the floor area ratio, you need to look at adopting 5.2.1. Mr. Marinaccio spoke about the alternatives. He is shocked Alternative 5 made it to print. It eliminates many areas that were put in place for this use. Projects that have come forward that have been hard to process have fallen under the numbers in Alternative 6. Mr. Marinaccio has a problem following how the project description is the project that the Commission put forward as the preferred project. Staff needs to explain the structure of the document and what it plans for the Commission to do with it.

Noah Brisco, El Dorado Hills, spoke about going denser so we can have mass transit, mixed use development, etc. He hopes this document does not prevent things like that from happening.

There was no further input.

Mr. Hust said all comments will be replied to in writing. He spoke about the two projects, floor area ratios and mixed use development, which will come to the Commission at a later date.

No action required.

10. NON-CONFORMING USE (Public Hearing)

Site Plan Review SPR06-0138; to consider the non-conforming use status of the Coolwater Creek Road construction yard located on Assessor's Parcel Number 323-200-04 (2440 Coolwater Creek Road), one mile south of the intersection with Cold Springs Road, in the

Placerville area (Supervisory District III). Property owners: Michele Brewer Barnes/Mark Barnes. Agent: Matt Muntean/Western Water Constructors, Inc. Engineer: Owen Engineering & Management Consultants.

This item was considered prior to Item 9. Jason Hade gave a power point presentation and recommended the Commission find this an illegal use.

Commissioner Machado referred to the letter pertaining to history on the site. Has staff been able to obtain any additional information? Mr. Hade replied no. Commissioner Machado asked about the nursery on the property. Mr. Hade said there was a nursery use in the 1980s or 1990s. Paula Frantz, County Counsel, said a non-conforming use cannot expand or change the type of use on the property. Any change in use would have to be to a residential use as the property is residential. Peter Maurer said there were no records for a nursery use.

Commissioner Mathews asked if they could get a use permit. Mr. Maurer said you cannot get a use permit for an illegal use. Commissioner Mathews asked about a residence on the property. Mr. Hade explained.

Commissioner Machado asked if staff has the letter dated February 6. Mr. Hade replied in the affirmative. Commissioner Machado would like to find a way to make this work as well as appease the neighbors. He referred to the letter stating most of the material/equipment will be off the site by the end of April. He would like to continue this item for a few months.

Matt Muntean, Western Water, did agree to a continuance. They are trying everything they can to be a good neighbor. There is no weekend use. He gave the Commission a site plan indicating items that could be removed by April. The green items on the site plan were there when they moved onto the property. He believes the original complaint came from loud music which is from two neighbors and not the caretaker. Paula Frantz, County Counsel, said there are two options. One would be to seek a General Plan amendment and rezone. Another would be a special use permit for a non-conforming use. Appropriate findings would have to be made in either instance. Mr. Maurer said a special use permit would be for the expansion of a legal non-conforming use. Another option would be to take action today but set a time for removal of the equipment. It does not sound like there will be abatement of much of the activity for some time.

Maureen De Lapp, adjacent property owner, said from 2002 to 2005 the subject site was a nursery storage yard. She presented some photographs of the subject property a year ago and how it looks today. Ms. De Lapp explained the problems they have been having with the construction operation.

Carol Roberts, adjacent property owner, has lived on her property since 1977, and it was used for storage of trucks, etc. She gave the Commission several photographs of the subject property years ago.

Michelle Barnes, owner of the subject property, said they were looking for a place to establish a growing area for their nursery. They were told this property was a grandfathered use. The automobiles on the site belong to a friend of theirs that sells parts on a website. They told the

owner of the cars that the automobiles would have to be removed and will be shortly. Her husband worked for Mo Veerkamp out of the site in the 1970s.

Matt Lomax said when he purchased his property this was used as a nursery and was used that way until 2005. The property is zoned residential. He had a problem with a night light and spoke to the operator, and the light was taken care of. There was also noise from beeping trucks, and when he complained, the issue was taken care of. We need the water facility. The expansion will get rid of the smell in the area. He does not want the zoning changed. He can see limiting the use. Mr. Lomax would like to see the property cleaned up. There is a bus stop for school children at Mallard Lane and Coolwater Creek. The loading and unloading for the construction operation should not take place when the busses are at that location. When the construction is done, the City needs to take a look at the road to make sure it is put back in good condition.

Randy Pesses, Public Works Director for the City of Placerville, spoke about the animal control facility being moved to its new location.

There was no further put.

Commissioner Tolhurst feels a use permit is necessary, and they should start the application process right a way. All of the uses mentioned are not residential uses. He would rather find this not a non-conforming use and that they file for a use permit. The environmental issues need to be reviewed. Ms. Frantz said there is a section in the temporary use permit section for construction areas. She would suggest that the Commission tell the applicant to look at either a special use permit or a temporary use permit under Section 17.23.20. The temporary use permit would better suit the neighbors, because once the water treatment plan is completed, this use would go away. The property owner may want to show what uses have been on the property so a non-conforming use could be established. Ms. Frantz said the property owner should submit the non-conforming use evidence so it can be heard concurrently with the temporary use permit application.

MOTION: COMMISSIONER TOLHURST, SECONDED BY COMMISSIONER MACHADO AND UNANIMOUSLY CARRIED, IT WAS MOVED FIND THAT BASED ON THE CURRENT EVIDENCE, THERE IS NO EVIDENCE THIS IS A LEGAL NON-CONFORMING USE AND SHALL BE IMMEDIATELY TEMINATED UNLESS THE APPLICANT BRINGS IN AN APPLICATION FOR A SPECIAL USE PERMIT OR A TEMPORARY USE PERMIT WITHIN 30 DAYS FROM THE DATE OF THIS HEARING.

11. REPORTS

Long Range Planning Work Program

This item was continued from the meeting of January 11, 2007.

Staff: Steven Hust presented the work program. No action was required or taken.

12. FINDING OF CONSISTENCY (Public Hearing)

Request submitted by the EL DORADO HILLS COMMUNITY SERVICE DISTRICT for a finding of consistency with the General Plan for their Proposed Park Impact Fee Nexus Study Update.

Staff: Roman Anissi presented this item.

John Costa, Building Industry, would like more time to work with the CSD staff on the fees.

Don Burnett Lennar, developer for Blackstone and Carson Creek, said they want to make sure the fees are fair and justified. They also want to make sure the fees are satisfactory to build the public facilities needed in the area. They would like the item continued so than can talk to the CSD regarding the fees.

Dan Muller, Northside Building Industry Association, said they submitted a lot of material to the CSD on this issue. They feel this can be worked out.

Wayne Lowry, El Dorado Hills Community Services District, asked that the Commission proceed and determine whether this request is consistent with the General Plan. The district is anxious to move this forward. Their fees are very low and not adequate to implement their master plan.

Mike McDougall, MJM Properties, said their share will be \$60,000,000. They want to make sure the nexus study is adequate. He disagrees this is consistent with the General Plan. There is no credit for the private facilities.

Art Marinaccio is not sure there is anything to show that the request is not consistent with the General Plan. He believes there is sufficient controversy that the Commission could send the study back to the CSD for further study. The issue is whether this document is in its final form.

Paula Frantz, County Counsel, explained the role of the Commission on this type of issue. The Board looks at the issue of fees. These are Board fees. The CSD cannot impose such fees. It is important that the Board knows that the nexus is there.

There was no further input.

Commissioner Mathews feels the fees are rather excessive. This certainly prohibits the development of affordable housing in the El Dorado Hills area. It seems a fair share is being thrown on new development.

Commissioner Tolhurst believes this does conflict with our ability to provide affordable housing. He would like to see the item continued.

Commissioner Machado spoke about affordable housing. The fees clearly go against his thoughts of being able to do affordable housing. The figures for parks are not consistent

throughout the document. He would like to send the issue back to the CSD Board. Just the Housing Element is enough to find it inconsistent.

MOTION: COMMISSIONER KNIGHT, SECONDED BY COMMISSIONER TOLHURST AND UNANIMOUSLY CARRIED, IT WAS MOVED TO CONTINUE THIS ITEM TO THE MEETING OF MARCH 22, 2007,

ADDENDUM

1:30 P.M.

WINERY ORDINANCE

Discussion and direction to staff regarding the preparation of the Draft Wineries Ordinance Project Description for purposes of environmental review and recommendations to the Board of Supervisors; and consideration of staff's Public review Draft Ordinance, dated June 28, 2006, the Agricultural Commission's Recommended Winery Ordinance, dated January 4, 2006, and the Industry Subcommittee Adopted Proposed Winery Ordinance, dated January 3, 2007.

This item was continued from the meeting of January 25, 2007.

Staff: Pierre Rivas presented this item.

Chair Knight does not know if there is that much distinction between charitable and special events as far as numbers go. The Commissioners felt comfortable with the definitions in #1.

Commissioner Mathews has a problem with the numbers involved in #2. He believes 250 is too high. It needs to be lowered for special events. Mr. Rivas said special events would be allowed under a special use permit where there are controls. Commissioner Machado would like less than 250. Commissioner Tolhurst said the 250 version will also go forward to the Board. What the Commission needs to find is a lower number also. He feels a special event is a one-day event. Commissioner Mathews feels 125 is a satisfactory number. Commissioner Machado felt 24 events, with not more than 125 people, would be okay in an agricultural district. He also feels charitable and special events are the same and should both require a special use permit.

Paula Frantz, County Counsel, said this is the starting point for what the Commission wants staff to analyze. We are trying to come up with a project description on which to base a CEQA document.

On #3, Commissioner Machado has no problem with multiple tasting rooms. All the other Commissioners agreed.

On tasting facility, Commissioner Mathews would use the Agricultural Commission definition with the last two bullets deleted.

Commissioner Tolhurst would be agreeable to a restaurant by special use permit on a case-by-case basis. Commissioner Machado agrees to having a kitchen for winery use as long as there is no sit-down with menus.

#8 – Commissioner Machado does not believe there should be any sub-leasing allowed; no signage promoting stores; no furniture or jewelry.

Ms. Frantz said it would be easier to use square footage for the retail sales area. The Commission concurred the square footage should be in the same room where wine tasting occurs.

#9 – Commissioner Mathews did not agree with distilleries. Commissioner Tolhurst said they should not be allowed by right; it would be okay with a special use permit in agricultural districts.

Dave Hopkins, representing Jerome Pasto, spoke about language being added requiring participation by wineries in zones of benefit for road maintenance. Commissioner Mathews commented this would make sense. Mr. Rivas said staff is working with Department of Transportation staff and County Counsel on this issue. Mr. Hopkins said their problem is with an existing winery and road problems. Ms. Frantz commented an existing establishment is another question. Dave Pratt, Grape Growers Association, commented if you are not in such a zone, you cannot contribute.

Mr. Pratt said they are trying to create experiences. People do not go to wineries just to purchase a bottle of wine. They go for the experience. The business will be self-regulating. This is our chance to keep taxes in the County. He agrees the music should be covered under the noise ordinance. Events are self-limiting in nature. Mr. Pratt spoke about being able to provide on-premises catering. There would be a limit based on parcel size.

Brian Fitzpatrick commented wineries in El Dorado County are trying to sell their product out of their wineries. Wine country is tourist driven. You need the wine, food, lodging, and shopping. The Planning Department does not have a vision of where we want to go with wineries. We need goals as to where we are going and ordinances to help us get there. Tourists want variety. There are very few wineries that are economically viable at the present time. They need support and encouragement. There has been no demonstration that anything needs to be limited.

Paul Bush, Madrona Vineyards, said they have put together an ordinance that truly represents agriculture. They were concerned with the Planning Department version because of all the special use permits that were being required. His greatest concern with putting charitable events with special events is wineries will have only special events rather than charitable events because they will not make the same money. Is the 150 people all day or during the event? It is the location and not just the size of the winery that dictates how many people go to a certain tasting room. The retail sale of merchandise is self-limiting. As long as it is an ancillary use, it should be open to what you want.

Ken Greenwood feels you need a special use permit no matter where it is located. The roads are not better in an agricultural district. It is the road that serves the winery that is in question. He is glad the Commission is considering lowering the 249 number. There are impacts to adjacent

property owners. The size of the tasting room does not matter. There should be no problem with selling art, etc. We should focus on public health and safety and not regulating businesses. Mr. Greenwood stated we do not have a noise ordinance. We have General Plan standards that can be applied to discretionary projects. Focus on the things that are going to impact adjacent property owners. Mr. Greenwood spoke about people not paying parking fees when using tents.

Carolyn Mansfield implored the Commission to look at the industry document. Hours and hours were spent coming up with this document. This was created by people who know how the industry is run. She asked that the Commission go with the document that came out of the Agricultural Commission. They are for agriculture in the County.

Justin Boeger said the individual wineries looked at the ordinance differently. They are committed to the protection of agriculture in El Dorado County. The family wineries must work very hard to compete with the 2,000 other wineries in California. Tasting rooms are their face to the public. More than 85 percent of their wines are sold out of their tasting rooms. He supports taking the Agricultural Commission version and putting in some of the Commissions thoughts. Mr. Bush urged that the Commission adopt the ordinance that upholds the winery business and tourism in the County.

Greg Boeger said it is better to look at the Agricultural Commissions version and modify that than look at the Planning version and modify that. We need to allow innovation in our wineries so people will want to come up here. A good, healthy wine industry will help promote commercial industries in El Dorado County. The number limit should be on an event and not daily basis. The ordinance should be open on restaurants. It should be allowed with a special use permit. There should be some type of review but allow innovation.

Franchesca Loftus supports the winery ordinance. It is a good experience. The roads in South County cannot be improved based on taxes. The people that come to El Dorado County to purchase wine spend money in El Dorado County. Food goes with wine. We need to give these wineries the tools to become successful.

Scott Miller, winery owner and representing the Fairplay Winery Association, said the numbers need to be considered. Regarding merchandising, people do not go to wineries to buy clothing. He asked that the Commission go with the Agricultural Commission's version. A lot of time was spent by the people involved with the ordinance.

Art Marinaccio said the Agricultural Commission is advisory to the Planning Commission, and that version should be looked at before it goes to the Board. You need to consider the impacts on adjacent property owners. You need to look at a permit process for residential areas.

Valerie Zetner, El Dorado County Farm Bureau, said the industry has come up with some areas that are more restrictive. Eighty-five to 90 percent of the wine sales are at the tasting rooms or through the wine club. She agrees we should not be limiting the size of tasting rooms. She is concerned about having too many special use permits. We have to make sure that people already in this business be grandfathered in or be able to go through an administrative process. They

need to be able to continue to operate. On your market and promotion events, your parking is going to limit the numbers. We need to get into and stay in business.

Tom Heflin said the Economic Development Commission is working on comments for the winery ordinance. Referring to Objective 10.1.6, they are looking at the tremendous value the wineries provide for the County. Mr. Heflin spoke about combining the winery and ranch marketing ordinances.

Robert Hall asked about the definition of a commercial vineyard. He hopes the County addresses the operation of over 250 cases and under 1,000 cases. He is not interested in having a tasting room.

No further input was received. Staff will return to the Commission with a modified version at a future meeting. No action was taken.

13. **GENERAL PLAN UPDATE** - None
14. **ZONING ORDINANCE UPDATE** - None
15. **DEPARTMENT OF TRANSPORTATION** - None
16. **COUNTY COUNSEL'S REPORTS** - None
17. **DIRECTOR'S REPORTS** - None
18. **ADJOURNMENT**

Meeting adjourned at 5:35 p.m.

APPROVED BY THE COMMISSION
Authenticated and Certified:

John Knight, Chair

