



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
John Smith – Fruit and Nut Farming Industry
Gary Ward – Livestock Industry

MINUTES

August 12, 2009

6:30 P.M.

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

Members Present: Bacchi, Boeger, Draper, *Mansfield, Smith, Walker
(*Mr. Mansfield arrived during Item V.)

Members Absent: Ward

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

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

Roger Trout, Development Services Director

Others Present: Victor Alvarez, Bill Bacchi, Kent Baker, Bob Edwards,
Ken Greenwood, Penny Leff, John P. Limmer, Art
Marinaccio, Ron Pizer, William Roser, Dan Stedman, Tom
Van Noord, Valerie Zentner, Robert Laurie, Dave Pratt,
Allen Wellborn, Mark Cribbs

I. CALL TO ORDER

II. APPROVAL OF AGENDA

Bill Stephans mentioned an Addendum to the original Agenda had been mailed to each of the Commission Members with a revised staff recommendation concerning Item VIII. BLA 09-0005 Boundary Line Adjustment – Thomas R. Van Noord.

It was moved by Mr. Walker and seconded by Mr. Bacchi to recommend Approval of the agenda with the addition of an Addendum regarding Item VIII. BLA 09-0005 Boundary Line Adjustment, Thomas R. Van Noord consisting of a revised Staff Recommendation to Approve the project.

Motion passed

AYES: Bacchi, Draper, Smith, Walker, Boeger

NOES: None

ABSENT: Mansfield, Ward

III. APPROVAL OF MINUTES

- Minutes of July 8, 2009

It was moved by Mr. Draper and seconded by Mr. Smith to Approve the Minutes as submitted.

Motion passed

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

IV. PUBLIC FORUM

- No comments were received

V. Ranch Marketing

Bill Stephans recently met with the Ranch Marketing Sub-committee to discuss the Christmas Tree Growers concerns with the draft ordinance. One idea that was proposed to the committee centered on the actual amount of Christmas tree acreage harvested each year which could limit the number of special events based on the percentage of trees that are cut. Christmas tree operations are unique in that they cannot harvest all 5 acres of crop annually as other ag operations like orchards and vineyards can. After lengthy discussion the following proposals were suggested in order to incorporate Christmas trees into the Ranch Marketing Ordinance:

- The Christmas tree season shall be defined as November 10 (for choose and cut) to Christmas Day.
- The sale of pre-cut Christmas trees grown off-site from a parcel located within El Dorado County can be sold concurrently with the Christmas trees grown on-site as long as 51% of the crop is grown at that location (this is subject to change).
- Parcels less than 20 acres with 5 acres or more but with less than 10 acres of planted Christmas trees, only 2 event days, outside of the defined Christmas Tree season, should be allowed. Parcels that are 20 acres or more with 10 acres or more of trees planted, 5 event days should be allowed

This would allow events outside of the defined Christmas tree season based on the acreage of Christmas trees planted which would indirectly translate into harvested/acres offered for sale to the public. These ideas and others will be further discussion with Roger Trout, Development Services Director.

The Commission suggested that the types of events should be further defined and the number of participants should also be considered.

Art Marinaccio stated that the proposed reduced number of events would not allow an

operation to recoup the costs of any buildings or other infrastructure. He suggested that more events might be appropriate.

Bill Stephans stated that he would take these suggestions back to the sub-committee.

- VI.** Z06-0040/P06-0043 – Marcyan Rezone & Parcel Map (Susan D. Marcyan/Baker-Williams Engineering Group): A request to rezone the subject parcel from Residential Agricultural 20-Acre/Planned Development (RA-20/PD) to Residential Agricultural 20-Acre (RA-20) and a parcel map request to create two parcels of 20 and 26.2 acres in size. The property, identified by Assessor's Parcel Number 073-020-43, consists of 46.23 acres and is located on the west side of State Route 193 approximately 600 feet east of the intersection with Coon Creek Road in the Cool area. (District 4)

Staff reported on the site visit. The original rezone and parcel map request was heard by the Agricultural Commission on February 14, 2007. The current proposed zone change and parcel map has been changed from the original proposal. The subdivision of 46.23 acres to two parcels (26.2 acres and 20.0 acres) is consistent with the current zoning of RA-20 (Residential Agricultural – 20 District). The minimum parcel size for a parcel zoned RA-20 is twenty acres. The subject parcel's General Plan Land Use Designation is RR (Rural Residential). The proposed parcel sizes and zoning are consistent with this designation. Auburn Lake Trails subdivision is directly north of the subject parcel with zonings of R2A (Two-Acre Residential), RF (Recreational Facilities) and RE-5 (Estate Residential Five-Acre). The parcels to the west and south of the subject parcel have zonings of RA-20 PD and Land Use Designations of RR (Rural Residential). Parcels to the east, across Hwy 193, are zoned RE-10 (Estate Residential Ten-Acre) and have Land Use Designations of RR (Rural Residential). Compatibilities with Agricultural General Plan Policies:

Policy 8.1.3.1: proposed parcels are larger than 10 acres and have the same width to length ratio as other parcels.

Policy 8.1.3.2: 200 foot agricultural setbacks would apply to the eastern and southern property lines of the two proposed parcels. Staff recommends that the 200 foot agricultural setback be included on the tentative and final parcel maps.

Policy 8.1.3.5: it is staff's opinion that the request to rezone the subject parcel from RA-20 PD to RA-20 and create two 20+ acre parcels would not diminish or impair the existing or potential agricultural use.

Policy 8.1.4.1: it is staff's opinion that the applicants rezone request and proposed subdivision will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.

There is no apparent agricultural operation occurring on the ag zoned parcel to the south. Kent Baker, representing the applicant, stated that this application is simply a request to

remove the PD zoning from the parcel and create two parcels consistent with their current zoning.

It was moved by Mr. Walker and seconded by Mr. Smith to recommend APPROVAL of the request for a zone change from Residential Agricultural – 20 District, Planned Development (RA-20 PD) to RA-20 and the request for a parcel map to create two parcels consisting of 26.2 acres and 20 acres as the proposed parcel sizes are consistent with the current and proposed zoning, are consistent with the parcel’s land use designation, and all of the findings can be made for General Plan Policy 8.1.4.1, “...the proposed use:

- A) *Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities;*
- B) *Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and*
- C) *Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.*

Additionally, if the project is approved, the Commission recommends that all parcels created adjacent to agriculturally zoned land, be required to incorporate the 200 foot agricultural setback on the tentative and final parcel maps.

Motion passed.

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

- VII.** S 09-0016 – Miraflores Winery Storage (Victor Alvarez/James Whitmarsh): A request for a special use permit to construct a 3,593 square foot product storage and public tasting room for the Miraflores Winery. The property, identified by Assessor’s Parcel Number 079-010-79, consists of 130 acres, and is located on the east side of Four Springs Trail at the intersection with Sly Park Road, in the Pleasant Valley area. (District 2)

Staff reported on the site visit conducted July 14, 2009. The property, located on Four Springs Trail, has Exclusive Agriculture (AE) zoning, is in a Williamson Act Contract, and has a General Plan Land Use Designation of Natural Resource (NR). The MiraFlores vineyard consists of approximately 40 acres of grapes. In accordance with the El Dorado County Winery Ordinance Section 17.14.200 (E)(5)(b), the applicant is required to obtain a Conditional Use Permit as the property is not located in an Agricultural District and is accessed by a non-County maintained road. The applicant proposes to construct a 3,593 square foot product storage and public tasting room, north of the existing winery/tasting room building (the proposed site is currently used as a picnic area) which is accessed by an already existing winery/tasting room road. California Government Code Section 51238.1 (a)

states, “Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

- (1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.
- (2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.
- (3) The use will not result in the significant removal of adjacent contracted land from agricultural or open space use.

The proposed building for the product storage/public tasting room is consistent with all of the principles of compatibility and will not add any new uses to the already existing winery operation. The size of the building and use is more than appropriate for the amount of planted acreage.

Bill Stephans reiterated that MiraFlores Winery was not proposing to increase the amount of special events already held on the parcel by right, or change the current uses; they are only adding a building in an area set aside for public gatherings. Mr. Stephans suggested that the Winery Ordinance might be amended to only require a Site Plan Review and not a Special Use Permit, when proposed projects do not cause a change in use or request additional uses that may increase impacts.

Victor Alvarez gave further explanation of the project. He stated that he currently has to store a considerable amount of his wine off-site. The proposed building will allow him to store his wine on-site and will actually reduce transportation impacts and storage costs. He stated that while building MiraFlores Winery he has always complied with county requirements and has also taken sole responsibility for maintaining the road to his winery. His neighbors have never expressed any problems with the winery and he feels it has added beauty and value to the area.

A neighbor expressed some frustration with the county regarding the initial road easement. He specifically had asked and was told that the easement was 50 feet. He explained that when his neighborhood was constructed he was told that the prescriptive right-of-way was going to be changed to a deeded easement of 50 feet. Apparently this never happened. He also stated that he did not have any problems with the Alvarez family or the MiraFlores Winery.

Ken Greenwood submitted a letter of opposition to the project and spoke against the project.

Art Marinaccio stated that he disagreed with staff's recommendation that a Site Plan Review and not a Special Use Permit should be required. He also pointed out that a Special Use Permit is required by the winery ordinance because this project is not only on a private road but also adjacent to parcels with an MDR Land Use Designation to the north.

Valerie Zentner, El Dorado County Farm Bureau, supported the project and agreed with the staff recommendation as there would be no additional uses or impacts.

Roger Trout explained that the road issue was outside of the Agricultural Commissions purview.

It was moved by Mr. Draper and seconded by Mr. Bacchi to recommend APPROVAL of the request for a Special Use Permit to allow the construction of a 3,593 square foot product storage and public tasting room for the MiraFlores Winery on APN 079-010-79, as the proposed use is a continuation of current uses, remains consistent with Government Code Section 51238.1 (a)(1)(2)(3), will not add any new uses to the already existing winery operation, will not result in any additional impacts and all of the findings can still be made for General Plan Policy 8.1.4.1., "...the proposed use:

- A) *Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities;*
- B) *Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and*
- C) *Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.*

Motion passed.

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

NOES: None

ABSENT: Ward

VIII. BLA-09-0005 Boundary Line Adjustment – Thomas R. Van Noord: The parcels for the boundary line adjustments, APN: 089-010-43, 44, 46 and 47 are currently under Williamson Act Contract #283. The property is located on Thompson Hill Road one mile east of the intersection with Lotus Road in the Gold Hill area. (District 4)

Staff reported on the site visit. The application consists of 4 boundary line adjustments to 4 parcels owned by Tom Van Noord and contained within Williamson Act Contract #283.

- Explanation of proposal:
 - **Existing parcels and current acreage:**
 - APN 089-010-43 = COC 00-044 = 139.5 acres. Zoning = AE; LUD = AL and northern portion of parcel is in the Gold Hill Ag District.
 - APN 089-010-44 = COC 00-042 = 39.2 acres. Zoning = AE; LUD = AL.
 - APN 089-010-47 = COC 02-317 = 5.96 acres (submitted data) to 6.99 acres (EDC's Assessor's info). Zoning = AE; LUD = AL
 - APN 089-010-46 = COC 00-158 = 0.60 acres (EDC's Assessor's info) to 0.76 acres (submitted data). Zoning = AE; LUD = AL.
 - **Tract 1** – owned by the Wellborn's. Parcel is within WAC #283, but property lines

- will not be affected by BLA proposal.
- **Tract 2** – owned by Van Noord. COC 00-042/APN 089-010-44 (39 acres) plus COC 02-317/APN 089-010-47 (5.96 acres) plus COC 00-158/APN 089-010-46 (0.76 acres) plus portion of COC 00-044/APN 089-010-43 (4.35 acres +/-) equals 50.07 acres total.
 - **Tract 3** – owned by Van Noord. Portion of COC 00-044/APN 089-010-43 (50.06 proposed acres).
 - **Tract 4** – owned by Van Noord. Portion of COC 00-044/APN 089-010-43 (37.5 proposed acres).
 - **Tract 5** – owned by Van Noord. Portion of COC 00-044/APN 089-010-43 (50.06 proposed acres).
- BLA 09-05 must also conform to **Government Code Section 51257**, as APN's 089-010-43, -44, -46, and -47 are in an active Williamson Act Contract. The code section states, "(a) To facilitate a lot line adjustment, pursuant to subdivision (d) of section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:
 - 1) The new contract would enforceably restrict the adjusted boundaries of the parcels for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
 - 2) There is no net decrease in the amount of acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
 - 3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
 - 4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.
 - 5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
 - 6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
 - 7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan."
 - **Government Code Section 51222** states, "The Legislature further declares that it is in the public interest for local officials and landowners to retain agricultural lands which are subject to contracts entered into pursuant to this act in parcels large enough to sustain agricultural uses permitted under the contracts. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if

the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.

Thomas R. Van Noord was present for questions and review of the project.

A neighbor voiced concerns of how the project would impact her property because of the smaller parcels.

It was moved by Mr. Mansfield and seconded by Mr. Walker to recommend APPROVAL of BLA 09-05; Thomas Van Noord's request for a boundary line adjustment to four Williamson Act parcels (APN's 089-010-43, -44, -46, and -47). As currently configured, on the revised map (Tract 1 = 22.95 acres; Tract 2 = 50.07 acres; Tract 3 = 50.06 acres; Tract 4 = 37.5 acres; Tract 5 = 50.06 acres), all proposed parcels are consistent with the General Plan and meet the minimum parcel size requirement of the AL land use designation (20 acres). Furthermore, as configured, on the revised map, the required findings pursuant to Government Code Section 51257(a), (1) through (7), can be made.

Motion passed.

AYES: Draper, Mansfield, Smith, Walker, Boeger

NOES: None

ABSENT: Ward

ABSTAINED: Bacchi

IX. Ag District Review – Discussion and recommendations under consideration by the Ag Commission to include and preclude certain parcels from the following existing Ag Districts:

As an introduction to the Ag district discussion, Bill Stephans stated that staff has tried to accomplish the Board of Supervisors direction which was to define the Ag Districts by providing detailed analysis using the Suitability of Land criteria as required by the General Plan. On June 30, 2009 the Board adopted a five-year plan with a twelve month scope which included direction for Ag staff to update the Ag Districts. Staff has not analyzed the parcels “politically” but has used the criteria in a black and white analysis as to whether a parcel meets the Ag District qualifications.

Camino-Fruitridge

*Recommendation: The Agricultural Commission is considering recommending the following Assessor's Parcel Numbers (25) be **added** to the Camino-Fruitridge Ag District:*

043-011-25, 043-011-32, 043-011-33, 043-011-34, 043-011-35, 043-011-36, 043-011-37, 043-480-22, 043-480-23, 043-480-30, 043-480-33, 043-480-39, 043-480-40, 043-480-41, 043-480-46, 043-480-47, 084-200-12, 084-200-17, 084-200-57, 085-570-25, 100-060-37, 100-060-40, 100-060-41, 100-140-01, 100-140-22

The owner of parcel number 043-011-25 stated that he does not want his parcel considered for inclusion into the Camino-Fruitridge Ag District. Although his parcel is 50 acres, has

over 75% choice soils, has an Agricultural Land (AL) land use designation, and scored 97 points when evaluated through the Suitability of Land review, the owner stated that his parcel is not viable agricultural land. In a letter submitted to the Ag Commission members he wrote, "There is commercial development along with highway 50 on the north border. The property is also not contiguous to the existing Camino Ag district. Over 80% of the parcel is heavily wooded with steep terrain dropping off on the back south east portion of the parcel. I have future plans to split the parcel, consistent with the current zoning and would not be able to if this parcel is included in the proposed expansion of the Camino district. This proposed defacto 20 acre down zoning would cause a large economical loss to my family."

The owner of parcel number 043-011-35 asked that his parcel be removed from consideration as he feels it would put a financial hardship on the family owners and is not consistent with the family's long-term goals of developing the parcel. He stated that his family has owned the parcel for a very long time.

Robert Laurie gave his reasons why the Commission should take no formal action regarding Ag Districts. Addressing Chair Boeger, he said, "I would hope that before this body goes to impose additional regulations on property owners that you examine whether or not there is significant public necessity to burden individual property owners and use that as a measuring device." He stated he was not satisfied that the overall larger picture has been examined but yet these property owners, individually, are being impacted. He feels more time, more policy discussion; and better understanding of the overall impact of what "they" are proposing to do, should be done. He disagrees with Mr. Stephans' assessment that the Ag Commission should look at the process as being black and white.

Discussion took place regarding the best possible way to work through this process with several suggestions offered by the members. It was decided to analyze each district one at a time, gather comments from the public and property owners and then provide time for discussion and review. Staff will then come back to the following Ag Commission meeting with follow-up data.

Gold Hill

*Recommendation: The Agricultural Commission is considering recommending the following Assessor's Parcel Numbers (7) be **added** to the Gold Hill Ag District:*

089-010-43, 089-010-27, 089-010-45, 089-010-47, 089-010-44, 089-120-31, 317-030-09

*Recommendation: The Agricultural Commission is considering recommending the following Assessor's Parcel Numbers (26) be **omitted** from the Gold Hill Ag District:*

006-301-12, 006-480-30, 006-301-11, 006-480-33, 006-301-09, 006-311-04, 006-301-05, 006-480-32, 006-480-31, 006-301-07, 006-480-11, 006-480-12, 006-470-37, 006-470-38,

089-110-02, 089-110-03, 089-110-04, 089-110-37, 089-110-36, 089-110-35, 089-110-34,

089-110-32, 089-110-28, 089-260-05, 089-110-20, 089-110-54

The owner of parcel number 006-301-11 expressed concerns about omitting his parcel from the Ag District. He stated in a letter, addressed to Mr. Stephans, that he grows Christmas trees and purchased the property because it was in an Agricultural District. He was concerned that some of his ag protections could be removed if his parcel is not in an Ag District.

Another parcel owner spoke in support of his parcel being omitted from the Ag District and commended staff for their recommendation. He stated, "After living in this area for 43 years, I can't grow an acorn in these soils. Any gardening done is on imported soils." He spoke on behalf of his neighbor who also wished to be omitted from the Ag District.

Bill Stephans agreed with the request to remove both parcels from the Gold Hill Ag District.

Oak Hill

*Recommendation: The Agricultural Commission is considering recommending the following Assessor's Parcel Numbers (9) be **added** to the Oak Hill Ag District:*

046-820-21, 046-032-51, 046-820-23, 046-820-22, 046-820-06, 046-032-01, 046-032-02, 046-032-14, 046-032-13

A property owner from this area with (RR) Rural Residential land use asked what benefits were provided by being included or omitted from an Ag District.

Bill Stephans stated that the parcels under consideration, with RR land use designations, are 20 acre parcels. Their current land use could possibly allow a parcel split to two ten acre parcels. Parcels in an Ag District have a minimum 20 acre parcel size. The parcels with the RR land use designation scored 57 points on the Suitability of Land review. Mr. Stephans stated that the parcels may or may not be recommended to be added to the Ag District depending on the Ag Commission's discussions.

Art Marinaccio suggested that a process be created to remove a parcel from an Ag District when its Williamson Act Contract expires, if the parcel is placed into an Ag District because it is in contract. The inclusion into an Ag District would appear to place these rolled out parcels in ag in perpetuity which was never the intention.

Bill Stephans stated that amended maps of each of these areas will be provided for the Ag Commission members review before the September 9, 2009 Ag Commission meeting. The comments received by the Ag Department staff, requesting either to be removed or included into an Ag District, will be taken into consideration. All parcel owners again will be notified prior to the subsequent meeting.

X. LEGISLATIVE ISSUES

- AB 443 (Gagliani) – Apple Pests: Pest & disease prevention (Senate Appropriations)
- AB 580 (Huber) – Onsite sewage treatment systems (not moving)
- AB 905 (Assembly Ag Committee) – 200# exemption for produce (2nd reading in Senate Appropriations – no cost associated with this bill)
- SB 715 (Wolk) – Agricultural Lands: Williamson Act (not moving)

XI. CORRESPONDENCE

- Chair Boeger asked the clerk to read a thank you letter to Bill Stephans thanking him and his staff for the outstanding professionalism, patience and assistance in processing an application.

XII. OTHER BUSINESS

- Bill Draper – Sustainable Forest Action Coalition update – Assembly Bill 1066 will be before the Senate Appropriation Committee on August 17, 2009. The Coalition will be creating a new set of mission statements that will be re-circulated.
- Boundary Line Adjustment BLA 09-0023 – CTA Engineering & Surveying
- Boundary Line Adjustment BLA 09-0025 – Charlie Peters
- Agricultural Commissioner Concurrence of Ag Setback Relief – Peter & Sarah Hacker
- Agricultural Concurrence of Ag Setback Relief – Wells Fargo Bank Trust
- Verizon Wireless Special Use Permit Revision – S 64-0012 R

XIII. ADJOURNMENT

- The meeting adjourned at 9:10 p.m.