



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
Tim Neilsen – Livestock Industry

MINUTES

August 11, 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: William J. Stephans, Ag Commissioner/Sealer

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

Peter Maurer, Development Services/Planning Department

Others Present: Ed Akin, Richard Akin, Robert Akin, Bill Bacchi, Josh O’Gorman, Larry Hopkins, Gary Mapa, Tina Rossi, Valerie Zentner

I. CALL TO ORDER

Chair Boeger called the meeting to order at 6:31 p.m.

II. APPROVAL OF AGENDA

Chair Boeger called for a Voice Vote of Approval of the Agenda.

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

NOES: None

ABSENT: None

III. APPROVAL OF MINUTES

- Minutes of June 9, 2010

It was moved by Mr. Bacchi and seconded by Mr. Draper to Approve the Minutes of June 9, 2010 as submitted.

Motion passed

AYES: Bacchi, Draper, Mansfield, Boeger, Smith

NOES: None

ABSTAIN: Neilsen, Walker

IV. PUBLIC FORUM

- Valerie Zentner, Executive Director, El Dorado County Farm Bureau, spoke concerning the Water Quality Control Board Ag waiver. There is a concern of new ground water quality requirements. Ms. Zentner feels that a case will need to be built to support the reasons why ground water testing would not be appropriate in El Dorado County. The Water Quality Control Board has given their approval to begin a pilot program that would allow paper monitoring and water quality testing every five years as opposed to nine times per year. El Dorado County and Napa County were the only counties that submitted proposals and qualified for this program. It is hoped that in the long run the county will be able to eliminate the very expensive testing, sampling and lab analysis that is required and move on to a Management Practices approach that proves that we can maintain the excellent water quality in the County, instead of having to test and prove a negative. Ms. Zentner also mentioned the need for vigilance regarding changes being made by Development Services to the new Zoning and Building Code Ordinances. The Board of Supervisors has directed the Farm Bureau to work with the new Ag Commissioner, to submit language in this ordinance.

V. APPOINTMENT OF AG COMMISSION MEMBER, TIM NEILSEN, BY THE EL DORADO COUNTY BOARD OF SUPERVISORS – Tim Neilsen, representing the Livestock Industry, was welcomed by Chair Boeger, Commission Members and staff.

VI. S 10-0005 – SALUTI CELLARS BED & BREAKFAST (Randy and Tina Rossi/Charlie Peters): A request for a special use permit for a two unit bed and breakfast utilizing a portion of an existing second residence. The property, identified by Assessor's Parcel Number 093-040-46, consists of 40.00 acres, and is located on the east side of Grizzly Flat Road approximately ¼ mile southeast of the intersection with Mewald Lane, in the Somerset area. (District 2)

Staff reported on the site visit. The Land Use Designation of this parcel is Agricultural Lands (AL), it is zoned Exclusive Agricultural (AE) and is in an active Williamson Act Contract (#298). There are five acres of productive vineyard. Soil types include Holland Coarse Sandy Loam, 5 to 9% Slopes (Prime Farmland), Holland Coarse Sandy Loam, 15 to 30% Slopes (Soil of Local Importance), Holland Very Rocky Coarse Sandy Loam, 15 to 50% Slopes, Musick Very Rocky Sandy Loam, 15 to 50% Slopes, and Shaver Coarse Sandy Loam, 15 to 30% Slopes (Soil of Local Importance). This parcel is not in an Agricultural District. The approximate elevation of the parcel is 2800 feet.

Relevant General Plan Policies:

Policy 8.1.4.1 – The County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to the reviewing authority. Before granting approval, a determination shall be made by the approving authority that the proposed use:

- A. Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities (*there are no adjacent residential areas that will be affected*); and
- B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected (*there are no adjacent non-agricultural lands that will be negatively affected*); and
- C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands (*Parcel sizes will not be changing*).

Policy 8.2.4.2 – A special use permit shall be required for visitor serving uses and facilities providing they are compatible with agricultural production of the land, are supportive to the agricultural industry, and are in full compliance with provisions of the El Dorado County Code and compatibility requirements for contracted lands under the Williamson Act (*See Government Code Section 51238.1 (a) below*).

Policy 8.2.4.3 – Visitor serving uses may include but are not limited to: recreational fishing, camping, stables, lodging facilities, and campgrounds (*A bed and breakfast would be considered a visitor serving use*).

Policy 8.2.4.4 – Ranch marketing, winery, and visitor-serving uses (agricultural promotional uses) are permitted on agricultural parcels, subject to a compatibility review to ensure that the establishment of the use is secondary and subordinate to the agricultural use and will have no significant adverse effect on agricultural production on surrounding properties. Such ranch marketing uses must be on parcels of 10 acres or more; the parcel must have a minimum of 5 acres of permanent agricultural crop in production or 10 acres of annual crop in production that are properly maintained. These uses cannot occupy more than 5 acres or 50 percent of the parcel, whichever is less (*The proposed bed and breakfast would be secondary and subordinate to the vineyard operation on the property and would not have a negative effect on the agricultural production of the parcel or surrounding parcels, the subject parcel is over 40 acres and has over 5 acres of producing grape vines*).

Policy 8.2.4.5 – The County shall support visitor-serving ranch marketing activities on agricultural land, provided such uses do not detract from or diminish the agricultural use of said land (*The proposed bed and breakfast would not diminish the agricultural use of the subject parcel. It is more likely to benefit wineries and other agricultural pursuits by offering unique lodging to visitors of El Dorado County*).

Policy 10.1.6.1 – The County shall encourage expansion of the types of local industries that

promote tourism including but not limited to Christmas tree farms, wineries, outdoor sports facilities, Apple Hill and other agricultural-related activities, the county Fairground, bed and breakfast inns, and ranch marketing activities. (*Found in the Economic Development Element*).

California Land Conservation Act of 1965 – Williamson Act:

California Government Code Section 51238.1 (a) 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. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing or shipping.
3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

Bill Stephans added that he made a site visit to this property several months ago. He described the residential site as being very rocky, steep, and not usable for agriculture.

The applicant, Tina Rossi, had no comment.

Chair Boeger asked staff if the Williamson Act Contract requirements are still being met. Staff replied that the Rossi's are meeting the criteria.

It was moved by Mr. Walker and seconded by Mr. Smith to recommend APPROVAL of S 10-0005, Randy and Tina Rossi's request for a special use permit for a two-unit bed and breakfast, utilizing a portion of an existing residence, as the Agricultural Commission finds the use is consistent with the principles of compatibility for Williamson Act contracted land listed in Government Code Section 51258.1 (a):

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 Agricultural Commission also finds that the request for a special use permit for a two-unit bed and breakfast is consistent with the El Dorado County General Plan Policies 8.1.4.1, 8.2.4.2, 8.2.4.3, 8.2.4.4, 8.2.4.5, and 10.1.6.1.

Motion passed.

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

NOES: None

- VII. S 10-0006 – SBA TOWER/49ER GOLD HILL** (Robert E. & Barbara M. Akin/SBA Towers Inc., Gary Mapa/Kimley-Horn and Associates, Inc.): A request for a special use permit for SBA Tower 49er Gold Communication Facility for a telecom site consisting of a 100 foot stealth monopine in a 2,710 square foot fenced leased area. The tower would contain 12 antennas at the 98 foot height and an additional capacity for three collocations of 12 antennas each. Two equipment shelters would be located behind a six foot high chain link fence with brown slats. The property, identified by Assessor's Parcel Number 089-010-41, consists of 2.379 acres, and is located on the north side of Gold Hill Road approximately .45 miles west of the intersection with State Route 49, in the Gold Hill area. (District 4)

Staff reported on the site visit. The parcel consists of 2.4 acres with a vineyard covering $\frac{3}{4}$ of an acre. The property is located in the Gold Hill Agricultural District, has a land use designation of Agricultural Lands (AL) and is zoned Exclusive Agricultural (AE). The parcel is part of an active Williamson Act Contract (#39). The soil type is Auberry Coarse Sandy Loam, 5 to 9% Slopes (Prime Farmland and El Dorado County "Choice" soil). The average elevation of the parcel is 1720 feet.

The project consists of the installation of a 100 foot monopine (a wireless telecommunications facility) to be located on APN 089-010-41 between the existing shop and existing vineyard and approximately 30 feet from the western property line. The area to be leased will be approximately 2700 square feet. Two concrete pads (12' x 24' and 10' x 20') are planned to the east of the telecommunications tower.

General Plan Policy 8.1.4.1:

In order to approve the project, the Agricultural Commission must make the determination that the proposed telecommunication facility:

- A. Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities (*there are no adjacent residential areas that will be affected*); and
- B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected (*there are no adjacent non-agricultural lands that will be negatively affected*); and
- C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands. (*Parcel sizes will not be changing*)

California Land Conservation Act of 1965 – Williamson Act:

Government Code Section 51238. (a)(1) allows for the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities and determines these uses as compatible uses within an agricultural preserve.

Gary Mapa, the applicant/agent, was present for questions and review of the project. He said the initial company to use the tower will be Verizon Wireless. The tower will also have the capacity to be used by other companies. He explained that “stealth monopine” basically means “fake” tree and that this one will be “top-of-the-line”.

Peter Maurer added that the current proposal is for a 12 panel antenna, however, one of the requirements in the cell tower ordinance provides the opportunity for collocations to limit the amount of towers in an area. Future modifications to the original tower are handled through Development Services, either through the Planning Director (for minor changes) or through the Planning Commission as a revision to the special use permit.

It was moved by Mr. Bacchi and seconded by Mr. Draper to recommend APPROVAL of S 10-0006, a request for a special use permit for a telecom site consisting of a 100 foot monopine in a 2,710 square foot enclosure on APN 089-010-41, as communication facilities are considered compatible uses on Williamson Act contracted lands and all of the findings required for General Plan Policy 8.1.4.1. can be made. The project will not negatively impact the existing and surrounding agricultural pursuits.

Motion passed.

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

NOES: None

VIII. REQUEST NOTICE OF NON-RENEWAL (Zach Spencer/Frank Bozzo): El Dorado County is initiating a notice of non-renewal for a Williamson Act Contract, located on Assessors Parcel Number 089-320-03, in the Placerville area. Based on numerous site visits and information obtained from the property owner, the parcel does not meet the minimum criteria for a high intensive agricultural operation in a Williamson Act Contract. (District IV)

Staff reported on the site visit and gave some background information of the property. The parcel consists of 28.14 acres, is zoned Exclusive Agricultural (AE), has a land use designation of Agricultural Land (AL) and is in the Gold Hill Agricultural District.

The Williamson Act Contract for APN 089-320-03 was revised in 1988. It was once a portion of a larger contract and was split into four separate contracts in 1988 by David Maxwell, the owner. At the time, the property qualified for a high intensive agricultural

operation with a pear orchard. Mr. Spencer and Mr. Bozzo purchased the property in 1998, according to the El Dorado County’s Assessor’s office.

In 2008, it came to the Planning Department and Ag Department's attention that Mr. Spencer and Mr. Bozzo were operating a vacation rental on a parcel under a Williamson Act Contract. Mr. Spencer stated that they were operating the vacation rental under the Ranch Marketing Ordinance. A site visit was conducted by the Ag Department and it was determined that there was approximately 3 acres of olive trees on the site (verified with a Trimble gps unit capable of sub-meter accuracy) with no other agricultural activities. The pear orchard no longer existed. Mr. Spencer was told that in order to qualify for Ranch Marketing activities, a parcel, with AE zoning, must have a minimum of 5 acres of permanent agricultural crop in production and a special use permit would be required for the vacation rental (Zoning Ordinance 17.14.190).

In July of 2008, Mr. Spencer submitted a business plan to the Agriculture Department and Planning Department with a timeline showing the planting of an additional 2 acres of olive trees (to be completed in March of 2009), and a plan to fence approximately 10 acres for livestock use in January of 2010.

In August of 2009, the Ag Department staff conducted another site visit to verify the acreage of the olive orchard. It was determined that there was approximately 4.79 acres of olive trees planted (not quite 5 acres), and they were not being properly cared for; some were dying from lack of water, weed competition and deer damage. It was staff's opinion that the "Agricultural operation" was secondary and subordinate to the vacation rental.

In December 2009, the Agricultural Department sent a letter to Mr. Spencer and Mr. Bozzo requesting verification that the minimum criteria for a high intensive farming operation in a Williamson Act Contract, as adopted by the El Dorado County Board of Supervisors, was being met. Mr. Spencer's reply was received by the Agricultural Department on January 5, 2010.

Projected Income from Olives:

According to the El Dorado – Alpine County 2009 Agricultural Crop & Livestock report, in 2009, local olive orchards produced an average of 0.27 tons of olives per acre at a value of \$3,620.00 per ton. According to this data, a five acre olive orchard would produce 1.35 tons of olives at a total value of \$4,887.00. In order to meet the minimum gross income of \$13,500.00, required by the Williamson Act Contract, it would take approximately 14 acres of olive trees with a production of 3.75 tons of olives.

Staff explained that Mr. Spencer had submitted his projection of being able to make the \$13,500 income by the year 2013. He has been in contract, since he has owned the parcel, and the parcel itself has been in contract for many years. But as he has not met the minimum gross income requirement since he has owned the parcel, staff is recommending that the Williamson Act Contract be non-renewed

Chair Boeger asked if Mr. Spencer had supplied an estimate for gross income received from

the olives.

Staff explained that Mr. Spencer had submitted data projecting income based on olive oil prices but there was no substantial data to back-up the projections. When staff spoke to Mr. Spencer in December, 2009, he stated that he had made some oil from his olives and that it was used in a restaurant he owns in the bay area. However, there was no documentation to back-up any profit being made. Staff reiterated that based on data from the El Dorado/Alpine County 2009 Agriculture Crop and Livestock report, it would take a minimum of 14 acres of producing olive trees to make the required \$13,500 of gross income per year (this estimate is for the raw commodity).

Chair Boeger stated that the gross income from vineyards is based on grape sales and not on wine sales and should be the same for olives versus olive oil.

Bill Stephans informed the Commission that he had received a phone call earlier in the day from Mr. Spencer stating he was unable to attend this meeting and that he was requesting this item be pulled from the agenda and not heard. As the Agriculture Department has been in communication with Mr. Spencer over the past three years regarding the olive orchard and the minimum criteria for the Williamson Act Contract, and due to the late notice, Mr. Spencer was told that the item would not be postponed. He was told that he would have other opportunities to be heard, at the Planning Commission and/or Board of Supervisors hearings.

Bill Stephans also mentioned that approximately one year ago, staff was requested by Code Enforcement, to do a site visit to the property. At that time, the gate was open so they proceeded onto the property and took a few photographs. Mr. Spencer sent a letter with a complaint about Ag Department staff entering his property without his knowledge. The recent site visit to the property and current photographs were taken from Wallace Road, although staff does have the authority to enter the property to assure compliance with the Williamson Act Contract, they respected Mr. Spencer's request.

It was moved by Mr. Smith and seconded by Mr. Draper to recommend that as APN 089-320-03 does not meet the minimum criteria for an Agricultural Preserve as adopted by the El Dorado County Board of Supervisors for either a low intensive or high intensive farming operation, the County of El Dorado issue a notice of non-renewal regarding the Williamson Act Contract.

Motion passed

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

NOES: None

IX. ZONING ORDINANCE REVIEW

Peter Maurer reminded the Commission that at their June meeting there was discussion regarding setting-up a workshop to go over the Ag issues in the Draft Zoning Ordinance in greater detail. He said he has been working with Ag staff to iron-out some policy issues that will need to go to the Board. Planning staff are also working with the Chief Administrative Office staff to design the best format for the ordinance before it moves on to the Board of Supervisors, probably sometime in October. He suggested an informal meeting to gather the Commission's suggestions.

After discussing possible dates for a meeting it was decided that this item will be agendized again at the September 8, 2010 Ag Commission meeting with specific time allowed for discussion of the Zoning Ordinance.

X. FUTURE BUSINESS

- Draft Ranch Marketing Ordinance – Peter Maurer stated that Planning Staff are prepared to incorporate the Draft Ranch Marketing Ordinance into the Zoning Ordinance update. The draft is approximately 99% complete at this time. Ag staff suggested that a draft of the Ranch Marketing Ordinance could be sent to each Commission member and they can review it before their next meeting.
- Regulatory Reform (Sub-group of EDAC) – Bill Stephans reminded the Commission, that Maryann Argyres, Chairman of the Economic Development Advisory Committee (EDAC) asked that Regulatory Reform be kept on the Ag Commission's agenda.

Valerie Zentner said the EDAC sub-group has been participating for months, each Friday morning, working through section by section of the Draft Zoning Ordinance, honing in on the areas where there are unintended consequences for ag and looking at new approaches to zoning that would be helpful. She stated that Chris Flores has done an excellent job, working in the trenches, and bringing new details forward. She also added her thanks to Peter Maurer and Bill Stephans for their work in moving the Draft Ranch Marketing Ordinance to completion.

Bill Stephans suggested that the Commission also be aware of the Integrated Natural Resources Management Plan (INRMP) and the affect on ag.

XI. LEGISLATIVE ISSUES

- AB 1721 (Swanson) – Pesticides in school zones; currently this bill is stalled in the Assembly but will most likely be brought back with modifications next year
- AB 2595 (Huffman) – Irrigated agriculture; currently this bill is located in Senate Appropriations on the suspense file (hearing scheduled on Aug. 13, 2010)

XII. CORRESPONDENCE

- None

XIII. OTHER BUSINESS

- Bill Draper – Sustainable Forest Action Coalition update – nothing new to report at this time regarding the Camino Mill
- Roy & Marilyn Rutz – Board of Supervisors approved and certified the Notice of Non-Renewal for Agricultural Preserve No. 313 for assessor's parcel number 088-020-82
- Request for Agricultural Commissioner Concurrence of Ag Setback Relief – Henry Beckmeyer, Caroline Hoel – APN 093-220-13-100
- Request for Agricultural Commissioner Concurrence of Ag Setback Relief – Gary and Barbara Martin – APN 094-070-30
- Request for Agricultural Commissioner Concurrence of Ag Setback Relief – John and Alexis Wenstrup – APN 085-480-20-100
- Notice of Board of Supervisors Appeal of Agricultural Commission Action – H. Dwayne and Anna Fisher – APN 041-740-31

XIV. ADJOURNMENT

- Chair, Greg Boeger, gave his thanks to Bill Stephans for his work as the El Dorado County Ag Commissioner the past six years, offered his appreciation that Bill stayed on part-time over the past few months, and wished him a very happy retirement. He then adjourned the meeting at 7:38 p.m.

APPROVED: Greg Boeger, Chairman

Date: September 8, 2010