



# 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  
Tom Heflin, Fruit and Nut Farming Industry  
Dave Pratt – Fruit and Nut Farming Industry  
Gary Ward – Livestock Industry

## MINUTES

October 8, 2008

6:30 P.M.

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

**Members Present:** Boeger, Bacchi, Draper, Heflin, Pratt, Walker  
**Members Absent:** Ward  
**Ex-Officio Members Present:** William J. Stephans, Ag Commissioner/Sealer  
**Staff Members Present:** Nancy Applegarth, Clerk to the Ag Commission  
Chris Flores, Agricultural Biologist/Standards Inspector  
Roger Trout, Developments Services Director  
Pierre Rivas, Developments Services/Planning  
**Others Present:** John Alexander, Paul Bush, John Duarte, John Smith, Art Marinacchio, Valerie Zentner

### I. CALL TO ORDER

### II. APPROVAL OF AGENDA

Bill Stephans made a request to add two items for discussion under Item XII, Other Business: Commission review and discussion of a draft survey for Williamson Act Contract landowners; discussion of an additional element to the *Criteria for the Consideration of a Reduction of Minimum Parcel Size Agricultural Buffer Requirement* of Policy 8.1.3.1.

Chair Boeger asked for a voice vote for approval of the agenda with the requested additions.

**AYES:** Bacchi, Draper, Pratt, Heflin, Walker, Boeger  
**NOES:** None  
**ABSENT:** Ward

### III. APPROVAL OF MINUTES

Minutes of August 13, 2008

*It was moved by Mr. Heflin and seconded by Mr. Pratt, to Approve the Minutes of August 13, 2008*

*Motion passed.*

**AYES:** Bacchi, Draper, Pratt, Heflin, Walker, Boeger

**NOES:** None

**ABSENT:** Ward

Minutes of September 10, 2008

*Mr. Walker asked that Chair Boeger's "Aye" vote be added to Item VIII. SPR02-0008R (2) Fenton Herriott Vineyard as it was inadvertently omitted*

***It was moved by Mr. Walker and seconded by Mr. Bacchi to Approve the Minutes of September 10, 2008, with the addition of Chair Boeger's Aye vote on Item VIII.***

***Motion passed.***

**AYES:** Bacchi, Draper, Pratt, Walker, Boeger

**NOES:** None

**ABSTAIN:** Heflin

**ABSENT:** Ward

**IV. PUBLIC FORUM**

Roger Trout introduced himself as the newly appointed Director of the Development Services Department. He stated that he plans for his staff to include the Ag Commission Memos with their comments and recommendations with future Planning staff reports and that these recommendations will be given careful consideration.

Mr. Boeger stated that no matter who's providing the recommendations, Planning or Ag staff, it is important that decision makers have the chance to review the deliberations regarding the items that come before the Commissions. Although the departments may not always be in agreement, the arguments for or against, should be available.

Valerie Zentner, El Dorado County Farm Bureau, reminded the Commission that the Planning Commission would be considering information on Ag Buffers, Mixed Use, and Land Use. She stressed the importance of the Commission members' participation and input at this meeting which would be occurring on the following day, October 9, 2008.

**V. Review of Draft Winery Ordinance (Z03-0005) – Roger Trout**

The Commission commended Roger Trout on the new, easier to read format used on the Draft Winery Ordinance. Mr. Trout gave a brief overview of the following sections:

- A. Purpose
- B. Wineries and Accessory Use
- C. Winery Uses
- D. Special Provisions
- E. Development Standards

Bill Stephans distributed a summary color matrix of the September 8, 2008 Draft Winery Ordinance. Mr. Trout referred to section D.5 of the draft, suggesting that "five acres of fruit crop" be changed to "one acre of vineyard or fruit crops."

The audience was invited to express their concerns regarding the draft ordinance before the

Commission members discussed their concerns.

John Smith, Oakstone Winery, spoke concerning B.2 & B.2.g. His understanding was that AP (Agricultural Preserve) was created to have an agricultural zoning which would not have additional impacts (by right uses) beyond an RE zoning by adding additional rights, so that the rezoning would not trigger a CEQA action. Williamson Act Contracts are categorically exempt from CEQA but a rezoning action that accompanies a WAC is not exempt from CEQA scrutiny. The original rezoning for WACs was Exclusive Agriculture (AE) which gave a number of additional rights which may have created impacts that required CEQA analysis. To limit impacts of the WAC, the AP zoning was created. As the draft is currently written, the RE zoning in an Ag District (B.2. g) allows Class 1 uses by right (winery; tasting facilities; wholesale and retail sales of wine; retail sales of merchandise and art; public tours; picnic areas and marketing events), whereas, when a parcel is rezoned from RE in an Ag District to AP because of a WAC, the “by rights” for Class 1 activities are lost. In Mr. Smith’s opinion the draft ordinance as written exceeds the intent of the AP zoning and the requirements of CEQA because the rezone from RE zoning in an AG District to AP zoning does not increase any of the impacts. Mr. Smith stated that AP is an agricultural zoning – RE is not, and it seems counter productive to restrict Uses and Rights on an AP zoning that are allowed by right in an RE zone. He feels this would be inviting opportunity for conflicts.

Several options for consideration were discussed such as amending the minimum parcel size in B.2.g to 20 acres rather than 10 acres on RE zoned parcels; remove all “by right” uses for Re parcels and require a Conditional Use Permit (CUP) for all accessory uses (this amendment was not supported by the Commission); and allowing Class 1 activities on WAC rezoned parcels (AP) in an Ag District with all other activities requiring a CUP (same as RE zoned parcels in an Ag District).

Paul Bush, Madrona Vineyards, thought that this draft ordinance was easy to read and understand. He stated that he is interested to see how the mitigation measures identified in the Initial Study will fit into the *reserved* sections. He also requested that before any recommendations are finalized by the Commission, the El Dorado Winery Association be given the opportunity to discuss the draft and offer their comments and recommendations before they are forwarded to the Planning Commission. The first Monday in November (the 3<sup>rd</sup>) will be the association’s first opportunity to discuss the draft.

Although he has not had an opportunity to review the current draft, Art Marinacchio stated that in his opinion, properties in the regions that are designated for Residential Uses, should be required to obtain a Special Use Permit for all special events and accessory uses. Mr. Marinacchio also expressed concerns regarding the current Residential Agricultural (RA) zone, saying that in his opinion it should be changed to Rural Lands (RL) rather than RA. He has noticed that it has been included in previous draft ordinances as an Agricultural designation rather than a Residential designation, which he believes eliminates the value of the parcel. Lastly, he reminded the Commission that a streamlined Special Use Permit process is still needed whether it is for this ordinance or for other types of activities.

Valerie Zentner commented that originally the AP zoning was created to allow individuals that did not want to engage in Special Events or other uses such as a winery to be able to limit the impacts of the rezoning when entering into the Williamson Act. The AP zoning would allow the benefits from the property tax reduction while keeping their land in Agriculture. She agreed with the “by right” uses retained on the RE zoned parcels in Ag Districts as there are quite a few small wineries and vineyards on RE zoned land. Also, in

regards to section D.7 “Not Additive with Ranch Marketing” she stated that there could be ranch marketing and winery operations on the same parcel, and she supports that the special events be additive if both types of activities are on the same parcel. Mr. Trout responded that the intent of the ordinance was never to allow the special events allowed by right for the ranch marketing or winery ordinances to be additive. Bill Stephans made the suggestion that if more special events are requested because the parcel has both ranch marketing and winery activities, then the additional events could be requested through the Special Use Permit.

John Duarte, Duarte Georgetown Vineyards, questioned the reasoning for limiting the total amount of facility rental events as listed under C.3.a. He feels that it is up to the business owner and there is no need to regulate these types of activities to this extent since the impacts for renting the facility appear to be the same as the other types of “special events”. He also questioned the enforceability of these limitations. For clarification, Bill Stephans stated that he believes the limitations were placed in the ordinance to ensure that the facility rentals were subordinate to the agricultural operations as required by the General Plan and that they do not become the primary operation of the business located on agricultural property.

The specified 48 days per calendar year in section C.3.a. were incorporated into the ordinance to address various activities such as charitable events and promotional events which were individually listed in previous draft documents. Also, in prior drafts, one event was defined as being no longer than three consecutive days. The current language sets the maximum limit for special events as “event days” per calendar year which could be used for charitable, promotional or facility rental events.

The Commission looked at several items and suggested the following:

1. Existing wineries that will be impacted by requiring a Special Use Permit in this draft ordinance for events By Right will be “Grandfathered” if the events legally conformed to the current ordinance but would require an Administrative Permit under draft section D.9.
2. Recommend change “five acres of fruit crops” to say a lot shall have a minimum of “one acre of vineyard or other fruit crop that shall produce wine”(D.5.d)
3. Not Additive with Ranch Marketing (D.7) – change “number of events” to “number of Special events;” additional events may be allowed by Special Use Permit (add CUP)
4. Size Limitation (E.6.d) was confirmed to mean the actual square foot of the winery building only and not the actual footprint of the building or other structures such as a residence or storage barn.

Commission Member Heflin asked if the General Plan requirements (Policy 10.1.2.5) to analyze the economic effects of the draft ordinance had been completed and if not, are there plans to have the economic study included in the final package? Roger Trout assured the Commission that an economic analysis of the impacts will be included in the final documents.

Rather than continuing the discussion of the draft winery ordinance to the next regularly scheduled meeting in November, the Commission directed staff to schedule a Special Meeting for either November 5 or 6, 2008, depending on the availability of the BOS hearing room. If no additional comments are forthcoming by the ag industry associations, the meeting may be cancelled.

- VI.** Z 08-0014 & WAC 08-0004 – Cox Agricultural Preserve (James L. & Janet Cox/Charlie Peters): A Williamson Act Contract request and zone change from Estate Residential (RE-10) Districts to Agricultural Preserve Districts (AP), (Wineries and ranch marketing only allowed by special use permit). The property, identified by Assessor’s Parcel Number 093-180-07, consists of 22.645 acres, and is located on the east side of Gopher Hole Road approximately 0.2 miles north of the intersection with Bucks Bar Road, in the Somerset area. (District 2)

Chris Flores reported on her site visit. The applicant’s parcel is adjacent to and west of the Fairplay/Somerset AG District, has a Land Use Designation of Rural Residential, has choice soils (Holland Coarse Sandy Loan), and is currently zoned RE-10 (Estate Residential Ten Acre). The applicant has applied for a Williamson Act Contract and zone change to AP (Ag Preserve). In accordance with General Plan Policy 8.1.1.4, *The Procedure for Evaluating the Suitability of Land for Agriculture* has been used to evaluate the applicant’s parcel for suitability of an agricultural preserve. A cumulative score of 60 points or more in all five categories signifies a parcel with good agricultural capability. The applicant’s parcel scored 67 total points for the following criteria:

1. Category I (Soil Capability and Characteristics):
  - Points = 10 – Assigned to those Class IV, V, and VI soils below 30 inches in depth, but with a minimum depth of 24 inches.
2. Category II (Climate):
  - Points = 25 – Assigned to parcels between 1,500’ – 3,000’ elevation.
3. Category III (Agricultural Water):
  - Points = 15 – Assigned to parcels with existing water supplied by a public entity or an on-site water system.
4. Category IV (Parcel Size):
  - Points = 10 – Assigned to parcels that are 20 to 100 plus acres.
5. Category V (Surrounding Land Use):
  - Points = 7 – Assigned to parcels located in an area having good crop potential but not yet intensively planted with urbanization of adjacent parcels, slight to moderate.

WAC 08-0004: (Contains 5 acres of wine grapes); and meets the following required criteria:

- Capital Outlay includes grapes, planting stakes, deer fencing, well, drip irrigation, a 5000 gallon water storage tank, power, and an Ag barn, which exceeds the required \$45,000 at over \$120,000.
- Minimum acreage meets the required 20 acres at 22.645 acres
- Projected annual gross income exceeds the required \$13,500 at \$30,000

The applicant’s agent was present for questions and review of the project.

The Commission members were given a letter of opposition from a neighbor to the property

that was received after the packets were mailed. The neighbor, Mr. Gloyd Zeller, is in opposition of an agricultural setback being imposed on his property due to the rezone. Bill Stephans told the Commission that his parcel has a Commercial Land Use Designation which will allow a residential component of a project only following or concurrent with the commercial component development. Commercial development is considered to be compatible with agricultural operations so the agricultural setbacks do not apply to those types of developments.

***It was moved by Mr. Walker and seconded by Mr. Heflin to recommend APPROVAL of Z 08-0014 & WAC 08-0004 as the minimum criteria for a high intensive agricultural operation have been met:***

- 1) Capital outlay exceeds the minimum requirement of \$45,000.***
- 2) Acreage of parcel exceeds the minimum requirement of 20 acres.***
- 3) Projected gross annual income exceeds the minimum requirement of \$13,500/year.***

***Motion passed.***

**AYES:** Bacchi, Draper, Pratt, Heflin, Walker, Boeger

**NOES:** None

**ABSENT:** Ward

- VI.** SPR 08-0018 – Brunius, Gary J. – requesting administrative relief from agricultural setbacks for the proposed hardship mobile home to be located 155 feet from the northern side of the parcel and 172 feet from the western side of the parcel. The subject parcel is adjacent to Planned Agricultural ((PA-20) zoned land and therefore subject to special agricultural setbacks in accordance with the Interim Interpretive Guidelines adopted June 22, 2006. The proposed hardship mobile home does not meet the requirements for the Development Services Director to allow up to a 50 and/or 75 percent setback reduction and therefore requires the Agricultural Commission review for administrative relief

Staff reported on the site visit. The application is for Administrative Relief from a 200 foot Agricultural Setback from a parcel zoned Planned Agriculture (PA-20) to the west. The applicant would like to reduce the setbacks to 172 feet from a west property line and 155 feet from a northern property line, for a temporary hardship mobile home. The subject parcel is zoned SA-10 (Select Agriculture Ten-Acre) and is 91.35 acres. The PA-20 zoned parcel, to the west, is owned by the US Forest Service, and is used as their nursery facility.

Through the Criteria and Procedures for Administrative Relief From Agricultural Setbacks, the Agricultural Commission may approve a reduction of the special agricultural setback when it can be demonstrated that a natural or man-made barrier or buffer already exists...that would reduce the need for such a setback, or the Commission finds that three of four of the following exists:

- a) No suitable building site exists on the subject parcel except within the required setback

due, but not limited to, compliance with other requirements of the General Plan or other County development regulations;

- b) The proposed non-compatible use/structure is located on the property to reasonably minimize the potential negative impact on the adjacent agricultural zoned land;
- c) Based on the site characteristics of the subject parcel and the adjacent agricultural zoned land including, but not limited to, topography and location of agricultural improvement, etc., the Commission determines that the location of the proposed non-compatible use structure use/structure would reasonably minimize potential negative impacts on agricultural or timber production use.
- d) There is currently no agriculture activity on the agriculturally zoned parcel adjacent to the subject parcel and the Commission determines that the conversion to a low or high intensive farming operation is not likely to take place due to the soil and/or topographic characteristics of the adjacent agriculturally zoned parcel or because the General Plan Land Use Designation of the surrounding or adjacent parcels is not agricultural.

Staff does not believe that any of the required findings can be made since the parcel is in excess of 90 acres; there are no natural barriers; the adjacent agricultural parcel is actively being cultivated as a nursery; the property is fairly flat and the site could be moved an additional 18 feet from the west boundary and 45 feet from the northern boundary to construct the temporary hardship mobile home outside of the agricultural setback.

Chair Boeger noted that he operates the vineyard to the south of the project. Based upon the request, it is staff's opinion that since the reduction in the agricultural setback was **not** requested against the southern property (Vineyard), then Chair Boeger can participate in the discussions and vote on any motion that may be proposed.

The applicant, Gary J. Brunnus, was **not present** for his item. No one spoke in favor of the reduction in setback.

***It was moved by Mr. Heflin and seconded by Mr. Draper to recommend DENIAL of Gary Brunnus's request for Administrative Relief from 200 foot agricultural setbacks, for the placement of a temporary hardship mobile home, as none of the required findings adopted by the Board of Supervisors for Agricultural Commission approval can be made.***

***Motion Passed.***

**AYES:** Draper, Bacchi, Pratt, Walker, Heflin, Boeger

**NOES:** None

**ABSENT:** Ward

- VIII.** TMA 08-0009 Baiocchi, Greg & Sharon – the owner of the subject parcel is applying with Development Services to convert an existing permitted hardship mobile home into a temporary agricultural employee housing unit on the parcel. Planning Services is requesting written approval from the Agricultural Commission that the site and activity on the above mentioned property satisfies three of the four criteria established by the county to qualify as

an agricultural preserve in order to approve and process the associated Temporary Mobile Home Application (TMA 08-0009) A Williamson Act Contract (WAC # 310) was approved on the above referenced parcel on August 14, 2007 by the Board of Supervisors. (District 2)

*This item was re-agendized at the request of the Ag Commission members during the June 11, 2008 meeting. No further written submittals were received from the applicant by the Agricultural Department as of 9/24/08 (10:00 a.m.)*

***NOTE: The renting or leasing of the existing mobile home to anyone other than an agricultural worker(s) may be a violation of the Williamson Act Contract provisions.***

Bill Stephans stated that staff has recently spoken with Mr. Baiocchi. The residents in the TMA are in the process of leaving and he is searching for Agricultural workers to fill the rental unit in order to meet the criteria the Commission adopted. The applicant was unable to submit documents to verify that the current residents were actually Ag workers. Bill Stephans stated that the hardship apparently no longer exists.

A neighbor stated that she had talked to code enforcement and was told the applicant could use the residence for cold storage. Additionally, the neighbor stated that the residents have vacated the building as of September 30, 2008.

***It was moved by Mr. Walker and seconded by Mr. Heflin to recommend DENIAL of TMA 08-0009 for temporary agricultural employee housing located on Williamson Act Contract # 310, until such time as the applicants meet the Criteria for Agricultural Housing adopted by the Agricultural Commission on August 13, 2008.***

***Motion passed.***

**AYES:** Walker, Heflin, Pratt, Draper, Bacchi, Boeger

**NOES:** None

**ABSENT:** Ward

**IX.** Review of staff recommendation to non-renew WAC # 259 – Pettus, Keith & Dominguez-Pettus, Celia

Staff reported on the site visit. The parcel appears to not meet the minimum criteria for an Agricultural Preserve as adopted by the El Dorado County Board of Supervisors for either Low or High Intensive Farming operations. Williamson Act Contract #259 was created in 1994 and it appears to have been approved under the Low Intensive Farming criteria even though the property is only 40 acres. There are remains of a vineyard planting (grape stakes, plastic sleeves, and some evidence of drip irrigation) but no deer fencing or weed control.

The owners of the parcel live in the Los Angeles area and were contacted by registered mail. The letter gave them the option to attend the Ag Commission meeting or to submit documentation that would prove the parcel meets the Board adopted criteria. No information

was received by the department in response to the letter which was received by the owners on October 1, 2008.

Bill Stephans stated that although there was initial agricultural investment on the property it appears as though it has not been cared for in the past few years. Paul Bush spoke of the history of the property, saying the applicants originally met all criteria except for the deer fencing. Approximately 5 acres of grapes were planted in 2000 or 2001.

Bill Stephans suggested that if the Commission recommended to non-renew the contract then it would begin to rollout in January of 2010 which would give the applicant time to perform additional work on the parcel such as deer fencing, if they so desire. Once notified of the improvements, staff would then revisit the property for verification and bring it back to the Commission to recommend the cancellation of the rollout if it then qualified to stay in the Ag Preserve.

*It was moved by Mr. Bacchi and seconded by Mr. Pratt to recommend the NON-RENEWAL of WAC # 259 based upon the site visit of September 9, 2008 and the appearance that no agricultural activity is being conducted on APN 078-280-15. The parcel is 40 acres and does not meet the minimum acreage requirement for a low intensive farming operation. Additionally, the planted vineyard has not been maintained to produce a commercial crop.*

*Motion passed.*

**AYES:** Pratt, Draper, Bacchi, Heflin, Walker, Boeger

**NOES:** None

**ABSENT:** Ward

## **X. LEGISLATIVE ISSUES**

Bill Stephans provided information on the following bills that were recently either signed or vetoed by the Governor:

SB1723 (Maldonado)	Agriculture; pesticide recycling program and certification	Signed by Governor - Chaptered
AB977 (Ma)	Pest control; pesticides, local regulation	Killed in committee
AB2168 (Jones)	Farm stands; direct marketing; retail food	Signed by Governor - Chaptered
AB2760 (Leno)	Environment; CEQA, pest eradication	Killed in committee
AB2763 (Laird)	Invasive pests; advance planning, detection and eradication plans	Signed by Governor - Chaptered
AB2765 (Huffman)	Pest eradication; aerial use of pesticide, public hearing notice	Signed by Governor - Chaptered

## **XI. CORRESPONDENCE**

- None received

## **XII. OTHER BUSINESS**

- Letters will be mailed to agricultural associations within El Dorado County to request their selected panel member that will review and interview applicants to fill the upcoming Agricultural Commission Member vacancies.
- Joseph, Ken & Mary – request for Agricultural Commissioner Concurrence for Administrative Relief
- Kuchac, Timothy – request for Agricultural Commissioner Concurrence for Administrative Relief
- Thompson, Fred – request for Agricultural Commissioner Concurrence for Administrative Relief
- Snodgrass, Bill/ Barsotti, Gael – Williamson Act Contract application & Boundary Line Adjustment
- Clark, Bob – El Dorado County Board of Supervisors directed county staff to expedite conversion of an existing Temporary Mobile Home to a permanent secondary unit on APN: 087-021-38 (WAC #242)
- Criteria for the consideration of a Reduction of Minimum Parcel Size Agricultural buffer Requirement of Policy 8.1.3.1. This item will be heard by the Planning Commission tomorrow, October 9, 2008. After reviewing the criteria as recommended by the Commission, staff believed that one other situation should be added to the criteria to address new Williamson Act Contracts similar to the language contained in the criteria used to allow a reduction in agricultural setbacks. The suggested addition criterion will be item B.5:
  - 5) The 10 acre agricultural buffer on the subject parcel results from the approval of a new Williamson Act or Farmland Security Zone contract when the parcel or parcels included in the contract application are rezoned from residential to agricultural zoning. Any fees for reductions in the agricultural buffer parcel size under this criterion are waived for each parcel adjacent to the new contract parcel(s)

Staff requested permission to address the Planning Commission with the additional criterion.

***It was moved by Mr. Pratt and seconded by Mr. Heflin to recommend the additional of the proposed criterion for new Williamson Act Contracts be added to the Criteria for Consideration of a Reduction of Minimum Parcel Size Agricultural Buffer Requirements of Policy 8.1.3.1 as item B.5 and to direct Bill Stephans to present the***

***addition to the Planning Commission on October 9, 2008.***

***Motion passed.***

**AYES:** Walker, Heflin, Pratt, Draper, Bacchi, Boeger

**NOES:** None

**ABSENT:** Ward

- Williamson Act & Farmland Security Zone Contracts – Agricultural Data Survey for Calendar year 2008. Bill Stephans distributed a draft survey that would be used by the Agricultural Department to verify that the WAC parcels in El Dorado County are continuing to be used for agricultural purposes. He has requested that Commission members review the survey for clarity, or for any additions or deletions as appropriate.

**XIII. ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:35 p.m.

**APPROVED:** Greg Boeger, Chair

**Date:** November 5, 2008