



AGRICULTURAL COMMISSION

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David Pratt – Fruit and Nut Farming Industry
Gary Ward, Livestock Industry

MEMORANDUM

DATE: November 25, 2008

TO: Monique Wilber, Development Services/Planning

FROM: Greg Boeger, Chair

SUBJECT: GENERAL PLAN POLICY 8.1.3.1

During the Agricultural Commission's Special Meeting held on November 5, 2008, the following discussion and motion occurred regarding General Plan Policy 8.1.3.1:

During the October 9, 2008 Planning Commission meeting, direction was given to staff to review the Agricultural Commission's recommended *Criteria for the Consideration of a Reduction of Minimum Parcel Size Agricultural Buffer Requirement of Policy 8.1.3.1* to determine if additional streamlining of the process would be supported by the Agricultural Commission. Staff was directed by the Planning Commission to possibly identify appropriate minimum thresholds to allow the Planning Director with the concurrence of the Agricultural Commissioner to allow reduced parcel sizes adjacent to agriculturally zoned parcels without an Agricultural Commission hearing.

Bill Stephans explained the reasoning for the requested criteria under consideration. A memo regarding General Plan Policy 8.1.3.1 containing the drafted criteria had been mailed to each Ag Commission member for their review. Planning Commission members requested that the application process be streamlined. Staff had drafted a General Plan amendment and criteria which the Ag Commission had recommended for approval, to be used as a tool to analyze the appropriateness of the creation of a parcel less than 10 acres adjacent to Ag zoned land. Although streamlining the process is always the goal for a successful program, General Plan Policy 8.1.4.1 requires the Ag Commission hear items that could impact agriculturally zoned lands. It is staff's opinion that the creation of a parcel less than 10 acres adjacent to ag lands can have a significant impact so streamlining the process by limiting the Ag Commission's hearing requirements may not be consistent with General Plan Policy 8.1.4.1. Chris Flores provided a detailed analysis of the parcels in Community Regions and Rural Center. Based on the General Plan, Cameron Park, Camino, Pollock Pines, El Dorado Hills, El Dorado, Diamond Springs, Placerville and Shingle Springs are all in Community Regions. Staff estimates that out of a total 42,563 parcels there are a total of 96 parcels that could be affected by General Plan Policy 8.1.3.1 based on Land Use Designation, zoning and parcel size. This equates to approximately .23% of all the parcels in those Community Regions. Bill Stephans stressed that the 96 parcels *could* be affected by General Plan Policy 8.1.3.1. The criteria that staff has put forward will, and at the very least, allow staff and the Ag Commission to analyze specific requests for the creation of a smaller parcel and to make informed recommendations as to whether a smaller parcel size is appropriate. Staff estimates there are 5,751 parcels in El Dorado County Rural Centers and out of all of those parcels, approximately 62 may be affected by General Plan Policy 8.1.3.1. This is approximately 1.1% of the parcel total within those Rural Centers. Again, it is staff's opinion that the criteria would give an applicant the ability to request a smaller parcel. Currently, if everything is correctly submitted, it usually takes approximately six months, at a

minimum, to approve a fairly simple parcel split in El Dorado County. The Ag Commission hears applications for parcel splits very early in the process. It is staff's opinion that while we are considering these applications, Planning staff would be working on a parallel track on any number of requirements/issues concerning the parcel split application. It was discussed at the Planning Commission hearing that this seems to be a long, drawn-out process that is often slowed further by the Ag Commission. Bill Stephans stated that to his knowledge, the Ag Commission has never been the reason for a delay of a project approval. When the department receives an application from Planning, we make every effort to hear the item at the next scheduled Ag Commission meeting. If the criteria are adopted by the Board, the Ag Commission would still give a *recommendation* to approve/deny the parcel split or to recommend another parcel size that might be more appropriate. As the parcel split is analyzed by staff, additional conditions could be identified and proposed, such as requiring a 200 foot setback or only building a non compatible structure in a specified building envelop to limit the impacts on the agriculturally zoned lands. Conditions like this might be used to create smaller parcels in certain areas by making the setback a condition for approval of the parcel split. This type of review/analysis appears to be the purpose of General Plan Policy 8.1.4.1.

Bill Stephans said that in his opinion, one type of parcel split application that may not require an Ag Commission review and recommendation is a request that has an Approved Plan (AP) Land Use Designation. If the Commission agrees, these requests could be approved by the Development Services Director with concurrence by the Agricultural Commissioner. There have been a few projects that have come forward over the past several years which were already approved by the Board of Supervisors a number of years ago, that were adjacent to Ag land. The application process could be streamlined by allowing an approval of this type.

Chair Boeger asked that in addition to Exhibit A (Criteria), could this exception be incorporated into the criteria. Bill Stephans stated that this exception could be added to the draft similar to the language incorporated into the adopted Ag Setback Administrative Relief criteria (General Plan Policy 8.1.3.2) which states that with approval of the Development Services Director and Ag Commissioner concurrence, a setback of up to 75%, may be approved. The language could be tailored to allow only an "X" amount percentage of the 10 acre parcel as may be appropriate.

Peter Maurer was present for questions. He stated that Planning staff will be going back to the Planning Commission in December on this issue and will be taking the Ag Commission recommendations to them for an agricultural perspective.

The Commission asked if Peter Maurer concurred with the work Ag staff had compiled regarding Community Regions and Rural Centers and the amount of parcels that may be affected.

Peter Maurer stated that as the same GIS system would be used by both departments, he did not doubt that the information was accurate. There have been a handful of very obvious situations where the 10 acre buffer did not seem to apply with no remedy for relief. The proposed criteria are a solution to address these unique situations. He feels that some of the recommendations made by the Ag Commission and others will work, depending on the level of review the Commission feels is appropriate. But considering all the policies as a whole, any project, unless amendments are made to General Plan Policy 8.1.4.1, still must be heard by the Ag Commission if it is adjacent to Ag land.

Chair Boeger questioned Peter Maurer regarding General Plan Policy 8.1.3.1 which actually states that it is "Agriculturally zoned lands" however; another proposal submitted to the Planning Commission primarily uses the GP Land Use Designation as the main factor and not the parcel zoning. He asked if a project is considered by how it is zoned. Mr. Maurer said that it was his understanding that the submitted proposal would refer to the GP Land Use Designation as opposed to the zoning. In his opinion for this to occur, both General Plan policies would need to be amended to remove the phrase "agriculturally zoned lands" and replace it with the desired Land Use Designation.

The Commission questioned whether or not this approach would be ignoring the parcel zoning in El Dorado County. Mr. Maurer replied that Planning is currently working to bring the zoning into compliance with the General Plan. He also explained that the GP Land Use Designations are broad use categories and within those use categories there are several different zone districts that further specify more detailed uses/restrictions. He gave the example of, Rural Residential (RR) which allows Ag zoning. In the General Plan, Table 2-4 shows what zones are compatible/consistent with the Land Use Designations. The larger Rural Residential Lands have a very broad scope of the type of allowed uses; resource-based uses, Ag uses and residential uses. Some of the Agricultural lands could be missed just by looking at the Ag Districts and the Ag designated parcels.

The Commission asked if there was a plan and a timeframe for the zoning in the county to be updated for GP consistency and what would happen after it is completed. Roger Trout stated that Planning staff is currently working on the rezoning with plans to complete the project at the end of 2009 (approximate timeframe only). The county will also be concurrently going through the zoning ordinance update process. The text and the maps will be updated for consistency with the General Plan.

Mr. Pratt asked about incorrectly zoned RE parcels and how they would be rezoned to a more appropriate zone. Roger Trout answered that he has consistently stated that he will not have the answer to that question until they reach that point in the zoning ordinance process because there are currently too many unknown factors to determine what their zoning will be.

Chair Boeger opened the meeting to take comments from the public.

Art Marinaccio expressed his opinion that what really needs to be asked at this point in time is, "Can these zoning issues be fixed with a policy interpretation or will it take a major General Plan Amendment?" He believes that no one has thought about a General Plan amendment to address this issue and that no one has even considered whether a General Plan amendment is necessary. He is convinced that a policy discussion would fix this issue because the law is very clear...zoning does not control the General Plan's designation control, but that is not what the General Plan says, so if the Board of Supervisors chooses to make a policy interpretation, perhaps they could do it. He feels the archaic zoning, in many instances, are far too out-of-date to be interesting. He stated that it could be said that projects have not been delayed but there are large projects that have not been able to be processed at all. He gave the example and history of Dave Zweck's property in Shingle Springs which was heard by the Ag Commission in the early 1990's. Art Marinaccio's opinion is that Ag zoning is not consistent with the Community Region and his preference is to say that the Ag policies do not apply in these regions. He feels any impacts to Ag will be dealt with under CEQA. In his opinion this is a huge problem that needs to be fixed.

Peter Maurer stated that he was unclear regarding Art Marinaccio's description of the process leading up to this point as staff has been working on a General Plan amendment that was initiated by the Planning Commission some time ago. The question is now "What should the amendment say and how should the language of this policy be changed to address the issues?"

Bill Stephans reminded the Commission about their previous motion to recommend that General Plan Policy 8.1.3.1 be amended to contain an authority statement which would allow the use of specific criteria to analyze the creation of less than 10 acre parcels adjacent to Ag zoned lands. The other option the Commission did not support was to place the criteria in the General Plan because it would be much harder to make adoptive changes when additional issues arise in the future. Based on the specific and clear language of the policy, it was felt that the best way to address this issue was through a GP amendment. The Ag Commission recommended GP amendment and criteria were forwarded to the Planning Commission for discussion. The main discussion at the Planning Commission was regarding the proposed criteria and not the proposed draft GP amendment.

Valerie Zentner, El Dorado County Farm Bureau, agreed, and that in her opinion, the policy should

be changed by a General Plan Amendment because the language is very clear in the policy which does not allow it to be interpreted any differently. She is concerned as there are at least four proposed actions currently in various stages that seek to reduce or eliminate Ag protection policies. By proposing the various changes, she is concerned about doing spot amendments here and there without doing a comprehensive study. Policy 8.1.4.1 will still require projects to come before the Ag Commission for any discretionary development applications on Ag land or adjacent to Ag lands. She stated that buffering is only one tool and mentioned General Plan Policy 8.1.1.5 that cites buffers and the Right-to-Farm ordinance as basic protections for Ag land. Ms. Zentner spoke of the "willingness to be good neighbors" and look at alternatives but she really wants to make sure that the Ag Commissioner or the Ag Commission has the necessary tools to review projects that may have an impact adjacent to agricultural land. The General Plan anticipated that there would be incompatibilities if the Ag Commission did not have this type of reviewing/recommendation discretion and she believes that is why it is written into the document. She asked that the Commission proceed with caution.

Sue Taylor was next to speak. She served on an Ad Hoc Committee regarding the permit process and now has several concerns. There are some local residents hoping to implement a Mixed-Use amendment which will intensify the density of units that can be constructed in a mixed development within a Community Region. After seeing what happens with this type of development, she has requested the Planning Commission re-designate Camino and Pollock Pines from a Community Region to a Rural Center. Both Camino and Pollock Pines are identified as the same classification as El Dorado Hills. She presented maps to the Ag Commission members showing the boundary lines surrounding both communities. She feels there are Planned Developments happening in the county and, because they have not been addressed globally, they are being addressed project by project with some of the cumulative issues being ignored. She believes there are many established areas that should have transition zones between the different types of uses. She also expressed concerns that the authority to protect agricultural properties might be taken away from the Ag Commission and decisions possibly made behind closed doors without public input.

Chair Boeger asked Planning staff about the distinctions between Community Regions and Rural Centers and how those distinctions might affect the Ag Commission's analysis.

Peter Maurer stated that Community Regions are typically where urban and suburban land uses are proposed to be developed. Whereas Rural Centers are where the General Plan envisions urban and semi-urban land uses are proposed to be developed. The Community Regions allow a higher density while Rural Centers are typically the smaller communities in outlying areas. In his opinion, it would take a General Plan amendment to initiate this of map change for Camino and Pollock Pines. He stated that the mixed development proposal is different than the re-designation of Camino and Pollock Pines which has not been initiated through a General Plan Amendment.

Chris Alarcon spoke in agreement with Valerie Zentner's statements regarding buffering. It is his opinion that buffers are to be a protection for agriculture, but the issue is buffers that are being applied to projects/parcels that are not agriculture. He gave the example of the development of Union Mine High School, which is still zoned as agriculture, as one of the problems that should be addressed, not taking buffer protections taken away from Agriculture.

The Commission asked staff questions regarding the handout -Exhibit A draft criteria and the copy of the developer's submittals which diagramed their proposed streamlined process of General Plan Policies 8.1.3.1. Would this be competing with the criteria that were recommended by the Ag Commission and was it the only proposal to be considered by the Planning Commission?

Bill Stephans answered that it is a competing alternative proposal which was only handed out at the Planning Commission meeting October 9th. We provided it to the Ag Commission for additional information and consideration. Staff believes the Ag Commission's recommendations allow staff the ability to analyze the appropriateness of the creation of a smaller parcel with the benefit of still protecting agriculture.

Regarding the alternative proposal, it was asked if this was a General Plan amendment. Bill Stephans replied that in his opinion, it was a policy interpretation of the General Plan without an amendment to the General Plan. Again, General Plan Policy 8.1.3.1 does not contain an authority statement to

allow the creation of any parcels less than 10 acres adjacent to agriculturally zoned land. The goal is to allow, at least, an analysis of the creation of a parcel that may be less than 10 acres by placing the authority statement within the General Plan, through an amendment. Once the General Plan amendment is approved, adopt the criteria the Ag Commission had proposed and recommended.

Mr. Pratt expressed concerns regarding treating all Community Regions the same. He feels that anytime there is an interface with Ag districts in the Community Region, there will be conflict. In his opinion, treating the Camino and Pollock Pines communities the same as El Dorado Hills does not seem appropriate so either there is a set of standards where development is occurring such as those used in El Dorado Hills or Cameron Park, or they should come up with a broader set of standards that allows for the Commission to continue to require the hearing process that is currently in place. He gave further explanation as to why he believes the proposed criteria should be adopted. The current language in the policy is very specific in that it does not allow the creation of any parcel less than 10 acres adjacent to Ag zoned lands. The recommended General Plan amendment gives the Commission the flexibility to recommend smaller parcels when appropriate. The "one size fits all" approach of the alternate proposal will not protect Ag currently operating within the county adjacent to Community Regions.

Other members of the Commission concurred with Mr. Pratt's comments, stating their desire to review projects as needed.

There was discussion of areas within Adopted Plans (AP) as these properties have been approved for development by the 2004 El Dorado County General Plan. It is staff's opinion that the Agricultural Commission does not need to hear these projects within the AP designation. Members of the Commission agreed with staff's assessment.

It was moved by Mr. Pratt and seconded by Mr. Heflin to again forward to the Planning Commission, the recommended General Plan amendment for General Plan Policy 8.1.3.1, as previously submitted, and Exhibit A, the criteria for consideration for reduction, which shall include additional language to address parcel requests in General Plan Land Use Designations of AP (Adopted Plans) as an exception listed in the criteria not required to be heard by the Agricultural Commission. Also, the supporting data analyses of the number of parcels potentially affected by Policy 8.1.3.1 in Community Regions and Rural Centers should be included as part of the documentation forwarded to the Planning Commission.

Motion passed.

AYES: Bacchi, Pratt, Heflin, Walker, Ward, Boeger

NOES: None

ABSENT Draper

If you have any questions regarding the Agricultural Commission's actions, please contact the Agriculture Department at (530) 621-5520.

GB:na

cc: Char Tim, Clerk to the Planning Commission