



RESOLUTION NO. 079-2007
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

**RESOLUTION ADOPTING THE CRITERIA AND PROCEDURES
FOR ADMINISTRATIVE RELIEF FROM AGRICULTURAL SETBACKS**

WHEREAS, agriculture is important to the vitality of El Dorado County as recognized in the 1996 and 2004 General Plan; and

WHEREAS, expansion of agricultural lands and operations are important to the economic health of the County; and

WHEREAS, the 2004 General Plan EIR recognized that locating incompatible uses near agricultural operations could result in premature agricultural land conversion while making it harder to maintain agricultural viability on surrounding properties; and

WHEREAS, the General Plan EIR found that certain agricultural uses and surrounding uses could be incompatible with each other, resulting in conversion of agricultural lands; and

WHEREAS, the General Plan EIR recommended special agricultural setbacks to which the Board of Supervisors agreed that these setbacks were needed; and

WHEREAS, the Board of Supervisors adopted, in 1996 and again in 2004, Policy 8.1.3.2 which provided that a minimum 200-foot setback would be placed on adjacent land for incompatible uses but also provided for administrative relief from these setbacks; the most important asset to agricultural operations is the use of the land for agricultural production; and

WHEREAS, owners of land adjacent to agricultural land have testified that the current standards for administrative relief do not address all situations where setbacks cause undue hardship or all situations where setbacks may be modified without significant impact to the adjacent agricultural operations; and

WHEREAS, individual property rights are deemed to be co-equal regardless of the uses of adjacent lands; "and

WHEREAS, the Board of Supervisors directed staff to work to revise the administrative relief policies to address these concerns; and

WHEREAS, a committee comprised of agriculturalists, business owners, property owners, and the Agricultural Commissioner held several meetings to formulate appropriate criteria and procedures which were forwarded to the El Dorado County Agricultural Commission; and

WHEREAS, the El Dorado County Agricultural Commission held two public hearings on December 13, 2006, and January 10, 2007, to discuss the proposed criteria and procedures for Administrative Relief; and

WHEREAS, on January 10, 2007, the El Dorado County Agricultural Commission unanimously recommended that the El Dorado County Board of Supervisors amend the current criteria and procedures; and

WHEREAS, the Board of Supervisors has reviewed and held a public hearing to consider the proposed criteria and procedures including revisions also considered at that time; and

WHEREAS, Resolution No. 176-97 adopted by the Board of Supervisors on July 22, 1997, included administrative relief procedures and criteria provisions, but those adopted provisions did not provide the necessary relief in all circumstances when the setback caused unnecessary hardship to the adjacent property owner; and

WHEREAS, the Board of Supervisors desires to protect agriculture, encourage more land converting to agriculture, when appropriate, and wishes to grant certainty of neighbor's lands adjacent to proposed agricultural rezones.

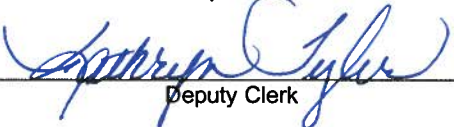
NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of El Dorado County adopts the Revised Criteria and Procedures for Administrative Relief from Agricultural Setbacks as contained in Exhibit A of this Resolution.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 17 day of APRIL, 2007, by the following vote of said Board:

Ayes: Dupray, Baumann, Sweeney, Briggs, Santiago

Attest:
Cindy Keck
Clerk of the Board of Supervisors

Noes: None
Absent: None

By: 
Deputy Clerk


Chairman, Board of Supervisors

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE: _____

Attest: CINDY KECK, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: _____

EXHIBIT A

CRITERIA AND PROCEDURES FOR ADMINISTRATIVE RELIEF FROM AGRICULTURAL SETBACKS

A. Procedure

1. Upon a determination by the Development Services Department that the agricultural setbacks required pursuant to General Plan Policies 8.1.3.1, 8.1.3.2, 8.1.3.3 and 8.4.1.2 or Section 17.06.150 of the zoning ordinance apply to a parcel, the property owner or his/her agent (applicant) may petition for administrative relief.
2. In order to petition for administrative relief, the applicant shall provide to the Development Services Department sufficient information to show that the required setback would render the parcel unbuildable, or otherwise severely restrict the use and enjoyment of the property if the agricultural setback is applied.
3. Under certain circumstances identified in Section B, Criteria, the Development Services Director or his/her designee may approve a reduction in the setback up to seventy-five percent (75%).
4. If the reduction in setback requested is greater than seventy-five percent (75%), or the subject property is located adjacent to agricultural or TPZ zoned land or the applicant is dissatisfied with the decision of the Development Services Director under 3. above, the Agricultural Commission shall review the request. The applicant shall submit to the Development Services Department the requested reduction in setback, together with the information supporting the request. The Development Services Department shall then route the information to the Agricultural Commission for review on the next available Commission agenda.

If the requested reduction cannot meet the administrative criteria in either 3 or 4 above, an application may be made to the Board of Supervisors for administrative relief, such relief may be granted by the Board of Supervisors upon a determination by the Board taking all relevant facts into consideration that the public interest is served by the granting of the relief. Such applications shall be made to the Development Services Department and a recommendation made to the Board of Supervisors.

B. Criteria

1. Development Services Director Approval. The Development Services Director, shall approve a reduction in the required setback for a proposed non-compatible use/structure of up to fifty percent (50%) when all of the following exists:
 - a) No suitable building site exists on the subject parcel except within the required setback;

- b) The adjacent agricultural land does not contain choice soils or choice timber production soils as defined in the General Plan;
 - c) The adjacent land is not located within an agricultural district as designated in the General Plan or within a Natural Resource designated area if timberland;
 - d) The portion of the adjacent agricultural land adjacent to the subject property does not contain an existing agricultural or timber operation;
 - e) The adjacent agricultural land is not zoned AE - Exclusive Agricultural, AP – Agricultural Preserve, or TPZ - Timberland Production Zone;
 - f) The Agricultural Commissioner concurs with the proposed setback reduction.
2. If the subject parcel cannot meet criteria (a)-(f) above, the Development Services Director may approve a reduction in the required agricultural setback of up to seventy-five percent (75%), subject to the concurrence of the Agricultural Commissioner, provided that the proposed non-compatible use/structure is located in a manner that would reasonably minimize the potential negative impact(s) on the adjacent agricultural or TPZ zoned land and the subject parcel can meet at least one of the criteria below:
- a) The subject parcel is 5 acres or less;
 - b) The subject parcel has a width to length ratio of greater than 1 to 3 and the longer of the boundary measurements abut the adjacent agricultural or TPZ zoned land;
 - c) The subject parcel is located in a Community Region or Rural Center as designated in the General Plan;
 - d) The non-compatible use/structure involves the addition, re-model or re-building of a current structure or demolished structure that was lawfully placed. Under this criterion, a reduction in the agricultural setback may only be granted when the non-compatible use/structure does not encroach closer to the agricultural property. If the proposed non-compatible use/structure would further encroach into the agricultural setback, Agricultural Commission review shall be required pursuant to 3. below;
 - e) The agricultural setback 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. Fees for reductions in agricultural setbacks under this criterion are waived for each parcel adjacent to the new contract parcel(s);

- f) The proposed location of the non-compatible use/structure would be directly adjacent to a parcel or parcels that are not zoned for agricultural or TPZ use.
3. Agricultural Commission Approval. If the subject parcel does not meet the criteria for a reduction in the agricultural setback pursuant to B.1. and B.2 above, the applicant may request review by the Agricultural Commission. The Agricultural Commission may approve a reduction of up to one hundred percent (100%) of the special agricultural setback (not less than 30 feet from the agriculturally zoned parcel) when it can be demonstrated that a natural or man-made barrier or buffer already exists such as, but not limited to, topography, roads, wetlands, streams, utility or other easements, swales, etc., 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 noncompatible use/structure is located on the property to reasonably minimize the potential negative impact on the adjacent agricultural or TPZ zoned land;
 - c) Based on the site characteristics of the subject parcel and the adjacent agricultural or TPZ zoned land including, but not limited to, topography and location of agricultural improvements, etc, the Commission determines that the location of the proposed non-compatible use/structure would reasonably minimize potential negative impacts on agricultural or timber production use.
 - d) There is currently no agricultural activity on the agriculturally zoned parcel(s) 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(s) or because the General Plan Land Use Designation of the surrounding or adjacent parcels is not agricultural (e.g. Light/Medium/High Density Residential);
4. Board of Supervisors Administrative Relief: The Board of Supervisors may approve a reduction of up to one hundred percent (100%) of the special agricultural setback (not less than 30 feet from the agriculturally zoned parcel) on adjacent parcels concurrently with the approval of any parcel rezone to any agricultural designation. Whenever a rezone to an agricultural designation is recommended by the Planning Commission, the recommendation shall also include an analysis and recommendation for the setback for each surrounding parcel that would be affected by the new setback.
5. In all cases, if a reduction in the agricultural setback is granted for a non-compatible use/structure, prior to the issuance of a building permit, a Notice of Restriction must be recorded identifying that the non-compatible use/structure is constructed within an agricultural setback and that the owner of the parcel granted the reduction in the agricultural setback acknowledges and accepts responsibility for the risks associated with building a non-compatible use/structure within the setback.

6. "Non-compatible use/structure" means those uses of the land which are apt to conflict with agricultural uses/operations due to sprays, dust, noise, odors, equipment or products escaping the agricultural property in a manner which threatens the health, safety, welfare or repose of adjacent occupants or land uses. It also means those uses which are apt to cause conflict and threaten the loss of viability of agricultural use due to trespass, vandalism, theft, complaint and dog related problems. It includes, but is not limited to:

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| a. Residential structures; | e. Daycare centers; | g. Spas; |
| b. Nursing homes; | f. Playgrounds; | h. Ponds; and |
| c. Public or private schools; | g. Swimming pools; | i. Churches |

7. Fee for Administrative Relief Review. The applicant shall pay the following fee prior to consideration for administrative relief:

Development Services Director... \$50
Agricultural Commission\$350