



AGRICULTURAL COMMISSION

311 Fair Lane
 Placerville, CA 95667
 (530) 621-5520
 (530) 626-4756 FAX
 eldcag@co.el-dorado.ca.us

Greg Boeger, Chair – Agricultural Processing Industry
 Lloyd Walker, Vice-chair – Other Agricultural Interests
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 Vacant – Fruit and Nut Farming Industry
 David Pratt – Fruit and Nut Farming Industry
 Gary Ward, Livestock Industry

RECEIVED
 PLANNING DEPARTMENT
 APR 20 2009

MEMORANDUM

DATE: March 20, 2009

TO: Kristin Davis, Associate Planner

FROM: Greg Boeger, Chair *GB*

SUBJECT: CLAYTON & ED STETSON – REQUEST FOR ADMINISTRATIVE RELIEF FROM AGRICULTURAL SETBACKS

During the Agricultural Commission’s regularly scheduled meeting held on March 11, 2009 the following discussion and motion occurred regarding Clayton G. & Ed Stetson – requesting administrative relief from agricultural setbacks for a future single-family dwelling to be located 30 feet from the west, south, and east property lines on the south portion of the property and a future second dwelling to be located 30 feet from the west property line on the north portion of the property. The subject parcel is adjacent to Residential Agricultural (RA-20 & RA-40), Planned Agricultural (PA-20), and Timberland Preserve (TPZ) zoned land, within the General Plan land use designation of Natural Resources (NR) and therefore subject to special agricultural setbacks in accordance with the Interim Interpretive Guidelines adopted June 22, 2006. The proposed primary and secondary dwellings do not meet the requirements for the Development Services Director to allow up to a 50 and/or a 75 percent setback reduction and therefore requires the Agricultural Commission review for administrative relief. NOTE: This item was continued from the February 11, 2009 meeting to the March 11, 2009 meeting as requested by the applicant due to inclement weather conditions. Chair Boeger opened this item for public comment at the February 11, 2009 meeting and received no public comments at that time.

Staff reported on the site visit of January 9, 2009. The subject parcel is 20 acres and is located north of String Canyon Road in the Grizzly Flat area. The parcel is covered by a mixed conifer forest, has RA-20 and RA-40 zoning and a Natural Resource land use designation. Sunday Ridge Road runs through the subject parcel as an access road to two or more adjoining parcels. Surrounding parcels have the following zonings; PA-20, RA-40, RA-20, and TPZ. All surrounding parcels have a Natural Resource land use designation. The TPZ zoned parcel directly east of the southern portion of the subject parcel has an existing 5 acre commercially managed Christmas tree farm. There are no apparent agricultural operations occurring on the other adjoining agriculturally zoned parcels. The subject parcel and surrounding parcels have “Choice soils.” According to the topographic map, the parcel elevation drops approximately 200 feet from the southwestern corner of the property to the northeastern corner of the property. Based on the site visit, topography would not be an issue when choosing a buildable site. The subject parcel has an existing well, located at the southern portion of the property, and access to phone and electrical distribution lines that cross the property at several locations.

Relevant General Plan Policies:

- **General Plan Policy 8.4.1.2** states, “A permanent setback of at least 200 feet shall be provided on parcels located adjacent to lands identified as timber production lands designated Natural Resource and lands zoned Timberland Production Zone (TPZ). These setback areas shall be included in the zoning ordinance and shall be delineated on newly recorded parcel or subdivision

maps. The Agricultural Commission may recommend a lesser setback to a minimum of 100 feet...”

- **General Plan Policy 8.2.2.4** states, “Agricultural activities shall be protected from the encroachment of incompatible land use by the Right to Farm Ordinance, which recognizes that nuisances such as noise, odors, dust, fumes, smoke, and chemical usage are a part of recognized acceptable agricultural practices and production.”
- **General Plan Policy 8.1.3.2** states, “Agriculturally incompatible uses adjacent to agriculturally zoned land outside of designated Agricultural Districts shall provide a minimum setback of 200 feet on parcels 10 acres or larger. The implementing ordinance shall contain provisions for Administrative relief to these setbacks, where appropriate, and may impose larger setbacks where needed to protect agricultural resources.”

Findings for Administrative Relief of Agricultural Setbacks:

- The Agricultural Commission may approve a reduction of up to one hundred percent of the special agricultural setback when it can be demonstrated that a natural or man-made barrier 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; (Cannot make finding)...
 - b) The proposed non-compatible use/structure is located on the property to reasonably minimize the potential negative impact on the adjacent agricultural or TPZ zoned land; (Cannot make finding for proposed building site on southern portion of property)...
 - 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; (Cannot make finding adjacent to TPZ zoned land)...
 - 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 (Light/Medium/High Density Residential).

(Cannot make finding as adjacent agriculturally zoned lands have choice soils and General Plan Land Use Designations are agricultural).

Discussion took place regarding the zoning of surrounding properties. The southern portion of the parcel is located next to PA-20 (Planned Agricultural) and TPZ zoned parcels. Bill Stephans mentioned that the owners of the Christmas tree farm/TPZ land have a Pesticide Use Permit with the Department of Agriculture which lists restricted materials.

The Commission agreed that the northwestern proposed building site would be better as it would be further away from the TPZ and the PA-20 parcels.

John Stelzmler, representing the applicants, expressed his frustration regarding the 200 foot agricultural setback. He feels this new requirement will make the property unmarketable to any potential buyers and that it is not being used for the original intent of protecting agricultural lands.

Mr. Stelzmler handed out copies of Pacific Legal Foundation 2005 Annual Report highlighting numerous takings cases which they had won. In his opinion, the new ag setbacks are a taking. He also mentioned that the two proposed building sites, on the application, were chosen by prospective buyers who had since rescinded their offer. He gave a brief history of the property.

Ed and Clayton Stetson explained their urgency in wanting the project approved as the sale of the property will provide a necessary source of income. The well is already in, power lines would be easily accessed and they feel the building site chosen is the most suitable. Ed Stetson stated that he thinks the value of his property has been taken away. They do not believe there is a building site on the back portion of the property because it is steep and inaccessible.

It was pointed out by the Commission that the 200 foot agricultural setback probably existed when the property was purchased by the applicants and should have been disclosed by their Real Estate agent to them at that time,.

The general consensus of the Commission was that it would be presumptive to grant any agricultural setback relief without a site specific application before them.

It was moved by Mr. Walker and seconded by Mr. Draper to recommend DENIAL of the request for administrative relief from the 200 foot agricultural setbacks, regarding two proposed residential building sites, as none of the following findings can be made:

- 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 structures are located on the property to reasonably minimize the potential negative impact on the adjacent agricultural 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 improvements, etc, the Commission determines that the location of the proposed non-compatible structures would reasonably minimize potential negative impacts on agricultural use; and***
- d) ***There is currently no agricultural activity on the agriculturally zoned parcels 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 parcels or because the General Plan Land Use Designation of the surrounding or adjacent parcels is not agricultural.***

Additionally, the 30 foot requested setback, adjacent to the TPZ zoned land (southern portion of the property), cannot be granted by the Agricultural Commission. General Plan Policy 8.4.1.2 states: "A permanent setback of at least 200 feet shall be provided on parcels located adjacent to lands identified as timber production lands designated Natural Resource and/or lands zoned Timberland Production Zone (TPZ). These setback areas shall be included in the zoning ordinance and shall be delineated on newly recorded parcel or subdivision maps. The Agricultural Commission may recommend a lesser setback to a minimum of 100 feet."

Motion passed.

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

Note: Bill Stephans read the following: BOS Resolution No. 079-2007 EXHIBIT A, Section A states: "If the requested reduction cannot meet the administrative criteria...an application may be made to the Board of Supervisors for administrative relief, such relief may be granted by the Board of Supervisors upon determination by the Board taking all relevant facts into consideration that the public interest is served by the granting of the relief. Such application shall be made to the Development Services Department and a recommendation made to the Board of Supervisors."

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

GB:na

cc: John Stelzmilller