

## NON CONFORMED MINUTES OF THE AGRICULTURAL COMMISSION MARCH 11, 2009

- V. General Plan Policy 8.1.3.1 and 8.1.3.2 – On February 3, 2009, during the regularly scheduled BOS meeting, a motion was made by Supervisor Sweeney and seconded by Supervisor Nutting to “Direct staff to return to the Board on February 24, 2009 with the Ag Commission’s criteria including modifications to apply that criteria to be utilized for RR, NR, OS & AL Land Use Designations.” During the February 24, 2009 BOS meeting, the item was continued until March 24, 2009, to allow the Agricultural Commission time to review the motion and to formulate their recommendation.

To address the motion, Planning and Ag department staff met and formulated the following criteria based on various projects that have come before the Commission within the last several years since the adoption of the General Plan. Staff believes the use of these criteria will allow the creation of smaller buffer parcels when appropriate.

### **DRAFT Criteria for the Consideration of a Reduction of Minimum Parcel Size Agricultural Buffer Requirement of Policy 8.1.3.1 in the Rural Regions of the County**

The decision-making authority may approve a reduction of the minimum parcel size requirement pursuant to Policy 8.1.3.1 in the Rural Regions of the County as designated on the Land Use Diagram of the General Plan if all of the following criteria have been met:

1. The proposed development is consistent with the existing land use designation;
2. The adjacent agriculturally zoned land is not located within an Agricultural District or designated AL, Agricultural Land;
3. The adjacent agriculturally zoned land does not have an active agricultural operation; and
4. The adjacent agriculturally zoned land scores less than 60 points utilizing the Procedure for Evaluating the Suitability of Land for Agricultural Use as adopted by El Dorado County or the Agricultural Commission finds that 70% of the agriculturally zoned land is unsuitable for agriculture.

Directly prior to this meeting, staff was made aware of an alternative proposal which was formulated by several members of the public. The proposed language included two alternatives as stated below:

### **General Plan Policy 8.1.3.1 – Policy Interpretation and Guidance for NR, RR, OS & AL Land Use Designations (Draft 2/19/09)**

- 4) General Plan Policies 8.1.3.1 and 8.1.3.2 will apply where a proposed project;
  - a) is located adjacent to an agriculturally-zoned parcel within the RR, NR, OS or AL land use designations, and
  - b) the Ag Commission recommends and the Board of Supervisors determines that the agriculturally-zoned parcel meets the criteria identified in the General Plan for agricultural lands (actual or potential croplands, actual or potential grazing lands, or Williamson Act Contract lands).

**-OR-**

- 4) Where a project is located adjacent to an agriculturally-zoned parcel within the RR, NR, OS or AL land use designation which meets the General Plan criteria for agricultural lands (actual croplands, potential croplands, actual grazing lands, potential grazing lands or lands under Williamson Act contracts), then the buffer requirements of Policy 8.1.3.1 and 8.1.3.2 will apply.

To recommend the best criteria possible, staff presented both staff's criteria and the public alternative to the Agricultural Commission. No one that worked on the "alternative" proposal was present to answer questions or to show how their alternative process would be implemented by staff.

As background to the issue, staff gave a brief description of the original argument that supported the Board's adopted interpretation of Policy 8.1.3.1. The recent interpretation includes the General Plan Land Use designations of: MFR, HDR, MDR, LDR, C, R&D, I, TR, AP, or PF. The adoption of the policy interpretation and guidance by the Board did not include the General Plan Land Use designations of RR, NR, OS and AL. As discussed, "archaic" zoning that did not conform to the 2004 General Plan Land Use designations was used to bolster the argument that the adopted Land Use of the General Plan should take precedence over agriculturally zoned lands that are assigned an urban or other non-agricultural land use. If an agriculturally zoned parcel has a land use designation of AL (Agricultural Lands), then the zoning would be consistent with the Land Use designation. Based on this analysis, Commission members questioned staff as to why a parcel would be considered to be created less than ten acres next to an ag zoned parcel with an AL land use designation. After discussion, the Commission and staff felt that since the ag zoned parcel is consistent with the land use map, consideration to create a parcel less than 10 acres is not appropriate if the intent of the General plan is to buffer a current or potential ag operation. The Commission agrees with the staff's criteria section 2 to exclude AL designated lands since those parcels must have been analyzed using General Plan Policy 8.1.1.8.

In reviewing the "alternative" proposal, questions arose as to how the first alternative (the one containing 4 a) & b)) would be implemented by staff when it appears that section b) requires the Ag Commission to recommend and **then** (*emphasis added*) the Board determines that the agriculturally zoned parcels meets the criteria identified in the General Plan for agricultural lands. Bill Stephans stated the only criteria staff has been able to identify in the General Plan regarding ag lands is Policy 8.1.1.8, which sets forth generalized criteria for lands assigned the AL land use designation. If staff is correct and this is the policy that is referenced in section 4 b), then parcels determined to meet one or more of the General Plan Policy 8.1.1.8 criteria could require a General Plan amendment to change the land use designation to AL even if the parcel was assigned other land use designations (even urban and other non-agricultural land uses).

Commission Member Pratt stated that he liked the "potential cropland" and "potential grazing lands" mentioned in the alternative criteria section 4), after the

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“-OR-“.

Discussion ensued regarding staff's criteria #4, which proposes to utilize *The Procedure for Evaluating the Suitability of Land for Agricultural Use*, to determine the agricultural capability of the parcel. The Commission Members supported the idea, agreeing that it was a quantitative method of determining agricultural suitability that has been used over a very long period in El Dorado County. There was some discussion regarding the 60 point score and whether or not the value was appropriate. Since this score is identified in the procedure as the threshold, staff and the Commission felt that it was a defensible number to include. The concept of using a graduated scale, to determine appropriate parcel sizes adjacent to agricultural lands was discussed and may be further evaluated if appropriate.

Mr. Boeger opened up the forum for public comment.

Sue Taylor expressed her concerns regarding Policy 8.1.3.1. She stated that when the Community Region lines were drawn, there were active agricultural operations that had agricultural land use designations, that were encased within the Community Region boundaries, and when the 2004 General Plan went into effect, those historic agricultural land use designations were changed to HDR (High Density Residential) to be consistent with the Community Region intent. She recently attended the workshop for General Plan Implementation where she reminded the Board that when they signed the 2004 General Plan there was a Resolution with a statement that acknowledged "landowner expectations arising from historic County land use planning." She is concerned that land owners who expected protection using the ten acre buffers, independent of where they are located, will no longer enjoy those protections. She expressed her confusion over the entire matter, stating that the Ag Commission is only a recommending body. She questioned why the Board of Supervisors wouldn't want to hear the Ag Commission's recommendations even when the project is in Community Regions or Rural Centers. She also wondered why the County was spending time whittling away at the Ag protection policies in the General Plan, when the El Dorado County residents voted for the Ag policies as they are. Ms. Taylor mentioned the upcoming General Plan Implementation Workshop on agricultural issues scheduled for March 23, 2009 at the Board of Supervisors.

The Commission Members further discussed the criteria options before them and what they would recommend to the Board. It was suggested that staff could bring forward the draft criteria that they had developed as the recommended option that includes some clarification that the Ag Commission hear the projects that are adjacent to agriculturally zoned lands with land use designations of RR, OS and NR. Projects that are adjacent to agriculturally zoned parcels that have an AL land use designation should not be considered. Further, if the Board does not accept staff's criteria as their preferred option, then the Commission directed staff to request an amendment to the alternate proposal regarding the second criteria section 4) with the deletion of "meets the General Plan criteria" and the insertion of "scores 60 points or greater utilizing the Procedure for Evaluating the

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Suitability of Land for Agricultural Use”. This amendment would direct the use of a long standing defensible quantitative process rather than generalized criteria.

Mr. Walker voiced his support of staff’s draft criteria. He stated that it allows the Commission flexibility when analyzing projects before them and allows them to recommend a smaller parcel next to agriculturally zoned land, if a smaller parcel is appropriate.

Bill Stephans agreed with Commission Member Walker’s assessment and stated that that was always staff’s intention; to allow for the consideration of parcels less than 10 acres adjacent to ag zoned lands if and when appropriate.

***It was moved by Mr. Walker and seconded by Mr. Draper to recommend staff’s Criteria for the Consideration of a Reduction of Minimum Parcel Size Agricultural Buffer Requirement of Policy 8.1.3.1 in the Rural Regions of the County with the incorporation of clarifying language to require the Agricultural Commission to publically hear projects and make the recommendations to the decision making authority and give authority to Bill Stephans to recommend modified language of the alternative criteria only if the alternative proposal is supported by the Board of Supervisors.***

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

**NOES:** None

**ABSENT:** Ward

*As modified by the motion, Agricultural Commission Recommended Draft Criteria; March 11, 2009:*

***Criteria for the Consideration of a Reduction of Minimum Parcel Size Agricultural Buffer Requirement of Policy 8.1.3.1 in the Rural Regions of the County:***

The County Agricultural Commission, after conducting a public hearing, may consider recommending to the decision-making authority the creation of a parcel(s) less than 10 acres adjacent to agriculturally zoned lands pursuant to the requirements of General Plan Policy 8.1.3.1 in the Rural Regions of the County as designated RR, OS or NR on the Land Use Diagram of the 2004 General Plan if all of the following criteria have been met:

1. The proposed development is consistent with the existing land use designation;
2. The adjacent agriculturally zoned land is not located within an Agricultural District or designated AL, Agricultural Land;
3. The adjacent agriculturally zoned land does not have an active agricultural operation; and
4. The adjacent agriculturally zoned land scores less than 60 points utilizing the Procedure for Evaluating the Suitability of Land for Agricultural Use as adopted by El Dorado County or the Agricultural Commission finds that 70% of the agriculturally zoned land is unsuitable for agriculture.