



County of Yolo

PLANNING AND PUBLIC WORKS DEPARTMENT

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WORKSHOP ONLY

PLANNING COMMISSION STAFF REPORT

MARCH 11, 2010

FILE #2010-005: Clustered Agricultural Housing Transfer of Development Rights ordinances, proposed as part of the comprehensive update of the Land Development and Zoning regulations in the Yolo County Code (Title 8, Chapters 1 through 10), in order to ensure consistency with the recently approved Yolo Countywide 2030 General Plan

APPLICANT: Yolo County

LOCATION: Agricultural parcels in the unincorporated Yolo County area

SUPERVISOR: all districts

ZONING: Agricultural zoning districts (A-P, A-1)

GENERAL PLAN: Agricultural (AG) General Plan land use designation

FLOOD ZONE: various

SOILS: various

FIRE ZONE: various

ENVIRONMENTAL DETERMINATION: To be determined

REPORT PREPARED BY:

Eric Parfrey, Principal Planner

REVIEWED BY:

David Morrison, Assistant Director

RECOMMENDED ACTION

That the Planning Commission:

1. **HOLD** a public workshop hearing, consider public comments, and give further direction to staff regarding the proposed Clustered Agricultural Housing Transfer of Development Rights and ordinances, part of the comprehensive update of Title 8, the Land Development and Zoning regulations in the Yolo County Code (**Attachments A and C**); and
2. **RETURN** the items to the Planning Commission at a future hearing for further workshop session(s) and recommendations on the revised ordinances.

REASONS FOR RECOMMENDED ACTION

The updated Yolo Countywide 2030 General Plan was approved in November, 2009. Under state law, all development regulations (Title 8 of the Yolo County Code), must be amended to be in conformance with General Plan policies.

BACKGROUND

The Countywide 2030 General Plan continues the strong agricultural conservation policies of the previous 1983 General Plan and 2002 Agricultural Element Policy, and adds more specific policies and conservation strategies. In particular, the updated plan emphasizes the concept of "clustering" housing in the agricultural areas, and the adoption of a Transfer of Development Rights (TDR) program, in order to reduce impacts to agricultural activities. The two ordinances propose to implement a TDR program, and to establish a clustered ag housing program to be applied in areas such as antiquated subdivisions where dispersed housing may otherwise be allowed.

In the 2030 General Plan, there are three Land Use policies, two Agricultural policies, and one Agricultural implementation action that address clustered ag housing and TDR. The key references are highlighted in underline below.

Policy LU-2.3 Manage agricultural parcels of less than 20 acres, including antiquated subdivisions where appropriate, to create compatibility with surrounding agricultural uses to the greatest extent possible, including: 1) discourage residential development; 2) encourage lot mergers to achieve larger parcel sizes; 3) encourage clustering of units to preserve farmland and natural resources; 4) encourage transfers of development rights to areas where additional farm dwellings are desired (e.g. organic farms that are labor intensive); 5) encourage deed restrictions, site design and development themes that support the agricultural use of the land; and 6) aggressively limit the impact of residential development where it does occur.

Policy LU-2.3 Prohibit the division of land in an agricultural area if the division is for non-agricultural purposes and/or if the result of the division will be parcels that are infeasible for farming. Projects related to clustering and/or transfers of development rights are considered to be compatible with agriculture.

Policy LU-3.8 The intent of allowing residences in the agricultural areas is to provide dwellings for those directly involved in on-site farming activity, including farm employees, the landowners and their immediate families. All such dwellings shall be encouraged to locate on lands unsuited for agricultural use and/or in "clustered" configurations to minimize the conversion of agricultural lands to any other uses.

Policy AG-1.7 Locate farm dwellings in a manner that protects both on-site and offsite agricultural practices. All dwellings in agriculturally zoned areas shall be encouraged to be located on portions of the parcel unsuitable for agricultural use and in "clustered" configurations.

Policy AG-3.6 Strongly encourage cities to share in the responsibility for providing adequate sites to accommodate farm labor housing.

Action AG-A25 Implement a voluntary Agricultural Transfer of Development Rights (TDR) program to facilitate the creation of affordable farm worker housing. Such a program would allow for the transfer of existing rights to build farm dwellings from areas characterized by large-acreage farm operations to areas characterized by small farms and/or where labor needs are greater. Develop criteria for appropriate transfer and receiver locations that take into account factors such as labor needs, crop types and/or other relevant factors and that preclude nonagricultural related transfers. Allow a density bonus of up to 20 percent for participants. Projects in receiving areas of the TDR program would not be considered "residential subdivisions" and/or the "division of land for non-agricultural uses" for the purposes of this General Plan. (implements Policy AG-3.6)

STAFF ANALYSIS

Clustered Agricultural Housing

Consistent with the General Plan policies cited above, the two primary purposes of the proposed Clustered Agricultural Housing ordinance (**Attachment A**) are to reduce conflicts between agricultural operations and residential development and, at the same time, to allow construction of agricultural homes in appropriate locations within areas of antiquated subdivisions or other clustered situations defined in the ordinance. Designing a Clustered Agricultural Housing ordinance is a difficult balancing act, since the two primary goals may sometimes be at cross-purposes with each other.

The need for Yolo County to enact a Clustered Agricultural Housing is driven by two factors: the need for existing farm families to house family members and farmworkers, plus the need for the county to allow housing on small acreage properties within antiquated subdivisions that have been found to be legal lots of record through a Certificate of Compliance process.

Regarding the first factor, the proposed Clustered Agricultural Housing ordinance has been crafted to specifically allow clustering in areas that have been targeted either for farmworker housing or for additional agricultural family housing. In this way, the Clustered Agricultural Housing ordinance complements the TDR ordinance, which allows transfer of ag housing credits to specialty farm areas and other areas that have been found in need of additional farmworker or farm family housing.

Regarding the second factor, it is imperative that Yolo County adopt an ordinance that allows a landowner to cluster ag housing in an area with a series of adjacent lots that were created with smaller parcel sizes than the current zoning would require, including recognized antiquated subdivisions. The flexibility of an ag housing cluster ordinance is needed to ensure that development of substandard lots or in an antiquated subdivision would not automatically result in numerous large ranchette lots spread across the farm or ranch, as opposed to the clustering of the homes in one corner of the property.

For example, in 2004 Yolo County issued a Certificate of Compliance to the Brandenburger family that recognized 42 legal lots ranging in size from two to ten acres in the agricultural area southeast of Davis near the Yolo Bypass. If the Brandenburger family wishes to exercise their right to build ag housing on any of the individual small lots, there is no provision in the current Yolo County Code which would allow the family to cluster several rural home sites in a corner of the area, thereby allowing a more efficient use of the land by reducing access roads and utility costs.

The proposed Clustered Agricultural Housing ordinance (**Attachment A**) has been modeled on a San Luis Obispo (SLO) ordinance, although there are significant differences between the two programs. In SLO County, a Major and Minor Agricultural Cluster ordinance has been in effect since 1984. However, relatively few cluster projects have actually been approved over the last 25 years according to staff, perhaps one dozen. The ordinance has been amended several times, and is now being proposed for a major amendment, which was triggered by the very controversial Santa Margarita Ranch project, a huge rural large-lot subdivision in the northern county. The proposed amendments to the SLO Cluster ordinance would delete the density bonus provision of the existing ordinance (allowing a doubling of units) and would further restrict the use of the cluster concept to only agricultural areas that are within two miles of urban or village centers. The latter would not be appropriate in Yolo County, as the 2030 General Plan contains several policies prohibiting the creation of "rings" of rural residential development around existing community growth boundaries.

Several graphics have been prepared to show four hypothetical examples of Clustered Agricultural Housing projects that could be found to be consistent with the proposed ordinance (**Attachment B**).

Transfer of Development Rights

The two primary purposes of the proposed Transfer of Development Rights ordinance (**Attachment C**) are to protect agricultural operations from residential development and to create more farmworker housing in appropriate portions of the unincorporated area. The TDR ordinance is designed to work in a complimentary manner with the Clustered Agricultural Housing ordinance.

Typical TDR programs are usually structured to allow the transfer of housing credits from rural areas ("sending areas") to locations within cities ("receiving areas") where the credits can then be used by developers to increase the densities of proposed residential projects. In such a typical TDR program, a private developer buys the development rights from a rural agricultural landowner, who gives up his/her right to build a number of homes on the property. The developer then uses those development rights or credits to increase the density of a project within a nearby city.

This arrangement obviously works only if there is a formal agreement between the county and the city to allow the sale of credits in the unincorporated area to be used in a city housing project. Such inter-agency agreements may be difficult to implement if, from the city's point of view, there is no or little value of using added density credits from the county for city housing projects. Cities may not be interested in a TDR program that could increase the density of residential projects since California planning and zoning law already gives cities the legal ability to apply significant "density bonuses" to residential projects that meet certain criteria, such as including affordable housing or other amenities.

In contrast to a typical county-to-city TDR program, the Yolo County TDR program is structured more narrowly to apply only within the unincorporated county. The TDR ordinance allows the transfer of development credits within the unincorporated area from predominantly large-lot prime agricultural areas to "specialty farming areas" with smaller lots, as described in the General Plan Action AG-A25, above. The proposed TDR program does not allow transfers that would create more housing near existing cities and towns, to comply with other General Plan policies that strongly discourage such growth. For example, Policy LU-3.9 states "Avoid the creation of a ring of rural residential development around existing growth boundaries."

Transfer of Development Rights programs are much more common in the eastern United States than in the west. In California, only three counties are known to have adopted and implemented county-wide TDR programs: Marin, San Mateo, and San Luis Obispo counties. A handful of cities and separate geographic areas also support TDR programs, including the City of Livermore/Alameda County (South Livermore Specific Plan area), and the Santa Monica Mountain/Malibu Coastal area.

The San Luis Obispo (SLO) County program is perhaps the most relevant to compare with a proposed Yolo County program. In that county, the TDR program is a fairly complicated and extensive process, which allows development credits to be sent from unincorporated areas to urban and village areas, which may include an incorporated city, if the city has adopted an ordinance to allow the transfer. To date, SLO County has been unable to interest the main city, San Luis Obispo, in participating in the TDR program. The county TDR program has been successful in sending development credits from unincorporated agricultural areas to unincorporated towns such as Templeton and Nipomo. The credits were used during the last building boom to increase densities for multiple family housing projects in those towns.

The SLO program was established in 1996 and employs a local land trust. The land trust buys environmentally sensitive properties, records deed restrictions on the properties, and sells the development rights. Property appraisals are used to determine the number of development credits for each parcel, and how to allocate them. About 230 properties had been conserved as of 2000.

As in the case of the clustered ordinance, the proposed Transfer of Development Rights ordinance (**Attachment C**) has been modeled on the SLO County ordinance, with modifications.

OTHER AGENCY INVOLVEMENT

The Clustered Agricultural Housing and TDR ordinances have not yet been reviewed by any of the citizens advisory committees. The committees will be asked for their comments following this Planning Commission workshop, after staff has incorporated any recommendations from the Planning Commission.

County Counsel has reviewed the draft ordinances.

Later in the code update process, staff will determine an appropriate environmental document to comply with the California Environmental Quality Act.

ATTACHMENTS

- A: Draft Clustered Agricultural Housing ordinance
- B: Four hypothetical examples of Clustered Agricultural Housing projects
- C: Draft Transfer of Development Rights ordinance

ATTACHMENT A

Clustered Agricultural Housing Ordinance Draft 3-11-10

Section 8-2.404 Clustered Agricultural Housing

(a) Purpose.

1. It is the policy of the Board to encourage the preservation of agricultural lands in Yolo County for the continuing and enhanced production of food and fiber through the use of a variety of policy and regulatory techniques. One technique, provided by this Section, is to allow the clustering of small agricultural home sites, preserving a large parcel to be used for agriculture, instead of allowing the dispersal of ranchette-type homes over a larger agricultural area.

The purpose of this Section is to implement the following General Plan policies:

Policy LU-2.3 Manage agricultural parcels of less than 20 acres, including antiquated subdivisions where appropriate, to create compatibility with surrounding agricultural uses to the greatest extent possible, including: 1) discourage residential development; 2) encourage lot mergers to achieve larger parcel sizes; 3) encourage clustering of units to preserve farmland and natural resources; 4) encourage transfers of development rights to areas where additional farm dwellings are desired (e.g. organic farms that are labor intensive); 5) encourage deed restrictions, site design and development themes that support the agricultural use of the land; and 6) aggressively limit the impact of residential development where it does occur.

Policy LU-3.8 The intent of allowing residences in the agricultural areas is to provide dwellings for those directly involved in on-site farming activity, including farm employees, the landowners and their immediate families. All such dwellings shall be encouraged to locate on lands unsuited for agricultural use and/or in "clustered" configurations to minimize the conversion of agricultural lands to any other uses.

This Section establishes a set of regulations that allows for and encourages clustering of home sites for agricultural family members and for farmworkers on smaller parcels than allowed by the current zoning, while ensuring the long-term preservation of agricultural resources. This clustering regulation serves as an alternative to a conventional rural subdivision or lot split, which would split farms or ranches into individual home sites that conform with typical minimum parcel sizes of 40, 80, or 160 acres.

2. This ordinance complements the related Transfer of Development Rights (TDR) ordinance, Section 8-2.405. The TDR ordinance allows the transfer or "sending" of

agricultural housing credits to other agricultural areas that have been found in need of more housing for family members or farmworkers. This Clustered Agricultural Housing ordinance would allow the housing credits that are sent to the "receiving" areas under the TDR program to cluster home sites on smaller lots than would normally be allowed under existing zoning regulations. In addition, a "remainder agricultural production parcel" created under this Clustered Ag Housing ordinance may be found eligible for qualifying as a "sending site" under the TDR ordinance, if the "remainder agricultural production parcel" meets all of the other eligibility criteria of Section 8-2.405.

(b) Definitions.

"Clustered agricultural housing project" shall mean one or more agricultural parcels that are adjacent and under common ownership, at least one parcel of which is 20 acres or less in size, and which are included in an application to create a clustered agricultural housing project. The "clustered agricultural housing project" includes all of the lands that are subdivided to create clustered housing parcels of 2.5 acres, more or less, including the larger "remainder agricultural production parcel."

"Remainder agricultural production parcel." Following the subdivision of qualifying agricultural lands to create one or more clustered home sites or parcels of 2.5 acres, more or less, the remaining large agricultural parcel(s) are the "remainder agricultural production parcel." The "remainder agricultural production parcel" shall be no less than 85 percent in size of the total lands prior to subdivision.

"Specialty farm housing area,"

Other

(c) Lands eligible for clustering.

1. This Section applies to lands located in the current Agricultural Preserve (A-P) or Agricultural General (A-1) zones [or the future Agricultural Intensive (A-I) or Agricultural Extensive (A-E) zones], which meet the criteria listed in (2) and (3), below. If the parcel(s) to be subdivided for clustering are within the A-P zone and are under an active Williamson Act contract, a Notice of Non-Renewal must be filed concurrently with the applications for clustering (see Section 8-2.405(c), below).
2. Parcels are eligible for clustering if one of the following criteria is met, and the parcel(s) are not found to be ineligible under any of the criteria in (3), below:
 - i. One or more of the parcels that are adjacent and under common ownership, which are included in the application, are 20 acres or less in size and consist of a majority of prime agricultural soils; or
 - ii. A majority of the parcels that are adjacent and under common ownership, which are included in the application, are located in an antiquated subdivision and some or all of the lots have been found to

be legal lots of record through the issuance of a Certificate of Compliance; or

- iii. The parcel(s) are located in a "specialty farm housing area," where additional farm dwellings are desired (e.g. organic farms that are labor intensive), as defined and designated by the County under the Transfer of Development Rights (TDR) ordinance, Section 8-2.405; or
 - iv. The parcel(s) are located in a "receiving" area designated by the County under the Transfer of Development Rights (TDR) ordinance, Section 8-2.405.
3. Parcels are not eligible for clustering if any of the following criteria apply:
- i. The parcel(s) are located within two miles of an adopted city Sphere of Influence, Urban Limit Line, or Growth Boundary.
 - ii. The parcel(s) are subject to an existing agricultural, habitat, or other easement that restricts use of the land.

(d) Permits required.

A Use Permit shall be issued for all clustered agricultural housing applications, including the remainder agricultural production parcel. The Use Permit application shall be accompanied by other required applications, including a Tentative Parcel or Subdivision Map, which includes the remainder agricultural production parcel. If the parcel(s) to be subdivided for clustering are within the A-P zone and are under an active Williamson Act contract, a Notice of Non-Renewal must be filed concurrently with the applications for clustering approval. If a proposed clustered agricultural housing application fails to comply with any of the development standards listed in subsection (g), below, the permit application shall include a Major Variance application.

(e) Application content.

In addition to the information required by Section ____, the Use Permit application for a clustered ag housing project shall also include, but not be limited to, the following:

1. A written explanation by the applicant of how the proposed project will satisfy all the required findings specified in Section __;
2. A graphic and written demonstration of conventional subdivision qualification pursuant to Section ____;
3. A detailed phasing schedule for the filing of a final Parcel or Subdivision Map and an accompanying conservation easement, where applicable, the installation of required improvements, and a date for termination of the entitlement in the event the use is not established within the specified schedule.
4. Verifiable demonstration of ongoing agricultural history for the including the remainder production agricultural parcel, i.e. five of the past eight years;
5. Detailed description or draft conservation easement for the remainder agricultural production parcel.
6. Submittal of a hydrogeologic report that demonstrates there are adequate water resources to support the home sites, unless the Planning or

- Environmental Health Director has determined that evidence has shown that no water resource limitations exist in the vicinity of the project site; and
- 7.. A draft copy of any Covenants, Conditions, and Restrictions establishing the Homeowner's Association for the cluster project.

(f) Environmental review.

After acceptance of an application for cluster development pursuant to this Section, an Initial Study for the project shall be prepared in compliance with the California Environmental Quality Act (CEQA) and the Local CEQA Guidelines. The Initial Study shall closely examine the potential impacts on the long-term protection of the agricultural, environmental and biological resources, as well as the availability of, and potential impacts on, resources such as water, traffic, air quality, schools and other public services and facilities. Whether or not a Negative Declaration or a Categorical Exemption shall be recommended will be determined by the Initial Study. A Categorical Exemption may be filed if the project meets all of the established criteria, development standards, and required Findings in this Section, and the Initial Study has not identified any potentially significant impacts.

(g) Development standards for clustered agricultural housing.

The design and development of a clustered agricultural housing project shall be consistent with the following standards:

1. Type of housing. The following types of housing are allowed in a clustered agricultural housing project: single family homes subject to any size limitations set by other Sections of this Chapter; duplexes; and farmworker housing projects consistent with State laws and other Sections of this Chapter.
2. Minimum size of the remainder agricultural production parcel. Following subdivision and creation of the clustered agricultural housing project, the resulting remainder agricultural production parcel(s) shall be no less than 85 percent in size of the total lands prior to subdivision.
3. Merger of remaining substandard parcels. The subdivision approved to create the home site(s) or parcel(s) shall include the mandatory merger of any existing and remaining adjacent parcels under common ownership that are substandard in size, as defined by the underlying zoning district.
4. Number of home site units or parcels created. The maximum number of home site units or parcels allowed in a clustered agricultural housing project application shall be based on one of the following calculations:
 - i. If the clustered agricultural housing project is not located within an antiquated subdivision, the maximum number of home site units or parcels allowed shall be consistent with the minimum size requirement of the remainder agricultural production parcel in (2), above, and may be equal to the number of rural homes that would be allowed "by right" (without the issuance of a Use Permit or a Variance) under the

regulations of the underlying zone district, e.g., one primary and one ancillary home per legal parcel in the current A-P and A-1 zone district. This calculation assumes that no minimum parcel size would be less than required by the Environmental Health Department for leachfield and water well placement. Under no circumstances shall the number of home site units or parcels allowed be based on a calculation of less than 5.0 acres for each unit or parcel. Design criteria and environmental mitigation may reduce the number of residential cluster parcels allowed;

or

- ii. If the clustered agricultural housing project is located entirely within an antiquated subdivision and some or all of the lots have been found to be legal lots of record through the issuance of a Certificate of Compliance, the maximum number of clustered home site units or parcels is equal to the number of legal parcels that have been recognized by the County in advance of the clustered agricultural housing project.

5. Home site or parcel size. A clustered agricultural housing site or parcel shall normally be a minimum of 2.5 acres, assuming a single family home, duplex, or small to medium-sized farmworker housing project. Larger parcels sizes may be required to accommodate agricultural buffers or farmworker housing project, with a maximum residential cluster parcel size of 5.0 acres, unless allowed by State law. A smaller parcel size down to a minimum of 1.5 acre may be warranted and approved if all utility (well and leachfield size, etc.), buffer, and other issues are addressed through preparation of an Initial Study and a Mitigated or Negative Declaration.
6. Site design and avoidance of best prime land. Clustered agricultural housing shall be located and clustered to provide the maximum protection of the best prime productive agricultural land located both on- and off-site. Clustered agricultural housing should be located on land with the lowest agricultural viability, as documented by a Storie or LESA rating, to the maximum feasible extent.
7. Parcel layout. The clustered agricultural housing parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other and located within a single cluster development area. A maximum of two clustered development areas may be approved if such a design reduces environmental impacts.
8. Housing development confined. Clustered agricultural housing development shall be confined to the newly created parcel(s) boundaries. Housing development components include, but are not limited to, housing units, accessory structures, roadways and access drives, water and wastewater systems, agricultural buffers, drainage basins, and any other areas of the project site that may be removed from agricultural production to accommodate the proposed clustered housing project. Shared use of existing access roads or driveways located off the newly created parcel(s) on the "remainder

agricultural production parcel” or on adjacent parcels is allowed if an appropriate easement is adopted and recorded.

9. **Access.** Clustered developments in compliance with this Section shall be allowed only on properties with access to an existing paved, county or state maintained road. The use of shared access roads or driveways is allowed according to (6), above. Home site parcels shall be located as close as possible to existing access roads, and significant new road or driveway development that takes farmland out of production shall be avoided to the extent feasible.
10. **Agricultural buffers.** Residential building sites and access drives shall maintain a sufficient buffer separation from adjacent and on-site agricultural operations and exterior property lines, to reduce any significant land use compatibility impacts affecting on-site or off-site agricultural operations, including but not limited to trespass by persons or domestic animals, vandalism, and complaints about agricultural practices. The width of buffers shall be consistent with the agricultural buffer policies adopted in the General Plan, i.e., Policy LU 2.1 requires a buffer of 300 feet, which can be reduced to no less than 100 feet. The agricultural buffers shall be for both existing and potential agricultural uses. All agricultural buffers shall be located within the clustered agricultural housing project. Fencing shall be provided, as required by the County.
11. **Water and wastewater systems.** Each proposed clustered agricultural housing parcel shall be designed and developed to provide for individual or shared group on-site water and wastewater systems. Shared water and wastewater systems among housing clusters are encouraged in order to minimize the developed footprint, reduce impacts, and save productive farmland.
12. **Visual resources.** Roads and building sites shall be located to minimize site disturbance and visibility from public roads and viewing areas.
13. **Habitat protection.** Clustered agricultural housing development shall be located and designed to ensure maximum protection of sensitive habitats such as Swainson’s hawk habitat and wetlands.

(h) Conservation of remainder agricultural production parcel.

No proposal or application for a clustered agricultural housing development not within an antiquated subdivision shall be approved without a guarantee of permanent conservation easement of the remainder agricultural production parcel that is created by the subdivision of land to create the new clustered home sites. The required conservation easement shall be maintained in perpetuity, and the terms and minimum requirements for the conservation easement or other instrument recorded to satisfy the requirements of this provision shall be as set forth in Section 8-2.2416 of this Chapter. The conservation easement shall be guaranteed by either of the following methods:

1. A recorded, permanent affirmative agricultural easement granted to Yolo County, under the general terms set forth in Section 8-2.2416, with final terms as deemed acceptable to the County.
2. Transfer of fee title free and clear of any liens, or sale of all development rights and/or dedication of a perpetual agricultural and/or habitat conservation easement, to a qualifying nonprofit public benefit 501(c)(3) corporation operating in Yolo County, as defined and selected by Yolo County under Section 8-2.2416 of this Chapter, for the purpose of conserving and protecting land in its natural, rural or agricultural condition.

(i) Required merger of remaining substandard parcels within antiquated subdivision.

No proposal or application for a clustered agricultural housing development within an antiquated subdivision shall be approved without a requirement and guarantee for the merger and permanent conservation of remaining lands within the antiquated subdivision.

[more, how much can we require of antiquated subs?]

(j) Ownership and maintenance of roads.

Unless otherwise required by the County, all interior roads and utilities shall be privately-owned and maintained and the applicant shall demonstrate through draft Conditions, Covenants and Restrictions or other means that the project residents shall maintain all private roads and utilities for the life of the project at their own expense, without any financial support of the County .

(k) Homeowners association.

A homeowners association shall be formed and membership shall be mandatory for each buyer and successive buyer of each of the clustered agricultural housing units. The homeowners association shall be responsible for, at a minimum, the permanent maintenance of areas held in common, if any, by the homeowners. In addition, the homeowners association shall be responsible for ensuring the permanent protection of the agricultural buffer and protection of the adjacent agricultural uses from trespass, vandalism, and complaints about agricultural practices. An assessment system involving all home site residents, or other form of subsidy, shall be required to ensure compliance with this provision.

(l) Required findings.

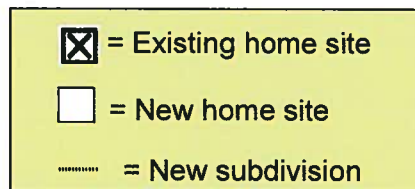
Approval of a clustered agricultural housing project shall not occur unless the County review body first makes all findings required by Section ____ and also finds that:

1. The proposed clustered agricultural housing project will result in the continuation, enhancement and long-term preservation of agricultural resources and operations on the remainder agricultural production parcel, or within the remaining antiquated subdivision, and in the surrounding area.
2. The proposed clustered agricultural housing project has been designed to comply with all of the design and development standards listed in Section
3. The proposed clustered agricultural housing project will not result in any significant land use compatibility impacts affecting on-site or off-site agricultural operations, including but not limited to trespass, vandalism, and complaints about agricultural practices.
4. The water, wastewater, access, and all necessary services and maintenance of services, are adequate to serve the proposed clustered housing development, without placing any financial burden on the County.
5. The proposed clustered agricultural housing project, the proposed Conditions, Covenants and Restrictions governing the Homeowners Association, and the permanent conservation easement placed on the remainder agricultural production parcel, and/or the merger of substandard lots, are adequate to maintain the lands in agricultural production.

ATTACHMENT B

EXAMPLE #1

CLUSTERED AG HOUSING PROJECT (PRIME AG)



Existing: 3 adjacent parcels under common ownership, 2 existing homes, zoned A-P, zoning allows 2 homes per parcel, 80-acre min.

Proposal: Create Clustered Ag Housing project with (4) 2.5-acre lots, including 3 new home sites and 1 existing home

Result: Subdivide 120 acres into (4) 2.5 lots, merge remainder substandard ag parcels of 10 acres plus 40 acres plus 60 acres into one parcel of 110 acres which is placed in an easement

Remainder ag parcel of 110 acres is conserved = 92% of total

**EXAMPLE #2
CLUSTERED AG HOUSING PROJECT
(PRIME AG)**



Existing: 4 adjacent parcels under common ownership, 3 existing homes and 1 mobile, zoned A-P, zoning allows 2 homes per parcel, 80-acre minimum

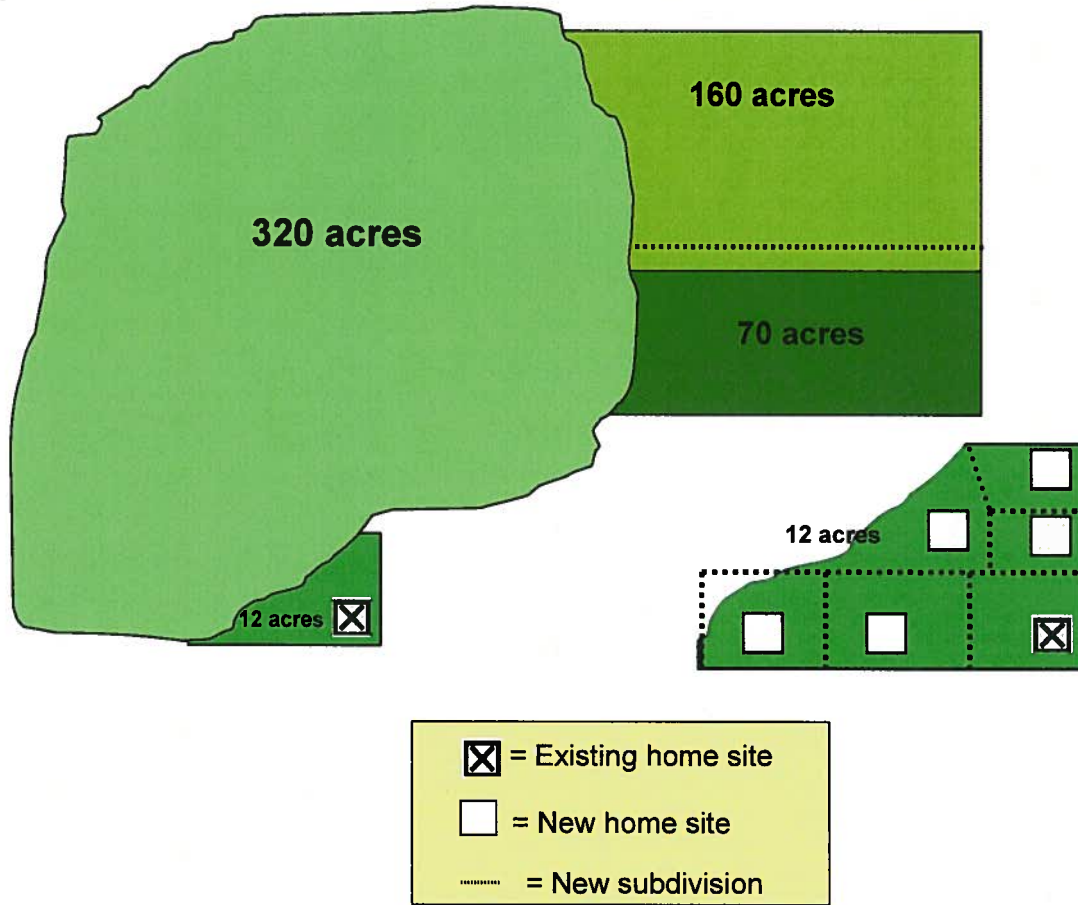
Proposal: Create a Clustered Ag Housing project with (7) 2.0 to 5.0-acre lots, including 5 new home sites and 3 existing homes, remove mobile home

Result: Subdivide 160 acres into (5) 2.0-acre lots, (1) 2.5-acre lot, and (1) 5.0-acre lot, merge remainder substandard ag parcels into one parcel of 142.5 acres which is placed in an easement

Remainder ag parcel of 142.5 acres is conserved = 89% of total

EXAMPLE #3

CLUSTERED AG HOUSING PROJECT (GRAZING)



Existing: 4 adjacent parcels under common ownership, 2 existing homes, zoned A-P, zoning allows 2 homes per parcel, 80-acre minimum

Proposal: Create a Clustered Ag Housing project with (6) 2.5-acre lots, including 5 new home sites and 1 existing home

Result: Subdivide 550 acres into (6) 2.5-acre lots = 15 acs., merge remainder substandard ag parcels into two parcels of (317 + 150) 467 acres which is placed in an easement, new 80-acre parcel is not in easement unless owner agrees

Remainder ag parcel of 467 acres is conserved = 85% of total

EXAMPLE #4

CLUSTERED AG HOUSING PROJECT (PRIME AG, ONE PARCEL ONLY)



Existing: 3 parcels not under common ownership

Proposal: Create Clustered Ag Housing on one 15-acre parcel

Result: Subdivide 15 acres into 2 lots of 1.0 acre each (if leachfields and wells can be sited adequately)

Remainder ag parcel of 13 acres is conserved = 87% of total

ATTACHMENT C

Transfer of Development Rights Ordinance Draft 3-11-10

Section 8-2.405 Transfer of Development Rights

(a) Purpose and intent.

1. The provisions of this Chapter implement a voluntary Transfer of Development Rights (TDR) program called for by policies and an Action implementation measure Agriculture and Economic Development Element of the 2030 Yolo County General Plan. Action AG-A25 states:

Implement a voluntary Agricultural Transfer of Development Rights (TDR) program to facilitate the creation of affordable farm worker housing. Such a program would allow for the transfer of existing rights to build farm dwellings from areas characterized by large-acreage farm operations to areas characterized by small farms and/or where labor needs are greater. Develop criteria for appropriate transfer and receiver locations that take into account factors such as labor needs, crop types and/or other relevant factors and that preclude nonagricultural related transfers. Allow a density bonus of up to 20 percent for participants. Projects in receiving areas of the TDR program would not be considered "residential subdivisions" and/or the "division of land for non-agricultural uses" for the purposes of this General Plan.

2. The program provides a procedure to allow the voluntary transfer of development rights or credits from one agricultural parcel of land, or group of parcels, to another. Consistent with applicable General Plan goals, policies and programs, the objective of this section is to relocate rural home site development from lands with high agricultural capability, or from antiquated subdivisions, to more suitable areas, which include areas of specialty, intensive farming that require more farmworker housing.

This program is voluntary, incentive-based, and market-driven between willing sellers and buyers. Landowners are not obligated to use this technique to request an amendment to the general plan or subdivide property. This program is structured to complement and support a companion ordinance, the Clustered Agricultural Housing ordinance, which allows the clustering of a limited number of agricultural housing units on small 2.5-acre lots, in return for a deed restriction (easement) placed on the "remainder agricultural production parcel." A remainder agricultural production parcel created under the Clustered Ag Housing ordinance (Section 8-2.404) may be found eligible for qualifying as a sending site under this ordinance.

A site from which development rights of credits have been transferred is called the "sending site," and has its development potential reduced or retired through recordation of a permanent conservation easement or other instrument. A site which receives development credits (the "receiving site") may be developed with a higher

density than would otherwise be allowed under the current land use category or as otherwise set through planning area standards.

Credits originating from a site in one unincorporated part of the county may be transferred to receiving site(s) within another unincorporated part of the county, or within an incorporated city which has adopted plans or ordinances that enable such transfers. However, at the present time, no city in Yolo County has adopted a TDR ordinance, although the City of Davis has a similar program in effect that could be modified to accept credits from the unincorporated area.

(b) Definitions.

“Receiving Site”

“Remainder agricultural production parcel.”

“Sending Site”

“Specialty farm housing area,”

Other

(c) Sending Site Application Content and Processing.

A request for designation of specific parcels(s) as a sending site shall require the filing and processing of an application for Sending Site Status in compliance with the following requirements:

1. Application content. In addition to meeting the application contents of Section ____ (Site Plan Review), an applicant requesting status as a sending site shall provide at a minimum the following information:
 - i. Application form for Sending Site Status.
 - ii. Which specific or general criteria, in compliance with this section, are proposed for use in determining if the property qualifies as a sending site. If the property doesn't meet one or more specific criteria for qualification, provide a statement of how the property qualifies under the general criteria.
 - iii. Information supporting the determination of the development value of the property, using one of the methods described in Section ____.
 - iv. Two copies of a preliminary title report concerning the property, which is not more than six months old, showing current property owners.
2. Application processing. An application for Sending Site Status shall be filed with the Department and shall be processed as follows:
 - i. Environmental determination. When a Sending Site Status application has been determined to contain adequate information to allow a determination by the Review Authority, it shall be subject to an environmental determination as required by the California Environmental Quality Act (CEQA) and the Local CEQA Guidelines.
 - ii. Approval or denial of a request for sending site status and determination on the number of development credits is assigned to the Planning Commission.

Notice of public hearing shall be given as provided by Section _____. Decisions by the Commission on sending site status and assignment of development credits may be appealed in compliance with Section_____.

- iii. Notice of Eligibility. No sooner than 15 days after the Commission decision on sending site status (if no appeal has been filed), the Director shall prepare a written Notice of Eligibility. The Notice of Eligibility shall state the number of sending site credits assigned to the property and the method used for the assignment of those credits, including the applicable criteria and mathematical formula. The Notice of Eligibility shall be required prior to issuance of a sending site certificate by the Department.

(d) Sending Site Eligibility and Determination of Development Credits.

1. The criteria of this section shall be used in determining if a property is eligible for sending site status. If a property meets the criteria used to determine sending site status, the property would then be eligible to have credits assigned. A designated receiving site that has been approved and the final map recorded, shall not be considered for sending site status. Credits are assigned only to individual legal lots. Lots that are previously encumbered or otherwise restricted to remove all development potential (e.g., public or open space zoned lots, etc.) are ineligible to become sending sites.
2. Eligibility criteria. The following criteria shall be used in the review of potential sending sites. The intent of these criteria is to limit the designation of sending sites to those properties that would protect and conserve lands with prime agricultural capability, or lands in small parcels or within antiquated subdivisions. Land may be considered for designation as sending sites if one or more of the specific criteria are met. Land that meets one of the specific criteria should be approved as a sending site unless the County determines that there are special circumstances that would undermine or negate the overall purpose. This could include factual issues such as clouded legal title or other technical and non-resource related issues.
 - i. Small lots. The parcel(s) meet the following acreage and land capability criteria: (1) The parcel(s) are 20 acres or less in size, the lands are irrigated, or capable of irrigation, and at least 50 percent of the site contain Class I or II (irrigated or non-irrigated) soils based on the Natural Resources Conservation Service classification.
 - ii. The parcel(s) are located in an antiquated subdivision and some or all of the lots have been found to be legal lots of record through the issuance of a Certificate of Compliance.
7. Determining development credits. If the County determines that a property qualifies as a sending site, this section shall be used to determine the number of development credits assigned to a legal lot. The number of credits assigned to a sending site shall be determined by the following method:

- i. If the parcel is not located within an antiquated subdivision, the maximum number of home site units or development credits may be equal to the number of rural homes that would be allowed "by right" (without the issuance of a Use Permit or a Variance) under the regulations of the underlying zone district, e.g., one primary and one ancillary home per legal parcel in the current A-P and A-1 zone district. This calculation assumes that no minimum parcel size would be less than required by the Environmental Health Department for leachfield and water well placement. Under no circumstances shall the number of home site units or parcels allowed be based on a calculation of less than 5.0 acres for each unit or parcel; or
- ii. If the parcel is located entirely within an antiquated subdivision and some or all of the lots have been found to be legal lots of record through the issuance of a Certificate of Compliance, the maximum number of clustered home site units or development credits is equal to the number of legal parcels that have been recognized by the County.

(e) Designation of sending site.

1. The following procedures shall be used to complete the sending site designation.

- i. Guarantees of conservation. Credits cannot be officially recognized as attached to a legal parcel and available for purchase by a Receiver Site or other qualified individual until such time as a conservation easement or other instrument that qualifies under either the Open Space Easement Act or the Conservation Easement Act, is granted in perpetuity to a qualified public or private non-profit organization (as defined by the regulations of the Internal Revenue Service) created for the purposes of protecting and managing resources. A list of approved qualified organizations is on file at the Department. Non-profit organizations that are qualified to hold easements in compliance with this ordinance shall be subject to approval by the Director prior to inclusion on the list.

The grant of a conservation easement does not authorize the public or any member thereof any right of public access unless such is specifically set forth in the easement and agreed to by the property owner.

- ii. Recordation of easement. After review and approval by the Department, the easement shall be recorded in the Office of the County Recorder by the Director upon payment by the applicant of the required recording fee. The easement shall be recorded within five years of the receipt of the Notice of Eligibility.
- iii. [more procedure]
- iv. Zoning Overlay. When a conservation easement or other instrument that qualifies under either the Open Space Easement Act or the Conservation Easement Act has been recorded, the county will rezone the property as Conservation Easement Overlay.

(f) Receiving Site Application Content and Processing

1. A request for designation of a receiving site in the county, using the regulations set forth in this Section shall require the filing and processing of an application for Receiving Site Status in compliance with the following requirements. In addition to meeting the application contents of Section ____ (Site Plan Review), an applicant requesting status as a sending site shall provide at a minimum the following information:
 - i. Application form for Receiving Site Status.
 - ii. Statements, maps or other information necessary to show how the property meets the criteria used for determining if the property qualifies as a receiving site as set forth in Section ____.
 - iii. Supporting information for the issuance of a density bonus in compliance with Section ____.
 - iv. Information regarding the location and availability of sending credits within the designated geographical region as set forth in Section ____ for the proposed receiving site.
 - v. Evidence that the required notice was provided in compliance with Section ____.

2. Application processing. A determination on whether the property would qualify as a receiver site shall be determined by the Director, with concurrence by the Planning Commission, using the eligibility criteria in Section _____. This shall occur only after notification of the neighboring property owners in compliance with Section _____. If the Director and Planning Commission determines the property qualifies as a receiver site, the landowner may file a tentative map or Use Permit at some future date that includes the additional lots as would be allowed under Section _____. The determination of receiver site status using this method does not guarantee the additional lots will be approved upon completion of the tentative map. Nothing in this Section is to be construed as having any effect on a land division request that either includes or does not include a request for additional density based on the transfer of development credits. A determination on the suitability of the site to receive credits may be accomplished concurrently with the processing of a tentative map. The process shall be the same as would otherwise be required for the processing of the tentative map except that notice of the neighboring property owners in compliance with Section _____ shall occur in addition to the required public hearing notice.

3. Notification of property owners. The applicant shall submit evidence that the neighboring property owners were notified of the request to become a receiving site prior to submission of a request for preliminary determination or a concurrent tentative map. This notice shall be provided by the applicant sending a letter using the form provided by the Department. The letter shall be mailed or delivered at least 10 days prior to application submittal to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the subject site.

(g) Receiving Site Eligibility and Determination of Density Bonus

1. The criteria shall be used in determining if a property is eligible for receiving site status. If the property meets all the criteria used to determine receiving site status, the property would then be eligible to qualify for bonus density. Bonus density may be added to the base density as set forth in Section 22.26.070.B.
2. Eligibility criteria. The following criteria shall be used in the review of potential receiving sites. Credits are assigned only to individual legal lots. Land may be considered for designation as receiving sites only when all of the following describe the site that is requesting receiver status.
 - i. CEQA clearance. An Exemption (Categorical or General Rule), a Negative Declaration or a Final Environmental Impact Report, that does not identify significant, unavoidable adverse environmental effects, or exacerbation of such effects, relating to the additional density that would be allocated to the site, has been prepared or will be necessary as part of environmental determination for the proposed project.
 - ii. The site is designated for housing development within an unincorporated town which can provide an adequate level of public services (water, wastewater, etc.) to the site to support the additional density, or the site is within a "Specialty farm housing area," as defined and designated by the County in Section ___ of this ordinance.
 - iii. The footprint of the area proposed for development is outside of any designated or known significant biological resource or natural areas as defined by the General Plan or other official documents.
 - iv. The development will comply with all development standards for water, wastewater, drainage, access, and all other subdivision and development standards contained in Title 2 of the County Code.
2. Amount of density bonus. The bonus granted is a maximum twenty percent increase over the allowable base density, measure din housing units, of the underlying zoning district. Where the receiving site project offers special permanent amenities, including "smart growth" features or amenities, in excess of the basic requirements, an additional bonus of up to ___ percent of the base density may be granted to the receiving site.

(h) Designation of specialty farm housing areas

[process to identify and designate these areas to be inserted]

(i) Designation of Receiving Site

1. The following procedures shall be used to complete the receiving site designation.
 - i. A. Use of credits. Prior to recordation of the final or parcel map, or issuance of the Use Permit or other required permit to allow construction on the receiving site, the applicant shall release their ownership in the Receipt of Transfer or the Certificate of Sending Credits to the Department. Acceptance of the

release shall only occur if the credits are located in conformance with Section _____. After release, the credits are no longer valid and available for use.

- ii. Additional map sheet. The final or parcel map, or Use Permit, shall include a clear and legible note placed on an additional map sheet in compliance with Section ____ of Title 2. The note shall state that the approval of the land division included the use of transfer of development credits, the number of credits used and their registration number(s), and the location and assessor parcel number of the sending site.
- iii. [more procedure]
- iv. Zoning Overlay. When the final or parcel map, or Use Permit, qualifies and is used as a TDR receiving site, the County will rezone the property as TDR Receiving Site Overlay. initiated by the County within one year of recordation of the final or parcel map, or issuance of the Use Permit or other permit required.