

**Agenda of:** September 8, 2005

**Item No.:** 10.a.

**Staff:** Mark Millard

**STAFF REPORT–WILLIAMSON ACT CONTRACTS**  
**(WAC04-0004 and WAC05-0001)**

**FILE NUMBER:** WAC04-0004 and WAC05-0001

**APPLICANT:** Sherri Rossi/Randy Rossi

**REQUEST:** Request to amend Agricultural Preserve No. 291, dividing the preserve into two separate preserves

**LOCATION:** On the north side of Grizzly Flat road, approximately 3.5 miles east of the intersection with Mt. Aukum Road, in the Somerset area (Exhibit A).

**APNs:** 093-040-45 (WAC 04-0004) and 093-040-46 (WAC 05-0001) (Exhibit B)

**ACREAGE:** Two parcels of 40.0 acres each

**GENERAL PLAN:** Natural Resources (NR) (Exhibit C)

**ZONING:** Exclusive Agriculture (AE) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Categorically Exempt pursuant to Section 15317 of the CEQA Guidelines.

**SUMMARY RECOMMENDATION:** Forward a recommendation of approval to the Board of Supervisors

**BACKGROUND:** The Planning Commission forwarded a recommendation of approval to the Board of Supervisors on applications WAC03-0001 and Z03-0007 on October 23, 2003. This recommendation of approval was to allow the two project parcels to be rezoned from Residential Agricultural Twenty-acre (RA-20) to Exclusive Agricultural (AE) and be placed in agricultural preserve. The Board of Supervisors acted on this recommendation on November 25, 2003, and approved the rezone to AE and established Agricultural Preserve No. 291.

WAC04-0004 was submitted on December 27, 2004. WAC 05-0001 was submitted on June 17, 2005.

## **STAFF ANALYSIS**

**Project Description:** The applicants are requesting to amend Agricultural Preserve No. 291, dividing the preserve into two separate preserves. The resulting preserves each would be comprised of 40 acres and would be under separate ownership (093-040-45 for Sherri Rossi and 093-040-46 for Randy Rossi).

**Site Description:** The project parcels are located at an average elevation of 2,850 to 2,900 feet above mean sea level. Topography on the parcels is moderate with slopes ranging from 10 to 25 percent. The parcels contain Holland very rocky coarse sandy loam, 15 to 50 percent slopes (HkE), Holland coarse sandy loam, 15 to 30 percent slopes (HgD), and Holland coarse sandy loam, 5 to 9 percent slopes (HgB) soil types (*Soil Survey of El Dorado Area*, USDA, April 1974). All of these soil types are characterized by medium to rapid surface runoff and a high erosion hazard. The Holland coarse sandy loam, 15 to 30 percent slopes (HgD), soil type is considered a unique or soil of local importance. This soil type is suitable for woodlands (timber). The majority of both parcels contain a mix of conifers with a few scattered oak trees. Jackass Canyon Creek runs through the northeast corner of both parcels.

Assessor's Parcel Number 093-040-45 has been developed with a riding arena, a barn, a power pole, and an agricultural well with a 10,000 gallon holding tank. Portions of this parcel have been graded and prepared into irrigated pasture lands and planted with 3.32 acres of grapes vines.

Assessor's Parcel Number 093-040-46 has been developed with a single-family residence, barn, a well, and holding pond. Portions of this parcel have also been graded and prepared into irrigated pasture lands and planted with 4.1 acres of grape vines.

### **Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	AE	NR	Miscellaneous agricultural development; single family dwelling with accessory agricultural development.
<b>North</b>	TPZ	NR	Undeveloped/Timberland
<b>South</b>	TPZ/ RA-20	NR	Undeveloped/Timberland; single family dwelling
<b>East</b>	RA-20	NR	Undeveloped/Timberland
<b>West</b>	TPZ	NR	Undeveloped/Timberland

**Discussion:** The use of the project parcels for agricultural operations is consistent and compatible with the existing and potential uses of the surrounding lands. Having two agricultural preserves rather than one will not change this relationship.

**General Plan:** The 1996 and the 2004 General Plans designate the subject site as Natural Resources (NR). *Compatible uses on private land* of this designation may include agricultural,

*range and, forestry, wildlife management, recreation, water resources development, and support single-family dwellings.*

Most of the specific General Plan policies that apply to these parcels were discussed in detail in the staff report for Z03-0007 and WAC03-0001 that resulted in establishment of Agricultural Preserve No. 291 (see Exhibit D). Accordingly, no repeat discussion is necessary because no conflicts or inconsistencies with General Plan Policies are created either in the 1996 or the 2004 General Plans by the amendment of Agricultural Preserve No. 291 into two stand alone preserves.

However, Board of Supervisors Policy C-12.5, adopted March 3, 1990, states that *Any application for partition... will be processed in the same manner as a request creating a new Williamson Act Contract.* General Plan Policy 8.1.1.4 (1996 & 2004) requires that *“The procedures set forth in the Procedure for Evaluating the Suitability of Land for Agriculture shall be used for evaluating the suitability of agricultural lands in Agricultural Districts and Williamson Contract Lands (agricultural preserves).* This General Plan Policy is implemented by Board of Supervisors Resolution No. 188-2002 which establishes the procedures and criteria under which parcels may be placed into Williamson Act Contract Lands (Agricultural Preserves). Further, this policy states, in part, that *the El Dorado County Agricultural Commission shall act as the primary advisory agency, and their determinations as to the criteria set forth... shall be entitled due deference by the Planning Commission and Board of Supervisors.*

Consistent with these policies, the El Dorado County Agricultural Commission reviewed the request to amend Agricultural Preserve No. 291 three times and on June 8, 2005, recommended that the amendment of Agricultural Preserve No. 291 be approved as *each parcel meets the criteria to enter into their own Williamson Act Contract.* This recommendation was based upon detailed reports for each parcel which confirmed that both project parcels meet the three required criteria of Minimum Acreage, Capital Outlay, and Income. These reports are summarized below (See Exhibits I-1, 3, and 4):

#### Minimum Acreage

An agricultural preserve is required to consist of a minimum of 20 contiguous acres (There is an exception for smaller parcels/acreage, but this provision is not applicable to the project parcels). Assessor’s Parcel Numbers 093-040-45 (WAC04-0004) and 093-040-46 (WAC05-0001) are both 40 acres, so each qualifies for stand alone status under this criteria.

#### Capital Outlay

Agricultural preserves require a minimum capital outlay of \$45,000 for agricultural improvements. The Agricultural Commission determined that Assessor’s Parcel Number 093-040-45 has had an outlay of approximately \$49,800. Assessor’s Parcel Number 093-040-46 has had an outlay of capital equal to approximately \$61,500. Accordingly, each qualifies under this criterion.

#### Income

Agricultural Preserves are required to have a projected minimum gross income within five years of planting of at least \$13,500. Assessor's Parcel Number 093-040-45 is projected to have a gross income of \$14,531.18, and Assessor's Parcel Number 093-040-46 is projected to produce \$15,888.35. Accordingly, each qualifies under this criterion as well.

**Conclusion:** As discussed above, staff finds the proposed projects conform to and are consistent with both the 1996 General Plan and the 2004 General Plan.

**Zoning:** The proposed projects are permitted in the Exclusive Agricultural (AE) Zone District, pursuant to Section 17.36. The AE Zone District allows a wide range of agricultural and agricultural related uses and is a required zoning for Williamson Act Contracts. No change of zoning is requested or allowed in the applications under review, and the implications of the zone change to AE was discussed in the staff report for Z03-0007 and WAC03-0001 (see Exhibit E). Accordingly, no repeat discussion is necessary. The use of the project parcels for agricultural operations under two agricultural preserves is consistent and compatible with their existing zoning as well as the use and potential uses of the surrounding lands. Having two agricultural preserves rather than one will not change this relationship.

**General Plan Lawsuit:** On February 5, 1999, Judge Cecily Bond of the Sacramento Superior Court acted to invalidate the Environmental Impact Report adopted for the 1996 General Plan. This invalidation restricted the County from acting on any discretionary project pending issuance of a Writ from the Court. On July 19, 1999, Judge Bond issued the Final Writ of Mandate. The amendment of one agricultural preserve into two agricultural preserves by means of Williamson Act Contracts for each of the project parcels may be approved pursuant to Paragraph 5, Sub-paragraph 4 (c) (i), in the Final Writ that permits the County to approve projects subject to categorical exemption under the California Environmental Quality Act. All projects approved under Paragraph 5 within the Final Writ require the County make the findings set forth under sub-paragraph 8 as follows:

- (a) The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.

**Discussion:** The project parcels are currently within the Exclusive Agricultural (AE) zone district and under a Williamson Act Contract. The amendment of the one contract into two contracts will not significantly impair the County's ability to adopt a new General Plan. The subject properties are located in an area of El Dorado County that contains soils of local and statewide agricultural importance able to support agricultural endeavors.

- (b) The approval or project complies with all other requirements of law.

**Discussion:** All other requirements of State and local laws and ordinance will be met.

- (c) The approval or project is consistent with the text and maps of the 1996 General Plan as amended through February 4, 1999.

Discussion: A review of the text and maps of the 1996 General Plan, as amended through February 4, 1999, and the 2004 General Plan determined the consistency of the proposed project. The subject properties are within the Natural Resource (NR) General Plan land use designation on the both General Plan Land Use maps. The Exclusive Agricultural (AE) Zone District is compatible with this land use designation. The amendment of one agricultural preserve into two agricultural preserve will not create any new parcels nor create a change of land use that would be inconsistent with the NR land use designation or any applicable policy.

Agency and Public Comments: All agencies that commented on the proposed project are listed below. All written comments are available for review at the Planning Services office. If an agencies comment was no comment or not applicable, no further discussion of the agencies comment is presented.

1. El Dorado County Agricultural Commission: Commented twice (supported by three reports) which culminated in a recommendation of approval based upon the determination that both project parcels met the criteria to enter their own Williamson Act Contract.
2. El Dorado County Assessor's Office: Stated that both the project parcels should be self sustaining as agricultural preserves and that each should meet the requirements independently.
3. El Dorado County Department of Transportation: Stated *No Comments*.
4. El Dorado County Environmental Management, Environmental Health Division: Stated *No comments*.
5. El Dorado County Environmental Management, Air Quality Management District: Determined that the division of the one agricultural preserve into two would have an insignificant impact on air quality.
6. Pioneer Fire Protection District: The Fire District determined that imposition of requirements for fire and safety issues would begin with permits for the construction of structures allowed by right under the development standards of the AE zoning. No objections to the division of the one agricultural preserve into two were given.

## **ENVIRONMENTAL REVIEW**

The request to amend Agricultural Preserve No. 291 into two Agricultural Preserves/Williamson Act Contracts (WAC04-0004 and WAC05-0001) has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15317 of the CEQA Guidelines stating that the establishment of agricultural preserves are not required to undergo environmental review.

Pursuant to Resolution No. 240-93, a \$35.<sup>00</sup> processing fee for each application is required by the County Recorder to file the Notice of Exemption (\$70.00 total).

**RECOMMENDATION**

Staff recommends that the Planning Commission forward the following recommendations to the Board of Supervisors:

1. Certify WAC04-0004 and WAC05-0001 are Categorical Exempt from CEQA pursuant to Section 15317 of the CEQA Guidelines; and
2. Approve WAC04-0004 and WAC05-0001 based on the findings in Attachment 1 and Attachment 2.

**SUPPORT INFORMATION**

**Attachments to Staff Report:**

Attachment 1 ..... Findings for WAC04-0004  
Attachment 2 ..... Findings for WAC05-0001

Exhibit A ..... Vicinity Map  
Exhibit B ..... Assessor’s Parcel Page  
Exhibit C ..... General Plan Land Use Map  
Exhibit D ..... Zoning Map  
Exhibit E ..... Staff Report Z03-0007/WAC03-0001  
Exhibit F ..... Rezone Ordinance 4643, November 25, 2003  
Exhibit G ..... Resolution No. 341-2003 establishing AP 291  
November 25, 2003  
Exhibit H ..... Site Plan - WAC04-0004 and WAC05-0001  
Exhibit I ..... Complied Comments  
    I-1, 2, 3, 4, 5 ..... Agricultural Comments (2) and Reports (3)  
    I-6 ..... Assessor’s Office  
    I-7 ..... Department of Transportation  
    1-8, 9 ..... Environmental Management (2)  
    I-10 ..... Pioneer Fire Protection District

# ATTACHMENT 1 FINDINGS

## FILE NUMBER WAC04-0004

1. Assessor's Parcel Number 093-040-45 is consistent with General Plan Policy 8.1.1.4 (1996 and 2004 General Plans) as implemented by Resolution No. 188-2002 for Agricultural Preserves. Specifically:
  - a. The project parcel exceeds the required minimum of 20 contiguous acres.
  - b. Capital improvements on the project parcel have exceeded the required minimum capital outlay for agricultural improvements as demonstrated by the information provided by the applicant and confirmed by the Agricultural Commission.
  - c. The project parcel is capable of making a profit through agricultural pursuits as demonstrated by the information provided by the applicant and confirmed by the Agricultural Commission.
2. The property is zoned Exclusive Agricultural, a required zone district for properties to be placed into Agricultural Preserves (Williamson Act Contracts).
3. The proposed projects has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15317 of the CEQA Guidelines stating that the establishment of agricultural preserves are not required to undergo environmental review.
4. The amendment of one agricultural preserve into two agricultural preserves by means of Williamson Act Contracts for each of the project parcels may be approved pursuant to Paragraph 5, Sub-paragraph 4 (c) (i), in the Final Writ that permits the County to approve projects subject to categorical exemption under the California Environmental Quality Act. All projects approved under Paragraph 5 within the Final Writ require the County make the findings set forth under sub-paragraph 8 as follows: This project may be approved subject to the following findings established in Paragraph 5, Sub-Paragraph 4, and Sub-paragraph 8 in the Final Writ issued by the Court on July 19, 1999, as follows:
  - a. *The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.*

The project parcels are currently within the Exclusive Agricultural (AE) Zone District and under a Williamson Act Contract. The amendment of the one contract into two contracts will not significantly impair the County's ability to adopt a new General Plan. The subject properties are located in an area of El Dorado County that contains soils of local and statewide agricultural importance able to support agricultural endeavors. Zoning regulations, and both the 1996 General Plan and the

2004 General Plan allow for the establishment of Agricultural Preserves through Williamson Act Contracts.

- b. *The approval or project complies with all other requirements of law.*

All other requirements of State and local laws and ordinance will be met.

- c. *The approval or project is consistent with the text and maps of the 1996 General Plan as amended through February 4, 1999.*

A review of the text and maps of the 1996 General Plan, as amended through February 4, 1999, and the 2004 General Plan determined the consistency of the proposed project. The subject properties are within the Natural Resource (NR) General Plan land use designation on the both the General Plan Land Use maps. The Exclusive Agricultural (AE) Zone District is compatible with this land use designation. The amendment of one agricultural preserve into two agricultural preserve will not create any new parcels nor create a change of land use that would be inconsistent with the land use designation or any applicable policy.

## **ATTACHMENT 2** **FINDINGS**

### **FILE NUMBER WAC05-0001**

1. Assessor's Parcel Number 093-040-46 is consistent with General Plan Policy 8.1.1.4 (1996 and 2004 General Plans) as implemented by Resolution No. 188-2002 for Agricultural Preserves. Specifically:
  - a. The project parcel exceeds the required minimum of 20 contiguous acres.
  - b. Capital improvements on the project parcel have exceeded the required minimum capital outlay for agricultural improvements as demonstrated by the information provided by the applicant and confirmed by the Agricultural Commission.
  - c. The project parcel is capable of making a profit through agricultural pursuits as demonstrated by the information provided by the applicant and confirmed by the Agricultural Commission.
2. The property is zoned Exclusive Agricultural, a required zone district for properties to be placed into Agricultural Preserves (Williamson Act Contracts).
3. The proposed project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15317 of the CEQA Guidelines stating that the establishment of agricultural preserves are not required to undergo environmental review.
4. The amendment of one agricultural preserve into two agricultural preserves by means of Williamson Act Contracts for each of the project parcels may be approved pursuant to Paragraph 5, Sub-paragraph 4 (c) (i), in the Final Writ that permits the County to approve projects subject to categorical exemption under the California Environmental Quality Act. All projects approved under Paragraph 5 within the Final Writ require the County make the findings set forth under sub-paragraph 8 as follows: This project may be approved subject to the following findings established in Paragraph 5, Sub-Paragraph 4, and Sub-paragraph 8 in the Final Writ issued by the Court on July 19, 1999, as follows:
  - a. *The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.*

The project parcels are currently within the Exclusive Agricultural (AE) Zone District and under a Williamson Act Contract. The amendment of the one contract into two contracts will not significantly impair the County's ability to adopt a new General Plan. The subject properties are located in an area of El Dorado County that contains soils of local and statewide agricultural importance able to support

agricultural endeavors. Zoning regulations, and both the 1996 General Plan and the 2004 General Plan allow for the establishment of Agricultural Preserves through Williamson Act Contracts.

- b. *The approval or project complies with all other requirements of law.*

All other requirements of State and local laws and ordinance will be met.

- c. *The approval or project is consistent with the text and maps of the 1996 General Plan as amended through February 4, 1999.*

A review of the text and maps of the 1996 General Plan, as amended through February 4, 1999, and the 2004 General Plan determined the consistency of the proposed project. The subject properties are within the Natural Resource (NR) General Plan land use designation on the both the General Plan Land Use maps. The Exclusive Agricultural (AE) Zone District is compatible with this land use designation. The amendment of one agricultural preserve into two agricultural preserve will not create any new parcels nor create a change of land use that would be inconsistent with the land use designation or any applicable policy.