

# EL DORADO COUNTY DEVELOPMENT SERVICES STAFF REPORT



**Agenda of:** October 26, 2006  
**Item No.:** 7.a.  
**Staff:** Aaron Mount

## WILLIAMSON ACT CONTRACT/REZONE

**FILE NUMBER:** WAC06-0006/Z06-0019

**APPLICANT:** Joel and Judith Sklar

**REQUEST:** Williamson Act Contract placing the subject 26.8 acres into a new agricultural preserve and rezoning from Estate Residential Five-acre (RE-5) to Agricultural Preserve (AP).

**LOCATION:** On the north side of Perry Creek Road, approximately three miles east of the intersection with Mount Aukum Road (E16), in the Fairplay area (Exhibit A).

**APN:** 094-060-16, -31, and -35

**ACREAGE:** 26.8 acres

**GENERAL PLAN:** Rural Residential – Agricultural District (RR-A) (Exhibit B)

**ZONING:** Estate Residential Five-acre (RE-5) (Exhibit C)

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

**SUMMARY RECOMMENDATION:** Recommend Approval

### STAFF ANALYSIS

**Project Description:** The applicants are requesting to enter three parcels into a Williamson Act Contract, a total of 26.8 acres, and to rezone from Estate Residential Five-acre (RE-5) to Agricultural Preserve (AP). No winery is proposed.

**Site Description:** The subject parcels, Assessor’s Parcel Numbers 094-060-16, 31, and 35, consist of 26.8 acres and are at an average elevation of 2,300 feet above mean sea level. The parcels are on a south facing slope of the western slope of El Dorado County. Agricultural improvements include ten acres of planted and producing wine grapes in three vineyards that are fenced, drip irrigated, and trellised. Assessor’s Parcel Number 094-060-16 contains a 1,500 square foot single family residence. Assessor’s Parcel Numbers 094-060-16 and -31 both front Perry Creek Road, a County maintained road. Assessor’s Parcel Number 094-060-35 is accessed from Parcel Number 094-060-16; however an unimproved 60 foot wide easement exists as the legal access. Soil types include Holland coarse sandy loam, 9 to 15 percent slopes (HgC), which is a soil of statewide agricultural importance, Shaver very rocky coarse sandy loam, 15 to 50 percent slopes (SdE), and Holland very rocky coarse sandy loam, 15 to 50 percent slopes (HkE) (Exhibit D).

**Adjacent Land Uses:**

	Zoning	General Plan	Land Use/Improvements
<b>Site</b>	RE-5	RR-A	Single Family Residence, Vineyards
<b>North</b>	RE-5	RR-A	Single Family Residence’s, Undeveloped
<b>South</b>	RE-5	RR-A	Single Family Residence’s
<b>East</b>	RE-5	RR-A	Winery (S99-0017)/Single Family Residence’s
<b>West</b>	RE-5	RR-A	Single Family Residence’s

**Discussion:** The subject parcel is within the Fairplay/Somerset Agricultural District and the Fair Play American Viticulture Area.

**General Plan:** The General Plan designates the subject site as Rural Residential with the Agricultural District (RR-A) overlay designation. This designation establishes areas for residential and agricultural development pursuant to Policy 2.2.1.2 and Policy 2.2.2.2. Additionally, the following General Plan policies apply to this project.

*Policy 8.1.1.6: Parcels encumbered by a Williamson Act Contract, pursuant to the California Land Conservation Act, shall be zoned Exclusive Agriculture (AE).*

**Discussion:** The requested zoning of Agricultural Preserve (AP) is similar in intent to the AE Zone District except for wineries and certain ranch marketing activities are only allowed by special use permit as opposed to by right in the AE Zone District. No winery or ranch marketing activities are proposed.

*Policy 8.1.3.2: Agriculturally incompatible uses adjacent to agricultural zoned lands shall provide a minimum setback of 200 feet from the boundary of agriculturally zoned lands.*

**Discussion:** Subsequent to the subject parcels rezone to AP, all new development of agriculturally incompatible uses on adjacent parcels will require a setback of 200 feet. Administrative relief is

available through the Agricultural Commission. Exhibit E illustrates the parcels affected by the agricultural setbacks along with the type of developments that exists and the acreage of each parcel.

**Conclusion:** As discussed, staff finds that the proposed rezone conforms to the General Plan land use designation in that the AP Zone District is compatible with the designation under Table 2-4, and the vineyard has been developed in a manner that manages and protects the existing natural resources; and impacts on the adjacent land from the resultant or potential uses, as addressed in the above discussions, will create no impact.

**Zoning:** Agricultural preserves are established through the execution of a Williamson Act Contract between the County and the landowner and includes the rezoning of the land to Agricultural Preserve (AP) or Exclusive Agriculture (AE), unless the property is already zoned AE or AP. The purpose of the AP and AE zone districts is to implement the Land Conservation Act of 1965 and to encourage the sustainable use of farmland in the county for agricultural production. The requested zoning of Agricultural Preserve (AP) is similar in intent to the AE Zone District except for the uses allowed by right. The AP Zone District restricts ranch marketing and wineries by requiring a special use permit. It is the intent of the applicants to have a vineyard only with no future plans for a winery or ranch marketing activities.

The parcel sizes are consistent with the development standards of 17.36.090.D. Under Ordinance 17.36.070, one single family dwelling is allowed in each AP preserve. In this case, the one existing dwelling unit for the 26.8 acre project is in compliance with the density requirement of one dwelling unit per preserve.

**Williamson Act Qualifying Criteria:** The County's criteria and procedures for qualifying for a Williamson Act Contract are contained in the Board of Supervisors' Resolution No. 188-2002. There are three criteria identified in this resolution that are required for the establishment of an agricultural preserve. As they pertain to this application they are:

1. Minimum acreage:
  - A. For high intensive farming operations:
    1. An agricultural preserve shall consist of a minimum of twenty (20) contiguous acres.
2. Capital outlay:
  - A. Methods for determining a value of capital outlay shall be determined by the Agricultural Commission.
  - B. For high intensive farming operations:
    1. There shall be a minimum capital outlay of \$45,000 excluding applicant's residence and original cost of the land.
3. Income:
  - A. Methods for determining a value income shall be determined by the Agricultural Commission.
  - B. For high intensive farming operations:
    1. The property shall produce a minimum annual gross income of \$13,500 for high intensive farming operations, including but not limited to orchards, vineyards, and row crops.

2. For permanent, non-producing agriculture crops, such as orchards and vineyards, the plants shall be planted and properly cared and maintained (as determined by the Agricultural Commission) to produce a commercial crop within three (3) years and be capable of producing a minimum annual gross income of \$13,500 within five (5) years of planting.

**Conclusion:** The Agricultural Commission reviewed this application at a regularly scheduled meeting held on August 9, 2006, and recommended approval of the of Joel and Judith Sklar's request to place the subject parcels into a Williamson Act Contract as it meets all criteria.

1. The 20 acre minimum has been met, as the subject site consists of 26.8 acres.
2. Capital outlay has been achieved over time with the on-site agricultural improvements of clearing, irrigation, trellises, vines, and planting totaling \$63,164.00.
3. The land has been determined to be properly planted, cared for and maintained, and is capable of making a profit through viticulture, with projected income from existing 10 acres of grapes equaling \$28,915.

**Agency and Public Comments:** The following agencies provided comments on this application and their concerns are addressed:

El Dorado County Department of Transportation: DOT recommended a requirement of an Irrevocable Offer of Dedication for the onsite portion of Perry Creek Road and an onsite road easement for public use. Such offers are not a part of provisions for entry into a Williamson Act contract and are therefore not recommended.

Copies of their written comments are available at the Planning Services office

At the time of the preparation of this report, staff had not received any comments from the public. New issues may arise as a result of the public notice of the hearing which will be discussed at that time.

## **ENVIRONMENTAL REVIEW**

This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15317 of the CEQA Guidelines which states, "Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area. The requested rezone to Agricultural Preserve (AP) only allows wineries, special events, and other quasi-commercial activities by special use permit which would require further discretionary and CEQA review. Pursuant to Resolution No. 240-93, a \$35.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Exemption.

## RECOMMENDATION

1. Certify that the project is Categorical Exempt from CEQA pursuant to Section 15317 of the CEQA Guidelines;
2. Approve WAC06-0006 to establish an agricultural preserve of 26.8 acres for Assessor's Parcel Numbers 094-060-16, -31, and -35 based on the findings listed on Attachment 1; and
2. Approve Z06-0019 rezoning Assessor's Parcel Numbers 094-060-16, -31, and -35 from Estate Residential Five-acre (RE-5) to Agricultural Preserve (AP), based on the findings listed on Attachment 1.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Attachment 1 .....	Findings
Exhibit A .....	Vicinity Map
Exhibit B .....	General Plan Land Use Map
Exhibit C .....	Zoning Map
Exhibit D .....	Soils Map
Exhibit E .....	Parcels Affected by Agricultural Setbacks

# **ATTACHMENT 1 FINDINGS**

**WAC06-0006/Z06-00019**

## **1.0 CEQA Findings**

- 1.1 This project has been found to be Categorized Exempt from the requirements of CEQA pursuant to Section 15317 of the CEQA Guidelines which states, "Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area.

## **2.0 General Plan Findings**

- 2.1 The proposed Williamson Act Contract is consistent with the policies in the El Dorado County General Plan, as discussed in the General Plan section of this staff report.

## **3.0 Zoning Findings**

- 3.1 The subject parcels meet the design standards pursuant to 17.36.090.D of the County Code.

## **4.0 Administrative Findings**

- 4.1 The subject parcels satisfy the County's three criteria for the establishment of an Agricultural Preserve, as defined in Resolution Number 188-2002, as follows:
  1. The 20 acre minimum has been met, as the subject site consists of 26.8 acres.
  2. Capital outlay has been achieved over time with the on-site agricultural improvements of clearing, irrigation, trellises, vines, and planting totaling \$63,164.00.
  3. The land has been determined to be properly planted, cared for and maintained, and is capable of making a profit through viticulture, with projected income from existing 10 acres of grapes equaling \$28,915.