

**EL DORADO COUNTY DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: January 8, 2009

Item No.: 9

Staff: Aaron Mount

REZONE/WILLIAMSON ACT CONTRACT

FILE NUMBER: Z08-0014 / WAC08-0004

AGENT: Charlie Peters

APPLICANTS: James and Janet Cox

REQUEST: The project consists of the following requests.

1. Zone change from Estate Residential Ten-Acre (RE-10) to Agricultural Preserve (AP).
2. Williamson Act Contract application to create a new agricultural preserve.

LOCATION: On the east side of Gopher Hole Road approximately 0.2 miles north of the intersection with Bucks Bar Road in the Somerset area, Supervisorial District II. (Exhibit A)

APN: 093-180-07

ACREAGE: 22.645 acres

GENERAL PLAN: Rural Residential-Important Biological Corridor (RR-IBC) (Exhibit B)

ZONING: Estate Residential Ten-Acre (RE-10) (Exhibit C)

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

RECOMMENDATION: Planning staff recommends the Planning Commission forward a recommendation that the Board of Supervisors take the following actions:

1. Certify that the project is Categorically Exempt from CEQA pursuant to Section 15317; and
2. Approve Zone Change application Z08-0014 and Williamson Act Contract application WAC08-0004.

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County’s regulations and requirements. An analysis of the proposal and issues for Planning Commission consideration are provided in the following sections.

Project Description: Zone change from RE-10 to AP and Williamson Act Contract application to create an agricultural preserve comprising of one parcel 22.645 acres in size.

Site Description: The subject parcel is at an average elevation of 2,000 feet above mean sea level and contains choice soils of Holland Course Sandy Loam. Capital improvements to the property include 5 acres of wine grapes, a well and irrigation pump, drip system, water storage, power, an agricultural barn, and deer fencing. Site access is provided via Gopher Lane off of Bucks Bar Road.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RE-10	RR-IBC	Agriculture
North	RE-10	RR-IBC	Residential/Undeveloped
South	RE-5/C	C	Undeveloped
East	RE-5	RR	Residential
West	RE-10	RR-IBC	Residential

Discussion: The subject parcel is currently zoned RE-10 and is located outside of the Fairplay/Somerset agricultural district. The requested zone change to AP will require consistency with General Plan Policy 8.1.3.2 which requires agriculturally incompatible uses adjacent to agriculturally zoned land outside of a designated Agricultural District to provide a setback of 200 feet on parcels of 10 acres or larger. Commercial development on the parcel to the south would not be subject to any special setbacks as commercial uses are not considered incompatible with agriculture. The subject parcel is directly adjacent to the Somerset Rural Center to the south.

General Plan: The General Plan land use designation for the project is Rural Residential (RR) with an Important Biological Corridor (IBC) overlay. The RR land use designation permits single-family

residences, agricultural support structures, and a full range of agricultural production uses, recreation, and mineral development activities. A portion of the subject parcel contains mapped “choice soils.” The IBC overlay is set forth in General Plan Policy 7.4.2.9 and is applied to lands identified as having a high wildlife habitat value. No development is proposed with this application and any oak tree removal that was associated with development of the vineyard was specifically exempt pursuant to Policy 7.4.4.4 and the Oak Woodland Management Plan. Additionally, the following General Plan policies apply to this project.

Policy 2.2.5.2 directs that all applications for discretionary projects or permits including, but not limited to, General Plan amendments, zoning boundary amendments, tentative maps for major and minor land divisions, and special use permits shall be reviewed to determine consistency with the policies of the General Plan.

Discussion: The establishment of a new agricultural preserve and the ensuing uses it allows is consistent with the RR-IBC land use designation.

Policy 2.2.5.3 includes 19 specific criteria to be considered in evaluating zone change requests.

Discussion: Staff has reviewed the zone change request against the 19 specific criteria under policy 2.2.5.3 and found that the proposal is consistent with applicable criteria such as important agricultural areas and existing land use pattern. The requested zone district of AP is consistent with the RR-IBC General Plan land use designation as indicated in Table 2-4 of the General Plan.

Policy 8.1.1.4 directs 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 Act Contract lands (agricultural preserves).

Discussion: The Agricultural Commission evaluated the subject parcel based on these procedures. A cumulative score of 60 points or more in all five categories signifies a parcel with good agricultural capabilities. The subject parcel scored 67 points.

Policy 8.1.3.2 directs that agriculturally incompatible uses adjacent to agriculturally zoned land outside of designated Agricultural Districts shall provide a minimum setback of 200 feet on parcels 10 acres or larger.

Discussion: The subject parcel is currently zoned RE-10 and is located outside of the Fairplay/Somerset Agricultural District. As such, General Plan Policy 8.1.3.2 requires agriculturally incompatible uses adjacent to agriculturally zoned land outside of a designated Agricultural District to provide a setback of 200 feet on parcels of 10 acres or larger. 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 G illustrates the parcels affected by the agricultural setbacks along with the type of developments that exists and the acreage of each parcel.

Policy 8.1.4.1 directs that the County Agricultural Commission review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to the reviewing authority.

Discussion: The El Dorado County Agriculture Commission has determined that the land is well suited for agricultural production by their recommendation for approval at the meeting of October 8, 2008. The Agricultural Commission's recommendation is provided in Exhibit E.

Policy 8.2.4.1 seeks to ensure long-term conservation, enhancement, and expansion of viable agricultural lands.

Discussion: The project is consistent with Policy 8.2.4.1 by the request to enter into the Williamson Act Contract program.

Conclusion: The project has been reviewed in accordance with the General Plan and it has been determined that the project is consistent with the applicable policies. Findings of consistency with the General Plan are provided in Attachment 1.

Zoning: Pursuant to Section 17.36.310, the Agricultural Preserve (AP) zone district shall apply only to those lands subject to the Land Conservation Act of 1965. The AP zone district permits all uses allowed by right in the Exclusive Agriculture (AE) zone district. However, ranch marketing activities pursuant to the provisions of Section 17.14.180 and wineries and wine tasting facilities pursuant to the provisions of Section 17.14.190 would require an approved special use permit application. Section 17.36.090.C requires a minimum parcel size of twenty acres. At 22.645 acres, the newly created agricultural preserve would meet this minimum.

The requested zone change from RE-10 to AP further limits development to that which is compatible with the Land Conservation Act of 1965. Currently the subject parcel has a potential of subdividing into two parcels. The requested zone change would constitute a downsize in the minimum required zoning density from 10 acres to 20 acres.

Williamson Act Criteria: The Agricultural Commission reviewed the requested Williamson Act Contracts at their regularly scheduled meeting on August 13, 2008. At this meeting, the Agricultural Commission reviewed the three primary criteria outlined in Resolution No. 188-2002 for establishment of an Agricultural Preserve. These three criteria are:

1. There shall be a minimum capital outlay for agricultural improvements in the minimum total sum of \$45,000 excluding the applicant's residence and original cost of the land.

Discussion: The Agricultural Commission determined the capital outlay exceeds the minimum requirement of \$45,000 at \$190,000.

2. The minimum acreage shall be 20 contiguous acres for high intensity farming operations.

Discussion: The subject parcel consists of 22.645 acres.

3. High intensive farming operations (orchards, vineyards and row crops) shall produce a minimum gross income of \$13,500, or \$2,000.00 for low intensity farming (grazing).

Discussion: The gross income exceeds the minimum requirements of \$13,500 per year at \$30,000.

Conclusion: Since all required findings were made for the requested Williamson Act Contracts, the Agricultural Commission recommended approval of WAC08-0005 (Exhibit E).

The El Dorado County Assessor's Office staff has visited the site and has found that the minimum requirements for the Williamson Act contract have been met and recommends that it be accepted (Exhibit F).

Other Agencies:

Pioneer Fire Protection District provided comments stating that the project should be required to submit a wild land fire safe plan and that the site may not have adequate access to water for fire suppression. The project does not propose any development associated with the request for a rezone and Williamson Act Contract. Any future residential or commercial development on the site will require review and approval of the County and the Fire District which will ensure that fire safe regulations are met.

ENVIRONMENTAL REVIEW

This 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 and the making and renewing of open space contracts under the Williamson Act are exempt. The zone change from RA-40 to AP further limits development because all uses must be compatible with the Land Conservation Act of 1965. Potential winery and ranch marketing uses would require a Special Use Permit and be subject to separate CEQA review.

Pursuant to Resolution No. 240-93, a \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments:

Attachment 1	Findings
Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Aerial Site Photo
Exhibit E	Agricultural Commission Memorandum
Exhibit F	Assessor's Office Memorandum
Exhibit G	200 Foot Setback Map

ATTACHMENT 1 FINDINGS

FILE NUMBER Z08-0014/WAC08-0004

1.0 CEQA Findings

- 1.1 The project has been found to be Categorical 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.”
- 1.2 The zone change from RE-10 to AP further limits development because all uses must be compatible with the Land Conservation Act of 1965. Potential winery and ranch marketing uses will require a Special Use Permit and will be subject to separate CEQA review. As such, the zone change from RE-10 to AP is effectively a “downzone” in density minimum.

2.0 General Plan Findings

- 2.1 The zone change from RE-10 to AP is consistent with General Plan Policy 2.2.5.3 as the proposal was reviewed against the 19 specific criteria under policy 2.2.5.3 and found to be consistent with applicable criteria such as important agricultural resources and existing land use pattern. There are no existing CC&R’s. The AP zone district is consistent with the RR-IBC General Plan land use designation.
- 2.2 The proposed Williamson Act Contract is consistent with policies 2.2.1.2, 8.1.3.2, 8.1.4.1, 7.4.2.9, 7.4.4.4, and 8.2.4.1 of the El Dorado County General Plan, as discussed in the General Plan section of the staff report.

3.0 Zoning Findings

- 3.1 The subject parcel meets the design standards pursuant to 17.36.340 of the Zoning Ordinance.

4.0 Administrative Findings

- 4.1 The properties satisfy the County’s three criteria for the establishment of an Agricultural Preserve, as defined in Resolution Number 188-2002, as follows:
 - 4.1.1. The 20-acre minimum has been met:
 - a. WAC08-0005 has a total of 22.645 acres.

4.1.2. Capital outlay has been achieved for the contract as follows

- a. WAC08-0005 has a total capital outlay of \$120,000 in excess of the required \$45,000.

4.1.3. The land has been determined to be capable of making a profit through agricultural pursuits with projected income from wine grapes and olive trees as follows:

- a. WAC08-0005 has a gross income which exceeds \$13,500 at \$30,000.