

**EL DORADO COUNTY DEVELOPMENT SERVICES  
STAFF REPORT**

<b>Agenda of:</b>	June 8, 2006
<b>Item No.:</b>	9.a.
<b>Staff:</b>	Tom Dougherty

**WILLIAMSON ACT CONTRACTS AND ZONE CHANGE**

**FILE NUMBER:** Z06-0009, WAC06-0002, and WAC06-0003

**APPLICANT:** Michael Chazen

**AGENT:** Ed Keller

**REQUEST:** Request to amend existing Agricultural Preserve No. 3 to establish two new separate agricultural preserves on 155 acres. There is also a request for a zone change from Estate Residential Ten-acre (RE-10) to Exclusive Agriculture (AE) for a two-acre parcel to be included in one of the preserves.

**LOCATION:** On the north side of Perry Creek Road, approximately two miles east of the intersection with Fair Play Road, in the Fair Play area. (Exhibit A)

**APN:** 094-060-07, -25, and 093-032-52

**ACREAGE:** 155.19 acres

**GENERAL PLAN:** Agricultural Lands (AL) with an Agricultural (A) overlay. (Exhibit B)

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

**ENVIRONMENTAL DOCUMENT:** Exempt from the requirements of CEQA pursuant to Sections 15061 b (3) and 15317 of the CEQA Guidelines

**SUMMARY RECOMMENDATION:** Recommend approval

**BACKGROUND:** The two-acre parcel (Assessor’s Parcel Number 094-060-07) was created in 1976, and the zone district of Estate Residential Ten-acre was established by the South County Area Plan on January 14, 1983.

The applicant currently has an existing Agricultural Preserve (No. 3) with a total of 153.19 acres involving Assessor’s Parcel numbers 093-032-52 and 094-060-25. This preserve was established by El Dorado County Board of Supervisors Resolution No. 190-88 on June 21, 1988. The property has historically been used for grazing, orchards, and growing grape vines.

When the three parcels are realigned, their acreage will be redistributed, and two agricultural preserves will be created, one involving the two parcels most westerly (labeled A and C) and one with the parcel most easterly (labeled B) as shown on Exhibit F.

**STAFF ANALYSIS**

**Request:** The creation of two agricultural preserves, from one existing preserve, as required by the conditions of approval for Boundary Line Adjustment BLA06-0010. This boundary line adjustment seeks to relocate the property lines of the three subject parcels in order to facilitate this creation. The configurations of the existing parcels, pre boundary line adjustment are shown in exhibits A thru D. The configurations of the parcels, post boundary line adjustment are shown in Exhibits E and F. The following table breaks down the pre and post boundary line adjustment acreages:

	<b>Pre-Boundary line Adjustment</b>	<b>Post Boundary Line Adjustment</b>
<b>Parcel A:</b> AE and Agricultural Preserve No. 3; current APN 093-032-52.	117 acres; 67.5 acres of vineyard; 4,500 square foot single-family residence.	73.37 acres; 43.30 acres of vineyard; 4,500 square foot single-family residence (part of new agricultural preserve, WAC06-0002).
<b>Parcel B:</b> RE-10 and current APN 094-060-07.	Two acres; no vineyard; 2,300 square foot single-family residence.	37.81 acres; 13 acres of vineyard; 2,300 square foot single-family residence (independent new agricultural preserve WAC06-0003).
<b>Parcel C:</b> AE and Agricultural Preserve No. 3; current APN 094-060-25.	37 acres; 2.5 acres of vineyard, winery.	44.01 acres; 10.77 acres vineyard, winery (part of new agricultural preserve, WAC06-0002).

**Site Description:** The two-acre RE-10 zoned area proposed to be changed to AE currently contains a 2300 square foot single-family residence built in 1969 and contains primarily annual grasses. The southernmost parcel, Assessor’s Parcel Number 094-060-25, is the site of the Perry Creek Winery and contains annual grasses, interior live oaks (*Quercus wislizenii*), blue oaks (*Quercus douglasii*), and 2.5 acres of vineyard. The northernmost parcel Assessor’s Parcel Number 093-032-52 contains predominately vineyards with a small amount of interior live oaks (*Quercus wislizenii*) and blue oaks (*Quercus douglasii*) in the northeast section of the parcel.

**Adjacent Land Uses:** The following reflects only the two-acre, RE-10 zoned parcel identified by Assessor’s Parcel Number 094-060-07.

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	<b>RE-10</b>	AL/A	Residential, ranching, agriculture
<b>North</b>	<b>AE</b>	AL/A	Residential, ranching, agriculture
<b>South</b>	<b>AE</b>	AL/A	Residential, ranching, agriculture
<b>East</b>	<b>AE</b>	AL/A	Residential, ranching, agriculture
<b>West</b>	<b>AE</b>	AL/A	Residential, ranching, agriculture

**Discussion:** The two-acre RE-10 zoned area is entirely surrounded by Exclusive Agricultural (AE) zoned property and Agricultural Lands General Plan designated parcels used to support the growing of wine grapes. The rezone of this two-acre RE-10 area to AE will not create any land use conflicts, since the proposed boundary line adjustment will result in expanding the parcel to 37 acres and creating an independent agricultural preserve.

**General Plan:** The General Plan designates the subject parcel as Agricultural Lands. This designation is applied to lands described in Policy 8.1.1.8. A maximum of two residential dwellings used to support the agricultural use are typically allowed. Williamson Act Contracts however allow only one residential dwelling for each contract. Additionally, the following General Plan policies apply to this project:

**Policy 2.2.2.2:** “The purpose of the Agricultural District (-A) overlay designation is to identify the general areas which contain the majority of the County’s federally designated prime, State designated unique or important, or County designated locally important soils (collectively referred to as “choice” agricultural soils) and which the Board of Supervisors has determined should be preserved primarily for agricultural uses. This designation does not imply any restrictions on agricultural uses in areas not designated specifically as an Agricultural District but only serves to identify agriculture as the principal activity and to discourage incompatible uses such as higher density residential use.”

**Discussion:** The two proposed Agricultural Preserves, rezoning of Assessor’s Parcel Number 094-060-07 to AE, and the recordation of BLA06-0010 will be consistent with Policy 2.2.2.2 in that the resultant parcels will be 20 acres or more. The parcel is currently involved in growing grapes for commercial uses, and the rezone to Exclusive Agriculture for this two-acre section would only enhance the agricultural possibilities.

**Policy 2.2.5.2:** “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. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan.”

**Discussion:** The subject application includes a zone change request to AE for a two-acre parcel. The establishment of a new zone designation of Exclusive Agriculture (AE) and the ensuing uses it allows is consistent with the allowed uses intended by the Agricultural Lands (AL) land use designation and the Agricultural (A) overlay designation. The zone change to AE will not preclude the existing residence from being included within a future agricultural preserve as long as it is the only residence within that preserve.

**Policy 2.2.5.3:** The County shall evaluate future rezoning: (1) To be based on the General Plan's general direction as to minimum parcel size or maximum allowable density; and (2) To assess whether changes in conditions that would support a higher density or intensity zoning district. The specific criteria to be considered include; but are not limited to, the following:

1. "Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;"

**Discussion:** There is an existing well serving the subject parcel, and the rezone of this two-acre area from residential to agriculture will not directly increase water demands currently supplied by an existing well.

2. "Availability and capacity of public treated water system;"

**Discussion:** There is no public treated water system available. The subject parcel is served by an existing well.

3. "Availability and capacity of public waste water treatment system;"

**Discussion:** Public wastewater is not available in this rural region. A septic system exists on the subject parcel.

4. Distance to and capacity of the serving elementary and high school;"

**Discussion:** As the proposed rezone will not change the existing residential use of the existing single-family dwelling, it will not impact elementary and high school enrollment.

5. "Response time from the nearest fire station handling structure fires;"

**Discussion:** The Pioneer Fire Protection District is responsible for providing fire protection to the subject site. The rezoning of the project area will not increase the response time needed for the existing residence that has held the same location since 1969.

6. "Distance to nearest Community Region or Rural Center;"

**Discussion:** The project site is located approximately 1.2 miles northwest of the Rural Center of Fairplay. The project area is surrounded by compatible land uses.

7. “Erosion hazard;”

**Discussion:** The *Soil Survey of El Dorado Area, California, 1974*, did not indicate that the project site was located on expansive soil or prone to any erosion hazards. The project is not located in an area with significant topographic variation in slope.

8. “Septic and leach field capability;”

**Discussion:** The project area will be served by the existing septic system used by the current single-family residence.

9. “Groundwater capability to support wells;”

**Discussion:** The project area will be served by the existing well used by the current single-family residence.

10. “Critical flora and fauna habitat areas;”

**Discussion:** The rezoning of the subject two-acre area to AE would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. The subject parcel has no identified biological resources pursuant to the Important Biological Resources Map located in Planning Services.

11. “Important timber production areas;”

**Discussion:** The project is not located in or near an important timber production area.

12. “Important agricultural areas;”

**Discussion:** The project approval would potentially allow the enhancement of the surrounding important agricultural area.

13. “Important mineral resource areas;”

**Discussion:** The project will not impact an important mineral resource area.

14. “Capacity of the transportation system serving the area;”

**Discussion:** The approval of the zone change of the two-acre section from Estate Residential Ten-acre to AE will not change or allow any additional traffic impact not potentially allowed by the current zoning primarily because of the size of the subject area.

15. “Existing land use patterns;”

**Discussion:** The project area is surrounded by agricultural uses. Staff has determined that the proposed project is consistent with existing land use patterns within the project area.

16. “Proximity to perennial water course;”

**Discussion:** The United States Department of the Interior National Wetlands Inventory Map for the project area was reviewed to determine if any identified wetland or riparian habitat areas exist on or adjacent to the project site and none were found.

17. “Important historical/archeological sites;”

**Discussion:** There is an existing single-family residence that has been in existence since 1969. The rezone to AE will not allow any potential impacts to the land that are not currently allowed.

18. “Seismic hazards and present active faults; and”

**Discussion:** As shown in the Division of Mines and Geology publication Fault Rupture Hazard Zones in California, there are no Alquist-Priolo Special Studies Zones mapped in El Dorado County. The impacts from fault ruptures, seismically induced ground shaking, or seismic ground failure or liquefaction are considered to be less than significant. Any potential impact caused by locating new buildings in the project area will be offset by the compliance with the Uniform Building Code earthquake standards.

19. “Consistency with existing Conditions, Covenants, and Restrictions.”

**Discussion:** The proposed project is not under constraints of CC&Rs.

**Policy 8.1.1.8:** “Lands assigned the Agricultural Land (AL) designation shall be of sufficient size to sustain agricultural use and should possess one or more of the following characteristics:”

- A. “Are currently under a Williamson Act or Farmland Security Zone Contract;
- B. Contain the characteristics of choice agricultural land (i.e., contain choice agricultural soils and/or contain Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Locally Important Farmland); or
- C. Are under cultivation for commercial crop production or are identified as grazing land;”

“And one of the following:

- 1. Are located in the county’s Rural Region; or
- 2. The County Department of Agriculture has determined that the land is well suited for agricultural production.”

**Discussion:** Amending Agricultural Preserve #3 to create two new Agricultural Preserves, rezoning the two-acre RE-10 parcel to AE, and recordation of BLA06-0010 will be consistent with Policy 8.1.1.8, because all parcels will be under Williamson Act Contracts, contain choice and/or contain commercial crops, and are located within the County's Rural Regions.

**Policy 8.1.4.1:** "The County Agricultural Commission shall 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. Before granting approval, a determination shall be made by the approving authority that the proposed use:"

- A. "Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and
- B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and
- C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands."

**Discussion:** The El County Agriculture Commission has determined that the land is well suited for agricultural production by their approval of the boundary line adjustment on March 8, 2006, with the condition that two Williamson Act Contracts be established, and then by their subsequent approval recommendation for those contracts at their May 10, 2006, meeting.

**Policy 8.1.3.1:** "Agriculturally zoned lands including Williamson Act Contract properties (i.e., lands within "agricultural preserves") shall be buffered from increases in density on adjacent lands by requiring a minimum of 10 acres for any parcel created adjacent to such lands. Those parcels used to buffer agriculturally zoned lands shall have the same width to length ratio of other parcels."

**Discussion:** All of the 155.19 acres involved in the three subject applications are currently zoned AE, except for the two acre area subject of Z 06-0009. Approval of Z06-0009 would change that area to AE. That rezone would not induce any agricultural setbacks because that area has been an island of RE-10 entirely surrounded by AE.

**Policy 8.1.4.1:** "The County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving agricultural district and Williamson Act Contract land, or lands adjacent to such lands, and shall make recommendations to the reviewing authority. Before granting approval, a determination shall be made by the approving authority that the proposed use:

- A. Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and

- B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and
- C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.”

**Discussion:** On May 10, 2006, the Agricultural Commission found the project consistent with the criteria of Policy 8.1.4.1, and recommended approval of the project. The proposed project will result in the division of existing Agricultural Preserve No. 3 into two separate Agricultural Preserves. The Agricultural Commission noted that the proposal will create two agricultural preserves, one 117.38 acres, and the other 37.81 acres.

**Policy 8.2.4.1:** “Programs shall be developed that provide tax benefits and enhance competitive capabilities of farms and ranches, thereby ensuring long-term conservation, enhancement, and expansion of viable agricultural lands. Examples include, but are not limited to the following:

- A. Support and allow private organizations to utilize conservation easements or other appropriate techniques for voluntarily restricting land to agricultural uses only.
- B. Continued use of Williamson Act Contracts (agricultural preserves).
- C. Formation of land trusts to preserve agricultural lands.
- D. Make available voluntary purchase or transfer of development rights from agricultural areas to appropriate non-agricultural areas.”

**Discussion:** The project is consistent with Policy 8.2.4.1 through the request for the modification and continued use of a Williamson Act Contract.

**Conclusion:** As discussed above, staff finds that the project, as proposed, conforms to the General Plan.

**Zoning:** Pursuant to Section 17.36.070, the Exclusive Agriculture Zone District shall apply only to those lands subject to the Land Conservation Act of 1965. The subject parcels are presently zoned AE since being encumbered under Agricultural Preserve No. 3. Section 17.36.070 (D) allows the placement of one dwelling unit within each agricultural preserve. The effect of this proposal to create this agricultural preserve would allow one house within each contract which is consistent with Zoning.

Section 17.36.090.C requires a minimum parcel size of 20 acres. Each of the newly created agricultural preserves would meet this minimum.

**Williamson Act Criteria:** The Agricultural Commission reviewed the requested Williamson Act Contracts at their regularly scheduled meeting on May 10, 2006. 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.

WAC06-0002 Discussion: The Agriculture Department provided a summarized expense sheet showing the payment of costs for agricultural improvements. Expenses for agricultural improvements consisted of fencing and a well. Total capital outlay was shown to be \$1,265,000 which exceeds the minimum of \$45,000.

WAC06-0003 Discussion: The Agriculture Department provided a summarized expense sheet showing the payment of costs for agricultural improvements. Expenses for agricultural improvements consisted of fencing and a well. Total capital outlay was shown to be \$170,000 which exceeds the minimum of \$45,000

2. The minimum acreage shall be 20 contiguous acres for "intensive farming operations".

WAC06-0002 Discussion: The subject parcels consist of 117 contiguous acres total, post boundary line adjustment.

WAC06-0003 Discussion: The subject parcel consists of 37.81 acres total, post boundary line adjustment.

3. High intensive farming operations shall produce a minimum gross income of \$13,500.

WAC06-0002 Discussion: Current gross income for turning grapes into wine is \$151,389.

WAC06-0003 Discussion: Current gross income for grapes into wine is \$35,000.00.

**Conclusion:** Since all required findings were made for the requested Williamson Act Contracts, the Agricultural Commission recommended approval of WAC06-0002 and WAC06-0003.

**Agency and Public Comments:** The following agencies were asked to provide comments on this application:

El Dorado County Agricultural Commission  
El Dorado County Assessor's Office

Copies of their written comments are available at the Planning Services office. From these comments, the following issues were raised:

**El Dorado County Agricultural Commission:**

The El Dorado County Agricultural Commissioners reviewed the BLA06-0010 at their March 8, 2006 meeting and recommended approval of the boundary line adjustment if the resultant parcels

were put into two Agricultural Preserves. Presently, it is a condition of approval for that boundary line adjustment that the contracts are approved before the boundary line adjustment can be finalized. At their May 10, 2006, meeting, the Agricultural Commission found the applicant's request to amend existing Agricultural Preserve No. 3 to establish two new Agricultural Preserves meets all the criteria, and they recommend approval for WAC06-0002 and WAC06-0003.

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 zone change request has been found to be Exempt from the requirements of CEQA pursuant to Section 15061 (b)(3) of the CEQA Guidelines which states the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA review. The existing uses of the parcels that completely surround the two-acre area subject to the rezoning request currently support ranch marketing and winery operations. The existing dwelling on the subject parcel would then be included within a 37.81-acre agricultural preserve. The rezoning of the two acres would not, in and of itself, create additional significant environmental impacts, nor allow any new conflicting uses with the surrounding parcels.

Section 15317 exempts the Williamson Act Contracts and 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. 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 projects are Categorical Exempt from CEQA pursuant to Sections 15061 (b) (3) and Section 15317.
2. Forward a recommendation to the Board of Supervisors to approve WAC 06-0002 and WAC 06-0003 based on the findings in Attachment 1.
3. Forward a recommendation to the Board of Supervisors to approve of Z 06-0009 based on the findings in Attachment 1.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Attachment 1 .....	Findings
Exhibit A .....	Vicinity Map, Pre-BLA Parcel Configuration
Exhibit B1 .....	Assessor's Parcel Map Pre-BLA, 094-060-07 and 25
Exhibit B2 .....	Assessor's Parcel Map, Pre-BLA, 093-032-52
Exhibit C .....	General Plan Land Use Map, Pre-BLA Parcel Configuration
Exhibit D .....	Zoning Map, Pre-BLA Parcel Configuration
Exhibit E .....	Post BLA Parcel Configuration, Road Easements
Exhibit F .....	Aerial Photo
Exhibit G1 .....	Agricultural Preserve No. 3 Board Resolution
Exhibit G2 .....	Agricultural Preserve No. 3 Details

# **ATTACHMENT 1 FINDINGS**

## **FILE NUMBER Z06-0009**

### **1.0 CEQA FINDING**

1.1 The Planning Commission has determined that the proposed project will have no significant impact on the environment and is exempt from CEQA pursuant Sections 15061 (b) (3) of the CEQA Guidelines.

1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of Planning Services at 2850 Fairlane Court, Placerville, CA.

### **2.0 ADMINISTRATIVE FINDINGS**

#### **2.1 Zone Change**

2.1.1 In accordance with State law and pursuant to General Plan Policy 2.2.5.3, the County has evaluated the subject rezoning request based on the General Plan's general direction as to minimum parcel size or maximum allowable density and to assess whether changes in conditions are present that would support a higher density or intensity zoning district. The 19 specific criteria found within General Plan Policy 2.2.5.3 have been analyzed with regards to the above-referenced zone change request. Based on this analysis and the conclusions reached in the staff report, the Planning Commission recommends approval of the zone change request to the Board of Supervisors.

#### **2.2 General Plan**

2.1.1 It can be found that the proposal conforms to Policy 2.2.2.2 because the parcel currently identified by Assessor's Parcel Number 094-060-07 will be 37.81 acres when the related BLA06-0010 is approved. In addition, the parcel is currently involved in growing grapes for commercial uses and the rezone to Exclusive Agriculture for this two-acre section would only enhance the agricultural possibilities.

2.1.2 It can be found that the proposal conforms to Policy 2.2.5.2 because the establishment of a new zone designation of Exclusive Agriculture (AE,) and the ensuing uses it allows, are both consistent with the allowed uses intended by the Agricultural Lands (AL) land use designation and the Agricultural (A) overlay designation. The zone change to AE will not preclude the existing residence from being included within a future agricultural preserve, as long as the residence will be the only one within that preserve.

2.1.3 It can be found that the proposal conforms to Policy 2.2.5.3 because the proposal has been analyzed against the required nineteen points and a significant impact was not found.

2.1.4 It can be found that the proposal conforms to Policy 8.1.1.8 because the subject parcel is located within a Rural Region and the newly created 37.81-acre parcel created by the boundary line adjustment (094-060-07), will have 20 acres of vineyard and then all be related by zoning that will support the potential continued use for agricultural crops.

2.1.5 It can be found that the proposal conforms to Policy 8.1.4.1 because the El County Agriculture Commissioners have determined that the land is well suited for agricultural production by their approval of the boundary line adjustment on March 8, 2006, with the condition that two Williamson Act Contracts be established, and then by their subsequent approval of those contracts at their May 10, 2006, meeting.

### **FILE NUMBERS WAC06-0002 and WAC06-0003**

## **FINDINGS**

### **1.0 CEQA FINDING**

1.1 The proposed requests for Williamson Act Contracts has been found to be Categorically Exempt from CEQA pursuant to Section 15317 stating that, "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 ADMINISTRATIVE FINDINGS**

2.1 The subject parcels satisfy the County's criteria 1, 2, and 3 as contained in Resolution No. 188-2002 for the establishment of an Agricultural Preserve, as discussed in the staff report and pursuant to review by the El Dorado County Agriculture Commissioners.