

**EL DORADO COUNTY DEVELOPMENT SERVICES
PLANNING COMMISSION AND
BOARD OF SUPERVISORS
STAFF REPORT**



Agenda of: December 13, 2007
Item No.: 4.c.
Staff: Tom Dougherty

WILLIAMSON ACT CONTRACT

FILE NUMBER: WAC07-0002, WAC07-0003 and WAC07-0004

APPLICANTS: WAC07-0002: Kenneth and Jane Osborn
WAC07-0003: Guy Shaver and Sarah Rump
WAC07-0004: Milburn and Barbara Reed

REQUEST: Request to split existing Agricultural Preserve #119 into three separate agricultural preserves.

LOCATION: South of Sandridge Road and north of Painted Pony Road, at the intersection with Dwyer Road, in the Somerset area, Supervisorial District II. (Exhibit A).

APNS: 046-740-01, -02, -03 and 046-740-04

ACREAGE: 640 acres

GENERAL PLAN: Agricultural Lands (AL) and Exclusive Agricultural (AE) with Agricultural (A) overlay. (Exhibit B)

ZONING: Exclusive Agriculture (AE). (Exhibit C)

ENVIRONMENTAL DOCUMENT: Exempt from the requirements of CEQA pursuant to Section 15317 of the State 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 projects are Categorically Exempt from CEQA pursuant to Section 15317.
2. Approve WAC07-0002, WAC 07-0003, and WAC07-0004 based on the findings in Attachment 1.

BACKGROUND: Existing Agricultural Preserve No. 119 comprising 640 acres amongst four parcels identified by Assessor's Parcel numbers 046-74004, 046-740-01, 046-740-02 and 046-740-03. This preserve was established by El Dorado County Board of Supervisors Resolution Number 43-71 in 1971. The four parcels, as one preserve, have historically been used for the grazing and raising of livestock. Preserve No. 119 as previously approved contains the following structures:

APN Number	Acres	Proposed WAC Number	Structures/Features
046-740-01	160	07-0003	No structures. Mostly level to mildly sloping. Mostly trees and brush with intermittent cleared spots.
046-740-02	160	07-0004	No structures. Mostly level to mildly sloping. Trees and brush are dominant but approximately 1/3 cleared.
046-740-03	160	07-0004	One 2,483 square-foot single-family residence with attendant structures.
046-740-04	160	07-0002	No structures. Mostly steep intermittently covered with oaks trees and brush.

The four parcels were created on the following dates by government patents:

046-740-01: November 13, 1911

046-740-02: December 1, 1891

046-740-03: June 6, 1892

046-740-04: April 19, 1894

STAFF ANALYSIS

Request: Request to create three new separate agricultural preserves from existing Agricultural Preserve #119 which contains four parcels and a total of 640 acres. WAC07-0002 requests that 160-acre parcel identified by APN 046-740-01 become a separate preserve. WAC07-0003 requests that the parcels identified by APNs 046-740-02 and 046-740-03, totaling 320 acres, become a separate preserve. WAC07-0004 requests that the 160-acre parcel identified by APN 046-740-04 become a separate preserve.

Site Description: The four subject parcels are located within the 1,900 to 1,680 foot elevations above sea level. An unnamed intermittent stream that drains into the Middle Fork of the Cosumnes River runs through the lower southeast corner of parcel 046-740-01, the northernmost

parcel, (WAC07-0003) from northeast to southwest. This parcel gets access from Sandridge Road. There is an existing single-family residence support accessory buildings on APN 046-740-03 (WAC07-0004) which gets access from Lone Barn Road. All other parcels are vacant except for wells, a spring and storage tanks. All four parcels contain primarily annual grasses and native oak trees and vary in slope from flat to steep hillsides. Parcel 046-740-03 also has an intermittent stream draining northwest into the Cosumnes through the northern portion. The southernmost parcel APN 046-740-04 (WAC07-0002) is broken up by Painted Pony and Dwyer Roads and contains the beginnings of watersheds that lead into two intermittent streams, one called Grizzly Gulch and the other unnamed, both draining southward into Spanish Creek and then to the Middle Fork of the Cosumnes River as well.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	AE	WAC07-0002, Osborn, AL - A WAC07-0003, Shaver/Rump, NR WAC07-0004, Reed, AL and NR - A	Vacant and residential, ranching, agriculture.
North	RA-40, RA-20	OS, RR	Vacant and residential, ranching, agriculture.
South	AE, OS	AL, OS – A	Vacant and residential, ranching, agriculture.
East	RA-20, PA-20, RA-40, OS	AL, OS, NR – A	Vacant and residential, ranching, agriculture.
West	RA-40, OS, AE	OS, AL, RR, NR - A	Vacant and residential, ranching, agriculture.

Discussion: The four project parcels as a whole adjoin 19 parcels in total. Because the subject proposal would not change the exterior boundary of the existing Agricultural Preserve the impacts of the proposed three separate preserves would have the same impacts on buffering requirements on neighboring parcels as the existing Preserve #119. There currently is a 200-foot setback imposed on all surrounding parcels of Agricultural Preserve #119 and that would not change with these three replacement contracts.

General Plan: The General Plan designates two of the subject parcels from the south up as Agricultural Lands (AL) in their entirety and a portion of the third in succession. This designation is applied to lands described in Policy 8.1.1.8. Williamson Act Contracts allow only one residential dwelling for each contract. The rest of the third parcel and most of the fourth one north of it have the Natural Resource designation which contain important natural resources and watersheds. The northernmost parcel also has the Rural Residential land use designation on about 0.25 percent of it which is meant for lands with limited infrastructure and to be a transition zone from low density residential to natural resources. The three southernmost of the parcels have the Agricultural District (A) overlay. This overlay designation is applied to lands with choice agricultural soils and to designate lands to be conserved and protected for agricultural uses. The three southernmost of the subject parcels do contain mapped “choice soils.” Additionally, the following General Plan policies apply to this project.

Policy 2.2.2.2 directs that the purpose of the Agricultural District (A) overlay designation is to identify the general areas which the Board of Supervisors has determined should be preserved primarily for agricultural uses. The three proposed Agricultural Preserves will be consistent with Policy 2.2.2.2 in that the resultant preserves will continue to preserve agricultural uses.

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. The establishment of a new separate Preserves and the ensuing uses it allows is consistent with the allowed uses intended by the AL, NR and RR land use designations and the Agricultural (A) overlay designation.

Policy 8.1.1.8 directs that lands assigned the Agricultural Lands (AL) designation shall be of sufficient size to sustain agricultural use and should be under a Williamson Act or Farmland Security Zone Contract, and/or contain the characteristics of choice agricultural land or are under cultivation for commercial crop production or are identified as grazing land; and either are located in the county's Rural Region; or the County Department of Agriculture has determined that the land is well suited for agricultural production. Amending Agricultural Preserve #119 to create new Agricultural Preserves, will be consistent with Policy 8.1.1.8 because all parcels will be under Williamson Act Contracts, three would contain choice soils and/or contain grazing lands and are located within the County's Rural Regions. All four of the parcels are over 40 acres in size and have been determined to be of sufficient size by the El Dorado County Agriculture Commission staff.

Policy 8.1.3.1 directs that 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. The creation of three preserves would not induce any new agricultural setbacks onto the subject parcels that do not currently exist because the exterior boundary of the three would be the same as the original Preserve 119.

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. The El Dorado County Agriculture Commissioners have determined that the land is well suited for agricultural production by their approval recommendation for all three contracts at their August 8 and September 12, 2007 meetings.

Policy 8.2.4.1 seeks to ensure long-term conservation, enhancement, and expansion of viable agricultural lands. The project is consistent with Policy 8.2.4.1 by the request for the modification and continued use of the Williamson Act Contract program.

Conclusion: The project has been reviewed in accordance with the El Dorado County 2004 General Plan policies and it has been determined that the project is consistent with the applicable policies of the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

Zoning: Pursuant to Section 17.36.070, the Exclusive Agriculture (AE) zone district shall apply only to those lands subject to the Land Conservation Act of 1965. All four subject parcels are presently zoned AE since being encumbered under Agricultural Preserve No. 119. Section 17.36.070 (D) allows the placement of one single-family 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 twenty acres. Each of the newly created agricultural preserves would meet this minimum.

Section 17.52.030.D allows one or more mobile homes for housing agricultural employees and their immediate families; provided, that the agricultural commission advises in writing that the site and the activity satisfies three of the four criteria established by the county to qualify as an agricultural preserve. Agricultural employees are those persons hired to carry on agricultural pursuits on the premises. The WAC07-0002 proposal includes a request for a Temporary Mobile Home Application (TMA07-0027) for agricultural employees(s). Development Services may approve the TMA *provided that the Agricultural Commission advises...that the site and the activity satisfies the agricultural preserve criteria.* At their August 8, 2007 meeting the Agricultural Commission voted to recommend that Development Services approve TMA07-0027 because the building site location is outside of required 200-foot setbacks and the operation of the low-intensity farm operation will require a caretaker be present on site.

Williamson Act Criteria: The Agricultural Commission reviewed the requested Williamson Act Contracts at their regularly scheduled meeting on August 8 and September 12, 2007. 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 \$10,000 excluding the applicant's residence and original cost of the land.

WAC07-0002 (Osborn) Discussion: The Agriculture Department provided a summarized expense sheet showing the payment of costs for agricultural improvements. Expenses for agricultural improvements consisted of perimeter fencing, 400-foot well, solar pump and water storage tanks, electric power, gravel and dirt roads which exceeds the minimum of \$10,000 capital outlay requirement.

WAC07-0003 (Shaver – Rump) Discussion: The Agriculture Department provided a summarized expense sheet showing the payment of costs for agricultural improvements. Expenses for agricultural improvements consisted of perimeter fencing, a well and storage tanks and dirt and gravel service roads. Total capital outlay was determined by Agricultural Commission staff to exceed the minimum of \$10,000.

WAC07-000 (Reed) Discussion: The Agriculture Department provided a summarized expense sheet showing the payment of costs for agricultural improvements. Expenses for agricultural improvements consisted of perimeter fencing, hay barn, farm shop and storage sheds, electric power, gravel and dirt roads which exceeds the minimum of \$10,000 capital outlay requirement.

2. The minimum acreage shall be 40 contiguous acres for low intensity farming operations.

WAC07-0002 (Osborn) Discussion: The subject parcel consists of 160 acres total.

WAC07-0003 (Shaver – Rump) Discussion: The subject parcel consists of 160 acres total.

WAC07-0004 (Reed) Discussion: The subject parcel consists of 320 acres total.

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).

WAC07-0002 (Osborn) Discussion: The projected yearly income is estimated at \$10,740.00 which exceeds the minimum \$2,000 for low-intensity farming.

WAC07-0003 (Shaver – Rump) Discussion: Current gross income for leasing the parcel for grazing was determined by Agricultural Commission staff to exceed the minimum \$2,000 for low-intensity farming.

WAC07-0004 (Reed) Discussion: The projected yearly income is estimated at \$22,000 which exceeds the minimum \$2,000 for low-intensity farming.

Conclusion: Since all required findings were made for the requested Williamson Act Contracts, the Agricultural Commission recommended approval of WAC07-0002, WAC07-0003 and WAC07-0004.

The El Dorado County Assessor's Office staff has visited the site and did not find contradictions to the owner's statements nor did they determine there were any reasons to deny the application requests.

El Dorado County Agricultural Commission: The El Dorado County Agriculture Commissioners have determined that the land is well suited for agricultural production by their approval recommendation for WAC07-0002, WAC07-0003 and WAC07-0004 contracts at their August 8 and September 12, 2007 meetings.

ENVIRONMENTAL REVIEW

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 \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments To Staff Report:

Attachment 1	Findings
Exhibit A	Vicinity Map
Exhibit B	Compass Vicinity Map
Exhibit C	Assessor's Parcel Map
Exhibit D	General Plan Land Use Designations w/Agricultural District Overlay
Exhibit E	Zoning Map
Exhibit F.....	Soils Map
Exhibit G.....	U.S.G.S. Quadrangle
Exhibit H.....	Aerial Photo

ATTACHMENT 1 FINDINGS

FILE NUMBERS WAC07-0002, WAC 07-0003 and WAC07-0004

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. Therefore, the creation of three new contracts from the original can be approved.