

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



**Agenda of:** August 12, 2010  
**Item No.:** 8  
**Staff:** Aaron Mount

**REZONE/WILLIAMSON ACT CONTRACT/BOUNDARY LINE  
ADJUSTMENT**

**FILE NUMBER:** Z09-0011/WAC09-0002/BLA09-0038

**APPLICANTS:** Randy Rossi, Tina Rossi, Stephan Paul Luce, and Sunny Hammonds

**AGENT:** Randy Rossi

**REQUEST:** Request to modify existing contract for Agricultural Preserve Number 298 by expanding through a Boundary Line Adjustment and a zone change from Residential Agricultural-20 (RA-20) to Exclusive Agricultural (AE) for the expanded portion of the Agricultural Preserve.

**LOCATION:** On the east side of Grizzly Flat Road, approximately 3.9 miles east of the intersection with Mt. Aukum Road in the Somerset area, Supervisorial District II. (Exhibit A)

**APNs:** 093-040-46, -58, -59

**ACREAGE:** 229.79 acres

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

**ZONING:** Exclusive Agriculture (AE), Residential Agricultural-20 (RA-20), and Estate Residential Ten-Acre (RE-10) (Exhibit C)

**ENVIRONMENTAL DOCUMENT:** Categorically exempt pursuant to Sections 15305 and 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 Categorical Exempt from CEQA pursuant to Sections 15305 and 15317 of the CEQA Guidelines.
2. Approve Boundary Line Adjustment BLA09-0038, subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.
3. Approve Rezone Z09-0011, based on the Findings in Attachment 2.
4. Approve Williamson Act Contract WAC09-0002, expanding Agricultural Preserve Number 298, based on the Findings in Attachment 2.

## **BACKGROUND**

Agricultural Preserve Number 298 was approved by the Board of Supervisors October 4, 2005 for APN 093-040-46. The subject applications were considered by the Agricultural Commission at their regularly scheduled meeting held on March 10, 2010. Comments were received from the Assessor's Office on May 6, 2010.

The applicant's access goes through two other properties (APN: 093-040-58 and -59) and is a non-County maintained road. In accordance with the El Dorado County Winery Ordinance Section 17.14.200(E)(5)(b), the applicant would be required to obtain a Special Use Permit for a wine tasting room, as the property is not in an Agricultural District and is accessed by a non-County maintained road. The applicant proposes to obtain, by the BLA application, the portions of the neighboring properties that his access extends through (approximately 14 acres). Agricultural activities include the cultivation of grape vines and are more fully detailed in the Williamson Act Criteria section.

## **STAFF ANALYSIS**

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

**Project Description:** The project is a request to expand Agricultural Preserve Number 298 through a Boundary Line Adjustment and a Zone change from RA-20 to AE for the expanded portion of the Agricultural Preserve. Section 51257 of the California Government Code requires Boundary Line Adjustments involving parcels within a Williamson Act Agricultural Preserve to rescind the contract and simultaneously enter into a new contract when exterior boundaries are changed. Findings must be approved by the Board of Supervisors approving the BLA simultaneously with the Williamson Act contracts.

APN	BLA EXISTING ACREAGE	BLA PROPOSED ACREAGE	AG PRESERVES EXISTING	AG PRESERVES PROPOSED
093-040-46	40.001 AC	54.406 AC	#298	WAC09-0002
093-040-58	77.408 AC	65.353 AC	Not within an AG Preserve	A 12.055 ac portion would be within WAC09-0002
093-040-59	112.385 AC	110.035 AC	Not within an AG Preserve	A 2.35 ac portion would be within WAC09-0002

**Site Description:** The subject parcels are at an average elevation of 2,600 feet above mean sea level. Exhibit D shows the existing and proposed parcels as amended by the boundary line adjustment. The project parcels contain the following improvements:

APN	Agricultural Improvements	Physical Improvements
085-030-14	Vineyards	2 single family residences, barn, wine cave
085-540-70	No improvements	No improvements
085-030-52	No improvements	Single family residence

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	AE/RA-20/RE-10	NR	Agriculture, single family residences
<b>North</b>	TPZ/RA-20/RE-10	NR	Undeveloped, agriculture, single family residences
<b>South</b>	RA-20/RE-10	NR/RR	Undeveloped, residential
<b>East</b>	RE-10	NR/RR	Single Family Residences
<b>West</b>	AE/TPZ/RE-10	NR	Agriculture, single family residences

**Discussion:** The subject parcels involving the Williamson Act Contract are currently in the AE and RA-20 zone district, thus the project parcels would have no new impacts on agricultural buffering requirements on neighboring parcels. There currently is a 200-foot setback imposed on all surrounding parcels of agriculturally zoned parcels and that would not change with the new proposed Williamson Act contract and zone change.

**General Plan:** The General Plan land use designation for the project is Natural Resources (NR). The NR land use designation is applied to lands described in Policy 2.2.1.2 which states that lands assigned the NR designation is to identify areas that contain economically viable natural resources and to protect the economic viability of those resources and those engaged in harvesting/processing of those resources including water resources development from interests that are in opposition to the managed conservation and economic, beneficial use of those resources. 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.* The establishment of the new preserve and the ensuing uses it allows is consistent with the NR land use designation. The zone change from RA-20 to AE and the lot line adjustment are consistent with all applicable General Plan policies.

**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 the contract and the zone change at their March 10, 2010 meeting. Additionally, the agricultural Commission made the necessary findings to approve BLA09-0038 pursuant to California Government Code Section 51257.

**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, expansion, and continued use of 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.

**Zone Change:** Expansion of the existing Agricultural Preserve requires a zone change from RA-20 to AE pursuant to General Plan Policy 8.1.1.6 which states, "Parcels encumbered by a Williamson Act Contract, pursuant to the California Land Conservation Act, shall be zoned Exclusive Agriculture". The modification and expansion of the existing Agricultural Preserve consists of an addition of 14 acres. This 14 acre addition is in the RA-20 zone district and consistent with the above General Plan Policy requires the zone change to AE.

**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. The subject parcel presently zoned AE being encumbered under Agricultural Preserve Number 298. The newly expanded agricultural preserve, through BLA09-0038, at 54 acres each would meet this minimum.

**Williamson Act Criteria:** The Agricultural Commission reviewed the requested expanded Williamson Act Contract at their regularly scheduled meeting on July 9, 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 sum of \$45,000 excluding the applicant's residence and original cost of the land.

Discussion: Expenses for agricultural improvements total \$105,000. Total capital outlay was determined by Agricultural Commission staff to exceed the minimum of \$45,000

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

Discussion: The subject parcel would consist of 54.406 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).

Discussion: The projected yearly income is estimated at \$50,000 which would exceed the minimum \$13,500 for intensive farming.

Conclusion: Since all required findings were made for the requested Williamson Act Contract, the Agricultural Commission recommended approval of WAC09-0002.

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.

The proposed Agricultural Preserve is consistent with California Government Code Section 51222 in that it contains sufficient size to sustain agricultural use. For purposes of this section, agricultural

land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is at least 10 acres in size in the case of prime agricultural land. The new contracted parcel would be 54 acres in size.

**Boundary Line Adjustment:** Boundary Line Adjustment BLA09-0038 has been found to be consistent with applicable Zoning Ordinance sections and General Plan Policies. Specifically the resulting parcel sizes are consistent with the AE, RA-20, and RE-10 zone district and the NR land use designation which require a 40 acre minimum. Section 51257 of the California Government Code requires BLAs involving parcels within a Williamson Act Agricultural Preserve to rescind the contract and simultaneously enter into a new contract when exterior boundaries are modified. Findings must be approved by the Board of Supervisors approving the BLA simultaneously with the Williamson Act contracts. Findings consistent with Section 51257 have been made by the Agricultural Commission and are contained in Attachment 1.

## **ENVIRONMENTAL REVIEW**

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Sections 15317 and 15305 of the CEQA Guidelines stating that the establishment of agricultural preserves and the making and renewing of open space contracts under the Williamson Act and minor lot line adjustments are exempt. A \$50.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Exemption.

## **SUPPORT INFORMATION**

### **Attachments:**

Attachment 1 .....	Findings
Exhibit A .....	Location Map
Exhibit B .....	Assessor's Map Bk. 093 Pg. 04
Exhibit C .....	General Plan Land Use Map
Exhibit D .....	Zoning Map
Exhibit E .....	BLA09-0038 Site Plan
Exhibit F .....	Zone Change
Exhibit G .....	Agricultural Commission Memo dated March 19, 2010
Exhibit H .....	Assessor's Memo dated May 6, 2010

# **ATTACHMENT 1**

## **CONDITIONS OF APPROVAL**

### **Boundary Line Adjustment BLA09-0038/Rossi Planning Commission/August 12, 2010**

#### **I. PROJECT DESCRIPTION**

1. This boundary line adjustment is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibit E, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Boundary line adjustment between parcels APN 093-040-46, 093-040-58, and 093-040-59.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (boundary line adjustment site plan) must be submitted for review and approval and shall be implemented as approved by the County.

#### **II. PROJECT CONDITIONS OF APPROVAL**

##### **Planning Services**

2. This boundary line adjustment shall expire within one year from the Board of Supervisor's approval date unless an extension is requested prior to the expiration date in accordance with Section 16.53.100 of the County Code.
3. All fees associated with the boundary line adjustment shall be paid prior to recording the map or record of survey.
4. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County

may incur as a result of such action, as provided in Section 66474.9(b) of the Government Code.

The subdivider shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

County shall notify the subdivider of any claim, action, or proceeding and County will cooperate fully in the defense.

**Department of Transportation**

5. Access: The applicant shall demonstrate on the map how all three parcels are to obtain legal access from a roadway and submit to DOT for review and approval prior to recording of the Boundary Line Adjustment.



## **ATTACHMENT 2**

### **FINDINGS**

**Rezone Z09-0011/Williamson Act Contract WAC09-0002/Boundary Line Adjustment  
BLA09-0038  
Planning Commission/August 12, 2010**

#### **1.0 CEQA FINDING**

- 1.1 The proposed request for a 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 Williamson Act Contract**

- 2.1.1 The subject parcel, APN 093-040-46, satisfies 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 Commission. Therefore, the creation of the new contract from the rescinded original can be approved.

##### **2.2 Boundary Line Adjustment**

- 2.2.1 The Boundary Line Adjustment conforms to the General Plan and Zoning Ordinance.

##### **2.3 California Government Code Section 51257**

- 2.3.1 As a new contract is required, the new contracts will enforceably restrict the adjusted boundaries of the parcel for an initial term not less than 10 years.
- 2.3.2 There is no net decrease in the amount of acreage being restricted; in fact, there will be an additional 14 acres under the new contract.
- 2.3.3 At least 90 percent of the land under the former contract will remain under the new contracts; 100 percent of the land under the former contract will be included in the new contracts.
- 2.3.4 After the Boundary Line Adjustment, the parcels of land subject to contract will be large enough to sustain agricultural use as defined in Government Code Section 51222.

- 2.3.5 The Boundary Line Adjustment will not compromise the long term agricultural productivity of the parcel or other agricultural lands subject to a contract.
- 2.3.6 The Boundary Line Adjustment will not result in the removal of adjacent land from agricultural use.
- 2.3.7 The Boundary Line Adjustment will not result in a greater number of developable parcels, or an adjusted lot that is inconsistent with the General Plan.

### **3.0 Zoning Findings**

- 3.1 A rezone from RA-20 to Exclusive Agriculture will allow the property to be consistent with the General Plan designation of Natural Resources.
- 3.2 The rezone will meet the intentions of Policy 8.1.1.6 which states that parcels encumbered by a Williamson Act Contract, pursuant to the California Land Conservation Act, shall be zoned Exclusive Agriculture (AE).
- 3.3 The rezone is consistent with the development standards of the AE zone district.