

**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 Categorical 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 rezoned 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 Categorical 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.

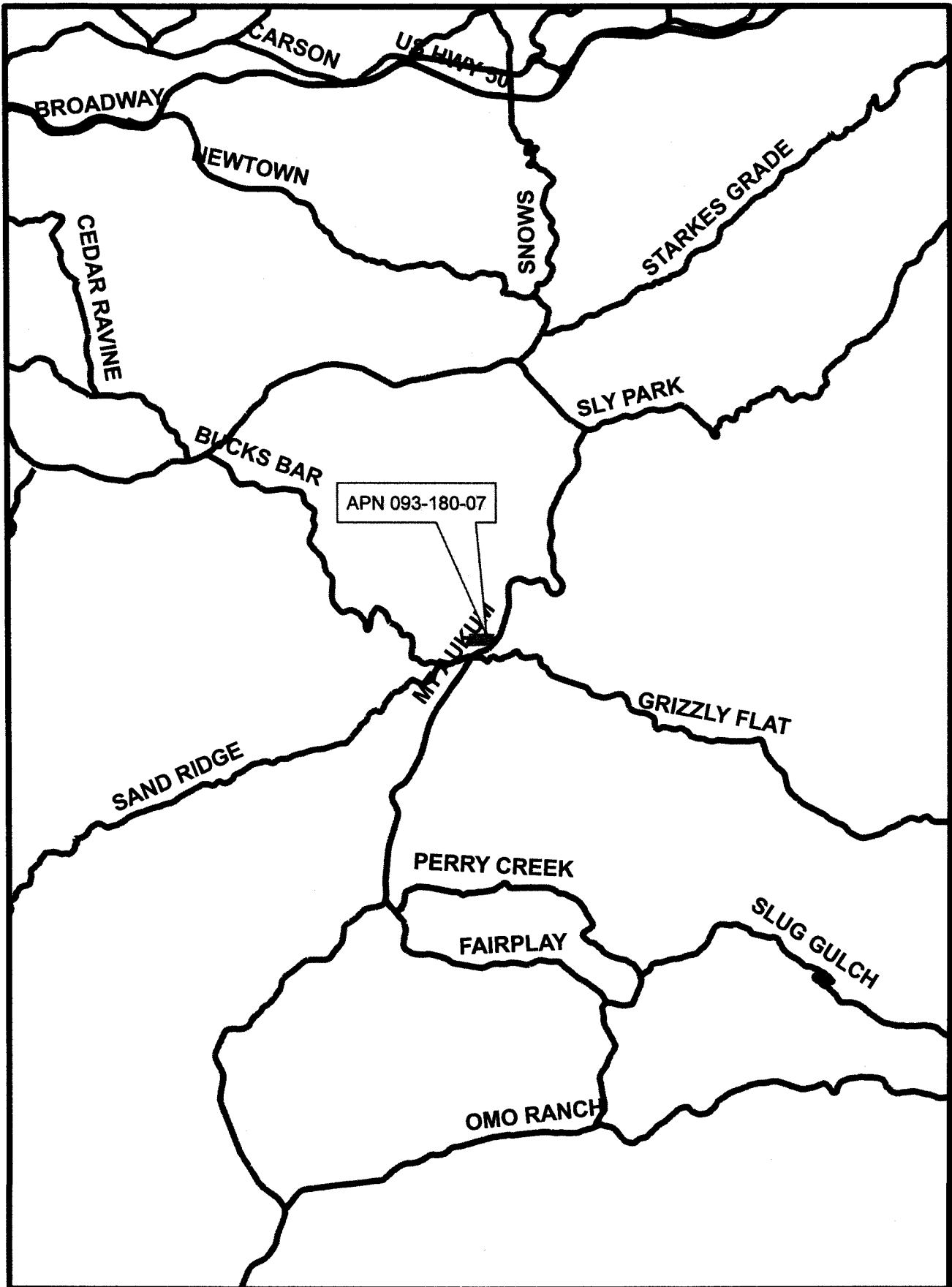
SUPPORT INFORMATION

Attachments:

- Attachment 1Findings

- Exhibit AVicinity Map
- Exhibit BGeneral Plan Land Use Map
- Exhibit CZoning Map
- Exhibit DAerial Site Photo
- Exhibit EAgricultural Commission Memorandum
- Exhibit FAssessor's Office Memorandum
- Exhibit G200 Foot Setback Map

EXHIBIT A: VICINITY MAP

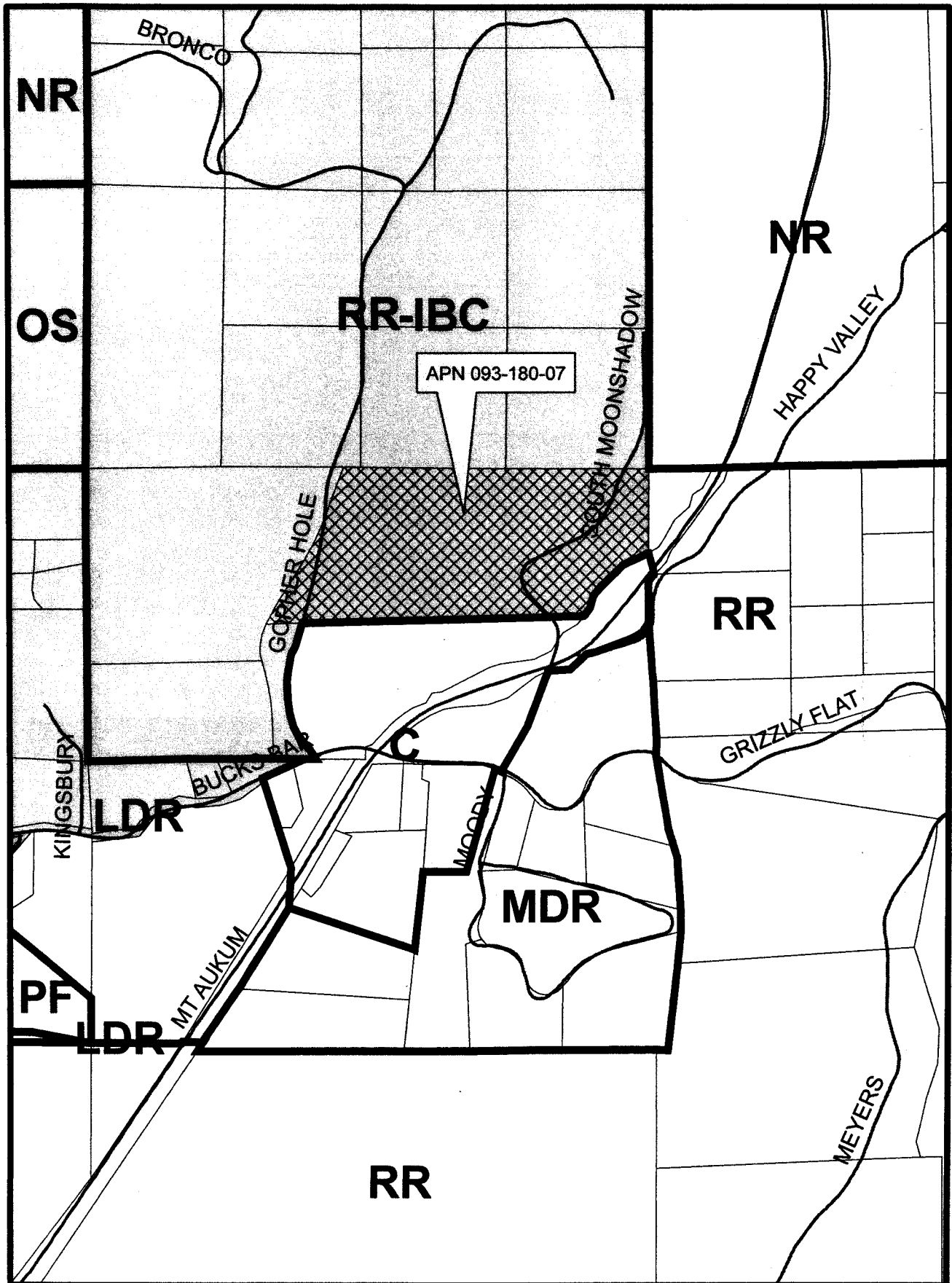


PERMIT # Z08-0014/WAC08-0004
PREPARED BY AARON MOUNT

0 1 2 4 Miles



EXHIBIT B: GENERAL PLAN MAP



PERMIT # Z08-0014/WAC08-0004
PREPARED BY AARON MOUNT

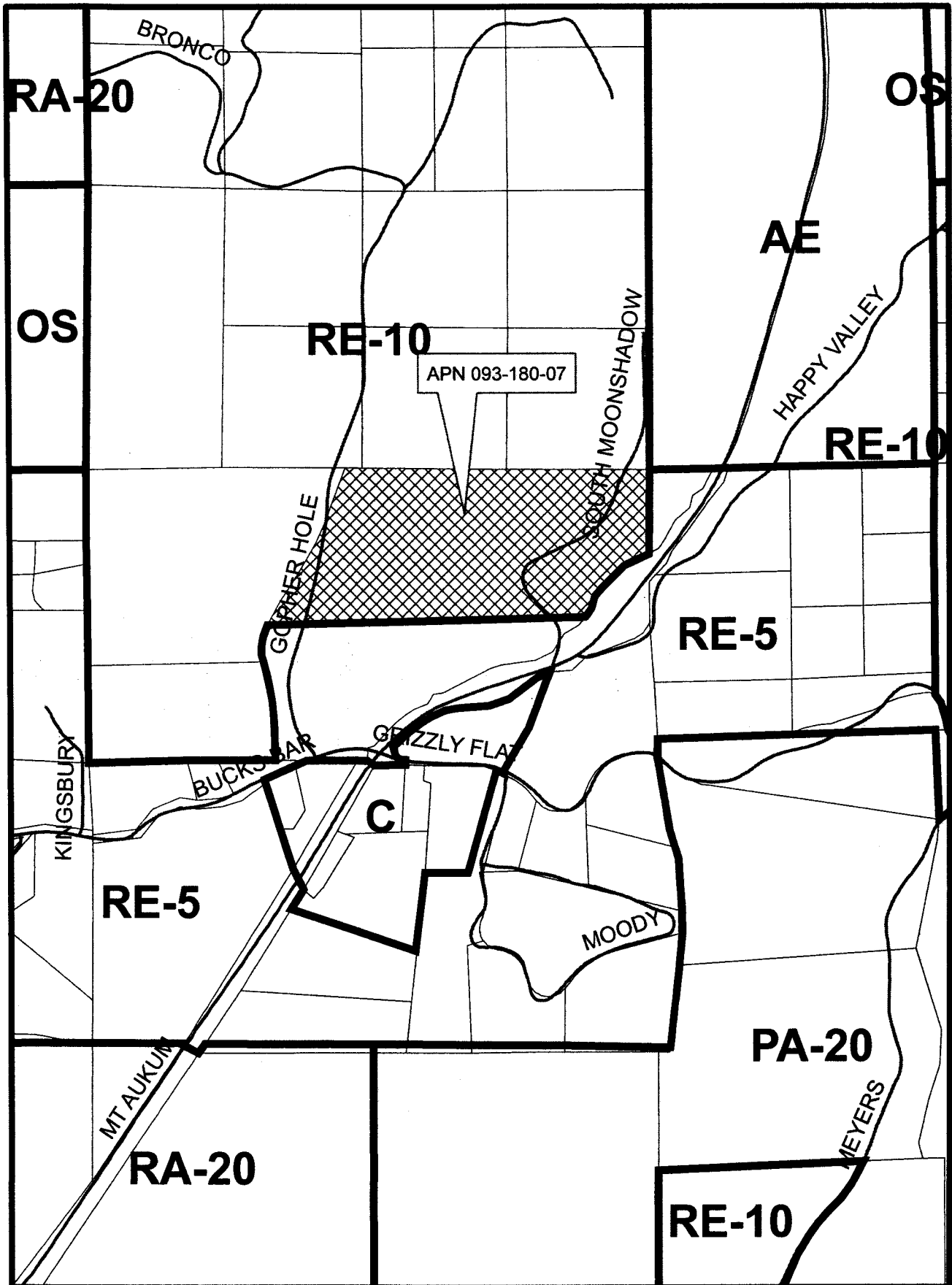
Legend

 bio_corr

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EXHIBIT C: ZONE DISTRICT MAP



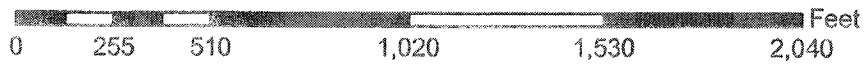
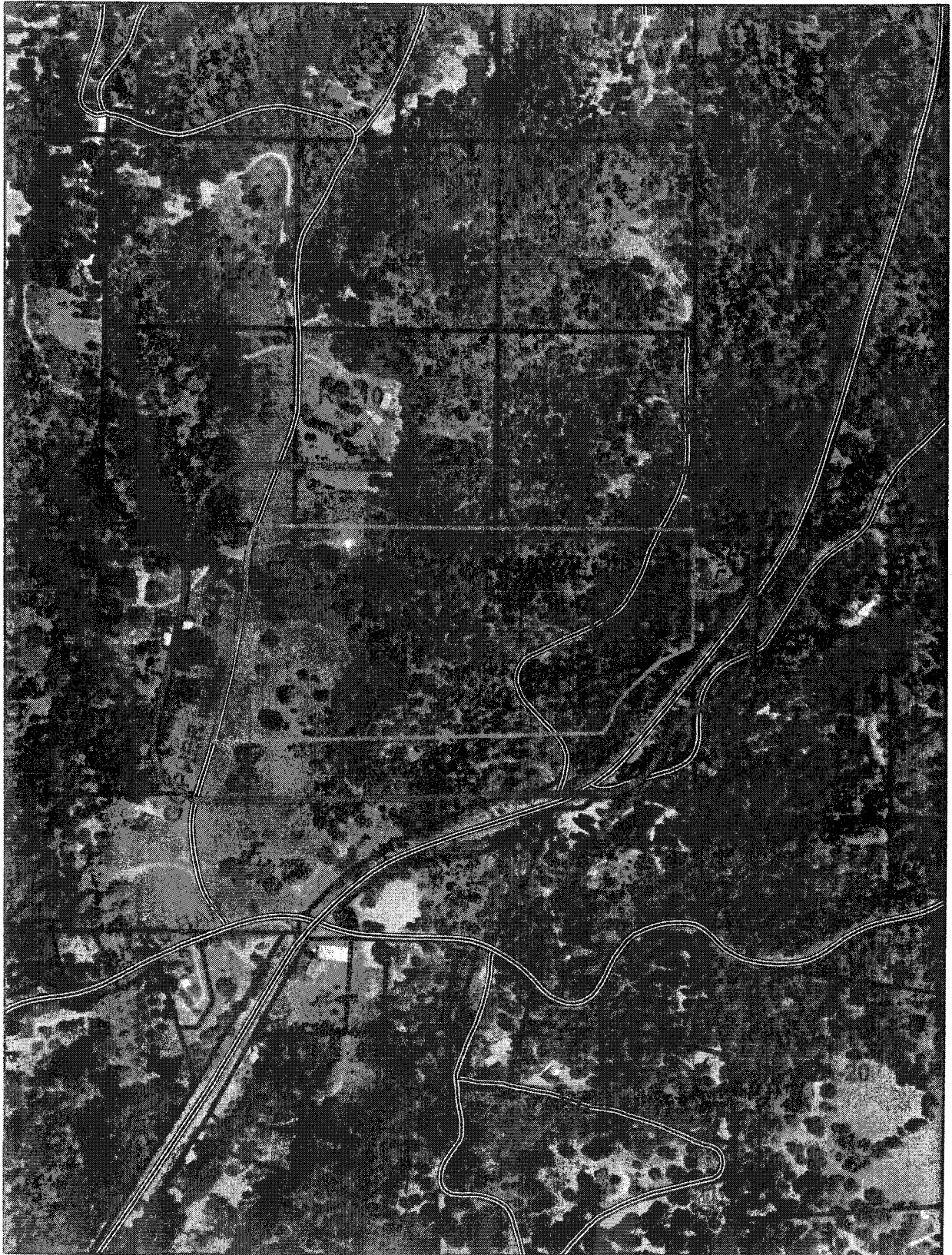
PERMIT # Z08-0014/WAC08-0004
PREPARED BY AARON MOUNT

0 0.05 0.1 0.2 Miles



EXHIBIT D

200 Foot Setback





AGRICULTURAL COMMISSION

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Greg Boeger, Chair – Agricultural Processing Industry
 Lloyd Walker, Vice-chair – Other Agricultural Interests
 Chuck Bacchi – Livestock Industry
 Bill Draper, Forestry /Related Industries
 Tom Heflin – Fruit and Nut Farming Industry
 David Pratt – Fruit and Nut Farming Industry
 Gary Ward, Livestock Industry

MEMORANDUM

DATE: October 17, 2008

TO: Aaron Mount, Planner

FROM: Greg Boeger, Chair

SUBJECT: **Z 08-0014 & WAC 08-0004 – COX AGRICULTURAL PRESERVE (JAMES L. & JANET COX/CHARLIE PETERS: A WILLIAMSON ACT CONTRACT REQUEST AND ZONE CHANGE (APN: 093-180-07))**

During the Agricultural Commission's regularly scheduled meeting held on October 8, 2008, the following discussion and motion occurred regarding Z 08-0014 & WAC 08-0004 – Cox Agricultural Preserve (James L. & Janet Cox/Charlie Peters): A Williamson Act Contract request and zone change from Estate Residential (RE-10) Districts to Agricultural Preserve Districts (AP), (Wineries and ranch marketing only allowed by special use permit). The property, identified by Assessor's Parcel Number 093-180-07, consists of 22.645 acres, and is located on the east side of Gopher Hole Road approximately 0.2 miles north of the intersection with Bucks Bar Road, in the Somerset area. (District 2)

Chris Flores reported on her site visit. The applicant's parcel is adjacent to and west of the Fairplay/Somerset AG District, has a Land Use Designation of Rural Residential, has choice soils (Holland Coarse Sandy Loan), and is currently zoned RE-10 (Estate Residential Ten Acre). The applicant has applied for a Williamson Act Contract and zone change to AP (Ag Preserve). In accordance with General Plan Policy 8.1.1.4, *The Procedure for Evaluating the Suitability of Land for Agriculture* has been used to evaluate the applicant's parcel for suitability of an agricultural preserve. A cumulative score of 60 points or more in all five categories signifies a parcel with good agricultural capability. The applicant's parcel scored 67 total points for the following criteria:

1. Category I (Soil Capability and Characteristics):
 - Points = 10 – Assigned to those Class IV, V, and VI soils below 30 inches in depth, but with a minimum depth of 24 inches.
2. Category II (Climate):
 - Points = 25 – Assigned to parcels between 1,500' – 3,000' elevation.
3. Category III (Agricultural Water):
 - Points = 15 – Assigned to parcels with existing water supplied by a public entity or an on-site water system.
4. Category IV (Parcel Size):
 - Points = 10 – Assigned to parcels that are 20 to 100 plus acres.
5. Category V (Surrounding Land Use):
 - Points = 7 – Assigned to parcels located in an area having good crop potential

Aaron Mount

Meeting Date: October 8, 2008

RE: Cox, James & Janet

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but not yet intensively planted with urbanization of adjacent parcels, slight to moderate.

WAC 08-0004: (Contains 5 acres of wine grapes); and meets the following required criteria:

- Capital Outlay includes grapes, planting stakes, deer fencing, well, drip irrigation, a 5000 gallon water storage tank, power, and an Ag barn, which exceeds the required \$45,000 at over \$120,000.
- Minimum acreage meets the required 20 acres at 22.645 acres
- Projected annual gross income exceeds the required \$13,500 at \$30,000

The applicant's agent was present for questions and review of the project.

The Commission members were given a letter of opposition from a neighbor to the property that was received after the packets were mailed. The neighbor, Mr. Gloyd Zeller, is in opposition of an agricultural setback being imposed on his property due to the rezone. Bill Stephans told the Commission that his parcel has a Commercial Land Use Designation which will allow a residential component of a project only following or concurrent with the commercial component development. Commercial development is considered to be compatible with agricultural operations so the agricultural setbacks do not apply to those types of developments.

It was moved by Mr. Walker and seconded by Mr. Heflin to recommend APPROVAL of Z 08-0014 & WAC 08-0004 as the minimum criteria for a high intensive agricultural operation have been met:

- 1) Capital outlay exceeds the minimum requirement of \$45,000.*
- 2) Acreage of parcel exceeds the minimum requirement of 20 acres.*
- 3) Projected gross annual income exceeds the minimum requirement of \$13,500/year.*

Motion passed.

AYES: Bacchi, Draper, Pratt, Heflin, Walker, Boeger

NOES: None

ABSENT: Ward

If you have any questions regarding the Agricultural Commission's actions, please contact the Agriculture Department at (530) 621-5520.

Note: this memorandum satisfies the requirements of the Land Conservation Contract application (Part III) asking for comments, recommendation(s) and the signature of the Agricultural Commission chairman.

GB:na

cc: Charlie Peters
James & Janet Cox

EXHIBIT F

TIM HOLCOMB
EL DORADO COUNTY ASSESSOR

MEMORANDUM

September 5, 2008

TO: Tim Holcomb, County of El Dorado, Assessor
FROM: Lon Varvel, County of El Dorado, Appraiser
SUBJECT: William Act Application – Z 08-0014 & WAC 08-0004

Tim,

I have visited parcel 093-180-07-100 and observed that on this 22.645 acre site there is a large metal storage building and approximately 5 acres of newly planted vineyard. The Vineyard has deer fencing, stakes, and irrigation.

The application does not state present acreages committed to vineyard, nor future development of agriculture. The absence of such information leads me to believe that they plan to develop the entire parcel in stages for vineyard. There is reference on a plat submitted with the application that they are planning for a future home site. We can address this if and when it materializes.

Since the acreage is under the recommended 40 acre minimum for the Williamson Act, it is eligible for the special provisions for high intensity agriculture. We should therefore value the entire parcel as vineyard and add value for the vines and vineyard improvements as the site is developed.

Under the conditions outlined above, this application meets the minimum requirements for the Williamson Act. I recommend that it be accepted.

EXHIBIT G: 200 FOOT AG SETBACK

