

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
BOARD OF SUPERVISORS
STAFF REPORT**



Agenda of: July 14, 2015

Staff: Tiffany Schmid

**WILLIAMSON ACT CONTRACT/
BOUNDARY LINE ADJUSTMENT**

FILE NUMBERS: WAC14-0001/WAC14-0002/WAC14-0003/BLA14-0016/White-McLees

APPLICANTS: John White and Richard McLees (Agent: Charlie Peters)

REQUEST: Boundary Line Adjustment between two parcels and the establishment of three Williamson Act Contracts

LOCATION: North side of Happy Valley Road, approximately one mile east of the intersection with the Happy Valley Road cutoff, in the Somerset area, Supervisorial District 2. (Exhibit A)

APNs: 093-090-06, 11, 14, 15, 16, and 17 (Exhibit B)

ACREAGE: 247.62 acres

GENERAL PLAN: Agricultural Lands (AL) (Exhibit C)

ZONING: Exclusive Agriculture (AE) and Residential Agriculture Forty-acre (RA-40) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically exempt pursuant to Sections 15305 and 15317 of the CEQA Guidelines

RECOMMENDATION: Staff recommends that the Board of Supervisors take the following actions:

1. Certify that the project is Categorically Exempt from CEQA pursuant to Sections 15305 and 15317;
2. Approve Williamson Act Contracts WAC14-0001, WAC14-0002, and WAC14-0003 based on the Findings and subject to the Conditions of Approval; and

3. Approve Boundary Line Adjustment BLA 14-0016 based on the Findings and subject to the Conditions of Approval.

PROJECT INFORMATION

Project Description: Application is for a boundary line adjustment between two parcels; APN 093-090-06 consists of 39.2 acres and APN 093-090-15 consists of 149.17 acres. The boundary line to be removed is the southern line of Parcel -06 and the new line to be added is between the southeast corner of Parcel -06 and the easternmost corner of APN 093-090-11 (Exhibit E). The resulting parcels would be APN 093-090-06 consisting of 69.4 acres and APN 093-090-15 consisting of 118.97 acres. Both parcels are currently under a Williamson Act Contract, Agricultural Preserve 202 (AP 202), which consists of 237.62 acres (Exhibit F).

The applicant has applied for three new Williamson Act Contracts totaling 247.62 acres for parcel numbers 093-090-06, 11, 14, 15, 16, and 17 to replace the existing Williamson Act Contract which is 237.62 acres. The three new contracts will result in a small increase in acreage (additional 10 acres) to the existing agricultural preserve.

Proposed Williamson Act Contracts:

Williamson Act Contract application 14-0001 would include parcels 093-090-11 and a portion of 093-090-15 with 125.95 acres. Three homes would exist within this contract and be assessed by the County Assessor as five acres of home site. The remaining 120.95 acres would be used as dry grazing land. This contract would include two property owners; John White and Richard McLees.

Williamson Act Contract application 14-0002 would include parcels 093-090-06, 093-090-16, and a portion of 093-090-15 with 69.4 acres. There are no homes within this contract, although the applicant plans to build a home on parcel 093-090-06. This land would be used as dry grazing land and vineyard. This contract would include one property owner; John White.

Williamson Act Contract application 14-0003 would include parcels 093-090-17 and 093-090-14 with 52.27 acres. There are no homes within this contract and no plans for development. This land would be used as dry grazing land and possibly orchard in the future. This contract would include one property owner; John White.

Site Description: The subject parcels are located at an average elevation ranging from 2,000 to 2,600 feet above mean sea level. The topography is characterized by rolling and steep pasture land with scattered mature oaks and a vineyard. The project site contains the following soil types (see Exhibit G). The County Agricultural Department states that these are choice soils.

- AaF - Acidic rock land, steep to very steep, very rapid runoff, very high erosion hazard, has no farming value
- HgC – Holland coarse sandy loam, 9-15 percent slope, medium runoff, moderate to high erosion hazard, used for deciduous fruits and nuts, woodland and grazing.
- HkE – Holland very rocky coarse sandy loam, 15-50 percent slope, medium to rapid runoff, high erosion hazard, used for woodland.

- HkF - Holland very rocky coarse sandy loam, 50-70 percent slope, rapid runoff, high erosion hazard, used for timber.
- MbE – Mariposa very rocky silt loam, 3-50 percent slope, medium to rapid runoff, slight to high erosion hazard, used for woodland.
- MrC – Musick sandy loam, 9-15 percent slope, medium runoff, moderate to high erosion hazard, used for deciduous orchards and woodland.

On the County GIS Farmland map, the middle portion of the property is shown as Farmland of Local Importance, while the east and west portions are shown as Grazing. There is a long swath of Other Land on the north boundary line along the river (see Exhibit H).

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	AE and RA-40	NR	Grazing, vineyard and residential/Three single-family residences, warehouses, and outbuildings.
North	RA-20, RA-40 and OS	NR	Agricultural and Consumes River/Vacant and single family residences
South	RA-20 and RA-40	NR	Agricultural and residential/Vacant and single family residences
East	RA-40 and OS	NR	Agricultural and residential/Vacant and single family residence
West	RA-20, RE-10 and OS	NR	Agricultural and Consumes River/Vacant and single family residences

History of Agricultural Preserve: Agricultural Preserve 202 (AP 202) was created by Board Resolution 24-76 in 1976 to create a 189 acre preserve that included what is today APNs 093-090-06 and 15, but excluded a 10 acre square essentially where parcel 093-090-11 is today.

In 1983, AP 202 was amended by Board Resolution 282-82 to add 54 acres to the preserve in what is today APN 093-090-17. This created a 243 acre preserve.

In 1997, a boundary line adjustment (BLA 97-0056) was approved and a parcel map (PM 46-72) recorded that created the 6.98 acre property that is currently known as APN 093-090-11, but there is no record that this parcel was added to AP202. Most of this parcel is within the excluded area of AP 202 with a small portion of the lot within AP 202 (see Exhibit F). This parcel was created around the three existing homes.

The 1999, Agricultural Preserve spreadsheet from the Assessor’s Office listed 252.63 acres in AP202, which did not include what is today known as APN 093-090-11.

In 2010, a boundary line adjustment (BLA10-0015) was approved and a parcel map (PM 51-01) recorded that adjusted the north-south boundary lines between the current APNs 093-090-17 and -15. No changes were made to AP 202.

The 2013 Agricultural Preserve Report from the Assessor’s Office listed 247.62 acres in AP202, which does include what is today known as APN 093-090-11. Staff could not find any documentation that added this parcel to the agricultural preserve. However, in conversations with

the Assessor's Office, it was thought that after the parcel map (PM 46-72) was approved that created APN 093-090-11, the Assessor's Report simply added the entire parcel -11 to the Agricultural Preserve as a portion of the parcel was within the preserve boundary.

Discussion: The majority of the property has Exclusive Agricultural (AE) zoning with a small 10 acre piece having Residential Agricultural Forty-Acre (RA-40) zoning (see Exhibit E). This 10-acre square piece does not follow existing property lines, but is essentially located around parcel 093-090-11. The entire Property has a Natural Resources (NR) General Plan land use designation. The parcels are not within an Agricultural District overlay.

General Plan: The General Plan designates the subject parcels as Natural Resources (NR). The purpose of this 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 those resources from interests that are in opposition to the managed conservation and economic, beneficial use of those resources. One of the important natural resources of the county includes grazing land. Compatible uses on private land may include agriculture, rangeland, and single family dwellings. The maximum allowable density for this designation is one dwelling unit per 40 acres within river canyons outside of the timber production area. The proposed boundary line adjustment would result in parcels exceeding this 40 acre minimum lot size. The proposed boundary line adjustment and revised Williamson Act Contracts are consistent with this NR General Plan designation.

Policy 8.1.1.6 directs that parcels encumbered by a Williamson Act Contract shall be zoned Exclusive Agriculture (AE). This is usually accomplished by an accompanying rezone application. All of the affected parcels are already zoned AE except for the 10-acre piece around Parcel 093-090-11, which is zoned RA-40. The County's Zoning Ordinance Update is near completion and this entire project site, including the 10-acre piece, is proposed for inclusion within the Agricultural Grazing (AG-40) zoning district (Exhibit I), which would include lands suitable for grazing whether encumbered by a Williamson Act Contract or not. Since the 10-acre piece is planned to be rezoned to Agricultural Grazing (AG-40) when the zoning ordinance update is approved, Planning Services recommends to allow the 10-acre piece to be rezoned at that time.

Policy 8.1.1.8 requires lands designated Agricultural Lands (AL) in the General Plan to be of sufficient size to sustain agricultural use, be under a Williamson Act or Farmland Security Zone Contract, contain the characteristics of choice agricultural land, or be currently under cultivation for commercial crop production or grazing land. Further, these lands are required to be within the county's Rural Region or be identified by the County Department of Agriculture as land suited for agricultural production. The project's 247.62 acres meets two of the three above criteria and are located within the County's rural region. Therefore, the properties are consistent with the AL land use designation and this policy.

Policy 8.1.3.5 states that any parcel 10 acres or larger identified as having an existing or potential agricultural use, the Agricultural Commission must consider and provide a recommendation on the agricultural use or potential of that parcel and whether the request will diminish or impair the existing or potential use prior to any discretionary permit being approved. The boundary line adjustment and Williamson act contract applications were forwarded to the Agricultural Commission for their review and recommendation on March 11, 2015. The Commission voted

unanimously to recommend approval of the boundary lines adjustment and all three Williamson act contracts (Exhibit J).

General Plan Policy 8.1.4.1 requires the County Agricultural Commission to review all discretionary development applications involving land zoned for or designated agriculture. The El Dorado County Agriculture Commission reviewed the application on March 11, 2015, and determined that the Williamson Act Contract applications meet the minimum criteria for high- and low-intensive agricultural operations and recommended approval of the project.

Policy 8.2.4.1 says that 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, including the continued use of Williamson Act Contracts. This application converts one existing contract into three separate contracts and adds an additional 10 acres to the preserve.

Zoning: Pursuant to Section 130.36.060 Applicability, the Exclusive Agriculture (AE) zone district “shall apply only to those lands subject to the Land Conservation Act of 1965.” The majority of the parcels are already zoned AE and under a Williamson Act Contract. The 10-acre piece is not zoned AE and is being proposed to be included in AP 202. However, since the Zoning Ordinance Update is close to being approved and will rezone all parcels within AP 202 to AG-40, Planning Services did not process a rezone application.

Section 130.36.070.D Uses permitted by right, allows for “one single-family detached dwelling within each AE preserve, or one mobile home within the AE preserve for the property owner.” There are currently three homes on parcel 093-090-11, within proposed WAC14-0001. However, these homes were built in the 1960’s, well before this section of the zoning code was adopted, and are considered grandfathered. No more single family units would be allowed within WAC 14-0001.

Section 130.36.090 Development standards, requires a minimum parcel size of 20 acres and a minimum parcel width of 200 feet. The BLA would create a 69.4 acre parcel and a 118.97 acre parcel, both exceeding the 200 foot width minimum, thus meeting these minimum standards.

The applicant wants to build a single family home within WAC 14-0002. As proposed, WAC 14-0002 does not have any single family structures and the applicant would be able to apply for single family home building permits. WAC 14-0003 would also be allowed to develop a single family home if desired.

Williamson Act Criteria: The Agricultural Commission reviewed the applicant’s requests at their regularly scheduled meeting on March 11, 2015. At the meeting, the Agricultural Commission reviewed the three primary criteria for High- and Low-Intensive Farming Operations outlined in Resolution No. 188-2002 for establishment of an Agricultural Preserve. These three criteria for each farming operation are as follows:

Low-Intensity Farming Operation

<u>Criteria</u>	WAC 1	WAC 3
Minimum Acreage: 50 contiguous acres that are fenced to contain livestock	Consist of 120.95 acres fenced for cattle grazing.	Consist of 52.27 acres fenced for cattle grazing.
Minimum Capital Outlay - \$10,000	Capital outlay for well, road work, fencing, EID pump and pump house: \$23,400	Capital outlay for fencing, encroachment, and culvert: \$27,500
Minimum Annual Gross Income - \$2,000/year	Annual gross income reported is \$13,000	Annual gross income reported is \$7,000

High-Intensity Farming Operation

<u>Criteria</u>	WAC 2
Minimum Acreage: 20 contiguous acres	Consist of 63.2 acres grazing with 6.2 acre vineyard.
Minimum Capital Outlay - \$45,000	Capital outlay for vineyard, irrigations, and fencing: \$50,000
Minimum Annual Gross Income - \$13,500/year	Annual gross income reported is \$19,000

Conclusion: The Agricultural Commission determined that the application meets the minimum criteria for both high- and low-intensive agricultural operations under each proposed Williamson Act Contract and recommended approval of both the BLA and all three WACs (see Exhibit J).

Boundary Line Adjustment Requirements: BLA 14-0016 must conform to Government Code Section 51257, as APNs 093-090-06 and 093-090-15 are in an active Williamson Act Contract (AP 202). The code section states “(a) to facilitate a lot line adjustment, pursuant to subsection (d) of section 66412, and notwithstanding and other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the Board finds all of the following:”

- 1) The new contract would enforceably restrict the adjusted boundaries of the parcels for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
- 2) There is no net decrease in the amount of acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
- 3) As least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
- 4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.
- 5) The lot line adjustment would not compromise the long term agricultural productivity of the parcel or other agricultural land subject to a contract or contracts.

- 6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
- 7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjacent lot that is inconsistent with the General Plan.

The Agricultural Commission reviewed this at their March 11, 2015 meeting and determined the findings can be made and recommended approval for the proposed boundary line adjustment (see Exhibit J). Section 4.3 of the staff report findings explains how each of the findings can be made in more detail.

ENVIRONMENTAL REVIEW

This project is Categorical Exempt from the requirements of CEQA pursuant to Section 15305 which applies to boundary line adjustments and Section 15317 which exempts the establishment of agricultural preserves and the making and renewing of open space contracts under the Williamson Act. Section 51257 of the California Government Code requires that findings must be approved by the Board of Supervisors when a Boundary Line Adjustment involves parcels within a Williamson Act Contract. These findings can be found in the Findings section of this staff report.

A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption. The filing of the Notice of Exemption is optional, however, not filing the Notice extends the statute of limitations for legal challenges to the project from 30 days to 180 days.

SUPPORT INFORMATION

Attachments:

Conditions of Approval
Findings

Exhibit A.....Location Map
Exhibit B.....Assessor's Parcel Map
Exhibit C.....General Plan Map
Exhibit D.....Zoning Map
Exhibit E.....Proposed Lot Line Adjustment Map
Exhibit F.....Approved Agricultural Preserve 202 Map
Exhibit G.....Soils Map
Exhibit H.....Farmland Map
Exhibit I.....Zoning Ordinance Update Map
Exhibit J.....Agricultural Commission Memorandum;
March 17, 2015