

FROM THE MINUTES OF DECEMBER 13, 2007

WILLIAMSON ACT CONTRACTS/REZONES (Public Hearing)

b. **WAC07-0001/Z07-0030** submitted by TAMMY ISAAK (Agent: Joel Korotkin) to establish a new agricultural preserve and rezone the same property from Residential Agricultural Twenty-acre (RA-20) to Exclusive Agricultural (AE). The property, identified by Assessor's Parcel Number 046-041-17, consisting of 24.501 acres, is located on the north side of Sandridge Road, at the northwest corner of the intersection with Mariah lane, in the **Somerset area**, Supervisorial District II. (Williamson Act Contract categorically exempt from the requirements of CEQA pursuant to Section 15317 of the CEQA Guidelines; mitigated negative declaration prepared for Z07-0030)

Commissioner Mac Cready pulled this item from the Consent Calendar.

Staff: Tom Dougherty recommended approval to the Board of Supervisors. Commissioner Mac Cready commented he has not seen these types of conditions placed on a Williamson Act Contract in the past. Mr. Dougherty replied the Williamson Act Contract is not conditioned but the mitigation measures from the initial study have been added to the zoning due to the type of uses allowed by right.

Commissioner Machado asked for clarification on the surrounding land use and zoning that might prohibit those parcels from further dividing. Pierre Rivas said that type of situation does not apply here.

Joel Korotkin represented the applicant, stating they had not heard there were any concerns on this application and thought it would remain on Consent. There are very good mitigation measures applied to this project that they have accepted. Mr. Korotkin presented a photograph of the residence and vineyard on the subject parcel.

Commissioner Mac Cready did look at the property and does not see any problem with the request.

A resident directly across the street from the subject property said there is an unsightly ditch now where he exits his property. Animals have been displaced and are now on his property. There is also quite a bit of noise since the barrier has been removed. Commissioner Machado asked if the gentlemen had any suggestions. The individual stated planting could be done along the ditch.

Bill Rush, resident directly across the road from this parcel, asked for clarification on surrounding parcels being able to split in the future. His property is ten acres in size, and he would like to know if he could split his property in the future. Mr. Dougherty said Mr. Rush could not split his property today. Mr. Rush thought the map size of residences was 2,500 square feet for a Williamson Act Contract. Commissioner Mac Cready stated County regulation can differ from State regulations. Bill Stephens, Agricultural Commissioner, explained the legislation pertaining to the 2,500 square feet as it refers to a material breach.

Jack Fraime asked about installing a tasting room in the future.

Art Marinaccio said this property is in close proximity to a quarry that is operated by the County. The quarry should not be displaced in the future because of possible uses on the subject property.

Mr. Korotkin said the residence is 2,615 square feet, and there is significant acreage for the vineyard. Regarding traffic, that is what the mitigation measures are to address. The applicants are aware of the quarry operation and hope that it continues to not operate on weekends. The applicants have also agreed to put in some vegetation along the ditch.

There was no further input.

After the motion and before voting, Commissioner Machado said he would like a condition regarding planting along the ditch and a statement included acknowledging the existing quarry. After discussion with County Counsel, such conditions cannot be added to the rezone unless they are tied to a mitigation measure; as they are not, no conditions were added to the project.

MOTION: COMMISSIONER MAC CREADY, SECONDED BY COMMISSIONER TOLHURST AND UNANIMOUSLY CARRIED, IT WAS MOVED TO FORWARD A RECOMMENDATION THAT THE BOARD OF SUPERVISORS CERTIFY THAT WAC07-0001 IS CATEGORICALLY EXEMPT PURSUANT TO SECTION 15317 OF THE CEQA GUIDELINES; ADOPT THE MITIGATED NEGATIVE DECLARATION FOR Z07-0030, AS PREPARED; ADOPT THE MITIGATION MONITORING PROGRAM; AND APPROVE Z07-0030 REZONING ASSESSOR'S PARCEL NUMBER 046-041-17 FROM RESIDENTIAL AGRICULTURAL TWENTY-ACRE (RA-20) TO EXCLUSIVE AGRICULTURE (AE), BASED ON THE FINDINGS AND SUBJECT TO THE CONDITIONS PROPOSED BY STAFF.

Findings

1.0 CEQA FINDINGS

- 1.1 El Dorado County has considered the Mitigated Negative Declaration together with the comments received and considered during the public review process. The proposed project, as conditioned, will not have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 El Dorado County finds that through feasible conditions and mitigation placed upon the project, impacts on the environment have been eliminated or substantially mitigated.
- 1.3 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with the corresponding permit monitoring requirement, is hereby adopted as the monitoring program for this

project. The monitoring program is designed to ensure compliance during project implementation.

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

2.0 ADMINISTRATIVE FINDINGS

2.1 Zone Change Findings

- 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.

2.0 General Plan Findings

- 2.1 The proposed rezone is consistent with the policies of the 2004 El Dorado County General Plan, as discussed in the General Plan section of this staff report including Policies 2.2.5.2 and 2.2.5.3 about parcel size and evaluation of rezone appropriateness, Policy TC – Xe for traffic circulation, Policies 6.5.1.2, 6.5.1.3, 6.5.1.7 and 6.5.1.13 for noise impacts, 7.3.3.4, 7.4.2.9, 7.4.4.4 about impacts to wetlands, the Important Biological Corridor and oak tree canopy, 8.1.3.1 and 8.1.4.1 for buffering and Agricultural Commission recommendation for approval, 8.2.4.1 for requirements for an Agricultural Preserve and Policies 8.2.4.4 and 8.2.4.5 for the ability to promote Ranch Marketing and visitor serving uses.

WAC 07-0001

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 **Establishment of a new agricultural preserve.**

- 2.1.1 The subject parcel 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 Commissioners. Therefore, the creation of a new agricultural preserve can be approved.

Conditions

Conditions from the Mitigated Negative Declaration

The following mitigation measures are required as a means to reduce potential significant environmental effects to a less than significant level:

1. Should a future winery facility involve the storage of reportable quantities of hazardous materials, then prior to building permit issuance the applicant shall submit a hazardous materials business plan to the Solid Waste and Hazardous Materials Division of Environmental Management, to include payment of applicable fees. **[MM Haz Mat-1].**

Monitoring: Solid Waste and Hazardous Materials Division of Environmental Management shall review and approve a hazardous materials business plan prior to issuance of any development permit for a winery or tasting room.

2. Prior to building permit issuance for a winery facility, the applicant shall provide a Fuel Modification and Wildland Fire Safety Plan, to be prepared by a Registered Professional Forester and or District approved fire safe planner, which shall be reviewed and approved by Pioneer Fire Protection District and California Department of Forestry (Cal Fire). **[MM Haz Mat-2].**

Monitoring: Pioneer Fire Protection District and California Department of Forestry (Cal Fire) shall review and approve a Fuel Modification and Wildland Fire Safety Plan, to be prepared by a Registered Professional Forester and or District approved fire safe planner, prior to issuance of any development permit for a winery or tasting room.

3. Prior to discharging any wastewater to the land, the applicant shall meet Waste Discharge Requirements (WDRs) of the Regional Water Quality Control Board (RWQCB). If the winery crushes less than 80 tons of grapes per year, produces less than 100,000 gallons of wastewater annually, or collects and hauls all process wastewater off-site for disposal, the applicant can apply for a waiver of WDRs. Otherwise, the applicant shall submit a Report of Waste Discharge with the RWQCB. **[MM Hydro-1].**

Monitoring: California Regional Water Quality Control Board (RWQCB) shall review and approve a Report of Waste Discharge with the RWQCB, prior to issuance of any development permit for a winery or tasting room. A written copy of said approval shall be received by Planning Services for the project file, prior to issuance of any development permit for a winery or tasting room.

4. The applicant will be required to obtain a special use permit if an amplified, outdoor sound system will be utilized during special events. **[MM-1 Noise].**

Monitoring: Applicant shall apply for a Special Use Permit for the use of an amplified, outdoor sound system will be utilized during special events, and shall have said Permit approved by the El Dorado County Planning Commission, prior to issuance of any development permit for a winery or tasting room.

5. The applicant shall be subject to an encroachment permit, Std. Plan 103D, with a minimum width of 24 feet for the Mariah Lane entrance to Sandridge Road. Construction shall be completed prior to final occupancy of any future winery. **[MM Trans/Traffic-1].**

Monitoring: Applicant shall applicant shall apply for an encroachment permit for the encroachment by Mariah Lane the entrance onto Sandridge Road Said permit be reviewed and approved by the El Dorado County Department of Transportation (DOT) prior to issuance of any development permit for a winery or tasting room.

6. Prior to holding any special events, the applicant shall improve Mariah Lane from the encroachment off Sandridge Road to the winery and tasting room access way. Improvements will consist of surfacing with either gravel, chip seal or asphalt concrete, to the discretion of the El Dorado County Department of Transportation, 18 feet of width with shoulders on each side. **[MM Trans/Traffic-2].**

Monitoring: Applicant shall submit a grading plan for the winery and tasting room access way, to be reviewed and approved by the El Dorado County Department of Transportation prior to issuance of any development permit for a winery or tasting room.

7. Prior to final occupancy of any potential future winery, the applicant shall post a sign on Mariah Lane discouraging public travel along the road system beyond the winery facilities. The sign shall conform to Standard Plan 105-C for dimensions and materials, and shall read: *End Winery Road – No Trespass*. **[MM Trans/Traffic-3].**

Monitoring: Applicant shall submit proof that a sign on Mariah Lane discouraging public travel along the road system beyond the winery facilities reading, *End Winery Road – No Trespass*, has been posted in a DOT approved location to DOT prior to Prior to final occupancy of the winery a winery or tasting room.

8. Prior to applying for a building permit for the winery or wine tasting facility, the applicant shall submit a Declaration of Small Water System Status form to the El Dorado County Environmental Health Division in order to determine if the project will require a water system permit. If wine tasting activities include the preparation, storing or retail sale of food, then the applicant shall be subject to further requirements and must contact the department for assistance. **[MM Utilities-1].**

Monitoring: Prior to applying for a building permit for the winery or wine tasting facility, the applicant shall submit a Declaration of Small Water System Status form to the El Dorado County Environmental Health Division for review. If wine tasting

activities include the preparation, storing or retail sale of food, then the applicant shall be subject to further requirements and must contact the department for assistance. The applicant shall provide information to the El Dorado County Environmental Health Division prior to applying for a building permit so said determination can be made.

9. Immediately subsequent to approval of the subject rezone by the El Dorado County Board of Supervisors, Planning Services shall record a Notice of Restriction on APN 046-041-17 consisting of Mitigation Measures 1 through 9. The applicant shall be responsible for all recordation fees. **[MM Manda Signi-1]**.

Monitoring: Immediately subsequent to approval of the subject rezone by the El Dorado County Board of Supervisors a Notice of Restriction on APN 046-041-17 consisting of Mitigation Measures 1 through 9 shall be signed and notarized by the applicant and recorded by Planning Services, and a copy shall be provided to the applicant.