DEPARTMENT: Planning

RECOMMENDED ACTION AND JUSTIFICATION:
Resolution approving the creation of a new Agricultural Preserve and executing a new Land Conservation (Williamson) Act contract with David Brown for property located on Mount Gaines Road in Hornitos; APN 007-130-026.

Justification is provided in the Memorandum to the Board, Attachment A, and Staff Report, Attachment B.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
No actions have been taken by the Board on the subject property.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Deny creation of the Agricultural Preserve; modify conditions of the Agricultural Preserve.

Contract must be executed and recorded prior to 5:00 p.m. on Friday December 29, 2006 in order for tax advantages to be effective for the 2007 tax year.

Financial Impact? ( ) Yes (X) No  Current FY Cost: $  
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded  
Amount in Budget: $  
Additional Funding Needed: $  
Source:  
Internal Transfer  
Unanticipated Revenue  
Transfer Between Funds  
Contingency  
( ) General ( ) Other  

Annual Recurring Cost: $  

A. Memorandum to Board  
B. Staff Report to  
Planning Commission  
C. Draft Resolution  
D. Draft Williamson Act Contract  
E. Minutes of the October 5, 2006 Agricultural Advisory Committee Meeting  
F. Minutes of the October 20, 2006 Planning Commission Public Hearing  
G. Notice of Exemption

CLERK’S USE ONLY:  
Res. No.: 546  
Vote – Ayes: 4  
Absent: 12  
Noes:  

Approved  
Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office. 

Date:  
Attest: MARGIE WILLIAMS, Clerk of the Board County of Mariposa, State of California  
By:  
Deputy

COUNTY ADMINISTRATIVE OFFICER:  
( ) Requested Action Recommended  
( ) No Opinion  
Comments:  

CAO:  

Revised Dec. 2002
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

LEE STETSON, CHAIR
JANET BIBBY, VICE CHAIR
LYLE TURPIN
DIANNE A. FRITZ
BOB PICKARD

MARIPOSA COUNTY BOARD OF SUPERVISORS
MINUTE ORDER

TO: KRS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board


RESOLUTION 06-546

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on November 28, 2006

ACTION AND VOTE:

Kris Schenk, Planning Director;

BOARD ACTION: Megan Tennermann, Associate Planner, presented the staff report and advised that staff and the Agricultural Advisory Committee support this application and the Planning Commission has recommended the Board approve this action. Megan Tennermann responded to questions from the Board relative to the contract effective date, correcting the date to January 1, 2007. She also responded to questions relative to subdivision language used in the contract and viable Agricultural land. Supervisor Bibby requested clarification in regards to a possible discussion with the Agricultural Advisory Committee relative to change in land use and was there any public input in the form of letters. She also inquired if the applicant is fully aware of the 20 year commitment of this contract. Megan Tennermann responded that the only input she received was one phone call from a neighbor of the applicant inquiring how this would affect the easement for Mt. Gaines Road, and since Mt. Gaines Road is a public easement it would not be affected by the contract. She concluded that she spoke to the applicant and he is fully aware of the commitment. Supervisor Bibby commended the applicant for his commitment to the preservation of agricultural industry.

Supervisor Turpin requested clarification relative to permitted uses of the Williamson Act Contract. Megan Tennermann responded that it is the resolution that specifies permitted and accessory uses, not the contract. County Counsel advised that the contracting party is in violation of the contract if it becomes a non-permitted use and that is something the County would have a right to enforce. The public portion of the hearing was opened and there was no public input. The public portion of the hearing was closed and the Board commenced with deliberations. Further discussion was held relative to land use and the language in the Certificate of Non-Compliance. (M) Bibby, (S) Turpin, Res. 06-546 was adopted approving Land
Conservation Act Contract Application No. 2006-255, and approving the creation of a new agricultural preserve and executing a new Land Conservation (Williamson) Act Contract with David Brown for a 600-acre property located on Mount Gaines Road in Hornitos. Under discussion of Supervisor Pickard relative to the Department of Conservation stepping up their enforcement visibility to the point of aerial photos, he asked if the applicant is still prepared to complete the contract process. Megan Tennermann responded that the applicant is prepared. Ayes: Stetson, Turpin, Bibby, Pickard; Excused: Fritz. The hearing was closed.

Cc: Becky Crafts, Assessor
    Keith Williams, Tax Collector
    Chris Ebie, Auditor
    File
STATE OF CALIFORNIA
COUNTY OF MARIPosa
BOARD OF SUPERVISORS

Resolution

WHEREAS an application for a Land Conservation ("Williamson") Act contract was received on August 15, 2006 from David Brown for his property located approximately 1500 feet southeast of the intersection of Hornitos Bear Valley Road and Mt. Gaines Road in Hornitos, also known as Assessor Parcel Number 007-130-026; and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS the Planning Department prepared a report for the Agricultural Advisory Committee in accordance with the review procedures of the committee; and

WHEREAS the Agricultural Advisory Committee held a duly noticed public meeting on October 5, 2006; and

WHEREAS the Agricultural Advisory Committee did recommend that the Planning Commission should make a recommendation to the Mariposa County Board of Supervisors to adopt a Notice of Exemption in accordance with the California Environmental Quality Act and approve the project with the recommended findings and modifications; and

WHEREAS a duly noticed public hearing was scheduled before the Planning Commission for October 20, 2006; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they find this project exempt for the provisions of the California Environmental Quality Act; and

WHEREAS the Planning Commission of the County of Mariposa did recommend to the Mariposa County Board of Supervisors that they approve Land Conservation Act Contract Application No. 2006-255 with the proposed condition as recommended by staff; and

WHEREAS the Planning Commission recommendation for project approval was based upon the findings and condition set forth in the Staff Report as presented to the Planning Commission at the public hearing of October 20, 2006; and

WHEREAS a duly noticed public hearing was scheduled for the Board of Supervisors meeting of November 28, 2006; and
WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, the proposed Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE BE IT RESOLVED THAT the Mariposa County Board of Supervisors finds this project exempt for the provisions of the California Environmental Quality Act; and

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves Land Conservation Act Contract Application No. 2006-255; and

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project based upon the findings and condition set forth in Exhibit A of this resolution; and

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project for the property as set forth in the legal description contained within Exhibit B of this resolution; and

BE IT FINALLY RESOLVED THAT the Mariposa County Board of Supervisors hereby directs the Chairman of the Board to execute the Land Conservation Act Contract for this property.

THIS RESOLUTION is duly passed and adopted this November 28, 2006 by the following vote:

AYES: Supervisors Stetson, Turpin, Bibby, Fritz, and Pickard

NOES: None

EXCUSED: None

ABSTAIN: None

JANET BIBBY, Vice Chair
Mariposa County Board of Supervisors

Margie Williams
Clerk of the Board
Mariposa County Board of Supervisors

THOMAS P. GUARINO
County Counsel
EXHIBIT A--FINDINGS AND CONDITIONS FOR APPROVAL  

Findings for Approval

Pursuant to Mariposa County Resolution No. 77-157, Section 6.200 of the Mariposa County General Plan, and Section 51234 of Government Code:

1) The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the Plan’s purpose. This finding is made in accordance with Section 2.600 et seq. of the Mariposa County General Plan.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Conservation Element. The Open Space Element confirms the importance of maintaining the viability of the agricultural industry for Mariposa County. This project will result in the execution of a Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. This finding is made in accordance with Section 51234 of Government Code.

2) The project, upon compliance with the required condition, complies with all standards of the California Land Conservation (Williamson) Act and the Mariposa County Agricultural Preserve Policy. The parcel has been used for agricultural purposes for at least three years, and the agricultural uses have been profitable.

RECOMMENDED CONDITION

1) No Certificate of Compliance application shall be submitted by the property owner or considered by Mariposa County during the tenure of the Land Conservation Act contract.
Exhibit B—Legal Description of Subject Property
Precedingly recorded as Document No. 2055965, Mariposa County Official Records

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF MARIPOSA, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

PARCEL 1:

QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER
OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 4 SOUTH, RANGE 16 EAST, M.D.B.&M.

EXCEPTING AND RESERVING, HOWEVER, TO THE UNITED STATES ALL THE COAL AND OTHER
MINERALS IN THE LANDS SO ENTERED AND PATENTERED, TOGETHER WITH THE RIGHT TO PROSPECT
FOR, MINE AND REMOVE THE SAME PURSUANT TO THE PROVISIONS OF THE ACT OF DECEMBER
29, 1916 (39 STAT. 862).

PARCEL 2:

THE SOUTH HALF OF THE SOUTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHWEST
QUARTER OF SECTION 35, TOWNSHIP 4 SOUTH, RANGE 16 EAST, M.D.B.&M.

EXCEPTING THEREFROM ALL OF THE MINES AND MINERALS OF ANY KIND AND NATURE
WHATSOEVER SITUATED ON, IN AND UNDERNEATH SAID LANDS TOGETHER WITH THE RIGHT TO
ENTER INTO AND UPON SAID DESCRIBED PREMISES FOR THE PURPOSE OF SINKING SHAFTS AND
DRIVING TUNNELS THEREIN AND MINING AND REMOVING ORE AND MINERALS THEREFROM AS
CONVEYED BY DEED RECORDED NOVEMBER 11, 1898 IN BOOK 18 OF DEEDS AT PAGE 228,
MARIPOSA COUNTY RECORDS.