

DEPARTMENT: Planning

BY: Alvaro Arias, Assoc. Planner
PHONE: 742-1218

RECOMMENDED ACTION AND JUSTIFICATION:

Resolution approving Land Conservation Act Application No. 2008-115 with findings and a condition, approving the creation of a new Agricultural Preserve and execution of a new Land Conservation (Williamson) Act contract with Carla and Michael Kelly for a 160-acre portion of a 165.9 acre parcel located on French Camp Road in Mariposa; APN 012-010-031.

Justification is provided in the Staff Report, Attachment A.

Action is based upon the recommendations of the Planning Commission and the Agricultural Advisory Committee.

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 30, 2008 in order for tax advantages to be effective for the 2008 tax year.

Financial Impact? () Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		Attachments:
Additional Funding Needed: \$		A. Staff Report to Board of Supervisors
Source:		B. Notice of Exemption
Internal Transfer		C. Draft Resolution for Project Approval
Unanticipated Revenue	4/5's vote	D. Minutes from Planning Commission Hearing
Transfer Between Funds	4/5's vote	E. Draft Contract
Contingency	4/5's vote	
() General () Other		

CLERK'S USE ONLY:

Res. No. 08-560 Ord. No. _____

Vote - Ayes: 4 Noes: _____

Absent: Luipin

6) Approved
6) 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: RAJ



COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

LYLE TURPIN, CHAIR
DIANNE A. FRITZ, VICE CHAIR
BRAD ABORN
JANET BIBBY
BOB PICKARD

DISTRICT II
DISTRICT IV
DISTRICT I
DISTRICT III
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board *mw*

SUBJECT: PUBLIC HEARING on the Following Land Conservation Act Contracts:
C) Resolution Approving Land Conservation Act Application No. 2008-115 with Findings and a Condition, Approving the Creation of a New Agricultural Preserve and Approving Execution of a New Land Conservation (Williamson) Act Contract with Carla and Michael Kelly for a 160-Acre Portion of a 165.9 Acre Parcel Located on French Camp Road in Mariposa; APN 012-010-031.

RESOLUTION 08-560

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 2, 2008

ACTION AND VOTE:

B) Resolution Approving Land Conservation Act Contract Modification No. 2008-143 and Land Conservation Act Contract Application No. 2008-144, Approving the Creation of a New Agricultural Preserve and Modification of an Existing Agricultural Preserve; and Approving Execution of a Modified and a New Land Conservation (Williamson) Act Contract with John and Nancy Rinell. Project Site is Located in Mariposa on Silver Bar Road, APNs Involved in the Modification Include 017-173-006 (63.72 Acres) and 017-080-043 (149.03 Acres). APNs Portion of the New Contract Application Include 017-080-039 (134.62 acres) and 017-173-007 (190+ Acres).

BOARD ACTION: Alvaro Arias, Associate Planner, presented the staff report; and he advised that the Department of Conservation does not recognize modifications to contracts; so technically the contracts are rescinded and re-entered into. He responded to questions from the Board relative to clarifying that the contract is being rescinded versus modified in the documents; relative to the continued use of the land; and relative to the condition that the parcels will be managed together for the life of the contract. The public portion of the hearing was opened and there was no input. The public portion was closed and the Board commenced with deliberations. (M)Aborn, (S)Bibby, Res. 08-559 was adopted approving LCA No. 2008-143 and 2008-144, with the recommended findings and conditions and finding that these projects are exempt from CEQA; and with changes in the documents to reflect that the contract is being rescinded and re-entered into versus a modification/Ayes: Aborn, Bibby, Fritz, Pickard; Excused: Turpin. The hearing was closed.

Cc: File

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

Resolution

No. 2008-560

**A resolution conditionally approving Land Conservation Act
Contract Application No. 2008-115, APN 012-010-031, Carla R.
Kelly, applicant**

WHEREAS an application for a new Land Conservation (Williamson) Act Contract was received on June 20, 2008 from Carla R. Kelly for a property located at 5752 French Camp Road in Mariposa, also known as a 160 acre portion of Assessor Parcel Number 012-010-031; and

WHEREAS the property has been used for agricultural purposes for a minimum of three years; and

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

WHEREAS a project review was scheduled for the duly noticed Agricultural Advisory Committee meeting of September 25, 2008; and

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

WHEREAS the Agricultural Advisory Committee did hold their meeting 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 their own knowledge of county-wide agricultural operations; and

WHEREAS based on the requirements of Resolution 77-157 and past discussions of the Agricultural Advisory Committee regarding the appropriateness of horses as part of an agricultural production use, the Agricultural Advisory Committee recommended that the Planning Commission recommend that the Board of Supervisors establish a new Agricultural Preserve on the subject property and enter into a new Land Conservation Act Contract with the applicant, covering the subject property with a finding that the horses raised on the property are ranch type horses and with a condition requiring that the property be rezoned from Mountain Transition to Agricultural Exclusive; and

WHEREAS a duly noticed Planning Commission public hearing for the project was scheduled for the 7th day of November 2008; 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 from 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. 2008-115 with the proposed modified condition; 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 November 7, 2008; and

WHEREAS a duly noticed public hearing was scheduled for the Board of Supervisors meeting of December 2, 2008; 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, 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 from the provisions of the California Environmental Quality Act.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves Land Conservation Act Contract Application No. 2008-115.

BE IT FURTHER RESOLVED THAT the Mariposa County Board of Supervisors approves this project based upon the findings and condition set forth in Exhibit 1 of this resolution.

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 2 of this resolution.

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 December 2, 2008 by the following vote:

AYES: ABORN, BIBBY, FRITZ, PICKARD

December 2, 2008


Page 3 of 6 pages

NOES: NONE
EXCUSED: TURPIN
ABSTAIN: NONE



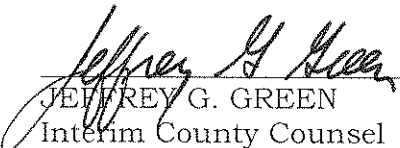
LYLE TURPIN, Chairman
By: DIANNE FRITZ, Vice-Chair
Mariposa County Board of Supervisors

Attest:



MARGIE WILLIAMS
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:



JEFFREY G. GREEN
Interim County Counsel

EXHIBIT 1
PROJECT FINDINGS AND CONDITIONS
FOR
Land Conservation Act Contract Application No. 2008-115

FINDINGS

In accordance with Mariposa County Resolution No. 77-157 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law) , the following findings are made:

1. **FINDING:** 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.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the 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, with the recommended condition. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The agricultural preserve will contain 160 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, raising of ranch type horses, vineyard and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters). 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. The horses which have been raised and grazed on the property are considered to be ranch type horses.
3. **FINDING:** This project is Categorically Exempt based on the following: Class 17; Section 15317, CEQA Guidelines

Condition:

1. The owner of the parcel proposed to be contracted with the Land Conservation Act contract shall, prior to recordation of the contract, submit a complete application to change the zoning of APN 012-010-031 to Agricultural Exclusive. All fees for processing the application shall be the responsibility of the applicant. All required application materials, including any necessary requirements for an environmental determination shall be the responsibility of the applicant.

EXHIBIT 2
LEGAL DESCRIPTION

EXHIBIT A

A tract of land situated in a portion of Projected Sections 3, 4, 9 and 10, all in Township 5 South, Range 18 East, Rancho Las Mariposas, M.D.B. & M., Mariposa County, State of California, said tract of land being more particularly described as follows:

All that certain real property conveyed to Michael J. Kelly and Carla R. Kelly by Grant Deed recorded April 22, 2005 as Document No. 2052767, Mariposa County Official Records, said certain real property described in said Grant Deed as follows:

All of the following described property in Sections 3, 4, 9 and 10, Township 5 South, Range 18 East, M.D.B. & M., as so designated in that certain patent of the tract of land known as "Las Mariposas", from the United States of America to John C. Fremont, dated the 19th day of February 1856, and recorded in the Office of the County Recorder of the County of Mariposa on the 23rd day of March, 1857, in Book "D" of Deeds at page 70 to 88 inclusive, and also recorded in the Office of said County Recorder on the 23rd day of December, 1857 in Book "M" of Patents, at pages 1 to 17 inclusive, records of said County of Mariposa, described as follows:

BEGINNING at the northwest corner of the Southwest quarter of the Southwest quarter of Section 3; thence East 2635.5 feet, more or less, to the northeast corner of the Southeast quarter of the Southwest quarter of said Section 3; thence South 7°13' East 541.37 feet; thence South 8°16'30" East 153.85 feet; thence South 8°00' East 487.04 feet; thence South 8°25' East 250.8 feet; thence 8°39'30" East 362 feet; thence West 4208 feet; thence North 450 feet, more or less, to the southwest corner of the Southeast quarter of the Southeast quarter of Section 4; thence North 1320 feet, more or less, to the northwest corner of the Southeast quarter of the Southeast quarter of said Section 4; thence East 1291.43 feet, more or less, to the POINT OF BEGINNING.

Reserving therefrom an easement for emergency use only, ie fire or flood, over the existing roadway running from French Camp Road Northerly and generally along the West boundary of said land to the land retained by grantor adjacent to the North and identified as Parcel A shown on Parcel Map recorded in Book 25 at page 21, Assessor's Parcel No. 012-040-085. Said easement shall terminate upon sale, transfer or conveyance by grantor or grantee of their respective property.

EXCEPTING THEREFROM all that portion of said certain real property, as said certain real property is delineated on that certain map entitled "Record of Survey for Mark S. Brant" filed April 12, 1984 in the Book of Maps at Page 2174, Mariposa County Records, described as follows:

BEGINNING at the southwest corner of said certain real property; thence S89°55'41"E, along the south line of said certain real property, for 365.00 feet; thence leaving the south line of said certain real property, N01°56'26"W for 709.75 feet; thence N89°55'41"W for 352.31 feet to a point on the west line of said certain real property; thence S00°29'28"W, along the west line of said certain real property, for 298.80 feet to an angle point therein; thence S01°56'26"E, along the west line of said certain property, for 410.78 feet, more or less, to the POINT OF BEGINNING.

The above described tract of land contains 160.0 acres based on calculations derived from said Record of Survey for Mark S. Brant.

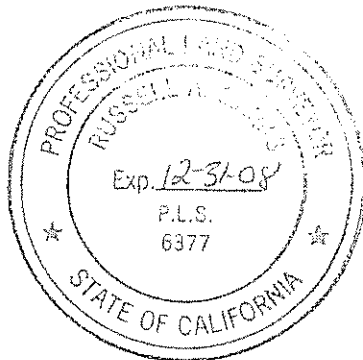
The above described tract of land is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Prepared by:

Russell A. Marks

Russell A. Marks, PLS 6377
License Expiration date: 12/31/08

10/24/08
Date



KELLY

**Attachment A
Staff Report**

Staff Report
Mariposa Planning

BOARD OF SUPERVISORS MEETING
OF December 2, 2008

SUMMARY

Application: Land Conservation Act Contract No. 2008-115

Location: The contract area is located at 5752 French Camp Road;
APN 012-010-031

Applicant: Carla R. Kelly

Property Owners: Michael J. & Carla R. Kelly

**Recommended
Action:**

The Agricultural Advisory Committee and Planning Commission recommend that the Board of Supervisors adopt a Resolution

a) Approving Land Conservation Act Contract Application No. 2008-115 with Findings and a recommended condition

Prepared by,


Alvaro Arias
Associate Planner

Summary Description of Request

Land Conservation Act (Williamson Act) Contract Application No. 2008-115 proposes to place part of a 165.9 acre parcel into a Land Conservation Act Contract. The applicant would like to maintain a 5.9 acre portion out of the contract in order to possibly operate a produce and fruit stand of products grown on the property or off-site in the future. This means that the actual contract would encumber a 160 acre portion of the parcel.

The contract encumbers a portion of one Assessors parcel. The site is and has been used for raising and grazing for horses and cattle. Currently more horses graze the property than cattle. The horses are ranch type horses. There is also a 12 to 14 acre portion that is used as a vineyard.

The project site is in the Mountain Transition (MT) Zone and the Residential Land Use within the Expanded Mariposa Town Planning Area (General Plan).

Agricultural Preserve Size and Use:

Preserve Policies--The proposed agricultural preserve is 160 acres, which is larger than 100 acres and thus consistent with the minimum size requirement of the Agricultural Preserve Policy.

Agricultural Use -- In order to qualify for inclusion in an agricultural preserve, the Agricultural Preserve Policy states "the parcel must have been used for agricultural purposes for three years" and "the agricultural uses must be profitable except under uncontrollable circumstances." The subject property has been used for horse and cattle grazing. Twelve (12) to fourteen (14) acres are used as a vineyard, and over the past three years production in the vineyard has increased. The applicant reports that when they purchased the property three years ago, the grapes hadn't been well cared for. In 2005, the vineyard produced 11 tons of grapes; in 2006, 17 tons; and in 2007, 27 tons. Currently 15 horses and 4 cows graze on the property. The applicant is in the process of increasing the amount of cattle that graze on the land by making improvements such as cross fencing to accommodate for rotation grazing, brushing to increase grazing, and watering facilities. Horse grazing would not necessarily be considered an acceptable agricultural use, however, cattle grazing and the vineyard would. At the Agricultural Advisory Committee (AAC) meeting, the type of horses that were raised on the parcel was discussed. For other applications and during review for the updated policies, the necessity of ranch type horses for an agricultural operation has been discussed at length by the AAC. Because ranch type horses are an integral part of a ranch (critical for many ranch operations), they may be considered as part of an agricultural production use for a LCA contract.

Multiple Parcels/Merging of Parcels -- The Agricultural Preserve Policy states contiguous parcels under the same ownership should be merged to create a single unit. The proposed contract contains

one parcel of 165.9 acres, of which 160 acres are proposed to be placed under contract, and the applicant does not own any parcels contiguous to the subject property.

Historic parcels are not likely to exist on the property, based upon its location within the Rancho Las Mariposa Grant (within which there were no other Federal Patents).

California Land Conservation (Williamson) Act

The California Land Conservation Act or Williamson Act was passed to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. Private landowners voluntarily restrict their land to agricultural uses under a 20-year rolling term contract with Mariposa County. In return, restricted parcels are assessed for property tax purposes at a significantly reduced rate (approximately 75% less) rather than at their potential market value. Because the contracts are "rolling terms", there are always 20 years remaining in a contract (unless the contract is non-renewed).

The purposes and intents of the Williamson Act (what the law is intended to achieve):

- Preservation of the maximum amount of the limited supply of agricultural land is necessary.
- Discouragement of premature and unnecessary conversion of agricultural land to urban uses is in the public interest and is a benefit to the state.
- Agricultural lands have important and valuable open space aspects in an urbanizing society, and should be kept in production.

Procedural Requirements

County Code (County Law) and Agricultural Policy

A procedural requirement established by County Code relative to this petition is Section 17.08.080:

17.08.080 Burden of proof.

It shall be the burden of an applicant to provide all necessary information in support of any matter heard and decided by the planning commission or board of supervisors. Failure to provide such necessary information in support of a matter as described above shall be deemed grounds for denial of application.

In other words, the applicant's justification for entering into a contract is that which is being reviewed and considered through the review process.

Additionally, a rezoning to the Agricultural Exclusive zone (AE), which has a 160-acre minimum parcel size would be necessary per Resolution No. 77-157, which implemented the

Land Conservation Act in the County of Mariposa. This must be done within one year of the effective date of the contract.

California Environmental Quality Act (CEQA):

In order to approve a project, including this project, a CEQA or environmental determination would need to be made by the lead agency (the government agency which has action authority over the permit). For this application, the lead agency is the Board of Supervisors.

The Planning Commission recommends to the Board of Supervisors that the project be found to be exempt from environmental review (CEQA) based on Categorical Exemption, Class 17; Section 15317, CEQA Guidelines.

Agricultural Advisory Committee

Pursuant to Section 2.110.060.C, County Code, the Agricultural Advisory Committee:

“shall provide comment, recommendation, and advice to the Planning Commission, Board of Supervisors and its personnel on the following matters: ...C. Review and provide recommendations on applications for new Williamson Act (Land Conservation Act) contracts, applications for cancellation of Williamson Act (Land Conservation Act) contracts, and non-renewal of Williamson Act (Land Conservation Act) contracts...”

The Agricultural Advisory Committee met and discussed this project on Thursday, September 25, 2008. The Agricultural Advisory Committee voted unanimously to recommend approval of this application, including the proposal to keep 5.9 acres out of the contract. It was also recommended that a provision that the applicant submit an application for rezoning from Mountain Transition to Agricultural Exclusive within one year of entering into the contract be included as a condition of approving the application. It is noted that no change in the General Plan land use classification is necessary to be consistent with LCA policies, only a zoning change is necessary.

Planning Commission

The item was heard by the Planning Commission at a noticed hearing on Friday, November 7, 2008. The Planning Commission voted unanimously to recommend that the project be found to be exempt from environmental review (CEQA) and recommended approval of the application, including the proposal to keep 5.9 acres out of the contract. The Planning Commission also recommended that a condition be included that requires the applicant to submit an application for rezoning from Mountain Transition to Agricultural Exclusive before the contract is recorded. Again, no change in the General Plan land use classification is necessary to be consistent with LCA policies, only a zoning change is necessary. A copy of the Planning Commission draft minutes is attached.

Department of Conservation

The Department of Conservation is a State Agency which performs primarily educational and resource functions to the local agencies which are empowered to interpret and implement the California Land Conservation Act in their jurisdictions.

The Department of Conservation has been sent a copy of this petition to enter into a contract pursuant to state law, together with the information provided by the applicant. Comments regarding this Land Conservation Act No. 2008-115 from the Department of Conservation had not been received as of the writing of this staff report.

Recommended Findings:

In accordance with Mariposa County Resolution No. 77-157 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law) , the following findings are made:

1. **FINDING:** 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.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the 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, with the recommended condition. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The agricultural preserve will contain 160 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, raising of ranch type horses, vineyard and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters). 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. The horses which have been raised and grazed on the property are considered to be ranch type horses.

3. **FINDING:** This project is Categorically Exempt based on the following: Class 17; Section 15317, CEQA Guidelines

Recommended Conditions:

1. The owner of the parcel proposed to be contracted with the Land Conservation Act contract shall, prior to recordation of the contract, submit a complete application to change the zoning of APN 012-010-031 to Agricultural Exclusive. All fees for processing the application shall be the responsibility of the applicant. All required application materials, including any necessary requirements for an environmental determination shall be the responsibility of the applicant.

Staff Note: On November 13, 2008, the applicant submitted Zoning Amendment Application No. 2008-197 as required by this recommended condition.

PROJECT VICINIT, MAP:

WILLIAMSON ACT CONTRACT: #2008-115

APN: 012-010-031

APPLICANT: Michael and Carla Kelly

APPLICANT ADDRESS: 5752 French Camp Road Mariposa, CA 95338

Planner: Alvarez Arias

Mariposa County Planning Department

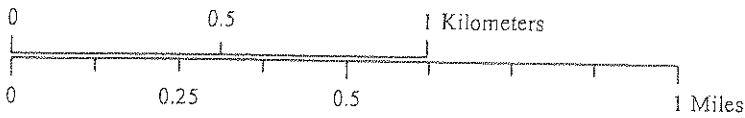
PO BOX 2039 5100 Eullion Street

Mariposa, California 95338-2039

209.966.5151 FAX 209.742.5024

mariposaplanning@mariposacounty.org

<http://www.mariposacounty.org/planning>



Mariposa County makes no warranty regarding the accuracy of the GIS or the analysis and conclusions resulting from using our GIS data.

LEGEND



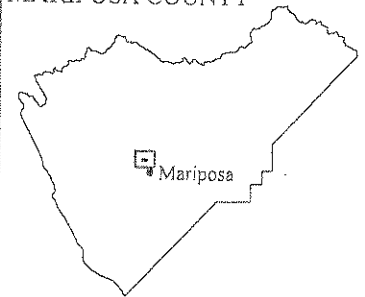
APN 012-010-031

— Roads



Assessor Parcel Map

MARIPOSA COUNTY



Map created on: September 18, 2008

Data Source: Parcel map from Mariposa County Assessor's Map; Updated August 2008

COORDINATE SYSTEM: NAD 1983 STATE PLANE III CALIFORNIA

Map created by: Emily Ebba Meriam GIS Technician Mariposa County Planning Department

Attachment B
Draft Notice of Exemption

MARIPOSA COUNTY NOTICE OF EXEMPTION

TO: County Clerk, County of Mariposa
P.O. Box 247
Mariposa, CA 95338

FROM: Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338

Project Title: Land Conservation Act (LCA) Contract No. 2008-115.

Project Address: 5752 French Camp Road, Mariposa, CA

Project Parcels: APN 012-010-031

Description

of Project: Land Conservation Act Contract No. 2008-115 proposes to place a 160 acre portion of a 165.9 acre into a Land Conservation Act contract.

Name of Public Agency Approving Project: Mariposa County Board of Supervisors

Name of Person (Applicant) Carrying Out Project: Carla R. Kelly and Michael J. Kelly

Exempt Status: Categorical Exemption, Class 17; Section 15317, CEQA Guidelines

Reason Why Project Is Exempt: Establishment of Agricultural Preserve and enacting of a Williamson Act Contract.

Lead Agency Contact Person: Alvaro Arias, Associate Planner

Phone Number: (209) 742-1218

Mariposa County Planning Department by:

Kris Schenk
Planning Director

Date

EXHIBIT 1
PROJECT FINDINGS AND CONDITIONS
FOR
Land Conservation Act Contract Application No. 2008-115

FINDINGS

In accordance with Mariposa County Resolution No. 77-157 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law), the following findings are made:

1. **FINDING:** 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.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining open space nature of the 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, with the recommended condition. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The agricultural preserve will contain 160 acres. The parcel meets the minimum size established by the Board of Supervisors for an agricultural preserve. The use of this property for cattle grazing, raising of ranch type horses, vineyard and/or other Agricultural Production Uses or Compatible Uses as specified in the contract must be profitable, except in extraordinary circumstances (such as natural disasters). 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. The horses which have been raised and grazed on the property are considered to be ranch type horses.
3. **FINDING:** This project is Categorically Exempt based on the following: Class 17; Section 15317, CEQA Guidelines

December 2, 2008

Page 5 of 5 pages

Condition:

1. The owner of the parcel proposed to be contracted with the Land Conservation Act contract shall, prior to recordation of the contract, submit a complete application to change the zoning of APN 012-010-031 to Agricultural Exclusive. All fees for processing the application shall be the responsibility of the applicant. All required application materials, including any necessary requirements for an environmental determination shall be the responsibility of the applicant.

EXHIBIT 2
LEGAL DESCRIPTION

Legal Description to be inserted here.

(17)

EXHIBIT A

A tract of land situated in a portion of Projected Sections 3, 4, 9 and 10, all in Township 5 South, Range 18 East, Rancho Las Mariposas, M.D.B. & M., Mariposa County, State of California, said tract of land being more particularly described as follows:

All that certain real property conveyed to Michael J. Kelly and Carla R. Kelly by Grant Deed recorded April 22, 2005 as Document No. 2052767, Mariposa County Official Records, said certain real property described in said Grant Deed as follows:

All of the following described property in Sections 3, 4, 9 and 10, Township 5 South, Range 18 East, M.D.B. & M., as so designated in that certain patent of the tract of land known as "Las Mariposas", from the United States of America to John C. Fremont, dated the 19th day of February 1856, and recorded in the Office of the County Recorder of the County of Mariposa on the 23rd day of March, 1857, in Book "D" of Deeds at page 70 to 88 inclusive, and also recorded in the Office of said County Recorder on the 23rd day of December, 1857 in Book "M" of Patents, at pages 1 to 17 inclusive, records of said County of Mariposa, described as follows:

BEGINNING at the northwest corner of the Southwest quarter of the Southwest quarter of Section 3; thence East 2635.5 feet, more or less, to the northeast corner of the Southeast quarter of the Southwest quarter of said Section 3; thence South 7°13' East 541.37 feet; thence South 8°16'30" East 153.85 feet; thence South 8°00' East 487.04 feet; thence South 8°25' East 250.8 feet; thence 8°39'30" East 362 feet; thence West 4208 feet; thence North 450 feet, more or less, to the southwest corner of the Southeast quarter of the Southeast quarter of Section 4; thence North 1320 feet, more or less, to the northwest corner of the Southeast quarter of the Southeast quarter of said Section 4; thence East 1291.43 feet, more or less, to the POINT OF BEGINNING.

Reserving therefrom an easement for emergency use only, ie fire or flood, over the existing roadway running from French Camp Road Northerly and generally along the West boundary of said land to the land retained by grantor adjacent to the North and identified as Parcel A shown on Parcel Map recorded in Book 25 at page 21, Assessor's Parcel No. 012-040-085. Said easement shall terminate upon sale, transfer or conveyance by grantor or grantee of their respective property.

EXCEPTING THEREFROM all that portion of said certain real property, as said certain real property is delineated on that certain map entitled "Record of Survey for Mark S. Brant" filed April 12, 1984 in the Book of Maps at Page 2174, Mariposa County Records, described as follows:

BEGINNING at the southwest corner of said certain real property; thence S89°55'41"E, along the south line of said certain real property, for 365.00 feet; thence leaving the south line of said certain real property, N01°56'26"W for 709.75 feet; thence N89°55'41"W for 352.31 feet to a point on the west line of said certain real property; thence S00°29'28"W, along the west line of said certain real property, for 298.80 feet to an angle point therein; thence S01°56'26"E, along the west line of said certain property, for 410.78 feet, more or less, to the POINT OF BEGINNING.

The above described tract of land contains 160.0 acres based on calculations derived from said Record of Survey for Mark S. Brant.

The above described tract of land is subject to any liens, encumbrances, covenants, restrictions and rights-of-way or easements of record or legally acquired.

Prepared by:

Russell A. Marks

Russell A. Marks, PLS 6377

License Expiration date: 12/31/08

10/24/08
Date

