RECOMMENDED ACTION AND JUSTIFICATION:

Adopt resolutions approving the creation of Agricultural Preserve for Rinell (Application No. 2004-151; multiple APNs); modifying Agricultural Preserves for Bissig (Application No. 2004-133; APN 018-300-008); and Franco (Application No. 2004-132; APN 018-300-004); and acknowledging Notices of Non-Renewal for Mariposa County (Application No. 2004-171; APNs 001-260-015 and 001-260-016) and Berlogar (APN 011-240-011).

Justification is provided in Memorandum to Board of Supervisors from Mariposa Planning.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Deny creation of Agricultural Preserves for Rinell or modify conditions of approval
Deny modification of Agricultural Preserves or modify conditions of approval for Bissig and Franco.

Financial Impact? ( ) Yes (X) No Current FY Cost: $ Annual Recurring Cost: $
Budgeted in Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $ Additional Funding Needed: $ Source:
Internal Transfer 
Unanticipated Revenue 4/5’s vote
Transfer Between Funds 4/5’s vote
Contingency 4/5’s vote
( ) General ( ) Other

Attachments:

CLERK’S USE ONLY:
Res. No.: 04-521 Ord. No. ______
Vote – Ayes: ______ Noes: ______
Absent: ______
( ) 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: ____________
TO: KRISS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: APPROVAL OF THE CREATION OF AGRICULTURAL PRESERVE FOR RINELL, MODIFYING AGRICULTURAL PRESERVES FOR BISSIG AND FRANCO, AND ACKNOWLEDGING NOTICES OF NON-RENEWAL FOR MARIPOSA COUNTY AND BERLOGAR

Resolution No. 04-521

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on December 7, 2004

ACTION AND VOTE:

Kris Schenk, Planning Director;

A) PUBLIC HEARING Relative to Adopting a Resolution Approving the Creation of Agricultural Preserve for Rinell (Application No. 2004-151; Multiple APNs); Modifying Agricultural Preserves for Bissig (Application No. 2004-133, APN 018-300-008) and Franco (Application No. 2004-132, APN 018-300-004); and Acknowledging Notices of Non-Renewal for Mariposa County (Application No. 2004-171, APNs 001-260-015 and 001-260-016) and Berlogar (APN 011-240-011)

BOARD ACTION: Kris Schenk introduced Megan Tennenmann/Assistant Planner. Megan presented the staff report for the Rinell application. Staff responded to questions from the Board relative to the process and change in the valuation of property when it is removed from the Williamson Act/Agricultural Preserve contract; relative to the condition that no Certificate of Compliance application shall be submitted during the tenure of the contract to address the problems that could be caused by underlying historic parcels which are not yet recognized; relative to dealing with historic parcels; and relative to the Agricultural Advisory Committee’s recommendation concerning the execution of separate contracts on the separate legal parcels. Megan presented the staff report for the rest of the applications. Staff responded to questions from the Board relative to the recommendation to remove the parcel in Lake Don Pedro from the Agricultural Preserve as it was found that the proposed wastewater treatment plant use is compatible with the purposes of the Williamson Act; and relative to the process for the non-renewal applications and changes with the taxes. Tom Guarino, County Counsel, suggested that the Board take a recess so that staff can check with the project manager for the Lake Don Pedro wastewater treatment plant and see if there is a reason for the non-renewal.
Lyle Turpin provided input on the information that was presented to the Planning Commission and the Agricultural Advisory Committee for the parcel containing the proposed Lake Don Pedro wastewater treatment plant relative to the request for cancellation of the contract.

2:41 p.m. Recess

2:48 p.m. Kris Schenk provided input relative to the recommendation for non-renewal of the parcel containing the proposed Lake Don Pedro wastewater treatment plant. The public portion of the hearing was closed and the Board commenced with deliberations. (M)Balmain, (S)Pickard, Res. 04-521 was adopted approving the recommended actions for the Agricultural Preserves/Ayes: Unanimous. The hearing was closed.

Supervisor Balmain request that the Agricultural Preserve/Williamson Act contract form be reviewed and clarified by incorporating the addendum in the contract.

cc: File
ATTACHMENT 1

AGRICULTURAL PRESERVE STANDARDS
MARISPOSA COUNTY RESOLUTION NO. 77-157

IMPLEMENTING THE

CALIFORNIA LAND CONSERVATION ACT OF 1965, AS AMENDED,

IN THE COUNTY OF MARISPOSA

WHEREAS, the orderly planning and development of land use
is in the public interest of all taxpayers of Mariposa County; and

WHEREAS, agricultural production is and will remain a
principal use of land in Mariposa County since other alternatives
do not appear to be readily available; and

WHEREAS, agricultural production on these lands con-
stitutes an important physical, social, aesthetic, and economic
asset to the County; and

WHEREAS, the Land Conservation Act of 1965, as amended,
provides a method for accomplishing the land use planning objec-
tives of the County;

NOW, THEREFORE, BE IT RESOLVED that this Board of
Supervisors does hereby make available to qualified landowners of
Mariposa County the provisions of the Land Conservation Act of
1965, as amended; and

BE IT FURTHER RESOLVED that for the purpose of imple-
menting such Act this Board does hereby establish policies and
rules for establishing and governing agricultural preserves in the
County of Mariposa:

1. The Board on its own cognizance, or at the written
request of landowners, may establish an agriculture preserve.
Such preserve shall contain a minimum of 100 acres which shall be
contiguous. The Board may establish agricultural preserves of
less than 100 acres if the Board finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the General Plan of Mariposa County.

2. Requests for the establishment of agricultural preserves shall be filed with the Secretary of the Mariposa County Planning Commission on application forms provided by the Secretary. Such application form shall identify the landowner(s), locate the property on County maps, give legal description of the property as on the current Assessor's roles, state the size of the property, provide certification that the property has for the past three (3) years and is presently devoted to agricultural production and compatible uses, and indicate the applicant's intention to enter into a contract that will qualify as an enforceable use restriction as specified in Section 422 of the Revenue & Taxation Code of the State of California.

3. "Agricultural production and compatible uses" refer to those enumerated in Exhibit "A", attached hereto and made a part of this Resolution; provided, however, that Exhibit "A" can be separately amended by this Board.

4. The Planning Commission of Mariposa County shall review all applications for the establishment of agricultural preserves and forward such applications, along with a Commission recommendation, to the Board of Supervisors.

5. The Board of Supervisors shall hold a public hearing on all applications, singularly or jointly. The purpose of such hearing is to permit all interested parties to inform themselves
and present testimony if desired. The Board shall establish each
agricultural preserve by resolution.

6. At the time of establishing an agricultural preserve,
the Board shall authorize the Chairman of the Board to sign a Land
Conservation Act contract, of a standard form to be hereafter
specified by the Board, with any owner of land within the preserve
who qualifies for the contract and has requested to enter into such
contract with the County.

7. The following conditions shall be met in order to
qualify a parcel of land for inclusion within an agricultural pre-
serve:

a. The parcel wishing to contract must have been
used for agricultural purposes for three (3)
years prior to application.

b. If contiguous, and under the same ownership,
multiple parcels should be merged to create a
single unit.

c. That no new dwellings be constructed on parcels
less than forty (40) acres in size.

d. The agricultural use must be profitable except
under uncontrollable circumstances.

e. Existing and future homesites on parcels wishing
to contract shall be allocated parcel sizes of
no less than 2.5 acres for appraisal purposes.

f. The minimum contract period shall be no less than
twenty (20) years.

g. The minimum cancellation penalty shall be no less
than an amount equal to one hundred percent
(100%) of the new assessed valuation of the pro-
property.

h. The parcel wishing to contract shall within one
(1) year of the effective date of the contract
be restricted by zoning of said parcel to agri-
cultural use and said agricultural use zoning
shall have a minimum two-year waiting period for
change of said agricultural use which said two-
year period shall commence upon the filing of the
application for change of use. Application for
change from N/S Zone cannot be made prior to the 12th year
8. The provisions of this Resolution are not intended to modify or negate any restrictions imposed by previous County ordinances.

The foregoing Resolution was passed and adopted by the Board of Supervisors of the County of Mariposa, State of California, on this 18th day of October, 1977, by the following vote:

AYES: Clark, Dalton, Long.
NOES: Owings.
NOT VOTING: None
ABSENT: None

FRANK L. LONG, JR.
CHAIRMAN
BOARD OF SUPERVISORS

ATTEST:

ELLEN BRONSON, COUNTY CLERK AND EX OFFICIO CLERK OF THE BOARD
"Agricultural production and compatible uses" as contained in this Resolution and applicable to land qualifying for inclusion in an agricultural preserve shall be defined as follows:

1. **Agricultural Production:** The following land uses, and those uses which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be deemed agricultural production and thus permitted within such preserves:

   a. General farming, including but not limited to the growing and harvesting of vegetables, field crops, fruit and nut crops, bush and berry crops, vineyards, hay crops, and nursery, cut flower, and other ornamental crops.

   b. Raising, feeding, maintaining, and breeding horses, cattle, sheep, goats, hogs, chickens, and turkeys.

   c. Dairies.

   d. Growing and harvesting of hardwoods.

   e. Accessory uses and structures appurtenant and necessary to the operation of the permitted uses, including one-family dwellings located on the land and occupied by persons directly engaged in the operation.

2. **Compatible Uses:** The following compatible uses, and those which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be permitted within such preserves, providing they are not the principle use:

   a. Forestry, but not including any processing facilities.

   b. Utility lines and substations.

   c. Vending facilities for products grown on land within the preserve.

   d. Recreation, but not including permanent structures.

   e. Private airstrips.

   f. Raising of game birds and fish.

   g. Mining.
Mariposa County Resolution No. 95-350

A Resolution Amending Mariposa County Resolution No. 77-157
Which Implemented the California Land Conservation Act
of 1965, as Amended, in the County of Mariposa

WHEREAS, in 1977 the Mariposa County Board of Supervisors adopted Resolution No. 77-157 which implemented the California Land Conservation Act of 1965 in the County of Mariposa, and

WHEREAS, contained in Resolution No. 77-157 in paragraph 7(g) is a formula for cancellation penalty when a landowner desires to extract its land from the Land Conservation Act of 1965, and

WHEREAS, paragraph 7(g) reads as follows: “The minimum cancellation penalty shall be no less than an amount equal to one hundred percent ($100%) of the new assessed valuation of the property.”, and

WHEREAS, in 1977 when Resolution No. 77-157 was adopted, the language “one hundred percent (100%) of the new assessed valuation of the property” equaled twenty-five percent (25%) of the fair market value of the property as a result of the way property was assessed prior to Proposition 13 being adopted, and

WHEREAS, after Proposition 13 was adopted by the State Legislature a new valuation method was instituted and the language “one hundred percent (100%) of the new assessed valuation of the property” no longer was interpreted to mean twenty-five percent (25%) of the fair market value, and

WHEREAS, it was the intent of the Board of Supervisors in 1977 and remains the intent of the Board of Supervisors to this date to have the minimum cancellation penalty contained in paragraph 7(g) of Resolution No. 77-157 to equal twenty-five percent (25%) of the fair market value of the property after the Land Conservation Act contract is no longer imposed on the property, and

WHEREAS, the Board of Supervisors desires to clarify the language contained in paragraph 7(g) of Resolution No. 77-157 for future use,

NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors hereby amends paragraph 7(g) of Resolution No. 77-157 to read in its entirety as follows: “The minimum cancellation penalty shall be no less than an amount equal to twenty-five percent (25%) of the fair market value of the property without the Land Conservation Contract being attached to the property.”
All of the remaining terms and conditions of Resolution No. 77-157 shall remain in full force and effect.

The foregoing Resolution was passed and adopted by the Board of Supervisors of the County of Mariposa, State of California, on this 25th day of July, 1995, by the following vote:

AYES: PARKER, BALMAIN, REILLY, STEWART
NOES: NONE
ABSTAINED: NONE
EXCUSED: TABER

GARRY R. PARKER, Chairman
Mariposa County Board of Supervisors

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

MARGIE WILLIAMS
Clerk of the Board

JEFFREY O. GREEN
County Counsel
ATTACHMENT 2
STAFF REPORT FOR RINELL AG PRESERVE
APPLICATION NO. 2004-151
BOARD OF SUPERVISORS HEARING
OF December 7, 2004

SUMMARY AND RECOMMENDATIONS

Projects: AGRICULTURAL PRESERVE 2004-151 (RINELL)


Recommendation: The Planning Commission recommends that the Board of Supervisors adopt a resolution to:

1. Approve the Agricultural Preserve with the recommended findings and conditions; and


Prepared by,

Megan Tennermann
Assistant Planner
Project Discussion

Location: Silver Bar and Ashworth Road area; the northernmost parcel is located approximately 3200 feet southeast of the intersection of Ashworth Road and Silver Bar Road.

Land Use/Zoning: Agriculture Exclusive (AE) land use classification and zoning district for majority of project site. Approximately 10 acres of APN 017-171-003 is located in the Mountain Home land use classification and zoning district.

Adjacent Land Uses: For APN 017-080-043, adjacent land uses are all Agricultural Exclusive. No adjacent properties have executed Land Conservation Act contracts.

For portion of APN 017-171-003 included in this contract, the adjacent land use to the north (remaining portion of this APN) is Mountain Home, all other adjacent uses are Agricultural Exclusive. No adjacent properties have executed Land Conservation Act contracts.

For all other APNs of subject property, adjacent land uses are Agricultural Exclusive. No adjacent properties have executed Land Conservation Act contracts.

Analysis

Project Description: The applications request the establishment of an Agricultural Preserve and indicate the applicants’ intention to enter into a Land Conservation (Williamson) Act contract.

A Land Conservation Act contract is a 20-year contract which renews annually. The contract limits use and development of the property to agricultural and open space uses. In return for the property owners’ 20-year commitment to open space uses, the property owners receive significant property tax benefits. Once an application is received, the Agricultural Advisory Committee reviews the application and makes a recommendation to the Planning Commission relative to the inclusion of the property into an Agricultural Preserve. The Planning Commission will hold a public hearing on the proposed Agricultural Preserve and make a recommendation to the Board of Supervisors relative to the inclusion of the property into an Agricultural Preserve. If the Agricultural Preserve is approved by the Board of Supervisors at a public hearing, the Planning Department will prepare a Land Conservation Act contract for signatures of the applicants and County officials. These applications are processed just one time per year.
Application

The number and size of historic parcels which comprise the property was previously established through the certificate of compliance process.

History and Information:

There are no additional historic parcels within the project site.

The application, a portion of the Rauch Ranch, contains the following six parcels and portions thereof. Five of the parcels are contiguous and would constitute one agricultural preserve. One of the parcels is separated and would constitute the other agricultural preserve.

Two of the parcels involved in the application have been recently modified through the lot line adjustment process. Although the process is complete and new certificates of compliance have been recorded, the new parcel configurations have not yet been mapped by the Assessor and don’t yet show up on the Assessor’s Parcel Pages.

1. APN 017-080-043
   Parcel Size: 149.03 acres
   Ownership: This parcel was in escrow at the time the application was submitted; a letter of authorization was obtained from Lou Ellen Rauch. The applicants are the legal owners of record as of late August, 2004.

2. APN 017-171-003 (adjusted, new APN not yet mapped)
   Existing Adjusted Parcel Size: 143.54 acres
   This parcel was recently adjusted with the adjacent parcel (Lot Line Adjustment No. 2004-32), and a Certificate of Compliance was recorded in Mariposa County Official Records as Document No. 2044747 (August 3, 2004).
   Ownership: The applicants are the legal owners of record as of June 4, 2004.
   Proposed Acreage for Contract: 133.5 acres
   The applicants have applied to put only a portion of this parcel under contract. The applicants request leaving out of contract all that portion of the parcel north of the section line (approximately 10 acres). This portion proposed to be left out of contract is in the Mountain Home land use and zoning designation. The applicants state their intent is to undergo yet another lot line adjustment to legally remove this 10 acres from the remainder of the contracted parcel. This lot line adjustment application was approved by Planning on November 15, 2004; the adjustment removes the ten-acre portion from this APN and combines the remaining 133.5 acres with the 40 acres of APN 017-170-067. The parcel modification will be complete when the applicant completes the remaining steps of the Lot Line Adjustment process and Planning files Certificates of Compliance on the modified parcels.
3. APN 017-170-067  
Parcel Size: 40 acres  
Ownership: The applicants are the legal owners of record as of June 4, 2004.  
Proposed Adjustment for Contract: The lot line adjustment between this parcel and APN 017-171-003 will remove the line separating the two parcels and break off the ten-acre piece on the north end of APN 017-171-003 that is zoned Mountain Home. This is in keeping with County Resolution 82-75, because it eliminates “split zoning” on APN 017-171-003. The larger parcel reconfigured by this lot line adjustment will contain approximately 173.5 acres.

4. APN 017-170-065  
Parcel Size: 40 acres  
Ownership: The applicants are the legal owners of record as of June 4, 2004.  
Proposed Adjustment for Contract: A parcel merger application combining this parcel and APN 017-170-064 was received by Planning on October 12, 2004. The combined parcel will contain 200 acres. The parcel merger was approved on November 15, 2004; the merger will be complete when the applicant completes the remaining steps of the parcel merger process and a Certificate of Compliance is filed for the parcel in its new configuration.

5. APN 017-170-064  
Parcel Size: 160 acres  
Ownership: The applicants are the legal owners of record as of June 4, 2004.  
Proposed Adjustment for Contract: A parcel merger application combining this parcel and APN 017-170-065 was received by Planning on October 12, 2004. The combined parcel will contain 200 acres. The parcel merger was approved on November 15, 2004; the merger will be complete when the applicant completes the remaining steps of the parcel merger process and a Certificate of Compliance is filed for the parcel in its new configuration.

6. APN 017-171-004 (adjusted, new APN not yet mapped)  
Existing Adjusted Parcel Size: 165.3 acres  
This parcel was recently adjusted with the adjacent parcel (Lot Line Adjustment No. 2004-90), and a Certificate of Compliance was recorded in Mariposa County Official Records as Document No. 2043693.  
Ownership: The applicants are the legal owners of record as of June 25, 2004.
This application is different than those processed in the past, as this project site has already gone through the Certificate of Compliance process for historic parcels. For the past number of years, the Committee has recommended the following condition in order to address the problems that could be caused by underlying historic parcels which are not yet recognized:

“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.”

The Board of Supervisors has approved the recommendation and required the condition on previous applications for which it has been applicable. Although staff does not recommend this condition, because historic parcels have already been recognized, staff provides this information for perspective.

At their meeting of September 23, 2004, the Agricultural Advisory Committee recommended approval of the two agricultural preserves, as both preserves are capable of sustaining profitable agricultural uses. The Planning Commission concurred with this recommendation at their meeting of October 22, 2004; the Commission also concurred with staff’s recommendation that the Parcel Merger application and the Lot Line Adjustment involving the parcels of the larger Agriculture Preserve should be completed prior to creating the new Agriculture Preserves.

**Agricultural Preserve Policies:**

**Preserve Size** – Both proposed agricultural preserves are 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 properties have historically been used for cattle grazing (property was leased by the previous owner).

**Multiple Parcels/Merging of Parcels** – The Agricultural Preserve Policy states contiguous parcels under the same ownership should be merged to create a single unit. This application proposes a total of six parcels be put in the agriculture preserve. Five of the parcels are contiguous and one is separate. Staff and the Agricultural Advisory Committee recommend the creation of two separate Agricultural Preserves, and the execution of two separate Land Conservation Act Contracts. The Agricultural Advisory Committee does not support the execution of separate contracts on the separate legal parcels.
Staff recommended to the Agricultural Advisory Committee that those parcels which do not meet the minimum parcel size for an agricultural preserve be merged with an adjacent parcel, or denied. There are two 40-acre parcels proposed in this application which are affected by this recommendation. On October 12, 2004, the date the Agricultural Advisory Committee was scheduled to act on the application, the applicant submitted a parcel merger application (combining APNs 017-170-064 and 017-170-065) and a lot line adjustment application (affecting APNs 017-170-067 and 017-171-003) in order to correct the minimum parcel size issues and staff recommendation. The Agricultural Advisory Committee found that the proposed application for merger and lot line adjustment, if completed as proposed, would address their concerns and the agricultural preserve policies. The Planning Commission concurred with this recommendation.

**Recommendation** – The Agricultural Advisory Committee recommends that APNs 017-170-067 and APN 017-170-065 be merged with an adjacent parcel if included in the contract. This is to ensure that these two 40-acre parcels may not later be sold, and be out of compliance with the Agricultural Preserve Policies of Mariposa County. The parcel merger and lot line adjustment applications submitted to this office on October 12, 2004 will satisfy this recommendation, and must be completed and Certificates of Compliance for the amended parcels must be filed prior to contract recordation to fulfill this objective. Both the Parcel Merger and the Lot Line Adjustment were approved by the Planning Director on November 15, 2004; the processes have yet to be completed.

The Agricultural Advisory Committee recommends that two separate Land Conservation Act contracts be issued to this property owner for the two discontiguous portions of property in the application, and that the five contiguous (adjusted) parcels be included in one contracts. This is recommended based upon the lower quality of the ground relative to grazing capacity. The Committee believes that the individual parcels would be marginal on their own, to meet the requirements of the county's agricultural policies.

**General Plan:**
The proposed preserves, as conditioned, are consistent with the Mariposa County General Plan. Finding No. 1 listed below confirms that the preserves are consistent.

**Environmental Review:**
Establishment of an agricultural preserve and execution of a Land Conservation Act contract are categorically exempt from the requirements of the California Environmental Quality Act (Categorical Exemption, Class 17; Section 15317 CEQA Guidelines).
RECOMMENDED FINDINGS

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 preserves are 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 conditions, 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 CONDITIONS

1) Two separate Agricultural Preserves shall be established and two separate Land Conservation Act contracts shall be recorded for this application. One preserve and contract shall include APN 017-080-043. One preserve and contract shall include APNs 017-170-064, 017-170-065, 017-170-067, 017-171-003, and 017-171-004 as previously adjusted by Lot Line Adjustment No. 2004-32 and Lot Line Adjustment No. 2004-90, and as proposed to be adjusted by Lot Line Adjustment No. 2004-199 and Parcel Merger No. 2004-198.

2) Prior to execution and recordation of the Land Conservation Act Contract on (adjusted) APNs 017-170-064, 017-170-065, 017-170-067, 017-171-003, and 017-171-004, Lot Line Adjustment No. 2004-199 shall be completed and Certificates of Compliance shall be recorded.

3) Prior to execution and recordation of the Land Conservation Act contract on (adjusted) APNs 017-170-064, 017-170-065, 017-170-067, 017-171-003, and 017-171-004, Parcel Merger No. 2004-198 shall be completed and a Certificate of Compliance and Declaration of Waiver and Parcel Merger shall be recorded.
ATTACHMENT 3
STAFF REPORT FOR BISSIG/FRANCO LOT LINE
BOARD OF SUPERVISORS HEARING
OF DECEMBER 7, 2004

SUMMARY AND RECOMMENDATIONS

Projects:
LOT LINE ADJUSTMENT #2004-126 BISSIG & FRANCO; LAND
CONSERVATION ACT #2004-132 FRANCO; LAND
CONSERVATION ACT #2004-133 BISSIG

Proposal:
Adjust the boundaries of the Bissig and Franco agricultural preserves
to conform to the existing fence line (as proposed by Lot Line
Adjustment) and modify the existing Land Conservation (Williamson)
Act contracts to reflect the new boundaries.

Recommendation:
The Planning Commission recommends that the Board of Supervisors
adopt a resolution with findings to:

Execute modified Land Conservation (Williamson) Act contracts on
the property with conditions.

Prepared by,

Megan Tennermann
Assistant Planner
Project Discussion

Location: Raymond/Bootjack area, near the Mariposa/Madera County line; the Franco parcel is adjacent to the county line, the properties are contiguous, and the Bissig parcel (the westerly parcel) is located on an unnamed private road approximately 1.7 miles east of Ben Hur Road.

Land Use/Zoning: Agriculture Exclusive (AE) land use classification and zoning district.

Adjacent Land Uses: Adjacent land uses are Agricultural Exclusive. All adjacent properties have executed Land Conservation Act contracts, with the exception of two small parcels south of the Franco property.

Concurrent Project: Lot Line Adjustment #2004-126, approved by the Planning Director on November 29, 2004, will modify the configuration of APN 018-300-008 and APN 018-300-004. This is to make the parcel configurations follow existing fence lines. The adjustment is an equal exchange of 40 acres. The final step of a Lot Line Adjustment is the issuance of a Certificate of Compliance. The approval authority for Lot Line Adjustments is the Planning Director. The lot line adjustment project will be approved with a condition requiring the modification of the land conservation act contracts.

Analysis

Project Description: The applications request the modification of two existing Land Conservation Act Contracts and indicate the applicants’ intention to continue in their existing Land Conservation (Williamson) Act contracts.

A Land Conservation Act contract is a 20-year contract which renews annually. The contract limits use and development of the property to agricultural and open space uses. In return for the property owners’ 20-year commitment to open space uses, the property owners receive significant property tax benefits. Once an application for modified contract is received, the Agricultural Advisory Committee reviews the application and makes a recommendation to the Planning Commission relative to the proposal. The Planning Commission will hold a public hearing on the proposal and make a recommendation to the Board of Supervisors. If the proposed amendment is approved by the Board of Supervisors at a public hearing, the Planning Department will prepare an amended Land Conservation Act contract for signatures of the applicants and County officials. The amended contracts will be recorded concurrently with the certificates of compliance completing the lot line adjustment process.
Agricultural Policies

The two properties were previously found to comply with all Agricultural Preserve Policies. The properties are both over 1,000 acres in size. The lot line adjustment is a minor modification in the property boundary configurations, to follow an existing fence line. The lot line adjustment is an equal exchange of acreage, and there will be no change to the acreage covered by either contract.

General Plan:
The proposed modified contracts are consistent with the Mariposa County General Plan.

Environmental Review:
Modification of Land Conservation Act contracts are categorically exempt from the requirements of the California Environmental Quality Act (Categorical Exemption, Class 17; Section 15317 CEQA Guidelines).
Acreage: The gray parcel on the above vicinity map (APN 018-300-008; Bissig) contains 1010 acres, more or less.

The red parcel on the map (APN: 018-300-004; Franco) contains approximately 1186.49 acres.
RECOMMENDED FINDINGS

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 amended Land Conservation Act contracts, which are 20 year commitments to agriculture and open space uses for the site. The preserves are 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 conditions, 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 CONDITIONS

1) The revised Land Conservation Act Contracts shall duplicate the existing recorded contracts, with the exception of the legal description.

2) The revised Land Conservation Act Contracts shall be recorded concurrently with the Certificates of Compliance completing Lot Line Adjustment No. 2004-126.
ATTACHMENT 4
STAFF REPORT FOR NOTICE OF NON-RENEWAL
MARIPOSA COUNTY (LAKE DON PEDRO
WASTEWATER TREATMENT PLANT)
APPLICATION NO. 2004-171
BOARD OF SUPERVISORS HEARING
OF DECEMBER 7, 2004

SUMMARY AND RECOMMENDATIONS

Projects: NOTICE OF NON-RENEWAL #2004-171
LAKE DON PEDRO WASTEWATER TREATMENT PLANT

Proposal: Applicant requests to not renew Land Conservation (Williamson) Act
contract #23 for APNs 001-260-015 and 001-260-016.

Recommendation: The Planning Commission recommends that the Board of Supervisors
adopt a resolution to:

1. File a Notice of Non-Renewal for that portion of Land
   Conservation Act Contract No. 23 that covers the subject APNs,
   based on the previous Board finding that the proposed wastewater
   treatment plant use is compatible with the purposes of the
   Williamson Act.

Prepared by,

Megan Tennermann
Assistant Planner
Project Discussion

Location: Lake Don Pedro area; the subject parcels are located on Ranchito Drive, approximately ½ mile east of Hayward Road.

Land Use/Zoning: Agriculture Exclusive (AE) land use classification and zoning district.

Adjacent Land Uses: Adjacent land uses are Agricultural Exclusive to the south and west of the subject property, with executed Land Conservation Act contracts. Adjacent uses to the north and east of the subject property are medium-density residential, with the Lake Don Pedro Subdivision Unit 3-M bordering the property on the north and east sides.
Analysis

Project


A Land Conservation Act contract is a 20-year contract which renews annually. The contract limits use and development of the property to agricultural and open space uses. In return for the property owners’ 20-year commitment to open space uses, the property owners receive significant property tax benefits. The contracts automatically renew each year, unless one of the two parties to the contract elects to non-renew the contract.

When a notice of non-renewal is received, staff takes the item through the normal review process, primarily for informational purposes. Although either party to the contract has the right to non-renew a contract for part or all of the property, it is important to ensure that if only a portion of the contract is not renewed, the land continuing under contract remains a viable agricultural use. The Agricultural Preserve created by Contract No. 23 contains over ten thousand acres; the removal of the subject property from the contracted land will have no significant effect on the viability of the agricultural use.

Project History

The Mariposa County Board of Supervisors as operators of the Lake Don Pedro Community Service District, a dependent special district providing sewer services to a golf course, clubhouse, and 341 residential parcels, was served with a Cease and Desist order by the California Regional Water Quality Control Board. Based on this Cease and Desist order, the Board of Supervisors has determined the need to acquire additional acreage to construct a new wastewater treatment plant. The subject property was determined to be most suitable for construction of this new treatment facility, although it is within an Agricultural Preserve created by Land Conservation Act Contract No. 23. After checking with the California Department of Conservation and providing some information to them, the Board of Supervisors found that the location of public improvements in an Agricultural Preserve is substantially similar to “Compatible Uses” defined by Mariposa County Resolution No. 77-157. Based on that finding, the Board intends to proceed with purchase of the property and construction of the facility. The Board made this finding in Mariposa County Resolution No. 2004-314, adopted on July 6, 2004. Also in that resolution, the Board directed Planning staff to prepare a Notice of Non-Renewal for this site.

The Agricultural Advisory Committee met on September 23, 2004 to discuss applications for Agricultural Preserves. At that meeting, they
discussed this Notice of Non-Renewal. The committee felt that the use of the property for a wastewater treatment facility was incompatible with surrounding agricultural uses and the purposes of the Williamson Act, and therefore recommended to the Planning Commission that steps be taken to immediately cancel the portion of the contract that relates to the subject properties.

The Planning Commission met on October 22, 2004 to consider this project. After evaluating the staff report and the Agricultural Advisory Committee recommendation, the Commission concluded that there was no compelling evidence to support the recommendation for immediate withdrawal of the subject properties from the Agricultural Preserve. At the July 6, 2004 hearing, the Board made the finding that the project as proposed can be considered a compatible use under the Williamson Act, and the Planning Commission upheld that finding. The Planning Commission recommended that a Notice of Non-Renewal be filed for that portion of Contract No. 23 covering the subject properties.

This staff report is prepared in order to satisfy any outstanding processing requirements and Board direction of the Clerk's signature on this Notice of Non-Renewal is recommended.

**Environmental Review:** Establishment of an agricultural preserve and execution of a Land Conservation Act contract are categorically exempt from the requirements of the California Environmental Quality Act (Categorical Exemption, Class 17; Section 15317 CEQA Guidelines). Contract cancellation or non-renewal is subject to CEQA review; a Notice of Determination and Negative Declaration will be prepared according to CEQA requirements.
ATTACHMENT 5
STAFF REPORT FOR NOTICE OF NON-RENEWAL
BERLOGAR HISTORIC PARCEL
BOARD OF SUPERVISORS HEARING
OF December 7, 2004

SUMMARY AND RECOMMENDATIONS

Projects:  NOTICE OF NON RENEWAL FOR BERLOGAR "REMAINDER"

Proposal: Applicant requests to not renew Land Conservation (Williamson) Act contract #32 for that portion of the Berlogar property described herein (property is now known as APN 011-240-011).

Recommendation: The Planning Commission recommends that the Board of Supervisors adopt a resolution to:

1. Ratify the Notice of Non-Renewal for this portion of the Berlogar property, signed by the Clerk of the Board on August 26, 2003 and filed with Mariposa County Official Records as Document No. 2038510 on December 2, 2003. The Assessors Office feels this ratification is necessary in order to fulfill processing requirements.

Prepared by,

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Project Discussion

Location: Just easterly from the intersection of Old Toll Road and Hornitos Road at 3853 Old Toll Road (Prior to land division, APN 011-240-007).

Land Use/Zoning: Agriculture Exclusive (AE) land use classification and zoning district.

Adjacent Land Uses: All adjacent parcels are in the AE Zone and are under Williamson Act contracts.
Notice of Non-Renewal for Berlogar

Analysis

Project

The applicants request non-renewal of Land Conservation (Williamson) Act Contract No. 32 for that portion of APN 011-240-008 described herein.

A Land Conservation Act contract is a 20-year contract which renews annually. The contract limits use and development of the property to agricultural and open space uses. In return for the property owners' 20-year commitment to open space uses, the property owners receive significant property tax benefits. The contracts automatically renew each year, unless one of the two parties to the contract elects to non-renew the contract. The Berlogars submitted their Notice of Non-Renewal properly last year and the document was signed by the Clerk of the Board and filed with Mariposa County Official Records last December; therefore, Contract No. 32 for that portion of the Berlogar property will expire in nineteen years.

When a notice of non-renewal is received, staff takes the item through the normal review process, primarily for informational purposes, though processing requirements must still be satisfied.

Project History

The Berlogar parcel had historic parcels recognized through the certificate of compliance process. One of the historic parcels was sold to Brysons. One was divided by Land Division Application #2002-422. The third historic parcel is the subject of this notice of non-renewal.

Through the land division application process, modification of the contract was required. The process to modify the contract for the land division parcels has occurred, and the Bryson historic parcel has also been reviewed for a new contract.

Based upon the size of the remaining historic parcel, a notice of non-renewal is appropriate. It is too small to maintain an agricultural use. The property owner has completed the process, and the notice has been recorded. A Notice of Non-Renewal for the triangular portion of APN 011-240-008 (this area is now known as APN 011-240-011) covered under Contract No. 32 was signed by the Clerk of the Board on August 26, 2003 and filed with Mariposa County Official Records on December 2, 2003 as Document No. 2038510. The Assessor’s Office questioned the processing of the Notice of Non-Renewal, as it was not officially taken to the Board of Supervisors or timely filed with the California Department of Conservation as required by the Williamson Act. This staff report is prepared in order to satisfy any outstanding processing requirements and Board ratification of the Clerk’s signature is recommended.
Environmental Review: Establishment of an agricultural preserve and execution of a Land Conservation Act contract are categorically exempt from the requirements of the California Environmental Quality Act (Categorical Exemption, Class 17; Section 15317 CEQA Guidelines). Contract cancellation is subject to CEQA review; this process was carried out last year when the application was submitted.