



MARIPOSA COUNTY

Planning • 209-966-5151



RESOLUTION - ACTION REQUESTED 2013-82

MEETING: March 12, 2013

MINUTE ORDER ATTACHED

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Land Conservation Act Contract Modification No. 2012-091, Wolfsen

RECOMMENDATION AND JUSTIFICATION:

Adopt a Resolution Approving Land Conservation Act Contract Modification No. 2012-091 for Contract No. 53; finding that the Project is Exempt from the Provisions of the California Environmental Quality Act; Daisy B. Wolfsen 1998 Trust (c/o Alice Lorrell Seidlitz, Trustee), applicant; Anita Starchman-Bryant, agent. A Certificate of Compliance application (2013-006) to recognize two parcels of 428.3 acres and 981 acres is being processed separately for APN 012-120-021. The Land Conservation Act Contract modification application proposes the recording of two contracts for the resulting two parcels that would be recognized through the Certificate of Compliance process on existing APN 012-120-021. As part of the modification application, other parcels under Contract No. 53 must be reviewed to ensure that they will be able to continue supporting a commercial agricultural operation. As part of the review staff is also recommending that the Board of Supervisors direct staff to bring back an item to consider whether the other two parcels under Contract No. 53, APN 017-040-032 and 017-080-002 are eligible to stay under contract or if a Notice of Non-Renewal should be filed. Action is based upon the Planning Commission's recommendation and County Resolution No. 10-150 implementing the Williamson Act, and State Law. The site is located at 5027 Agua Fria Road in Mariposa.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Board approved Land Conservation Act Contract No. 53 encompassing APN 012-120-021 (project parcel), 017-040-032, and 017-080-002 and the Contract was recorded March 1, 1978 in Volume 178 of Official Records, Page 369 of Mariposa County Records.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If the Board denies the Land Conservation Act Contract modification, the applicant will be unable to complete the Certificate of Compliance process.

FINANCIAL IMPACT:

None

ATTACHMENTS:

Staff Report (PDF)

Att 1 Draft Resolution (PDF)

Att 2 Draft Notice of Exemptio (PDF)

Att 3 Draft PC Meeting Minutes (PDF)

ATT 4 Draft AAC Meeting Minute (PDF)


Att 5 Draft CONTRACTS (PDF)

Att 6 Reso 10-150 Exhibit 2 (PDF)

130312 Amended LCA Wolfsen BOS Presentation (PPT)

CAO RECOMMENDATION

Requested Action Recommended


Rick Benson, County Administrator/Office

RESULT: ADOPTED AS AMENDED [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: John Carrier, District V Supervisor

AYES: Kevin Cann, John Carrier, Merlin Jones

EXCUSED: Lee Stetson, Janet Bibby



COUNTY OF MARIPOSA

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

LEE STETSON, CHAIR
KEVIN CANN, VICE-CHAIR
JANET BIBBY
MERLIN JONES
JOHN CARRIER

DISTRICT I
DISTRICT IV
DISTRICT III
DISTRICT II
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: SARAH WILLIAMS, Planning Director

FROM: RENE' LaROCHE, Clerk of the Board *RL*

SUBJECT: **Adopt a Resolution Approving Land Conservation Act Contract Modification No. 2012-091, Which is a Modification of Contract No. 53; Finding that the Project is Exempt from the Provisions of the California Environmental Quality Act; Directing Staff to Schedule an Item at a Future Board of Supervisors Meeting to Allow Board Consideration of Two Other Discontiguous Parcels that Are Part of Contract No. 53 to Consider If They Are Eligible to Stay Under Contract or If a Notice of Non-Renewal Should be Filed; Daisy B. Wolfsen 1998 Trust (C/O Alice Lorrell Seidlitz, Trustee), Applicant; Anita Starchman-Bryant, Agent. Project Parcel is Located at 5027 Agua Fria Road and is Also Known as APN 012-120-021. Other Parcels Under Contract No. 53 Include APN 017-040-032 and 017-080-002. Action is Based Upon the Planning Commission's Recommendation and County Resolution No. 10-150 Implementing the Williamson Act, and State Law.**

RES. 13-82

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on March 19, 2013

ACTION AND VOTE:

1. Planning RES-2013-82

Adopt a Resolution Approving Land Conservation Act Contract Modification No. 2012-091, Which is a Modification of Contract No. 53; Finding that the Project is Exempt from the Provisions of the California Environmental Quality Act; Directing Staff to Schedule an Item at a Future Board of Supervisors Meeting to Allow Board Consideration of Two Other Discontiguous Parcels that Are Part of Contract No. 53 to Consider If They Are Eligible to Stay Under Contract or If a Notice of Non-Renewal Should be Filed; Daisy B. Wolfsen 1998 Trust (C/O Alice Lorrell Seidlitz, Trustee), Applicant; Anita Starchman-Bryant, Agent. Project Parcel is Located at 5027 Agua Fria Road and is Also Known as APN 012-120-021. Other Parcels Under Contract No. 53 Include APN 017-040-032 and 017-080-002. Action is Based Upon the Planning Commission's Recommendation and County Resolution No. 10-150 Implementing the Williamson Act, and State Law.

Staff presentation by Alvaro Arias/Associate Planner, with Sarah Williams/Planning Director on hand. Mr. Arias gave a power point overview of

the matter. He noted a minor change to Attachment 5 of the Staff Report, specifically, adding the word "an" on the third line, after the sixth Whereas, to read: "...so as to be an enforceable restriction." Ms. Williams also noted that, in accordance with the resolution, landowners have a one year period to come in to compliance if they are found to be in violation. She also noted that, once the new Code Compliance position is filled, she is hoping to make the biennial reviews a top priority of that position.

Supervisor Cann required clarification regarding how the non-contiguous, 160 acre parcel can we used. Ms. Williams responded.

Public Comment Opened.

Anita Starchman Bryant/Starchman & Bryant Law Offices representing the Daisy Wolfsen Trust, the applicant. Ms. Starchman Bryant disagreed with that portion of the staff report regarding board direction relative to a notice of non-renewal. She stated that the staff report so recommends because there had been no annual report received for either parcel. She argued that it would be premature for the Board to give such direction to staff as this is the first year that new policies requiring reports have been implemented; that previously such reports were discretionary on the landowner's part; and, in this instance, the reports were late but have been received. She also noted that county policy also states that if a report has not been received, a notice will be sent by March 31st to so indicate and, if the report is still not received, an additional thirty days will be given to the landowner to comply. She also argued that, while there is no joint operation written agreement between the landowners, the two parcels are held by different members of the same family and have been jointly managed and used in a joint commercial operation; thus, keeping the 51 acre parcel eligible. Ms. Starchman Bryant noted that David Butler could speak to any questions the Board might have regarding joint operations, as he is on the title of the 51 acre parcel, and is also the person who filled out the biennial report.

David Butler stated that he is on record on the 51 acre parcels; that the same cattle that graze on the 160 acre parcel also graze on the 51 acre parcel; and that both parcels are jointly owned and operated. He also stated that the 160 acre parcel has been in the family since 1848, and that the 51 acre parcel came in later but is contiguous, and they are all operated together.

Public Comment Closed.

Sarah Williams clarified new policies requiring a biennial review were adopted in March, 2010, requiring odd year reports for the two preceding years; thus, 2013 will be the first biennial report, and the first time her department has had an application falling within those parameters.

Supervisor Cann requested clarification regarding compliance monitoring, enforcement and procedures; and possible effects of a split. Supervisor Jones inquired as to why the 160 acre parcel was not in a separate contract now. Ms. Williams responded to all questions/concerns.

Action was taken to adopt the action, amended to reflect the following changes: Removal of the last paragraph of the Resolution, which is found on agenda packet pages 362 and 380 prior to "On Motion By," and which reads:

"BE IT FINALLY RESOLVED THAT the Mariposa County Board of Supervisors hereby directs the Planning Department to schedule an item at a future Board of Supervisors meeting to allow Board consideration of the two other discontiguous parcels which are part of Land Conservation Act Contract No. 53; APNs 017-040-032 and 017-080-002. The Board of Supervisors will consider whether these two parcels are eligible to stay under contract or if a Notice of Non-Renewal should be recorded."

The addition of the word "an" to the last WHEREAS paragraph of the draft contracts, found on agenda packet pages 390 and 402, so that it reads:
"amended, so as to be an enforceable restriction under the provisions of California"

RESULT: ADOPTED AS AMENDED [UNANIMOUS]

MOVER: Merlin Jones, District II Supervisor

SECONDER: John Carrier, District V Supervisor

AYES: Kevin Cann, John Carrier, Merlin Jones

EXCUSED: Lee Stetson, Janet Bibby

Cc: File

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS**

Resolution
No. 2013-82

**A resolution conditionally approving Land Conservation Act
Contract Modification No. 2012-091; Daisy B. Wolfson 1998
Trust, applicant. Assessor Parcel Number 012-120-021.**

WHEREAS an application for a Land Conservation Act contract modification was received on May 29, 2012 from the Daisy B. Wolfson Trust, for property located at 5027 Agua Fria Road also known as Assessor Parcel Number 012-120-021; and

WHEREAS Land Conservation Act Contract Modification No. 2012-091 proposes to amend Land Conservation Act Contract No. 53 to create separate contracts for each of the parcels proposed to be recognized through Certificate of Compliance Application No. 2013-006, which is being processed separately; 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 August 3rd, 2012; and

WHEREAS the Agricultural Advisory Committee did unanimously recommend that the Planning Commission should make a recommendation to the Mariposa County Board of Supervisors to approve the application; and

WHEREAS a duly noticed Planning Commission public hearing was scheduled for July 6, 2012; and

WHEREAS the applicant requested that the application be placed on hold in order to review other available options; and

WHEREAS a duly noticed Planning Commission public hearing was scheduled for February 8, 2013; 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, the draft Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the Planning Commission did unanimously recommend that the Board of Supervisors should approve the application; and

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 12th day of March 2013; and

WHEREAS a Staff Report packet and draft Notice of Exemption were prepared for the Board of Supervisors 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 packet, the draft Notice of Exemption, testimony presented by the public concerning the application, and the comments of the applicant.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby find the application is exempt from environmental review.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby approve Land Conservation Act Contract Modification No. 2012-091.

BE IT THEREFORE FURTHER RESOLVED THAT this action by the Board of Supervisors of the County to approve Land Conservation Act Contract Modification Application No. 2012-091 is made in accordance with Mariposa County Resolution No. 10-150 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law).

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors approves the modification of Contract No. 53 based upon the following findings:

1. **FINDING:** The property is currently and will continue to be used for agricultural purposes. This applies to the entire project site.
2. **FINDING:** Both contracts will continue to meet the minimum size (160 acres) established by the Board of Supervisors for an agricultural preserve. The use of this property must continue for cattle grazing and/or other Commercial Agricultural Uses or Compatible Uses as specified in the contract.
3. **FINDING:** The modified contracts will restrict the adjusted boundaries for the same term as the existing contract on the properties.
4. **FINDING:** There is no net decrease in the total amount of acreage under contract.
5. **FINDING:** One hundred percent (100%) of the land under the original contract remains under the new contract.
6. **FINDING:** After the amendment, all contracts will be large enough to sustain their agricultural use (dryland grazing or confined animal operations). This finding is made pursuant to review of the project by the Mariposa County Agricultural Advisory Committee at their meeting on August 3, 2012.

7. **FINDING:** The approval of the Williamson Act Contract Modification is based upon review of the project specific and site specific details of this case, as well as the estate planning needs of the applicant.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors project approval is based upon the processing conditions set forth in Exhibit A of this resolution.

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

ON MOTION BY Supervisor Jones, seconded by Supervisor Carrier, this resolution is duly passed and adopted this 12th day of March 2013 by the following vote:

AYES: Jones, Carrier, and Cann

NOES: None


EXCUSED: Stetson and Bibby

ABSTAIN: None



KEVIN CANN, Vice-Chair
Mariposa County Board of Supervisors

Attest:



RENE' LAROCHE,
Clerk of the Board
Mariposa County Board of Supervisors

Mariposa County
Approved as to form:



STEVEN W. DAHLEM
County Counsel

Exhibit A

1. The modified Land Conservation Act Contracts must be recorded concurrently with the Certificates of Compliance for Certificate of Compliance Application No. 2013-006.

[Mariposa Planning Recommendation]

- 2. Preparation of Legal Description (APPLICANT'S RESPONSIBILITY):** Prior to recordation of the modified Williamson Act Contracts, a typed, stamped, and signed copy of the approved legal descriptions for the lands that are to be placed under the modified contracts must be provided by the applicant to Mariposa Planning. A description for each parcel recognized through Certificate of Compliance Application No. 2013-006 will be required.

- 3. Preparation of Modified Williamson Act Contract (MARIPOSA PLANNING RESPONSIBILITY):** In order to complete this project, two amended Williamson Act Contracts will be prepared by Mariposa Planning. Mariposa Planning will coordinate obtaining the signature of the representative authorized by the Board of Supervisors to sign the modified contract. Mariposa Planning will send the original contracts to the property owner(s) involved in the application.

- 4. Signing and Notarizing the Modified Williamson Act Contracts (APPLICANT'S RESPONSIBILITY):** The contracts must be signed by the applicant(s), and the signature(s) must be notarized. Mariposa Planning has a notary public, if this service is necessary.

- 5. Recordation of Modified Contract (MARIPOSA PLANNING RESPONSIBILITY):** When the amended contracts have been signed and notarized by both parties, Mariposa Planning will record the contracts concurrently with the Certificates of Compliance required to complete Certificate of Compliance Application No. 2013-006. **This step completes the Land Conservation Act Contract Modification Process.**