



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Planning and Building



**Date:** July 30, 2012  
**Board Meeting Date:** August 28, 2012  
**Special Notice / Hearing:** 10-Day Notice  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Jim Eggemeyer, Community Development Director

**Subject:** Public hearing to consider an amendment to California Land Conservation Act (Williamson Act) Contract AP67-39.

County File Number: PLN 2012-00178 (Gounalakis/Arata)

**RECOMMENDATION:**

Adopt a Resolution authorizing an amendment of California Land Conservation/Williamson Act Contract Number AP67-39 to allow for land uses that are compatible with agricultural operations and to continue to require the land to be dedicated to commercial agricultural production, but also allow other land uses that are compatible with agricultural operations.

**BACKGROUND:**

Located east of Highway 1 (Cabrillo Highway) at Verde Road and encumbered by a California Land Conservation/Williamson Act Contract since 1968, the property has historically been used as a pumpkin patch and corn field as part of a commercial agricultural business. During the previous ten years, the farm has expanded its activities to include agritourism uses (e.g., hay bale maze, train ride, haunted barn, and other uses) during the fall season to attract business.

The terms of the current California Land Conservation/Williamson Act Contract restrict the uses allowed on the land to production of agricultural commodities for commercial purposes and structures directly related to and compatible with the agricultural use, and residential buildings for individuals and their families engaged in the management of the land. All other uses of the property are prohibited by the current contract terms.

The applicant seeks to modify the terms of the contract to expand upon the contract's "compatible uses" by incorporating those uses identified in the underlying zoning district. Should the Board of Supervisors approve the requested amendment, the applicant will be required to address all relevant permit requirements prior to conducting any of the

agriculturally compatible uses allowed by the amendment. Specifically, the applicant's interest in reestablishing agritourism uses will be subject to the Planning and Building Department's and Agricultural Advisory Board's review of the proposed uses to ensure that they comply with the County's Agritourism Guidelines and Local Coastal Program.

Multiple lands, under separate ownership, are all encumbered by the same contract (AP67-39), and any amendment to the contract terms would be applicable only to this parcel; the remaining parcels under this contract would be unaffected.

Report Prepared By: Melissa Ross, Project Planner, Telephone 650/599-1559

Owner: Gary Jay Arata, Trust

Applicant: Chris Gounalakis

Location: 185 Verde Road, Half Moon Bay

APN: 066-310-080

Size: 8.37 acres

Existing Zoning: PAD/CD (Planned Agricultural District/Coastal Development)

General Plan Designation: Agriculture

Water Supply: Existing well

Sewage Disposal: Existing septic system

Williamson Act: Agricultural Preserve Contract Number AP67-39

Flood Zone: FEMA Flood Insurance Rate Map Zone C (areas of minimal flooding); Community Panel No. 060311 0225C, effective date August 5, 1986.

Environmental Evaluation: Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3); no potential for causing a significant effect on the environment, therefore, not subject to CEQA.

Setting: The parcel is located approximately 3.12 miles south of Half Moon Bay city limits, at the intersection of Highway 1 (Cabrillo Highway) and Verde Road. The property is developed with a single-family residence, accessory structures, and pumpkin patch and corn field. Past seasonal activities have included a hay maze, petting zoo, pony and train rides, and haunted house.

## **DISCUSSION:**

### **A. KEY ISSUES**

#### **1. California Land Conservation Act of 1965 (Williamson Act)**

The Williamson Act allows the County to enter into agreements with landowners whereby the owners restrict use of their property in accordance with the terms of the agreement. In return, the owners pay reduced property taxes for the life of the contract. The contract is a ten-year, annually self-renewing contract that runs with the land.

Amendments to Williamson Act contracts may be entered into by the Board of Supervisors if both parties agree to the terms of the amendment.

#### **2. Williamson Act Contract Terms**

The Williamson Act defines “compatible uses” as any use determined by the County, or city, administering the preserve (Government Code Section 51201(e)) provided that uses are consistent with the “principles of compatibility” which include the following: (1) the use will not significantly compromise the long-term productive agricultural capability of the contracted parcel or other contracted lands in agricultural preserves, (2) the use will not significantly displace or impair current or reasonable foreseeable agricultural operations on the subject contracted parcel or on other contracted lands in agricultural preserves, and (3) the use will not result in the significant removal of adjacent contracted land from agricultural or open space use.

The County’s Williamson Act contracts are typically boilerplate, providing standard contract language across parcels. However, some of the County’s contracts require commercial agricultural production while also allowing compatible uses, while others do not include language that would allow for compatible uses alongside commercial agricultural operations.

#### **3. Terms of Original Subject Contract and Proposed Amendment**

The contract covering the subject property is the more restrictive of the two contracts mentioned above. The terms prohibit any uses other than the “production of agricultural commodities for commercial purposes” and that “[n]o structures shall be erected upon said land except such structures as may be directly related to and compatible with the agricultural use, and residence buildings for such individuals as may be engaged in the management of said land, and their families.”

The applicant seeks to expand upon the contract’s currently allowed uses by incorporating the permitted uses identified in the underlying zoning district

as “compatible uses” in the contract. The primary use of the land will remain commercial agricultural production; other uses permitted through the Planned Agricultural District (PAD) zoning regulations (named “compatible uses” under the Williamson Act) will be secondary to agriculture. All other contract terms remain unchanged.

In light of the significant development of zoning restrictions in the Planned Agricultural District and Resource Management zones since the adoption of the County’s Williamson Act program in 1966, as well as the constraints placed on compatible uses in the zoning district (with discretionary permit reviews and findings specially tailored to prevent compatible uses from displacing agriculture), there does not appear to be a strong policy interest in continuing categorically to preclude compatible uses through inconsistent restrictive, parcel-specific contract language when the zoning already provides both a robust regulatory scheme and a level playing field for all owners in the zoning districts.

Whether modified or unchanged, uses allowed under the contract terms do not preclude compliance with the County’s General Plan, Zoning Regulations, or Local Coastal Program Policies.

If the Board desires not to amend the contract terms, the current contract will remain in effect until such time as the owner or County desires to non-renew.

#### 4. Compliance with Land Use Regulations

General Plan Policies, Zoning Regulations, and the Local Coastal Program each encourages the continuance of existing agricultural activities and requires the location of non-agricultural activities in areas which cause the least disturbance to feasible agricultural activities.

In order to remain under contract, the applicant must continue to cultivate the land for the commercial sale of agricultural products as the primary land use. If the contract terms are amended, the applicant may propose incidental uses on the land allowed within the PAD zoning district subject to applicable permits and conditions consistent with the General Plan, Zoning Regulations, and Local Coastal Program Policies.

Examples of uses on prime and non-prime soils include non-residential development customarily considered accessory to agricultural uses (e.g., limited agritourism uses), soil-dependent greenhouses and nurseries, and temporary road stands for the seasonal sale of produce. Uses requiring permits on prime or non-prime soils include single-family residences, farm labor housing, and uses ancillary and accessory to agriculture (e.g., agritourism uses).

The applicant's proposal is consistent with the general direction of the County's draft Williamson Act Program update regarding compatible uses on contracted lands.

5. Department of Conservation Correspondence

On September 9, 2011, the California Department of Conservation (DOC) issued a letter to the Board regarding the existing agritourism uses (e.g., hay bale maze, train ride, haunted barn and other venues) on the subject property and compliance with specific contract terms and Williamson Act legislation. In reviewing the specific contract terms, the DOC determined that the restrictive nature of the contract language prohibited the use of the land for purposes other than commercial agriculture. In reviewing the subject property from the standpoint of the Williamson Act legislation, itself, DOC determined that the agritourism uses were generally inconsistent with the Williamson Act because the location of the activities had, at that time, partially displaced agricultural operations.

If approved, the amendment would remedy the concerns regarding the restrictive contract terms. Further, the Planning and Building Department is preparing guidelines to clarify agritourism uses for San Mateo County, as ancillary and accessory to agricultural uses allowed through the PAD zoning district, to ensure that those uses will not significantly compromise the long-term productive agricultural capability and will not significantly displace or impair current or reasonable foreseeable agricultural operations consistent with the principles of compatibility under the Williamson Act and County land use regulations while allowing supplemental sources of revenue to local farms. If, in the future, agritourism uses are requested, compliance with the County's land use regulations and guidelines, California Land Conservation Act of 1965, and the County's forthcoming Williamson Act Program update would be required.

6. Findings

Staff recommends that the Board of Supervisors make the following findings in support of the action to adopt the Resolution amending the contract:

- a. *That the defined compatible uses will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.*

Continuing commercial agricultural operations must be present on the property to remain under a Williamson Act contract. Amended compatible uses are subject to all location criteria outlined in the

underlying zoning district, General Plan land use designation, and applicable Local Coastal Program Policies. These criteria are sensitive to the location of non-agricultural activities on prime agricultural lands and lands suitable for agriculture and limit the conversion of those soils.

- b. *That the defined compatible uses will not significantly displace or impair current or reasonable foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.*

Farming is expected to continue on this property. The County's land use regulations and guidelines in conjunction with the Williamson Act ensures that the maximum amount of agricultural land will remain in agricultural production and that non-agricultural uses do not displace or impair agricultural operations on this parcel or adjacent contracted lands.

- c. *That the defined compatible uses will not result in the significant removal of adjacent contracted land from agricultural or open-space use.*

Removal of adjacent contracted lands from agricultural or open-space use, resulting from this amended contract, is not expected since the adjacent contracted lands are either buffered by a public right-of-way (e.g., Highway 1) or by Lobitos Creek and because the amended compatible uses are consistent with the County's land use regulations.

- d. *That the Board finds the proposed contract amendment is consistent with the California Land Conservation Act of 1965 and the County's land use regulations.*

As allowed by the underlying zoning district, the amended compatible uses are consistent with the County's regulations and guidelines including the General Plan, Zoning Regulations, Local Coastal Program Policies, and California Land Conservation Act of 1965.

## B. ENVIRONMENTAL REVIEW

The project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15061(b)(3); no potential for causing a significant effect on the environment, therefore, not subject to CEQA.

## C. REVIEWING AGENCIES

County Counsel

County Counsel has reviewed and approved the Resolution as to form.

Approval of the Amended California Land Conservation Contract contributes to the 2025 Shared Vision outcome of a Livable Community because it is consistent with the County's land use regulations and ensures continuing commercial agriculture in the unincorporated San Mateo County.

**FISCAL IMPACT:**

No net change. An amended contract will not lower the subject parcel's tax burden below current levels.

**ATTACHMENTS:**

- A. Location Map
- B. Amended Contract