



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



**Date:** September 18, 2012  
**Board Meeting Date:** September 25, 2012  
**Special Notice / Hearing:** 10-Day Notice  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

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

**Subject:** Consideration of a Resolution authorizing an amendment to a California Land Conservation/Williamson Act Contract, pursuant to Section 51253 of the State of California's Government Code, to allow for specific land uses and activities that are compatible with agricultural operations and to continue to require the land to be dedicated to commercial agricultural production for a property located in the unincorporated Half Moon Bay area of San Mateo County.

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

**RECOMMENDATION:**

1. Adopt a Resolution authorizing an amendment of California Land Conservation/Williamson Act Contract Number AP67-39 to allow for specific land uses and activities that are compatible with agricultural operations and to continue to require the land to be dedicated to commercial agricultural production for a property located in the unincorporated Half Moon Bay area of San Mateo County.
2. Make the findings listed in Attachment A.

**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 allow for uses that are compatible with agriculture. As originally proposed, the contract amendment would list all of the uses allowed by the underlying zoning district as uses that could be allowed as compatible uses. The County would then use its zoning and permit review procedures, as well as input from the Agricultural Advisory Committee, to determine the specific types of, and parameters for, the establishment and operation of the compatible uses allowed by the amended contract.

Based on the issues and concerns discussed at the August 28, 2012 Board of Supervisors' hearing, the proposed contract amendment has now been revised to limit the type of compatible uses that can be established on the property to the following:

- Structures that are directly related to and compatible with agricultural use;
- Residence buildings for such individuals as may be engaged in the management of said land, and their families; and
- Agriculturally related seasonal visitor serving uses such as pony rides, hayrides, a farm animal petting zoo, a children's play area (including up to two inflatable play structures), a seasonally decorated barn, a farm-themed children's train ride, and a hay bale maze.

In addition, new language has been added to the proposed amendment that states:

Any seasonal installation of compatible use structures and other materials on the parcel is subject to the timely approval by the Community Development Director of a site plan to ensure that annual agricultural productivity of the parcel is not substantially affected by seasonal activities. Nothing in this Agreement shall prohibit the use of the property as a farm education center pursuant to permits issued by the County so long as the farm continues to be dedicated to the production of agricultural commodities for commercial purposes.

By being more specific regarding the type of compatible uses allowed and the procedures that must be followed before they can be established, the potential effects of the contract amendment have been significantly narrowed. In addition to enforcing the limits set by the amended contract, the County will maintain its ability to regulate use and development of the site in accordance with the requirements of the 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. This can be based on when the contract was recorded, as contracts entered into prior to 1969 amendments to the Williamson Act, such as the subject contract, are typically more restrictive.

One of the key changes made by the 1969 Williamson Act amendments was to rewrite the sections defining compatible uses. Before the 1969 Act, compatible uses were only those determined by the city or County according to uniform rules, and by statute to include certain utility facilities (former Government Code Section 51201(e), as it read in 1968). With the 1969 Act, the definition of compatible uses was expanded to include “any use determined by the County or city administering the preserve or by this Act to be compatible with the agricultural, recreational or open space use of land within the preserve. ‘Compatible use’ includes agricultural use, recreational use or open space use unless the board or council finds after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract” (current Government Code Section 51201(e)).

The procedures for amending contracts to include additional compatible uses are governed by Government Code Section 51253, which states the following:

“Any contract or agreement entered into pursuant to this chapter prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature may be amended to conform with the provisions of this act as amended at that session upon the mutual agreement of all parties. Approval of these amendments to a contract by the Director of Conservation shall not be required.”

The 1966 contract, as presently written, does not reflect the current law on compatible uses, as amended in 1969, and is therefore eligible for amendment.

3. Terms of Original Subject Contract and Proposed Amendment

The current contract covering the subject property prohibits 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 a specific list of seasonal agritourism activities as “compatible uses” in the contract. The primary use of the land will remain commercial agricultural production; other uses permitted through the contract amendment must be secondary to agriculture. This is ensured by new contract language that requires the Community Development Director to determine that the seasonal activities will not substantially affect the agricultural productivity. All other contract terms remain unchanged.

Policies, zoning regulations, and permit requirements established by the San Mateo County Local Coastal Program after the adoption of the County’s Williamson Act program in 1966 establish additional standards with which all uses and development on this property must comply. In other words, 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 by the specific terms of the contract amendment and the PAD zoning district, subject to applicable permits and conditions consistent with the General Plan, Zoning Regulations, and Local Coastal Program Policies.

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 can only be established in accordance with a site plan approved by the Community Development Director and are subject to all location criteria outlined in the underlying zoning district, General Plan land use designation, Local Coastal Program, and associated guidelines, which restrict non-agricultural activities and limits the conversion of agricultural 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.

- e. *That the Board finds that the contract is eligible for amendment pursuant to Government Code Section 51253.*

The existing contract was entered into prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature and may be amended to conform with the provisions of the Williamson Act as amended at that session upon the mutual agreement of all parties. The subject Williamson Act contract is eligible for amendment due to the following: (1) the 1969 amendments to the Williamson Act expanded the definition of compatible uses to include any use determined by the County or city administering the preserve or by this Act to be compatible with the agricultural, recreational or open space use of land within the preserve, (2) the 1966 contract, as presently written, does not reflect the current law on compatible uses, as amended in 1969, and (3) the proposed amendment would conform the contracts to the current State law, which defines compatible uses to include recreational uses and related facilities.

## 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. Recommended Findings
- B. Location Map

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT

**RECOMMENDED FINDINGS**

Permit File No.: PLN 2012-00178

Board Meeting Date: September 25, 2012

Prepared By: Melissa Ross, Project Planner

For Adoption By: Board of Supervisors

**RECOMMENDED FINDINGS:**

Regarding the Environmental Review, Find:

1. That 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.

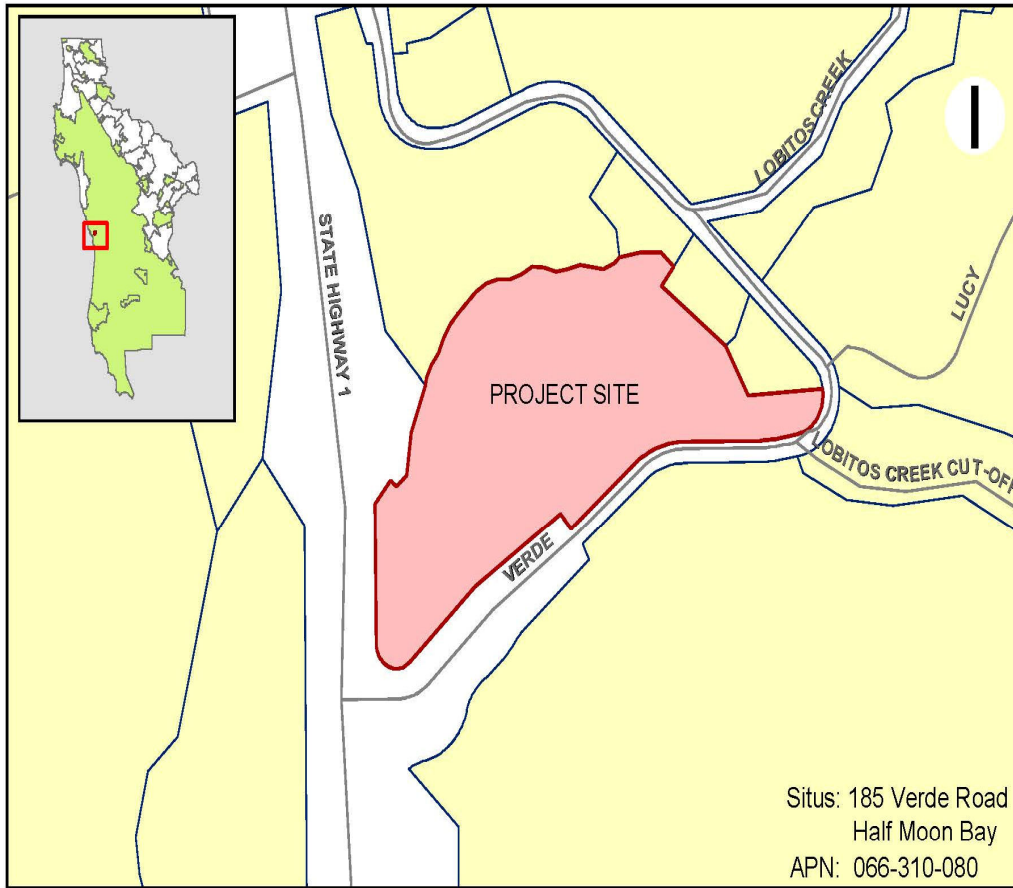
Regarding the Williamson Act Contract Amendment, Find:

2. Continuing commercial agricultural operations must be present on the property to remain under a Williamson Act contract. Amended compatible uses can only be established in accordance with a site plan approved by the Community Development Director, and are subject to all location criteria outlined in the underlying zoning district, General Plan land use designation, Local Coastal Program, and associated guidelines, which restrict non-agricultural activities and limits the conversion of agricultural soils.
3. 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 ensure 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.
4. 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 uses 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.

5. 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.
6. That the contract was entered into pursuant to this chapter prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature and may be amended to conform with the provisions of this Act as amended at that session upon the mutual agreement of all parties. The subject Williamson Act contract is eligible for amendment due to the following: (1) the 1969 amendments to the Williamson Act expanded the definition of compatible uses to include any use determined by the County or city administering the preserve or by this Act to be compatible with the agricultural, recreational or open space use of land within the preserve, (2) the 1966 contract, as presently written, does not reflect the current law on compatible uses, as amended in 1969, and (3) the proposed amendments would conform the contracts to the current State law, which defines compatible uses to include recreational uses and related facilities.

## Vicinity Map

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### San Mateo County Board of Supervisors Meeting

Owner/Applicant: **GARY ARATA / CHRIS GOUNALAKIS**

Attachment: **B**

File Numbers: **PLN2012-00178**