



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



**Date:** September 4, 2012  
**Board Meeting Date:** September 25, 2012  
**Special Notice / Hearing:** 10-Day Notice/300 Feet  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

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

**Subject:** Public hearing to consider an amendment to Williamson Act Contracts for two properties owned by the Midpeninsula Regional Open Space District, pursuant to Section 51253 of the State of California's Government Code, for the purpose of expressly allowing open space and public recreational land uses at the properties, located in the unincorporated La Honda area of San Mateo County.

County File Numbers: PLN 2012-00160, and -00161 (MROSD)

**RECOMMENDATION:**

Public hearing to consider an amendment to Williamson Act Contracts for two properties owned by the Midpeninsula Regional Open Space District for the purpose of expressly allowing open space and public recreational land uses at the properties, located in the unincorporated La Honda area of San Mateo County.

1. Make the findings listed in Attachment A.
2. Adopt a Resolution authorizing an amendment of California Land Conservation/ Williamson Act Contract Number AP66-26 to expressly allow open space and public recreational land uses that are compatible with agricultural operations and to continue to require the land to be dedicated to commercial agricultural production.
3. Adopt a Resolution authorizing an amendment of California Land Conservation/ Williamson Act Contract Number AP66-56 to expressly allow open space and public recreational land uses that are compatible with agricultural operations and to continue to require the land to be dedicated to commercial agricultural production.

**BACKGROUND:**

Proposal: The applicant, Midpeninsula Regional Open Space District (MROSD), proposes to amend two existing Williamson Act contracts to permit open space and public recreational use of the project parcels. Current contracts restrict uses on the properties to “the production of agricultural commodities for commercial purposes.” Project parcels include 233.5 acres referred to in this report as the “Mindego Gateway” property and approximately 887 acres referred to in this report as the “Mindego Ranch” property, both located in the unincorporated La Honda area of San Mateo County.

Planning Commission Action: None required.

Report Prepared By: Camille Leung, Project Planner, Telephone 650/363-1826

	<i>Mindego Gateway Property</i>	<i>Mindego Ranch Property</i>
Owner/Applicant:	Midpeninsula Regional Open Space District	
PLN Case Nos.:	PLN 2012-00161	PLN 2012-00160
Location:	5755 Alpine Road, unincorporated La Honda area of San Mateo County	Unincorporated La Honda area of San Mateo County
APNs:	080-380-030 and 080-380-040	080-320-060 and 080-340-010
Existing Zoning:	Resource Management (RM) Zoning District	Resource Management (RM) Zoning District
Size:	Approximately 233.5 acres in total	Approximately 887 acres in total
Flood Zone:	The project sites are located within Flood Zone C, areas of 100-year flood; Community Panel Number 060311 0375B, effective July 5, 1984	
General Plan Designation:	Open Space	Open Space
Existing Land Use:	The property contains a house built in 1976. The property is not currently open to the public.	The property contains three dwellings and agricultural buildings. The property is not currently open to the public.
Setting:	Approximately 1 mile south of Skyline Boulevard	Approximately 1.3 miles west of La Honda Road and 1.5 miles south of Skyline Boulevard
Williamson Act (WMA):	The project site was placed under a WMA contract (AP66-26) in 1966. At the applicant's request, the contract was non-renewed by the Board of	The project site was placed under a WMA contract (AP66-56) in 1966. At the applicant's request, the contract for the two project parcels was

	Supervisors in 2011. Contract expires in 2020.	non-renewed by the Board of Supervisors in 2009, with the contract expiring in 2018. <sup>1</sup>
Presence of Prime Soils:	The project parcels do not contain prime soils.	
Environmental Evaluation:	MROSD prepared an Initial Study/Mitigated Negative Declaration (IS/MND) with a public review period from February 17, 2012 to March 19, 2012. A discussion of the portion of the IS/MND pertaining to this application is included in Section 3 of this report.	

## **DISCUSSION:**

### **A. KEY ISSUES**

#### **1. Compliance with Resource Management (RM) Zoning Regulations**

The project sites are located within the Resource Management (RM) Zoning District. Per Section 6315(p) of the RM Zoning District regulations, public recreation is a permitted use on the properties. No development is proposed under this application. MROSD proposes development on both properties under other pending planning applications. Pending applications involve a 20-space asphalt-paved parking lot (PLN 2011-00372) and a commemorative site (PLN 2011-00354) at the Mindego Gateway property and a 3,970-foot pervious public trail for hiking and equestrian use at the Mindego Ranch property (PLN 2011-00384). The projects necessitate the issuance of RM permits, which require compliance with criteria outlined in Chapter 20A (RM District Regulations) and Chapter 20A.2 of the County Zoning Regulations (Development Review Criteria). Pending applications have been placed on hold while the applicant seeks to amend the Williamson Act contracts for both properties.

#### **2. Compliance with the Williamson Act**

##### **a. Existing Williamson Act Contracts**

The Mindego Ranch project site (APNs 080-320-060 and 080-340-010) was placed under a WMA contract (AP66-56) in 1966. At the applicant's request, the contract for the two project parcels was non-renewed by the Board of Supervisors in 2009, with the contract expiring in 2018.

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<sup>1</sup> The existing contract for the Mindego Ranch property previously included a TPZ-zoned parcel (APN 083-310-060). The application of the contract to this parcel was non-renewed by operation of law in 1977 (Government Code Section 51246(b)), when the Williamson Act was amended to exclude TPZ lands. As a result, APN 083-310-060 is no longer subject to the terms of this contract.

The Mindego Gateway project site (APNs 080-380-030 and 080-380-040) was placed under a WMA contract (AP66-26) in 1966. At the applicant's request, the contract was non-renewed by the Board of Supervisors in 2011. The contract expires in 2020.

Current contracts restrict uses on the properties to "the production of agricultural commodities for commercial purposes."

b. Proposed Amendment of Williamson Act Contracts

MROSD proposes to amend the two contracts to permit open space and public recreational use of the project parcels, while maintaining the use of the properties for agricultural purposes. Proposed amendments to the contracts are shown in strikeout (deletions) and underline (additions) format in Attachments E and G. Amendment to a contract is only permitted by the Williamson Act under 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."

As stated above, the Williamson Act was amended in 1969. One of the key changes made to the Williamson Act with the 1969 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 1966 contracts, as presently written, do not reflect the current law on compatible uses, as amended in 1969. County Counsel has determined that the contracts are eligible for amendment.

MROSD proposes that the County and the District agree to the proposed amendments, as set out in Attachments E and G, conforming the contracts to current State law, which defines compatible uses to include passive recreational uses and related facilities. Per the proposed amendment language, only open space and recreational uses that are compatible with agricultural use, such as low intensity public trails and their supporting facilities, would be allowed.

c. Continued Agricultural Use of Project Parcels

As shown in Attachment C, portions of both properties are used for agricultural purposes, specifically grazing operations. Portions of the Mindego Gateway property are currently grazed pursuant to a long-term lease. Regarding the Mindego Ranch property, the IS/MND states that “the grazing operation on Mindego Ranch was temporarily suspended in 2008 as part of a treatment plan to control severe weed infestations on the property.” Specifically, MROSD states that additional pasture fencing and cattle water troughs are necessary to permit more effective pasture rotation and ensure that the site’s sensitive biological resources are protected. MROSD is currently seeking permits from the California Department of Fish and Game for the installation of such infrastructure and anticipates completion of such improvements by the end of 2013, allowing grazing activities to resume at that time.

d. Findings

Staff recommends that the Board of Supervisors make the following findings in support of the actions to adopt the Resolutions amending each contract:

- (1) 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.

Recreational use of the land and associated development will not significantly compromise the long-term productive agricultural capability of on-site soils. The project parcels do not contain prime soils. The project does not impact the agricultural capability of off-site properties.

- (2) 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.

Continuing commercial agricultural operations must be present on the property to remain under a Williamson Act Contract. As discussed in Section B of this report, above, the IS/MND concludes that “the expansion of recreational infrastructure, and the minimal additional visitation that will result, will not conflict with agricultural uses of the properties.” The portions of both properties that are used for grazing operations, as shown in Attachment C, will continue to be used as such for the term of each contract. Further discussion is included in Section B of this report. The project does not impact agricultural operations on off-site properties.

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

The contracts for the project parcels, in addition to other parcels in the area owned by MROSD, have already been non-renewed. The proposed use will not affect the contract status of the project parcels or adjoining parcels. It should be noted that, although the contracts have been non-renewed, ongoing recreational use of the parcels is consistent with and supportive of open space land use.

- (4) That the Board finds the proposed amendment of the two contracts is consistent with the California Land Conservation Act of 1969 and the County’s land use regulations.

As allowed by the underlying zoning district, the proposed compatible uses are consistent with the County’s regulations and guidelines including the General Plan, Zoning Regulations, and California Land Conservation Act of 1969.

## B. ENVIRONMENTAL REVIEW

Per Section 15317 (*Open Space Contracts or Easements*) of the California Environmental Quality Act (CEQA) Guidelines, CEQA requires analysis of potential environmental impacts of Williamson Act contract amendment. As the lead agency for this project under CEQA, MROSD prepared an Initial Study/Mitigated Negative Declaration (IS/MND) with a public review period from

February 17, 2012 to March 19, 2012.<sup>2</sup> On June 13, 2012, the MROSD Board certified IS/MND. For this project, the County is a responsible agency (a public agency other than the lead agency which has discretionary approval power over the project).

The IS/MND states that the proposed contract amendment would not affect the viability of the ongoing agricultural operations on either parcel and; therefore, impacts to agricultural resources are considered less than significant. Analysis contained in the IS/MND states that the MROSD “Board of Directors adopted continued grazing use at Mindego Ranch and the former Silva-Kenyon [Mindego Gateway] properties as part of the Use and Management Plans for Russian Ridge and Skyline Ridge Open Space Preserves. In accordance with Mitigation Measures AGR 1-a and AGR 1-b of the Annexation EIR, the staging area was located away from grazed grassland areas of the Silva-Kenyon property, and Mindego Hill Trail was designed to traverse Mindego Ranch in a manner that does not result in interference with agricultural activities. The grazing operation on the Silva-Kenyon [Mindego Gateway] property will not be accessible from the proposed trails and parking lot. Grazing land on Mindego Ranch will also largely be closed to public access. The proposed Mindego Hill Trail will traverse a cattle pasture that will be actively grazed throughout the year. However, since off-trail use will be prohibited on Mindego Ranch (due to sensitive biological resources), this trail would result in less than one acre of publicly-accessible pasture area out of approximately 227 total acres of pasture. Trail use would be limited to hikers and equestrians only and is not expected to disturb cattle or otherwise impact use of the pasture.” The IS/MND concludes that “the expansion of recreational infrastructure, and the minimal additional visitation that will result, will not conflict with agricultural uses of the properties, and the amendment of existing Williamson Act contracts over the properties would bring the project into conformance with the contracts and applicable statutes and rules.”

#### C. REVIEW BY THE SAN MATEO COUNTY FARM BUREAU

Per MROSD’s Memorandum of Understanding with the San Mateo County Farm Bureau, which establishes the intent to work cooperatively to protect and encourage agricultural operations on the San Mateo Coast, the District consulted with the Farm Bureau in May and June 2012, regarding the proposed Williamson Act Contract amendments. As part of the consultation, the District clarified its intent to keep grazing operations active on the project parcels, and provided an action plan and schedule for the reintroduction of cattle onto Mindego Ranch.

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<sup>2</sup> The complete IS/MND includes the IS/MND dated February 2012 and attachments, including a response to comments document dated June 13, 2012 (date of MROSD Board meeting for certification of the IS/MND).

D. REVIEW BY THE SAN MATEO COUNTY AGRICULTURAL ADVISORY COMMITTEE

On June 11, 2012, the Agricultural Advisory Committee considered the proposed amendment of Williamson Act contracts at the two project sites. After a brief presentation by the applicant, the Committee voiced concerns, focusing on the legality of the proposed contract amendments. These concerns, followed by Planning staff's response, are outlined below:

1. **Can the Land Conservation (Williamson) Act contracts, which have been non-renewed, be amended?** Planning staff has consulted with County Counsel on this matter. County Counsel has determined that the proposed amendment of the two contracts is legal. Amendment to a contract is only permitted by the Williamson Act under 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."*

Per the above code section, there are three criteria for contract amendment: (1) the contracts to be amended must have been entered into prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature, (2) the amendments must conform with the provisions of the Act as amended at that session, and (3) the amendments must be mutually agreed upon by all parties to the contract.

First, the contracts were entered into by the respective property owners in 1966, prior to the 1969 Regular Session of the Legislature.

Second, as discussed in Section A.2 above, the proposed amendments would conform the contracts to the 1969 Act, which defines compatible uses to include passive recreational uses and related facilities.

Third, there are two parties to this contract, MROSD and the County. MROSD proposes and consents to the amendments. While Planning staff recommends approval of the amendments, the County's consent to this proposal will be determined by the Board of Supervisors at this hearing.

It is also implied that in order to amend a contract it must be active; otherwise, the terms would be contained in a new contract. While the



contract has been non-renewed, the status of both contracts is active until the respective expiration dates of 2018 and 2020.

Based on the foregoing, County Counsel has determined that the proposed amendment of the two contracts is legal.

2. **If a property owner is out of compliance with the terms of their Williamson Act Contract, can the contract still be amended?** Criteria for contract amendment, as provided by the Williamson Act, are stated above. Criteria for amendment do not include compliance with the current contract. However, consent by the County to the contract amendments may depend on several factors, including, but not limited to, compliance with the current contract.

It should be stated that County Planning staff has determined that both properties are being used in a manner that is consistent with their respective contracts. The use of the Mindego Gateway property conforms to its contract terms due to long-term, ongoing grazing activities on the property (a large portion of the property is leased to a local rancher, Vince Fontana). At its June 11, 2012 meeting, the Committee determined that the use of the property complies with the terms of its contract.

At its June 11, 2012 meeting, the Committee questioned whether the use of the Mindego Ranch property complies with the terms of its contract due to the suspension of cattle grazing on the property in 2008. Planning staff has determined that the use of the Mindego Ranch property conforms to its contract terms. The current cessation of grazing activities is necessary to protect sensitive biological resources (through invasive weed control activities) and to install grazing infrastructure improvements to permit more effective pasture rotation (e.g., additional pasture fencing and cattle water troughs). MROSD is currently seeking permits from the California Department of Fish and Game for the installation of such infrastructure and now anticipates completion of such improvements by the end of 2013, allowing grazing activities to resume at that time.

In order to further encourage the applicant to resume grazing activities at the Mindego Ranch property in a timely manner, County Counsel has determined that the County may validly use its discretionary authority over a pending permit application at the property to require resumption of grazing activities prior to the availability of proposed development to the public, as a condition of permit issuance.

Based on the concerns outlined above, the Committee continued its review of the project to its July 9, 2012 meeting in order for Planning staff to address the above concerns. Due to MROSD's scheduling conflicts, the Committee reviewed the project at its August 13, 2012 meeting. The

Committee, in a 6-1 vote, recommended the approval of the proposed amendment of Williamson Act contracts at the two project sites to the Board of Supervisors, subject to two conditions: (1) MROSD shall resume grazing activities at the Mindego Ranch property prior to the availability of anticipated development (e.g., trail project which is pending County approval) to the public, and (2) MROSD shall provide regular updates to the Agricultural Advisory Committee regarding pending development proposals and the status of agricultural activities at its properties.

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

The approval of the proposed amendments of the Williamson Act contracts for the subject properties owned by MROSD contributes to the 2025 Shared Vision outcome of a Livable Community by allowing uses compatible with agriculture at the properties, including passive recreational uses and related facilities. Such uses are in conformance with the California Land Conservation (Williamson) Act and provide additional recreational opportunities for the region.

**FISCAL IMPACT:**

No fiscal impact.

**ATTACHMENTS:**

- A. Recommended Findings
- B. Vicinity Map of Project Parcels
- C. Map Showing Grazing Lands on the Project Parcels

**Project Documents for Mindego Gateway (5755 Alpine Road):**

- D. Existing Williamson Act Contract (AP66-26)
- E. Proposed Amendments to Williamson Act Contract

**Project Documents for Mindego Ranch:**

- F. Existing Williamson Act Contract (AP66-56)
- G. Proposed Amendments to Williamson Act Contract
- H. Chronology of MROSD's Proposed Amendment to Williamson Act Contracts for Mindego Gateway and Mindego Ranch Properties

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT

**RECOMMENDED FINDINGS**

Permit File Nos.: PLN 2012-00160,  
PLN 2012-00161

Board Meeting Date: September 25, 2012

Prepared By: Camille Leung, Project  
Planner

For Adoption By: Board of Supervisors

**RECOMMENDED FINDINGS:**

Regarding the Environmental Review, Find:

1. That the San Mateo County, acting as a responsible agency, has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared by Midpeninsula Regional Open Space District (MROSD) as the lead agency.

Regarding the Williamson Act Contract Amendments, Find:

2. 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. Recreational use of the land and associated development will not significantly compromise the long-term productive agricultural capability of on-site soils. The project parcels do not contain prime soils. The project does not impact the agricultural capability of off-site properties.
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. Continuing commercial agricultural operations must be present on the property to remain under a Williamson Act Contract. As discussed in Section B of the staff report, the IS/MND concludes that "the expansion of recreational infrastructure, and the minimal additional visitation that will result, will not conflict with agricultural uses of the properties." The portions of both properties that are used for grazing operations, as shown in Attachment C of the staff report, will continue to be used as such for the term of each contract. The project does not impact agricultural operations on off-site properties.
4. That the defined compatible uses will not result in the significant removal of adjacent contracted land from agricultural or open-space use. The contracts for the project parcels, in addition to other parcels in the area owned by MROSD, have already been non-renewed. The proposed use will not affect the contract status of the project parcels or adjoining parcels. It should be noted that, although the

contracts have been non-renewed, ongoing recreational use of the parcels is consistent with and supportive of open space land use.

5. That the Board finds the proposed amendment of the two contracts is consistent with the California Land Conservation Act of 1969 and the County's land use regulations. As allowed by the underlying zoning district, the proposed compatible use is consistent with the County's regulations and guidelines including the General Plan, Zoning Regulations, and California Land Conservation Act of 1969.
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. County Counsel has determined that the 1966 Williamson Act contracts are 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 contracts, as presently written, do 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 passive recreational uses and related facilities.