



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: March 10, 2014
Board Meeting Date: March 25, 2014
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 whether the San Mateo County Williamson Act Program Rules and Procedures should be amended to establish timber harvesting as a use that qualifies a property for a Williamson Act contract

RECOMMENDATION:

- A) Receive staff's report and public comment regarding the timber harvest provisions of the County's Williamson Act Program Rules and Procedures.
- B) Adopt the Resolution directing the Planning and Building Department to work with owners of Williamson Act contracted lands that have valid timber harvest permits to determine if such lands qualify for rezoning to Timberland Preserve, and if so, waive the fees for processing such amendments.

BACKGROUND:

On October 22, 2013, the Board of Supervisors adopted a set of Uniform Rules and Procedures for implementing at the County level the State Conservation Act, commonly known as the Williamson Act. Testimony and correspondence received at that hearing raised issues and concerns regarding the application of these rules to timber harvesting activities. In response, the Board of Supervisors approved all elements of the Uniform Rules and Procedures, other than those relating to timber harvesting, and directed staff to report back on this matter.

Subsequently, on January 9, 2014, staff of the Planning and Building Department met with representatives of the timber industry, forest landowners, the Farm Bureau, and Cal-Fire. At this meeting, participants discussed whether the County should renew and continue to offer Williamson Act contracts for timber harvesting operations that occur

within the Planned Agricultural and Resource Management Zoning Districts.¹ The requirements to obtain such contracts, if offered, were also discussed. The results of these discussions, and the additional research and analysis that followed this meeting are described below.

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Property Owners: The Planning and Building Department has been able to identify two parcels that are under Williamson Act contracts and that are presently being used for timber harvesting (APN 089-170-050, Burch Family Trust; APN 085-170-010, Jeffrey Hunt Stoddard Trust).

Existing Zoning: The above-referenced parcels are zoned RM-CZ (Resource Management District-Coastal Zone) and RM (Resource Management), respectively. The timber harvest provisions of the County's Williamson Act Program are relevant to all forested areas that are currently zoned PAD/CD (Planned Agricultural District/Coastal Development), RM, and RM-CZ.

General Plan Designation: Agriculture and Open Space

Environmental Review: Not subject to the California Environmental Quality Act review pursuant to Section 15060; the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Chronology:

<u>Date</u>	<u>Action</u>
April 1968	- Agricultural preserves policy statements adopted.
May 1970	- Initial Uniform Rules adopted (Resolution No. 28375).
April 1983	- Amended Uniform Rules adopted (Resolution No. 44396).
February 2002	- Amended Uniform Rules adopted (Resolution No. 65067).
June 2007	- Department of Conservation (DOC) audit of San Mateo County.

¹ At the statewide level, there appear to be different opinions on whether local governments should offer Williamson Act contracts for timber harvesting. The Department of Conservation, in their comments on the County's draft program update, stated that the County should not offer such contracts, on the basis that the Williamson Act prohibits contracts within Timberland Preserve Zones (TPZ). The Farm Bureau and timber industry counter that the production of trees is a branch of the agricultural industry under the State Food and Agriculture Code, and therefore provide a legitimate basis for a Williamson Act contract outside of TPZ designated lands. The view of County staff is that the decision whether to offer Williamson Act contracts for timber harvesting activities is at the discretion of the County Board of Supervisors.

- February 2008 - Planning and Building Department surveys mailed to landowners of contracted parcels.
- May 2008 - Response to DOC audit submitted.
- February 2010 - Letters mailed to landowners of identified non-compliant contracts providing landowners an additional opportunity to submit evidence of agriculture.
- February 2011 - Board of Supervisors hearing regarding proposed contract non-renewals; referred to the Environmental Quality Committee (EQC).
- May 2011 - EQC meeting.
- August 2011 - Resolution adopted by Board of Supervisors authorizing an En Masse Notice of Non-Renewal. Notice of Intent to Record a Notice of Non-Renewal mailed to affected landowners.
- September 2011 - En Masse Notice of Non-Renewal recorded.
- November 2011 - Appeals received from 11 landowners.
- January 2012-Present - Department collaboration with the Williamson Act Subcommittee of the Agricultural Advisory Committee (AAC) to refine an administrative draft of the updated rules and procedures for program implementation.
- April 2012 - Public review draft Program and procedures sent to the DOC for review. Draft Program reviewed at the April 9, 2012 AAC meeting.
- September 2012 - The Department of Conservation comments received (letter dated August 31, 2012).
- October 2012 - Meeting with the Department, the Williamson Act Subcommittee, and DOC to review the comments and draft Program.
- November 2012 - Board of Supervisors Study Session.
- January 2013 - Draft Program reviewed at the January 14, 2013 AAC meeting.

- May 2013 - Public workshop was held at the El Granada Elementary School. The Department hosted with the Williamson Act Subcommittee and the Assessor's Office in attendance.
- July 2013 - Meeting with the Department and the Williamson Act Subcommittee to consider public workshop comments and request.
- October 2013 - Board of Supervisors adopts update Rules and Procedures other than those regarding Timber Harvesting and directs staff to report back on Timber Harvest issues in March 2014.

DISCUSSION:

Previously Proposed and Existing Rules

As originally proposed by staff, the County's Updated Williamson Act Rules and Procedures included Timber Harvesting as a type of agricultural use that could qualify a property located within the Planned Agricultural and Resource Management Zoning Districts for a Williamson Act contract. The proposed minimum requirements for such contracts for timber harvesting were (1) that the parcel must be 40 acres in size; (2) that the property generate a minimum annual income of \$10,000 from timber harvesting; and (3) that the property have a valid Non-Industrial Timber Management Plan (NTMP) issued by the California Department of Forestry and Fire Prevention. The intended purpose of these requirements was to ensure that contracted forestlands be devoted to an ongoing, commercially viable, agricultural use. These are fundamental requirements for all agriculturally based Williamson Act contracts.

In response to staff's proposal, concerns were expressed by forestry companies and agencies that the minimum annual income requirement would require timber to be harvested at a rate that is neither sustainable nor consistent with State Harvesting Regulations. Concerns were also expressed about the cost and requirements of NTMPs, which are not as commonly used as Timber Harvest Plans, and have significant limitations.

In recognition of the need to investigate these concerns, all references to timber harvesting were removed from the Uniform Rules and Procedures adopted by the Board of Supervisors on October 22, 2013. As a result, the Rules as currently written do not establish Timber Harvesting as a use that qualifies a property for a Williamson Act contract.

Issue Analysis

1. Program Purpose and Benefits

The County's Williamson Act Program is a voluntary program that provides an economic incentive, in the form of an alternative advantageous property tax

formula, for landowners to produce agricultural commodities in areas that are zoned for agriculture and resource management. Although the State Williamson Act allows contracts for other purposes, such as protection of important open space areas, local jurisdiction can choose to limit the types of contracts they are willing to offer. Accordingly, the Updated San Mateo County Rules and Procedures limit the types of contracts the County offers to those that are directly related to agricultural production. This is because existing zoning regulations protect agricultural and environmental resources from incompatible uses or development, but do not require that farmland be used for agricultural purposes. Thus, the County's voluntary participation in the Williamson Act provides a means by which the County can support the local agricultural economy.

Thus, a primary consideration regarding the issues that have been raised is whether the County desires to offer an economic incentive for the owners of forested lands to harvest timber, and if so, whether the use of Williamson Act contracts is the appropriate vehicle to do this. With regard to the latter, it is important to note that lands that are zoned by the County for Timberland Preserve Zone (TPZ) are taxed differently from other properties, in a manner that provides benefits to property owners that are generally equivalent to, if not greater than, the tax benefits of a Williamson Act contract.² In addition, there is no monitoring or reporting required to maintain a TPZ property tax benefit. In comparison, the maintenance of a Williamson Act contract requires both the property and the County to regularly collect data that, among other things, demonstrates that the property is devoted to an ongoing, commercially viable agricultural use.

With this in mind, participants of the January 9, 2014 meeting (organized by the Planning and Building Department to address the issues that were raised at the October 22, 2013 Board of Supervisors hearing) discussed the option of rezoning contracted forestlands within the Planned Agricultural and Resource Management Districts (PAD and RM) to the Timberland Preserve Zone (TPZ) designation. There seemed to be agreement among the timber industry and Cal-Fire representatives that TPZ zoning was equal if not superior to a Williamson Act contract in terms of property taxes and resource management. Participants therefore expressed support for this approach if the County agrees to cover the costs of the rezoning.

However, a potential drawback to this rezoning approach is that residences within the TPZ district are not afforded the 1,000-foot buffer from timber harvesting operations that currently apply in all other zoning districts. San Mateo County's local forest practice rules prohibit timber harvesting operations within 1,000 feet of a residence in all zoning districts other than TPZ, unless the owner of that residence agrees to the harvesting. Some meeting participants at the January 9, 2014 meeting criticized this rule by asserting that homeowners have extorted property improvements in return for their permission to harvest, and by giving

² By statute, Williamson Act contracts are not permitted within Timberland Preserve Zones (California Government Code Section 51246).

examples of how some owners' refusals prevented the fire safety and ecological benefits that could have been realized by the implementation of carefully designed harvest plans.

It was also noted at the January 9, 2014 meeting that the owners of contracted forestlands, who do not intend to harvest timber, and/or whose properties do not meet criteria for a TPZ designation, can apply to convert their Williamson Act contracts to Open Space/Conservation Easements. Some participants expressed enthusiasm for using such Open Space/Conservation Easements to incentivize management practices that would improve the ecological health of the County's forests and watersheds.

2. Affected Properties

Since all property located within RM and PAD Zoning Districts are potentially eligible to obtain a Williamson Act contract, the timber harvest provisions of the County's Williamson Act Program are relevant to all forested areas within these Districts. In other words, all property owners that have an interest in applying for such a contract, in order to obtain a property tax reduction in exchange for devoting their land to the harvesting of timber, has an interest in how these matters are resolved.

However, when viewed in context of the number of parcels that are currently under contract and being used for timber production, the pool of affected properties is quite limited. Based on the research conducted by staff to date, there are only two parcels that have active Williamson Act contracts and are being harvested pursuant to a Timber Harvest Plan or Non-Industrial Timber Management Plan. Information provided by Redwood Empire and confirmed by staff indicates that a 42-acre parcel owned by Burch Family Trust (Assessor's Parcel Number 089-170-050) has a valid Williamson Act contract and has had commercial timber harvest activity pursuant to THP numbers 1-90-561 SMO, 1-96-098 SMO, 1-02-159 SMO, and 1-11-064 SMO. The Burch Family Trust also owns an adjoining parcel, number 089-170-050, which is zoned TPZ and not under a Williamson Act contract, onto which the above timber harvests have extended. There are no residential structures on these properties. As a result, issues regarding the 1,000-foot setback requirement do not apply.

The second 40-acre property (Assessor's Parcel Number 085-170-010) zoned RM and owned by the Jeffrey Hunt Stoddard Trust has a valid Williamson Act contract and has been harvested pursuant to a Non-Industrial Timber Management Plan 1-10NTMP-006SMO. (See Attachment C for a map showing the location of these parcels.)

3. Proposed Resolution

As described above, the purpose of the County's updated Williamson Act Program is to provide an incentive for owners of agricultural land to actually farm their land. Similar economic support is provided by the County's TPZ Zoning Designation for timber harvesting operations. The rezoning of contracted timberland within the Planned Agricultural and Resource Management Districts (PAD and RM) to the Timberland Preserve Zone (TPZ) designation therefore provides an appropriate means by which the County can resolve the concerns expressed by forest management agencies and businesses during the October 22, 2013 Board of Supervisors hearing at which the Updated Rules and Procedures were adopted.

Based on the subsequent meeting between these businesses, agencies, and County staff, there appears to be support for this approach, if the County were to cover the costs of the rezoning. As it appears that such a rezoning involves only two potential parcels, the extent of the associated processing costs is manageable. Therefore, staff is recommending that the Board of Supervisors adopt a resolution directing staff to work with owners of Williamson Act contracted lands that have valid timber harvest permits to determine if such lands qualify for rezoning to Timberland Preserve, and if so, waive the fees for processing applications for such amendments. In the event that the owners of non-contracted lands within the PAD and RM Zoning Districts want to apply for a rezoning to TPZ in the future, such proposals will be subject to the processing fees in place at that time.

Implementation of the recommended approach does not require any changes to the Rules and Procedures adopted by the Board of Supervisors on October 22, 2013. The absence of any references to timber harvesting from these rules means that timber harvesting activities do not qualify a parcel for a Williamson Act contract in San Mateo County.

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

Implementation of an updated Williamson Act Program contributes to the 2025 Shared Vision outcome of a Livable Community by ensuring that the use and development of land encumbered by Land Conservation Contracts are compliant with County and State requirements.

FISCAL IMPACT:

Adoption of the Resolution will require the Planning and Building Department to determine whether the above-identified parcels are eligible to be rezoned to TPZ, and if so, to cover the processing costs of such a rezoning, which would typically be subject to an application fee of approximately \$35,000. The property tax implications of such a rezoning would need to be determined by the Assessor.

ATTACHMENTS:

- A. Updated Williamson Act Rules and Procedures
- B. APN 089-170-050 and 085-170-010 Location Map