



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 20-921

Board Meeting Date: 12/8/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Steve Monowitz, Community Development Director
Subject: Public Hearing to Consider California Land Conservation Act (Williamson Act) Contract Notice of Non-Renewal appeals.

County File Numbers: PLN2017-00507 (Pawlowski)
PLN2017-00514 (Arata)

RECOMMENDATION:

Public Hearing to consider California Land Conservation Act (Williamson Act) Contract Notice of Non-Renewal appeals:

- A) Open the public hearing
- B) Close the public hearing
- C) Adopt a resolution denying the appeal of the 2017 County-initiated Williamson Act Notice of Non-Renewal filed by Louis Arata, thereby resuming the full effects of the recorded non-renewal until contract expiration on December 31, 2027 for the specified parcels: 081-270-010, 081-270-020, 087-180-010, 087-180-030, 087-180-070, & 087-180-090; and
- D) Adopt a resolution upholding the appeal of the 2017 County-initiated Notice of Non-Renewal of Williamson Act Contract by Janina Pawlowski and directing the Community Development Director or Designee to record a Withdrawal of Notice of Non-Renewal and retaining the specified parcel under Williamson Act Contract: 087-080-050.

BACKGROUND:

In 2017, the Board of Supervisors authorized the Planning and Building Department (Department) to record a California Land Conservation Act of 1965 (Williamson Act) Contract Notice of Non-Renewal for certain contracted parcels. The parcels were identified as non-compliant with Williamson Act requirements based on a review of zoning criteria and landowners' responses to the Planning and Building Department and Assessor's Office Agricultural Questionnaire. The Notice of Non-Renewal

for these parcels was recorded on November 7, 2017 (effective January 1, 2018).

Pursuant to the Williamson Act, a property owner may file a written protest (appeal) of a County-initiated Notice of Non-Renewal. In filing a written protest, a landowner has up to three years to substantiate compliance with the County's Williamson Act Program (Program) in order for the parcel to remain under contract. If evidence of compliance is submitted, the County may withdraw the Notice of Non-Renewal, which results in the affected parcels(s) remaining under Williamson Act contract. Otherwise, the Board of Supervisors (Board) may deny the appeal which, in this case, would result in a continuation of the 9-year non-renewal phase out until contract expiration on December 31, 2027. Of the contracted parcels affected by the County's 2017 action, two landowners filed appeals, affecting a total of seven parcels.

The County's adopted Williamson Act Uniform Rules and Procedures identifies minimum eligibility criteria (e.g., land use designation, income requirements, etc.) for contracts, exceptions for certain criteria and limitations of compatible uses (non-agricultural uses) as they relate to agricultural uses on the property. Through this Program, the Agricultural Advisory Committee (AAC) and Agricultural Commissioner, in certain circumstances, are charged with reviewing contract Program compliance and exception requests for recommendation to the Board of Supervisors.

On October 19, 2020, the AAC held a public meeting to review one of the two appeals and to make a recommendation to the Board of Supervisors. The Department and the AAC recommended that one of the appeals (filed by Pawlowski) remain under Williamson Act contract.

The other appeal (Arata), is recommended by the Department for denial because the applicant did not submit the required documents to Staff (requested by August 18, 2020 and given an extension until September 28, 2020) necessary to complete the compliance review substantiating compliance with the Program. To date, the Department has not received all the requested documents.

Staff recommends the Pawlowski appeal be upheld (resulting in continuation of the Williamson Act contract) and the Arata appeal be denied (resulting in non-renewal of the Williamson Act contract).

Resolution of the appeals must occur prior to December 31, 2020; the end of the 3-year appeal period as allowed under State law for such contracts. Should the deadline pass without decision, a landowner may file a writ to compel the Board to take action.

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Property details for parcel recommended to retain a contract:

File Number: PLN 2017-00507	
Owner	Janina Pawlowski
Location	4900 Cloverdale Rd, Pescadero
APN	087-080-050
Parcel Size	152.57 acres
Existing Zoning	Planned Agriculture District/Coastal Development (PAD/CD)
General Plan Designation	Agriculture
Prime Soils	~26% Prime Soils (39.15 acres)

Property details for parcels recommended for contract non-renewal:

File Number: PLN 2017-00514	
Owner	Gary Arata, Grace Arata, John Arata, Laura Lillian Louise Arata, & Louis Arata
Location	6090 Stage Rd, 3225 Pomponio Creek Rd
APNs	081-270-010, 081-270-020, 087-180-010, 087-180-030, 087-180-070, & 087-180-090
Parcel Size	~1,151 acres
Existing Zoning	Planned Agriculture District/Coastal Development (PAD/CD)
General Plan Designation	Agriculture
Prime Soils	~2% Prime Soils (~22.5 acres)

DISCUSSION:

A. KEY ISSUES

1. California Land Conservation Act of 1965

The California Land Conservation Act, commonly known as the Williamson Act, allows the County to enter into agreements with landowners whereby land is restricted to agricultural and compatible uses in exchange for an alternative method of calculating property taxes that typically results in lower tax for the life of the contract. The contract is a ten-year, annually self-renewing contract encumbering the land.

2. County Williamson Act Program

The adopted 2013 Program requires contracted lands to be dedicated to commercial agriculture, commercial grazing, or commercial horse breeding. Additional contract eligibility criteria include General Plan and Zoning land use designation, minimum parcel size, income requirements for commercial agriculture, land utilization requirements for commercial grazing, and a minimum annual broodmare requirement for commercial horse breeding. The Program also identifies compatible uses on contracted lands as those uses allowed by the underlying zoning district, subject to zoning permits, where applicable, and restricts the amount of compatible uses to ensure qualifying agriculture remains the primary use on contracted lands. Further, the Program requires the Department to conduct parcel audits to ensure contract compliance on a regular basis.

4. Department Review of the Subject Parcels

Staff contacted the appellants on June 18, 2020 requesting submittal of the required contract compliance review documents no later than July 16, 2020. The requested documents were submitted by the appellant for the Pawlowski contract.

When no response was received from the appellant for the Arata contract via email, Staff sent letters to the registered owners on July 27, 2020, with a deadline of August 24, 2020. The appellant contacted Staff on August 24th requesting an extension. An extension was provided on August 28, 2020 with a final deadline of September 28, 2020. The appellant provided incomplete documentation on September 17, 2020 and was contacted on September 18, 2020 with the outstanding items identified and the deadline of September 28th reiterated. To date the appellant has not submitted the requested outstanding items.

a. PLN2017-00507 (Pawlowski)

Department Review

Review of compliance with minimum eligibility requirements included reviewing a map indicating the locations of fencing and water sources for cattle, and indicating that they grazed their own cattle. The documents provided indicated that that parcel minimum requirements meet the Williamson Act Program minimum standards but no commercial grazing operation is present since the landowners graze their own cattle. Instead, the landowners have indicated that they sell their cattle, which would qualify as the sale of an agricultural commodity under the Program. The landowners have provided income tax documents (Federal Tax Income Schedule F Form and receipts) for 2017 through 2019 years. The income provided was below the minimum requirement of \$14,037.75 annually (based on soil type). As a result, the applicant requested an exception to the minimum income requirements, on the basis that the land is highly productive and is in agricultural use.

Commercial cattle sales are the qualifying agricultural use for this parcel, with the sale of 13 head in 2017, 17 head in 2018, and 16 head in 2019. The property owner has also stated that they have planted 14 fruit trees and are experimenting with cider production.

Staff recommended to the AAC that the exception be granted and the appeal be upheld, as income from agriculture was demonstrated, the land is highly productive, and that maintaining the property in agricultural production has a significant public benefit.

Agricultural Advisory Committee Recommendation

At its October 19, 2020 public hearing, the AAC granted the exception to the minimum income requirements and issued a determination of compatibility. The AAC recommended that the Board withdraw the Notice of Non-renewal for the parcel due to the active commercial agriculture, and that the contract be allowed to continue.

b. PLN 2017-00514 (Arata)

Department Review

Review of the appeal for compliance with the Program could not be completed by staff because the appellant did not submit all of the required documents

substantiating compliance with the Program. Staff contacted the applicant on June 18, July 27, August 28, and September 18, 2020, requesting a site plan showing all development and agricultural operations and acreage, mapped prime agricultural lands, and proof of commercial agriculture (i.e., tenant lease agreements, Federal Income Tax Schedule F). Staff provided a final deadline of September 28, 2020. To date, the appellant has not submitted proof of commercial agriculture via tenant lease agreement or the sale of an agricultural commodity.

Staff recommends that the appeal be denied, as commercial agriculture has not been demonstrated to satisfy the requirements of the Program. A review of the appeal was not submitted to the AAC because the appellant had not submitted documents for review.

5. Recommendation

Staff recommends retaining the Williamson Act contract for the Pawlowski (PLN 2017-00507) contract by granting the appeal thereby allowing the parcel to remain under contract because the landowner has demonstrated basic contract eligibility (e.g., land use designation and zoning) and has met the required Determination of Compatibility calculation and criteria. Further, that the landowner has demonstrated a viable commercial cattle sales operation through submittal of Federal Income Tax Schedule F forms and receipts for the 2017-2019 years.

Given the incomplete documentation from the appellant, Staff recommends that the Board deny the appeal for the Arata contract (PLN 2017-00514) thereby lifting the property tax stay and continuing the contract nonrenewal phase out until contract expiration on December 31, 2027 due to the lack of documentation substantiating an ongoing commercial agricultural operation. If the landowner is able to achieve Program compliance during the non-renewal phase out period or after contract expiration, they may request a new contract subject to Program compliance, review, and recommendation to the Board by the Department, Agricultural Advisory Committee, and Agricultural Commissioner.

Department staff will coordinate with the Assessor's office to ensure resolution of the appeals.

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 Resolutions as to form.

FISCAL IMPACT:

Costs associated with Program management include staff time, which over time, will be offset by the

increase in property tax revenues resulting from reassessment of parcels existing the Williamson Act Program.

ATTACHMENTS:

- A. Map of Identified Appealed Parcels
- B. Agricultural Advisory Committee Staff Report (October 19, 2020) - Pawlowski
- C. Notice of Withdrawal of Non-Renewal of California Land Conservation Contract