



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** PLANNING AND BUILDING

**File #:** 16-653

Board Meeting Date: 10/17/2017

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**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors  
**From:** Steve Monowitz, Community Development Director  
**Subject:** County-Initiated Notice of Non-Renewal of California Land Conservation Contracts

County File Number: PLN 2017-00400

### **RECOMMENDATION:**

Adopt a resolution authorizing the Planning and Building Department to file a Notice of Non-Renewal of California Land Conservation Contracts (en masse) pursuant to the San Mateo County Land Conservation (Williamson Act) Uniform Rules and Procedures for the identified parcels.

### **BACKGROUND:**

In 2013, the Board of Supervisors adopted the San Mateo County Land Conservation (Williamson) Act Uniform Rules and Procedures (Program) under which the Planning and Building Department (Department) administers the Program and performs audits to ensure contract compliance. The Program requires ongoing commercial agriculture and allows agriculturally compatible uses (e.g., single-family residences) to a limited extent on contracted lands.

In March 2017, the Department received the annual Agricultural Preserve Questionnaire data from the Assessor's Office for contract compliance review. For the 2017-2018 calendar year, the Department is focusing on grazing operations as part of the Department's compliance review. As such, the Department has selected to review those questionnaires in which landowners identified either grazing or no agricultural activity.

In June 2017, staff mailed letters to affected landowners. For landowners that had identified grazing as the relevant agricultural activity, the Department requested that the landowners provide documentation demonstrating the existence of a commercial grazing operation as outlined in the Program. Landowners that did not identify any agricultural use on the questionnaire were asked to submit documentation of any qualifying commercial agricultural use. The Department sent subsequent letters in August 2017 to those landowners who were unresponsive to the June 2017 letters informing the landowners of the intent to record a notice of non-renewal and providing a final opportunity to submit supporting documents.

The Department is seeking non-renewal of the Williamson Act contracts for only those landowners who were unresponsive to the Department's letters or those landowners who have requested voluntary non-renewal of their contracts.

A total of 20 parcels owned by 17 landowners have been identified for non-renewal.

A total of 5 parcels owned by 4 landowners have requested voluntary non-renewal.

Where landowners have responded to the Department's letters, compliance reviews will be processed over the next year (84 parcels; 56 landowners).

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Owners: Identified property owners of Williamson Act contracted lands

Applicant: County of San Mateo Planning and Building Department

Location: Multiple

APNs: Multiple. Refer to the list included as Attachment A to this report.

Size: Various

Existing Zoning: Planned Agricultural District/Coastal Development (PAD/CD), Resource Management-Coastal Zone/Coastal Development (RM-CZ/CD), Resource Management (RM).

General Plan Designation: Agriculture and Open Space.

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.

Chronology:

<u>Date</u>	<u>Action</u>
Annually (February - March)	- Assessor's Office Agricultural Questionnaire mailings.
March 21, 2017	- Assessor's Office Agricultural Questionnaire data transmitted to the Planning and Building Department.
March - June 2017	- Department review of Questionnaires.
June 9, 2017	- Letter to affected landowners requesting supporting documentation for commercial grazing operations as outlined in the Program.
June 12, 017	-Letter to affected landowners where no agriculture was identified on the submitted Questionnaire providing an opportunity to submit

qualifying commercial agriculture supporting documents.

August 14, 2017

-Subsequent letters to affected landowners who were unresponsive to the initial letters informing of the intent to non-renew and a final opportunity to submit the requested documents.

October 17, 2017

-Board of Supervisors hearing.

## **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.

#### **3. Previous Compliance Review**

In 2015, the Department conducted an audit of parcels with active contracts (e.g., those parcels not previously non-renewed) using Assessor's Office Questionnaire data collected in 2015. During that review, staff identified 46 contracted parcels owned by 11 landowners for which Questionnaires were not submitted and, as such, staff was unable to evaluate the agricultural uses of those parcels for compliance. These parcels were deemed non-compliant and were non-renewed by the Board of Supervisors at its October 6, 2015 meeting. One landowner filed an appeal of the County-initiated non-renewal; a determination on this appeal will occur at the end of the three-year appeal period in 2018.

#### **4. Compliance Review 2017-2018**

The Department has conducted a review of parcels with active contracts using the most recent Assessor's Office Annual Agricultural Preserve Questionnaire data collected in early 2017. Submittal of information by the landowner to the Assessor's Office for assessment purposes is required under California Revenue and Taxation Code Section

441(d). The Program allows the Department to use the Questionnaire data for Program compliance review. The Department uses the Questionnaire to determine the type and quantity of agricultural activities occurring on contracted parcels.

For the 2017-2018 review, the Department focused on commercial grazing operations and accordingly selected those Questionnaires for review in addition to Questionnaires where no agriculture was noted. Compliance review by the Department includes a review of the agricultural operation, existing agricultural and compatible development, and minimum parcel requirements as identified in the Program. To facilitate this review, the Department requested documents from grazing landowners, including (1) a site plan identifying the area dedicated to the commercial grazing operation and all existing development (e.g., buildings, roads, and uses), fencing and water; (2) tenant lease agreement(s); and (3) parcel information (e.g., acreage).

In June 2017, the Department sent letters to 76 grazing landowners of 108 parcels requesting documentation demonstrating the existence of the commercial grazing operation in order for staff to process the compliance review. In the same letter, landowners were also given the opportunity to voluntarily non-renew their contract and forego the compliance review if they so desired. A separate letter was also sent to landowners who did not identify any agricultural use on the Questionnaire in order to provide those landowners an opportunity to submit documentation for any qualifying commercial agricultural use under the Program (e.g., agricultural commodities, grazing, or horse breeding).

For landowners who were unresponsive to the June 2017 letters, the Department sent subsequent letters in August 2017 informing the landowners of the intent to record a notice of non-renewal and providing a final opportunity to submit supporting documents.

The Department is proposing the non-renewal of those parcels where landowners were unresponsive to the Department's letters and where landowners have requested to voluntarily non-renew their contracts.

## 5. Authority to Non-Renew

Pursuant to Uniform Rule 4 of the Program and Government Code Section 51245, a landowner or county may non-renew a contract provided written notice is served by the other party in advance of the renewal date (a County-initiated non-renewal notice is required to be sent at least 60 days prior to the renewal date). If the County files a notice of non-renewal, the landowner, upon receipt of the notice, may file a written protest of the notice of non-renewal. The County may withdraw the notice prior to the renewal date.

## 6. Process for Non-Renewal of Contracted Parcels

Should the Board authorize the County-initiated notice of non-renewal, the Department will prepare an en masse notice for recordation with the County Assessor's Office. A form of such notice (Attachment B) is included with the materials provided to the Board in connection with this matter. Copies of the recorded notice will be mailed to the affected landowners along with a form that they can use to make a written protest. Recordation will result in a property tax reassessment of each non-renewed parcel by the Assessor's Office. Tax benefits associated with the contract will phase out over a nine-

year period with the contract terminating at the end of the non-renewal period.

If a landowner believes the notice of non-renewal has been recorded in error with or without just cause, a written protest must be filed with the Department within 60 days of the non-renewal recordation. Once the Department transmits the written protest to the Assessor's Office, the written protest will effectively stay the increase in property tax assessment resulting from the recordation of the notice of non-renewal for up to three years (California Revenue and Taxation Code Section 426(b)) during which time the written protest must be resolved.

During this time, the landowner must submit documentation to the Department substantiating compliance with the Program (e.g., quantifiable commercially viable agriculture is occurring, as required and defined). If such documentation is submitted, the Department will withdraw the notice of non-renewal. In absence of such documentation, the annual property tax assessment will increase incrementally each year until the contract expires at the end of nine years.

Pursuant to Section 51246(a) of the Government Code, development restrictions on non-renewed contracted parcels will remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract.

Parcels for which notices of non-renewal have been recorded are not prohibited from entering into new contracts provided the landowner submits evidence of commercial agriculture satisfying the requirements set forth in the adopted Program. If a notice of non-renewal has been recorded on a parcel for which qualifying commercial agriculture is present, the County will withdraw its notice of non-renewal and process a new updated contract.

## 7. Future Compliance Reviews

The Department will continue to audit contracted parcels until all contracted parcels have been reviewed. After that time, the Department anticipates audits to continue on an annual basis. As reviewing becomes more complex given the type and amount of agricultural and compatible uses present on each contracted parcel, the Department will seek the recommendations of the Agricultural Advisory Committee and Agricultural Commissioner where necessary (e.g., exemption requests and compatible uses determinations) as identified in the Program.

The Department anticipates reviewing commercial agricultural commodity operations (e.g., crop sales, livestock sales, etc.) beginning in the 2019 calendar year.

## 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.

Non-renewal of the identified non-compliant parcels contributes to the 2025 Shared Vision outcome of a Livable Community by assuring that Land Conservation Contracts and development are not in conflict.

**FISCAL IMPACT:**

The proposed non-renewals will, over time, result in an increase in property tax assessments of those parcels exiting the Williamson Act Program.

**ATTACHMENTS:**

- A. List of Identified Non-Compliant Parcels
- B. Notice of Non-Renewal of California Land Conservation Contract (en masse)