



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 18-1103

Board Meeting Date: 12/11/2018

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: PLN 2015-00575 (Young)

PLN 2015-00576 (Philomena LLC)

RECOMMENDATION:

Recommendation to adopt resolutions:

- A) Denying the appeal of the 2015 County-initiated Notice of Non-Renewal filed by Philomena, LLC, thereby resuming the full effects of the recorded non-renewal until contract expiration on December 31, 2027 for the specified parcels: 081-040-010 and 081-250-010; and
- B) Upholding the appeal of the 2015 County-initiated Notice of Non-Renewal of Williamson Act contract by Neil and Margaret Young and directing the Planning and Building Department to record a Withdrawal of Notice of Non-Renewal and retaining the specified parcels under Williamson Act contracts: 081-130-020, 081-140-010, 081-170-050, 081-130-030, 081-170-040, and 081-180-010.

BACKGROUND:

In 2015, 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 46 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 October 21, 2015 (effective January 1, 2016).

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 3 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 a continuation of the 9-year non-renewal phase out until contract expiration on December 31, 2027. Of the 46 contracted parcels affected by the County’s 2015 action, two landowners filed appeals, affecting a total of eight parcels.

In 2013, the Board of Supervisors adopted the Williamson Act Uniform Rules and Procedures. The Program 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 September 10, 2018, the AAC held a public meeting to review 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 Neil and Margaret Young) remain under Williamson Act contract.

The other appeal (Philomena LLC) was recommended by the Department for denial because the applicant did not submit the required documents (requested on June 8, 2018) necessary to complete the compliance review substantiating compliance with the Program. The AAC continued this item to allow the applicant to contact the Department and submit the required documents. To date, the Department has not received the requested documents. On November 19, 2018, the AAC heard this appeal and, by a vote of 3 to 2, recommended denial of the appeal based on lack of required documents. Committee members found the absence of paperwork to be an unfortunate reason to move forward with the non-renewal given that the site is being actively grazed, and hoped that the property owner would submit the necessary information prior to the Board taking final action in order to keep the property under contract.

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

Resolution of the appeals must occur prior to December 31, 2018; the end of the 3-year appeal period as allowed under State law for such contract. Should the deadline pass without decision, a landowner may file a writ to compel the Board to take action.

Report Prepared By: Melissa Ross, Senior Planner, Telephone 650/599-1559

Property details for parcels recommended to retain a contract:

File Number: PLN 2015-00575	
Owner	Neil and Margaret Young Trs
Location	3240 Bear Gulch Road, San Gregorio
APNs	081-130-030; 081-130-020; 081-140-010; 0040; 081-170-050; 081-180-010
Parcel Size	489 acres (combined)
Existing Zoning	PAD (Planned Agricultural District) and RM- (Resource Management-Coastal Zone)

General Plan Designation	Open Space and Agriculture
Prime Soils	0 acres

Property details for parcels recommended for contract non-renewal:

File Number: PLN 2015-00576	
Owner	Philomena LLC
Location	1570 La Honda Road, San Gregorio
APNs	081-040-010 and 081-250-010
Parcel Size	579.95 (combined)
Existing Zoning	PAD (Planned Agricultural District)
General Plan Designation	Agriculture
Prime Soils	10.16 acres

DISCUSSION:

A. KEY ISSUES

1. California Land Conservation Act of 1965

The Williamson Act allows the County to enter into agreements with landowners under which land is restricted to agricultural and compatible uses in exchange for reduced property taxes for the life of the contract. The contract is a 10-year, annually self-renewing contract encumbering the land.

2. County Williamson Act Program

The County’s Program requires contracted lands to be dedicated to commercial agriculture, commercial grazing, or commercial horse breeding, in addition to requiring other contract eligibility criteria including General Plan and Zoning land use designations, minimum parcel size, income requirements for commercial agriculture, land utilization requirement for commercial grazing, and a minimum annual broodmare requirement for commercial horse breeding. Further, the Program 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.

3. Compliance Review of the Appealed Contracts

Staff contacted the appellants on June 8, 2018 requesting submittal of the required contract compliance review documents no later than August 6, 2018. The requested documents were submitted by the appellant for the Young contract, but to date no documents have been received by the appellant for the Philomena LLC contract.

a. Young Contract (PLN2015-00575)

The Department requested and received the required documents from the applicant in order to complete the compliance review. Staff has reviewed General Plan and

Zoning designations, mapped prime agricultural lands and parcel size, and the Federal Income Tax Schedule F and receipts for 2011 through 2017, among other documents submitted by the applicant.

The qualifying agricultural use on the parcel is cattle sales with a secondary agricultural use of 200 certified organic laying hens (on approximately 1-acre of the parcels). Existing development consists of 11 acres of residences and various barns, sheds, shop buildings, and ponds which comprise approximately 2.2% of the contracted area.

The parcels identified to remain under contract have met the minimum Program requirements for minimum parcel size, income, and calculation for compatible uses.

Agricultural Advisory Committee Recommendation

At its September 10, 2018 public meeting, the Agricultural Advisory Committee considered the appeal, issued a Determination of Compatibility for the compatible uses, and recommended that the Board of Supervisors grant the appeal and the parcels remain under contract.

b. Philomena LLC Contract (PLN2015-00576)

Review of the appeal for compliance with the Program could not be completed by staff because the applicant did not submit the required documents substantiating compliance with the Program. Staff contacted the applicant on June 8, 2018, 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 deadline of August 6, 2018 by which time no documents were submitted.

Agricultural Advisory Committee Recommendation

At its September 10, 2018 public meeting, the Agricultural Advisory Committee considered the appeal and continued the item to allow the applicant to contact the Department and submit the required documents. Staff returned to the Agricultural Advisory Committee on November 19, 2018 informing the AAC that the applicant had not made contact with staff nor were the required documents submitted. The AAC recommended denial of the appeal (non-renewal), but as noted earlier, hoped that the property owner would submit the information necessary to retain the contract prior to the Board hearing on this matter.

4. Recommendation

Given the lack of response from the property owner, staff recommends that the Board deny the appeal for the Philomena LLC contract (PLN 2015-00576) thereby lifting the property tax stay and continuing the contract non-renewal phase out until contract expiration on December 31, 2027 due to the lack of documentation substantiating an ongoing viable commercial agricultural operation. If the landowner is able to achieve Program compliance during the non-renewal phase out period or after contract expiration, he/she may request a new contract subject to Program compliance, review, and

recommendation to the Board by the Department, Agricultural Advisory Committee, and Agricultural Commissioner.

Staff also recommends retaining the Williamson Act contract for the Young (PLN 2015-00575) properties by granting the appeal thereby allowing the parcels 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 2011-2017 years.

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), Guidelines 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.

Resolution of the California Land Conservation Contract appeals contributes to the 2025 Shared Vision outcome of a Livable Community by assuring that the use of the land encumbered by Williamson Act contracts comply with County and State requirements.

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 in the Williamson Act Program.

ATTACHMENTS

- A. Location Map
- B. Agricultural Advisory Committee Staff Report (September 10, 2018) - Young
- C. Agricultural Advisory Committee Staff Report (November 19, 2018) - Philomena LLC
- D. Landowner Documents (Young)
- E. Notice of Withdrawal of Non-Renewal of California Land Conservation Contract