County of San Mateo Planning & Building Department

Agricultural Advisory Committee

455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161
Fax: 650/363-4849

REGULAR MEETING PACKET

Date: **Monday, May 14, 2018**

Time: **7:30 p.m.**

Place: **Ted Adcock Community Center - South Day Room**
535 Kelly Avenue, Half Moon Bay, California

AGENDA

1. Call to Order
2. Member Roll Call
3. Public Comments for Items Not on the Agenda
4. Agenda Topics – Williamson Act
5. Report from AAC Mountain Lion Subcommittee - Discussion of Draft Mountain Lion Letter
6. Consideration of the Action Minutes for the March 12, 2018 regular meeting and April 9, 2018 regular meeting.
7. Community Development Director's Report
8. Adjournment – Next meeting June 11, 2018

Agricultural Advisory Committee meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to participate in this meeting; or who have a disability and wish to request a alternative format for the agenda, meeting notice, agenda packet or other writings that may be distributed at the meeting, should contact the County Representative at least five (5) working days before the meeting at (650) 363-1857, or by fax at (650) 363-4849, or e-mail rbartoli@smcgov.org. Notification in advance of the meeting will enable the Committee to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it.

ROLL SHEET – May 14, 2018

Agricultural Advisory Committee Attendance 2017-2018

	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
VOTING MEMBERS													
Brenda Bonner Public Member			X	X					X		X	X	
BJ Burns Farmer, Vice Chair		X	X	X	X		X	X	X		X	X	
Vacant *** Farmer			X										
Louie Figone Farmer		X	X	X	X		X	X			X	X	
David Rosen ** Public Member												X	
John Vars Farmer		X		X	X		X	X	X		X	X	
Vacant *** Farmer		X		X	X		X	X					
Doniga Markegard Farmer			X	X									
Robert Marsh Farmer, Chair		X	X	X	X		X	X	X		X	X	
Ron Sturgeon * Conservationist					X		X	X	X		X	X	
Vacant Ag Business													
Natural Resource Conservation Staff													
San Mateo County Agricultural Commissioner					X			X			X	X	
Farm Bureau Executive Director		X	X	X	X		X	X	X		X		
San Mateo County Planning Staff		X	X	X	X		X	X	X		X	X	
UC Co-Op Extension Representative					X				X				

X: Present
Blank Space: Absent or Excused
Grey Color: No Meeting
*** As of 9/18/17**
**** As of 1/9/18**
***** As of 1/1/18**

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

DATE: May 12, 2018

TO: Agricultural Advisory Committee

FROM: Rob Bartoli, Planning Staff

SUBJECT: Agenda Topics – Williamson Act

BACKGROUND

At the April 9, 2018 meeting, the Agricultural Advisory Committee (AAC) requested a discussion regarding the County's Williamson Act Regulations, with a focus on how a property is determined to be to be Prime Agricultural Land and Non-Prime Agricultural Land.

DISCUSSION

Prime and Non-Prime Agricultural Lands

The San Mateo County Williamson Act Regulations defines both Non-Prime Agricultural Land and Prime Agricultural Land.

Prime Agricultural Land is defined as any of the following (Government Code Section 51201(c)):

1. All land that qualifies for rating as Class I or Class II in the Natural Resource Conservation Service (NRCS) Land Use Capability Classifications; or land that qualifies as Class III in the NRCS Land Use Capacity Classifications if producing no less than two hundred dollars ($200) per acre annual gross income for three of the past five years.

2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.

3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the Unites States Department of Agriculture.

4. Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

5. Land which has returned from production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars ($200) per acre annual gross income for three of the past five years.

6. In all cases, prime land shall have a secure water source adequate to support the agriculture on the premises.

Non-Prime Agricultural Land is defined as: Land that is not "prime agricultural land" as defined. This may include but is not limited to land used for grazing or dry farming.

Parcel Size Requirements

The County's Williamson Act Regulations have the following parcel size requirements:

For Crop Production:

(1) Parcels considered Prime Agricultural lands shall be a minimum of 10 acres.

(2) Parcels considered Non-Prime Agricultural lands shall be a minimum of 40 acres.

(3) Parcels containing both Prime and Non-Prime Agricultural lands shall be a minimum of 40 acres in size. Smaller contiguous parcels may be combined to achieve the 40-acre minimum.

For Grazing: Minimum parcel size for grazing shall be 40 acres.

For Horse Breeding: Minimum parcel size for horse breeding shall be 40 acres.

Exceptions for new and existing contracts may be requested and considered by staff provided the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

SUMMARY

For a property that is under a Williamson Act contract and is engaged in crop production, the minimum parcel size of a property that is comprised of 100% prime land is 10 acres.

If a property that is under a Williamson Act contract and is engaged in crop production is comprised totally either of non-prime land or a mixture of prime and

non-prime lands, the minimum parcel size of a property is 40 acres. If any portion of a property does not meet the definition of prime soils, then the property needs to meet the minimum requirement of 40 acres for crop production.

An exception can be granted by the AAC to these parcel size requirements for new and existing contracts if the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit. .

ATTACHMENTS

A. San Mateo County Williamson Act Regulations
B. Staff Report to AAC on Williamson Act – December 12, 2016

ATTACHMENT A

SAN MATEO COUNTY
PLANNING AND BUILDING DEPARTMENT

San Mateo County

Land Conservation (Williamson) Act

COUNTY GOVERNMENT CENTER
455 COUNTY CENTER, SECOND FLOOR
REDWOOD CITY, CALIFORNIA 94063
TEL: (650) 363-4161
FAX: (650) 363-4849

SAN MATEO COUNTY
LAND CONSERVATION (WILLIAMSON) ACT

Uniform Rules and Procedures

PURPOSE 1

DEFINITIONS 2

GENERAL POLICIES AND ADMINISTRATION 6
- A. Conformance with State Law and County Ordinances and Resolutions 6
- B. Consistency of Entitlements with State Law and LCA Uniform Rules and Procedures 6
- C. Contracts which Become Inconsistent with State Law and LCA Uniform Rules and Procedures 6
- D. Property Tax Reduction 7
- E. Acquisition of Land in AGP or FSZA for Public Improvement 7
- F. Annexation of Land Subject to FSZA and FSZA/LCA Contracts 8
- G. Application Requirements 8
- H. Interpretation of Guidelines 9
- I. Reports 9
- J. Public Education 9
- K. Parcel Audit 10
- L. Permission to Enter and Inspect Property 10
- M. Enforcement 10

UNIFORM RULE 1: AGRICULTURAL ENTERPRISE AREA AND AGRICULTURAL PRESERVES 11

UNIFORM RULE 2: TYPES of CONTRACTS 14
- A. Eligibility Requirements for A/LCA and FSZA/LCA Contracts 14
  - 1. Land Designation 14
  - 2. Zoning 14
  - 3. Lot Size and Contracted Area 14
  - 4. Contiguous/Non-Contiguous Parcels 15
  - 5. Land Uses 15
  - 6. Income Requirements for Crops 18
  - 7. Land Utilization for Grazing 19
- B. Farmland Security Zone Area (FSZA/LCA) Contracts – Additional Requirements 20

UNIFORM RULE 3: APPLICATION PROCEDURE 22
- A. Application Requirements 22
  - 1. Application Form 22
  - 2. Supporting Documents 22
  - 3. Agricultural Preserve/Farmland Security Zone Area 23
  - 4. Ownership Report 24
  - 5. Signature of Owners 24
  - 6. Fees 24
- B. Processing Applications 24
  - 1. Filing Deadline 24
  - 2. Review and Approval Process 25
  - 3. Completion of Contracts 25

UNIFORM RULE 4: RESCISSION/REENTRY, NON-RENEWAL AND CANCELLATION REQUESTS 27
A. Rescission/Reentry 27
1. Applicability 27
2. Lot Line Adjustments 27
3. Filing Deadline 28
B. Non-Renewal 28
C. Cancellation 29

UNIFORM RULE 5: GUIDELINE FOR EXCHANGE OF AN EXISTING WILLIAMSON ACT CONTRACT FOR AN OPEN SPACE EASEMENT AGREEMENT 31

SAN MATEO COUNTY
LAND CONSERVATION ACT
UNIFORM RULES AND PROCEDURES

PURPOSE

The San Mateo County Land Conservation Act Uniform Rules and Procedures (Rules) implement the California Land Conservation Act (LCA) (Government Code Section 51231), also known as the Williamson Act (Act). The Act provides tax incentives to protect agricultural and open space uses defined in the Act (Government Code Section 51201). The Rules summarize the provisions of the State LCA that are most relevant to the County LCA program, and set forth the County's procedures for implementing the Act (see Government Code Section 51200, et seq.).

San Mateo County contains thousands of acres of agricultural land, characterized by an optimal combination of soils, climate, water, topography, lot sizes for viable production, and geographic configuration. The County has a long history of General Plan and Local Coastal Program policies and regulations designed to protect this irreplaceable resource. The LCA program is another valuable tool to protect this critical resource.

In addition to preserving agricultural land, the LCA program also assists local governments in protecting non-agricultural open space, when the affected property qualifies as a scenic highway corridor, a wildlife habitat area, a salt pond, a managed wetland area, a submerged area; or qualifies as a recreational use as defined by the Act or is enrolled in the United States Department of Agriculture Conservation Reserve Enhancement Program or Conservation Reserve Program (see Government Code Sections 51201(i)-(n) for definitions of these areas).

The purpose and intent of the San Mateo County LCA program is to:

1. Help preserve the limited and diminishing supply of agricultural land in the County through agricultural LCA Contracts.

2. Encourage production of food, fiber, and ornamental crops and commodities for local, regional, State, national and international markets.

3. Discourage premature conversion of agricultural land to non-agricultural land uses.

4. Help sustain and promote the County's commercial agricultural industry and the direct, indirect, and imputed effect on the Countywide and State economy.

5. Allow compatible uses within agricultural contracts that do not hinder or compromise the existing or potential agricultural productivity of agricultural land.

As statutes and ordinance provisions are amended from time to time, those amendments are incorporated herein.

DEFINITIONS

The definitions below are provided to assist the reader. Many are a summary of State law. For completeness and accuracy, the specific statutes should be consulted (Government Code Section 51201).

Agricultural Enterprise Area (AEA) – A non-regulatory non-obligatory area established by the Board to identify privately owned lands that meet zoning designation and general land use criteria for eligibility under the Williamson Act as a guide for landowners considering entering into an Agricultural Preserve and contract.

Agricultural Preserve (AGP) – Agricultural Preserves define the region(s) within which the County will enter into contracts with landowners. The Board establishes Agricultural Preserves. Only land located within an Agricultural Preserve is eligible for a contract. As defined in Government Code Section 51201(d), land within a region designated as an Agricultural Preserve can be devoted to either agricultural, recreational, or open space use, or any combination of these. An Agricultural Preserve must consist of no less than 100 acres except as described in Uniform Rule 1: Agricultural Enterprise Area and Agricultural Preserves (Government Code Section 51230).

Agricultural Commodities – Agricultural commodities shall mean any and all plant and animal products produced in this State for commercial purposes (Government Code Section 51201(a)). Agricultural commodities shall include fruits, nuts and vegetables; grains, such as wheat, barley, oats and corn; mushrooms; legumes, such as field beans and peas; animal feed and forage crops, such as grain, hay and alfalfa; seed crops; fiber, bio-fuel and oilseed crops, such as safflower and sunflower; nursery stock, such as Christmas trees, ornamentals and cut flowers; trees grown for lumber and wood products; turf grown for sod; livestock, such as cattle, sheep, alpacas, llamas and swine; poultry, such as chickens, ostriches and emus.

Agricultural Use – The use of land including, but not limited to, greenhouses for the purpose of producing agricultural commodities for commercial purposes (i.e., for sale in wholesale or direct market channels) (Government Code Section 51201(b)). [The keeping of horses does not constitute an agricultural use.]

Agricultural Use Contract (A/LCA Contract) – A contract between a private landowner and the County that enforceably restricts land to agricultural and compatible uses. The minimum initial term is 10 years. LCA Contracts automatically self-renew annually unless either party files a Notice of Non-Renewal. In return, restricted parcels are assessed for property tax purposes in accordance with Revenue and Taxation Code Section 421, et seq.

Board – The Board of Supervisors for San Mateo County.

Breach of Contract – Non-compliance with the terms of a contract that may result in non-renewal of a contract and other enforcement actions.

Cancellation – The immediate termination of a contract. See "Uniform Rule 4: Rescission/Reentry, Non-Renewal and Cancellation Requests" and Government Code Sections 51280-51287.

Compatible Use(s) – A use that, as determined by the County, will not diminish or interfere with existing or potential agricultural productivity, and can be accommodated without adverse impact to the agricultural, open space, and recreational resources of the site or surrounding area (Government Code Section 51201(e)).

Contract – As used in these Rules, the term contract means an A/LCA Contract or an FSZA/LCA Contract, collectively (Government Code Section 51240).

Contract Area – The acreage or property which is under a single contract. For A/LCA Contracts and FSZA/LCA Contracts, the boundaries of the Contract Area shall be coterminous with parcel boundaries.

Farmland Security Zone Area (FSZA) – A Farmland Security Zone is an area created within an Agricultural Preserve by the Board, upon the request of a landowner or group of landowners. Once the designation has been made, the property owner may enter into an FSZA/LCA Contract (Government Code Section 51296, et seq.).

Farmland Security Zone Area Contract (FSZA/LCA Contract) – A contract between a private landowner and the County that enforceably restricts land to agricultural or open space uses. The minimum initial term is 20 years (Government Code Section 51296.1(d)). FSZA/LCA Contracts automatically self-renew annually unless either party files a Notice of Non-Renewal. In return, restricted parcels are assessed for property tax purposes in accordance with Revenue and Taxation Code Section 421, et seq.

Grazing – Commercial pasturing of livestock such as cattle, sheep, alpacas, and llamas.

Land Conservation Act (LCA) – The California Land Conservation Act, also known as the Williamson Act (Government Code Section 51200, et seq.), allows private land-owners to contract with counties and cities to voluntarily restrict their land to agricultural, open space and recreational uses, or a combination thereof, and compatible uses which are compatible with and ancillary to the primary use(s) of the land in exchange for potential property tax benefits.

Land Conservation Act Contract (LCA Contract) – A contract between a private landowner and the County that enforceably restricts land to agricultural and compatible uses. LCAs can take the form of an A/LCA or FCZA/LCA, and have a minimum initial term of 10 years (Government Code Section 51244). LCA Contracts automatically self-renew annually unless either party files a Notice of Non-Renewal. In return, restricted parcels are assessed for property tax purposes in accordance with Revenue and Taxation Code Section 421, et seq.

Legal Lot – A lot that met all local Subdivision Ordinance and Subdivision Map Act requirements when it was created, and still exists, and can lawfully be conveyed in fee as a discrete unit separate from any contiguous lot. "Legal Lot" also means a lot for which a Certificate of Compliance or Conditional Certificate of Compliance has been issued under the State Subdivision Map Act and the San Mateo County Subdivision Ordinance and the boundaries of which have not been subsequently altered by merger or further subdivision. For the purposes of these Rules, the word "parcel" shall have the same meaning as the word "lot."

Lien Date – Date upon which a contract becomes effective. The lien date is always January 1 of the year following recordation of the contract. It is also the date upon which the Assessor determines the value of property for property tax purposes each year.

Material Breach of Contract – A breach is material if, on a parcel under contract, both of the following conditions are met: (1) a commercial, industrial or residential building is constructed after January 1, 2004, that is not allowed by the Act or these Rules, and is not related to an agricultural use or compatible use; and (2) the total area of all of the building or buildings likely causing the breach exceeds 2,500 square feet (Government Code Section 51250).

Non-Prime Agricultural Land – Land that is not "prime agricultural land" as defined below. This may include but is not limited to land used for grazing or dry farming.

Non-Renewal – Withdrawal of land under contract whereby the contract stops self-renewing each year, but all terms and conditions of the contract/Act remain in effect for the remainder of the term (i.e., nine years for an LCA Contract, 19 years for an FSZA Contract) (Government Code Section 51246).

Open Space Easement (OSE) Agreement (Agreement) − An enforceable agreement between the County and a landowner consistent with the Open Space Easement Act of 1974 (Chapter 6.6 commencing with Section 51070). Holder of the land must effectively preserve for public use or enjoyment the natural scenic character of such open space land (Government Code Section 51075(d)) and shall not carry out any activity, use or action which would impair the open space character of the land. If prescribed findings can be made by the Board, the County and contract holder may rescind a contract in order to simultaneously enter into an agreement provided that the easement is consistent with the Williamson Act for the duration of the term of the original Williamson Act Contract; and the initial term of the easement is for at least 10 years. Land subject to agreement shall be assessed pursuant to Section 423 of the Revenue and Taxation Code (Government Code Section 51255). See Uniform Rule 5.

Prime Agricultural Land – Means any of the following (Government Code Section 51201(c)):

1. All land that qualifies for rating as Class I or Class II in the Natural Resource Conservation Service (NRCS) Land Use Capability Classifications; or land that

qualifies as Class III in the NRCS Land Use Capacity Classifications if producing no less than two hundred dollars ($200) per acre annual gross income for three of the past five years.

2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.

3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the Unites States Department of Agriculture.

4. Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

5. Land which has returned from production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars ($200) per acre annual gross income for three of the past five years.

6. In all cases, prime land shall have a secure water source adequate to support the agriculture on the premises.

Public Improvement – Facilities or interests in real property, including easements, rights-of-way, and interests in fee title, owned by a public agency or person (Government Code Sections 51290.5 and 51291).

Rescission/Reentry – The process of simultaneously voiding an existing contract(s) and entering into new contract(s) where there is no reduction in the amount of land under contract. See Uniform Rule 4.

Scenic Highway Corridor – A State-designated corridor, which as of December 2008, includes: all lands adjacent to and visible from: Interstate 280 from the San Mateo County line to San Bruno City limit; State Highway 1 from the Santa Cruz County line to Half Moon Bay City limit; and State Highway 35 from the Santa Cruz County line to State Route 92 (Government Code Section 51201(i)).

Subject Property – The property for which an application for a contract has been filed.

GENERAL POLICIES AND ADMINISTRATION

There are a number of policies and requirements established in State law, local ordinance and these Rules which direct the County's implementation of the California Land Conservation Act.

A. Conformance with State Law and County Ordinances and Resolutions

All applications for: (1) the establishment or termination of AGPs, FSZAs, and Contracts; (2) zone changes associated with entering into a contract; and (3) entitlements on contracted land shall be made and decided in accordance with the requirements of the Land Conservation Act, applicable County plans, ordinances and resolutions, and these Rules as they may be amended from time to time.

These Rules shall be interpreted in a manner consistent with the overall intent expressed above. If any provision of the Rules is found to be invalid, it shall not invalidate the remaining provisions.

B. Consistency of Entitlements with State Law and LCA Rules and Procedures

Where a property proposed for a contract has an existing discretionary permit, the permit must be reviewed to determine consistency with the proposed contract.

Whenever a land use entitlement including, but not limited to, zone changes, subdivisions, development permits, and conditional use permits is requested for land subject to a contract, or about to enter into a contract, the entitlement shall not be approved unless it is consistent with the provisions of State law and these Rules. Entitlement requests that are inconsistent with these Rules may be considered and acted upon only after the contract has expired, terminated or amended.

No entitlement, subdivision of land, or rescission/reentry shall be approved which would result in contracts or lots under contracts which do not meet the standards and requirements of these Rules and State law.

C. Contracts which Become Inconsistent with State Law and LCA Rules and Procedures

When changes in existing uses on contracted land result in agricultural or compatible uses which are inconsistent with State law or these Rules, including annual gross income requirements, making the land ineligible for the type of Contract that is in effect, the landowner or the County may record a Notice of Non-Renewal for that contract (Government Code Section 51245). Further, if a Material Breach of Contract is determined to exist, the County shall either (1) order the property owner to eliminate the conditions that created the Material Breach of

Contract within 60 days; or (2) assess a monetary penalty and terminate the contract on that property (Government Code Section 51250(i)).

D. Property Tax Reduction

In exchange for agreeing to restrict the use of property by entering into a contract, special rules are applied by the Assessor in determining the assessed value of the contracted property (see California Revenue and Taxation Code Sections 421-430.5 referred to as the "LCA Tax Provisions"). The LCA Tax Provisions are complex and should be consulted. These Rules are only intended to provide an overview.

Generally speaking, the Assessor applies the LCA Tax Provisions to determine the property's assessed value as of the Lien Date (January 1) of each year (the "LCA Value"). The LCA Value may be different from what it would have been had the property not been subject to a contract. For 10-year LCA Contracts, the factored Proposition 13 base year value is compared to the LCA Value. The lower of those values is enrolled. For 20-year FSZA Contracts, a percentage reduction is applied to both the factored Proposition 13 base year value and the LCA Value and the lower of those values is enrolled. The percentage reduction is never applied to the prior year's value to derive the present year's value.

The LCA provisions do not apply to the assessed value of the residence or residential site on the subject property, nor is the reduction applied to the structures and improvements such as farm labor housing, pipelines, pumps, wind machines, buildings and the like.

The amount of the assessed value reduction depends on several factors, including the length and type of contract (e.g., LCA (10-year) or FSZA/LCA (20-year)), the type of land (e.g., prime agricultural or non-prime), the use of land (e.g., crop production or grazing) and the location of the land.

Due to the numerous factors discussed above and the rules involved in assessing property subject to a contract, it is not possible to state in advance what, if any, tax benefit would inure to the property owner.

E. Acquisition of Land in AGP or FSZA for Public Improvement

Prior to the County acquiring land in an AGP or FSZA for a public improvement, the County shall comply with the noticing procedures and make the findings required by Government Code Sections 51290 through 51295. Acquisition of land under a contract by eminent domain or in lieu of eminent domain for a public improvement shall cause the contract to be deemed null and void as to the land actually condemned or acquired (Government Code Section 51295).

F. Annexation of Land Subject to FSZA and FSZA/LCA Contracts

Pursuant to Government Code Sections 51296.3 and 51297.3, notwithstanding any provision of Government Code Section 56000, et seq., the San Mateo County Local Agency Formation Commission (LAFCo) is prohibited from annexing land within a designated FSZA to a city, except under any of the following circumstances:

1. If the FSZA is located within a designated and delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services (e.g., within a designated Urban Area).

2. If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement except as provided in Government Code Section 51296.5 or 51296.6 as follows:

    a. A school district shall not render inapplicable the County Coastal or Non-Coastal Zoning Ordinances to the use of land by the school district if the land is within a designated FSZA; or

    b. A school district shall not acquire any land that is within a designated FSZA.

3. If the landowner consents to the annexation.

4. During the three-year period preceding the termination of an FSZA/LCA Contract.

Also, pursuant to Government Code Sections 51296.4 and 51297.3, LAFCo is prohibited from annexing land within a designated FSZA to a special district that provides sewers, non-agricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under the contract and the landowner consents to the annexation. However, this provision shall not apply during the three-year period preceding the termination of FSZA/LCA Contracts.

G. Application Requirements

Requests to include property within an agricultural preserve, establish an LCA Contract, non-renew or cancel an existing LCA Contract, rescind and reenter into an LCA Contract, or exchange an LCA Contract for an OSE Agreement must be made by submitting a completed application form(s) available at the Planning and Building Department, along with the applicable application fees and any additional information that the Planning and Building Department determines is needed to evaluate compliance with these Rules.

H. Interpretation of Guidelines

1. Requests for interpretation of guidelines governing the administration of the Williamson Act Contract and Open Space Easement Agreement programs may be submitted by the contract/agreement holder in order to address unusual circumstances and geographic conditions. Contract/agreement holder shall bear the burden of proving case facts.

2. Guideline Interpretation and Appeal Process.

   a. First Level of Review: The review committee at the first level of review is comprised of the Deputy Agricultural Commissioner, the Planning and Building Department's Planning Manager, and the Planning and Building Department's designated Williamson Act/Open Space Easement Program Coordinator. Committee decision may be appealed by filing the applicable appeal form and filing fee with the Planning and Building Department within 10 working days of the decision.

   b. Second Level of Review: The review committee at the second level of review is comprised of the Agricultural Commissioner, the Community Development Director, and a Deputy County Counsel. The second level committee decision may be appealed to the Board of Supervisors by filing the applicable appeal form and filing fee with the Planning and Building Department within 10 working days of the committee's decision.

I. Reports

A report containing general Williamson Act Contract and Open Space Easement Agreement program information, statistics and all interpretation and implementation decisions shall be prepared and forwarded to the Board of Supervisors twice in the first twelve months following program revision, and once a year thereafter.

J. Public Education

The County shall prepare a pamphlet for prospective buyers of contracted properties describing Williamson Act Contract and Open Space Easement Agreement requirements. The pamphlet shall be made available through realtors, realty associations in San Mateo County, at public counters at the County Government Center, and on the County website.

K. Parcel Audit

The County shall actively review all restricted lands on a regular basis (at least once every five years) to ensure contract compliance. Review may consist of an analysis of GIS aerial photographs, questionnaires, site visits, and submitted federal tax schedules. Parcels are reviewed to determine if land uses comply with restrictions.

L. Permission to Enter and Inspect Property

As a condition of the LCA Contract, owners shall grant County and County's officers, employees, contractors and agents permission to enter and inspect the subject property during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) to monitor compliance. Prior to seeking entry, the County shall give the owner at least a 10-day written notice of the inspection date, which notice will describe who is coming and reason for site visit. The County will make a reasonable attempt to accommodate the schedule of the landowner.

M. Enforcement

Non-compliance with the terms of an LCA Contract may result in the initiation of non-renewal proceedings by the County, as well as any other action needed to enforce these Rules and cover associated administrative costs.

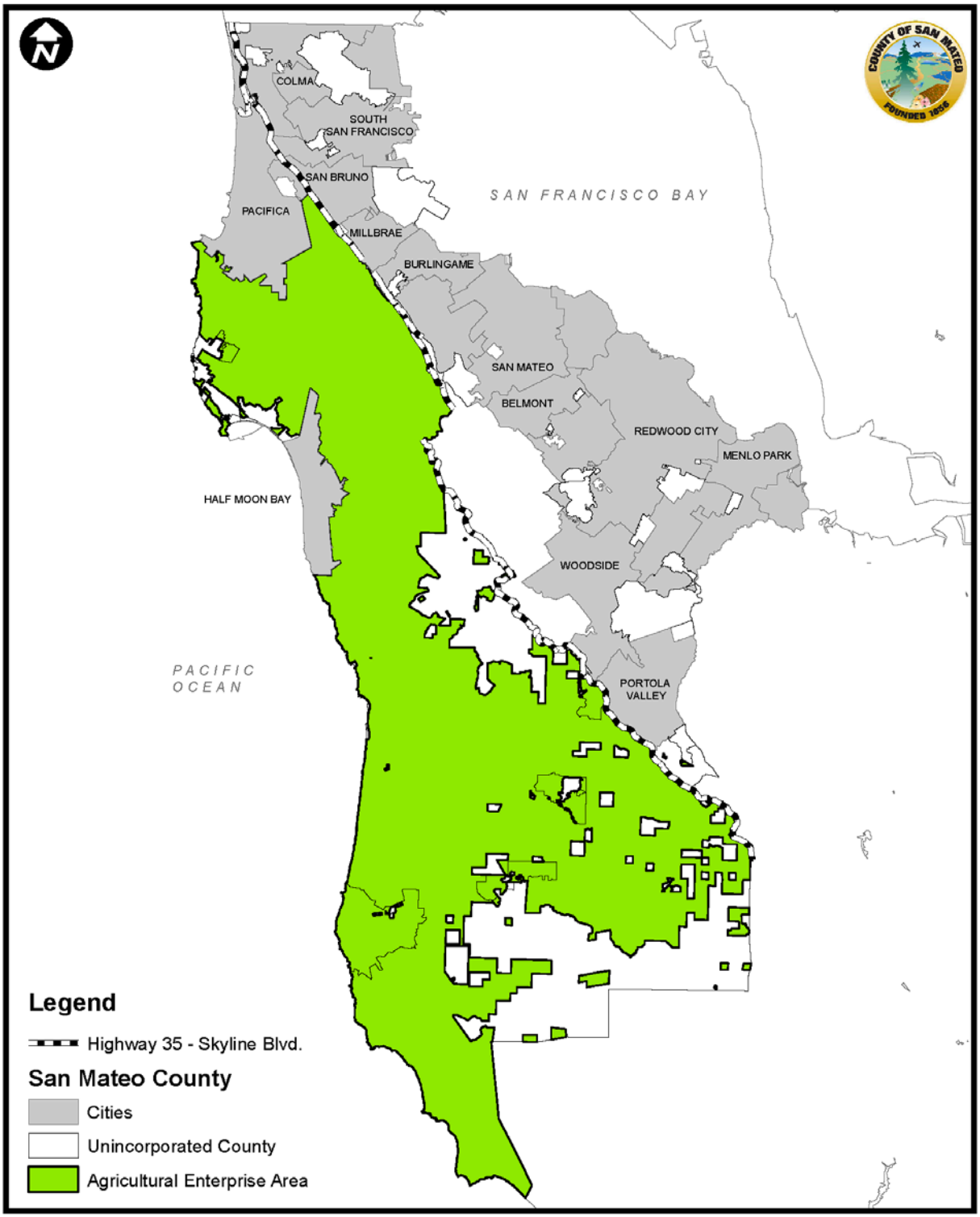
UNIFORM RULE 1: AGRICULTURAL ENTERPRISE AREA AND AGRICULTURAL PRESERVES

A. AGRICULTURAL ENTERPRISE AREA (AEA)

In San Mateo County, there is a region in which the County intends to preserve the agricultural character and use of the land. The Board of Supervisors has adopted an Agricultural Enterprise Area (AEA), mapped below which identifies privately owned lands that meet zoning designation and general land use criteria for eligibility under the Williamson Act as a guide for landowners considering entering into an Agricultural Preserve and Williamson Act contract, mapped below.

The defined area is non-regulatory and non-obligatory; lands placed within the AEA boundary are not subject to additional regulations or tax assessments beyond those applicable to the land. Landowners are under no obligation to apply or enter into an AGP or contract nor is placement within the AEA a guarantee of AGP or contract approval. Land use designations and tax assessments of lands placed within the AEA boundary are unaffected and unchanged as a result of AEA adoption.

Proposed Agricultural Enterprise Area



L:_PlanningLayer\GIS\Lisa_Grote\WillamsonActAPN_AgPreserve_032112.mxd 10-19-2012 ba

B. AGRICULTURAL PRESERVES (AGP)

Consistent with the provisions of Government Code Section 51230, if a property owner wishes to enter into a Williamson Act contract, the property in question must be located in an AGP. An AGP may be expanded or reduced by an action of the Board and shall not consist of less than 100 acres, unless the Board determines that an Agricultural Preserve of less than 100 acres is necessary due to the unique characteristics of the agricultural enterprises in the area, and that the establishment of preserves of less than 100 acres is consistent with the General Plan.

If a property owner wishes to enter into a contract and the property is not within the boundaries of the established AGP, the owner must request the Planning Department to expand the AGP or establish a new AGP simultaneously with the approval of the contract. Property located in an AGP must be designated "Agriculture" or "Open Space" under the County General Plan and zoned RM (Resource Management District), RM-CZ (Resource Management-Coastal Zone), or PAD (Planned Agricultural District). Land that is located within a Scenic Corridor, as defined by these Rules, may be included within an AGP upon request of the landowner irrespective of its land use designation and zoning.

If a landowner whose property is included in an AGP wishes to have that property excluded from the AGP, he/she may apply to disestablish or alter the boundaries of the preserve. However, no AGP may be disestablished or altered to remove land from the preserve if removal would cause or contribute to the premature or unnecessary conversion of agricultural land to urban uses or to significant encroachment of incompatible land uses into the immediate vicinity of contracted lands.

A property owner shall submit an application for establishment, disestablishment or alteration of an AGP to the San Mateo County Planning and Building Department on a form supplied by the Department, along with the applicable application fee and any other information determined by the Department to be necessary to evaluate the proposal's compliance with these Rules.

Within 60 days of receiving a completed application, the Planning Commission shall hold a public hearing and submit to the Board a recommendation for approval or disapproval as to establishment, disestablishment or alteration of an AGP.

The Board shall establish, disestablish or alter an AGP after a public hearing has been held on the matter and notice thereof given as provided in Section 6061 of the Government Code.

UNIFORM RULE 2: TYPES OF CONTRACTS

There are two types of Land Conservation Act Contracts (Contracts): Agricultural Land Conservation Act Contracts (A/LCA) and Farmland Security Zone Act Contracts (FSZA/LCA).

The eligibility of land for each contract type shall be determined pursuant to the requirements of the Land Conservation Act, County General Plan and Zoning Ordinances, these Uniform Rules, and the findings of the Board.

Property owners may request to enter into either type of LCA Contract by completing and submitting the appropriate application forms available at the Planning and Building Department, along with the applicable application fees and any additional information that the Planning and Building Department determines is needed to evaluate compliance with these Rules.

A. ELIGIBILITY REQUIREMENTS FOR A/LCA AND FSZA/LCA CONTRACTS

The requirements for entering into A/LCA and FSZA/LCA Contracts are as follows:

1. **Land Designation**

   Property must be designated “Agriculture” or “Open Space” under the County General Plan and be located within an AGP.

2. **Zoning**

   Property must be zoned RM (Resource Management District), RM-CZ (Resource Management-Coastal Zone District), or PAD (Planned Agricultural District).

   If the property is not zoned appropriately at the time a request for a new contract is submitted to the County, an application for a change in zoning change must be processed in conjunction with the contract. In such instances, the final approval and recordation of the contract shall be contingent on the Board’s adoption of the necessary zone change.

3. **Lot Size and Contracted Area**

   For A/LCA and FSZA/LCA Contracts, the boundaries of each contract shall be the same as the legal lot boundaries.

   Parcel size requirements are as follows:

   a. Crop Production:

(1) Parcels considered Prime Agricultural lands shall be a minimum of 10 acres.

(2) Parcels considered Non-Prime Agricultural lands shall be a minimum of 40 acres.

(3) Parcels containing both Prime and Non-Prime Agricultural lands shall be a minimum of 40 acres in size. Smaller contiguous parcels may be combined to achieve the 40-acre minimum.

b. Grazing: Minimum parcel size for grazing shall be 40 acres.

c. Horse Breeding: Minimum parcel size for horse breeding shall be 40 acres.

Exceptions to the minimum parcel size requirements for new contracts may be requested and considered by the Board only if the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the property in agricultural production has a significant public benefit.

Exceptions for existing contracts may be requested and considered by staff provided the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

4. **Contiguous/Non-Contiguous Parcels**

Contiguous parcels may be considered for a single contract provided the parcels are under common ownership and, jointly, may be reasonably used for agricultural purposes. Further, contiguous parcels under common ownership that individually do not meet minimum parcel size requirements may be considered for a single contract.

Parcels are considered contiguous, for purposes of these Rules, if they share a property line or their property lines are separated by a road, utility easement or railroad right-of-way.

Contiguous parcels under separate ownership, non-contiguous parcels under common ownership, or non-contiguous parcels under separate ownership may enter into separate contracts, if otherwise eligible under these Rules.

5. **Land Uses**

Two types of uses are permitted on contracted property: Agricultural Uses and Compatible Uses.

a. Agricultural Uses

Contracted lands must be dedicated to the commercial production of agricultural commodities, commercial grazing operation, or commercial horse breeding, as defined, for sale in wholesale or direct marketing channels. Agricultural commodities shall mean an unprocessed product of farms, ranches, production nurseries and forests.

Agricultural commodities shall include fruits, nuts and vegetables; grains, such as wheat, barley, oats and corn; mushrooms; legumes, such as field beans and peas; animal feed and forage crops, such as grain, hay and alfalfa; seed crops; fiber, bio-fuel and oilseed crops, such as safflower and sunflower; nursery stock, such as Christmas trees, ornamentals and cut flowers; trees grown for lumber and wood products; turf grown for sod; livestock, such as cattle, sheep, alpacas, llamas and swine; poultry, such as chickens, ostriches and emus.

Grazing may be deemed an agricultural use if the land under contract is used for the commercial purpose of pasturing livestock.

Commercial horse breeding may be deemed an agricultural use provided the annual breeding operation consists of a minimum of 15 broodmares. Exceptions to the minimum number of broodmares will not be granted. The keeping of horses does not constitute an agricultural use. Commercial horse breeding operations are not subject to income or land utilization requirements.

b. Compatible Uses

Compatible uses on contracted lands shall comply with the provisions of Government Code Sections 51238-51238.1 and the underlying land use designation and zoning of the parcel. Compatible uses shall only be allowed when they can be accommodated on a contracted parcel without significantly reducing the amount of land being used for agricultural purposes, or interfering with existing agricultural activities.

(1) Determination of Compatibility (DOC): The Agricultural Advisory Committee will review proposed compatible uses to determine whether the use is in fact compatible with and incidental to the agricultural use on the parcel. If the following criteria can be met, a Determination of Compatibility will be issued.

(a) The primary use of the parcel would continue to be existing commercial agriculture.

(b) The proposed compatible use would not substantially interfere with the existing agricultural use on the subject parcel or any other property within the AGP.

(c) The proposed compatible use would not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area.

(d) The proposed compatible use would not significantly displace or impair current or reasonably foreseeable agricultural operations on the parcel, or any other property within the AGP.

(e) The remaining portion of the parcel not subject to the proposed compatible use would be able to sustain the agricultural use.

The property owner bears the burden of proof with respect to these criteria.

(2) Determination of Compatibility Exceptions: A DOC is required for all proposed compatible uses with the exception of the following which are per se compatible uses, provided that the proposed use does not significantly reduce the amount of land being used for agricultural purposes or interfere with existing agricultural activities. Exceptions to the DOC requirement are subject to review by the Planning Department and may require submittal of a site plan and other supporting documentation.

(a) Facilities and structures utilized in conjunction with the production, preparation, and storage of an agricultural commodity, commercial grazing, or commercial horse breeding.

(b) Existing single-family residences: repairs, alterations, and additions constituting less than 50% of the valuation of the existing structure as determined by the Building Inspection Section or where no footprint expansion is proposed.

(c) New small structure construction of 500 square feet or less (e.g., detached garage).

(d) Farm labor housing.

(e) Keeping of pets in association with a single-family residence, farm labor housing, or multiple-family residence.

(f) Septic systems: replacement and repair of existing septic systems as required by Environmental Health.

(g) Agricultural and domestic wells: replacement and repair of existing agricultural or domestic wells as required by Environmental Health.

(h) Repair to existing hardscape (e.g., roads, driveways, parking areas).

(i) Roof-mounted photovoltaic modules.

(j) Gas, electric, water or other utilities (other than ground-mounted photovoltaic) that are placed above or underground.

(k) Wireless telecommunications facilities.

(l) Fencing.

(3) Maximum Allowance of Compatible Uses

The percentage of a parcel's total area used for compatible uses on contracted lands cannot exceed the percentage used for agricultural uses (e.g., crop production, grazing operation, and horse breeding) and the portion of the parcel used for compatible uses cannot exceed 25 percent of the parcel size.

When calculating the agricultural area for commercial horse breeding operations, the number of broodmares dictates the area as opposed to the area utilized for the commercial horse breeding operations; one broodmare is equal to one acre.

In calculating the maximum allowance of compatible uses, exclude the following: unpaved roads, farm labor housing, buildings/structures used to support the agricultural use (e.g., barns), and underground utilities.

6. Income Requirements for Crops

Property owners seeking a Williamson Act contract must demonstrate that in the three of the five immediately preceding years, the contracted parcel has met the following minimum annual gross income requirements resulting from the commercial sale of the agricultural commodity. Income requirements must then be met for the duration of the contract.

For multiple parcels under one contract, income requirements will apply to the contracted area and not for each individual parcel.

Income from compatible uses shall not be used to achieve the minimum income requirements.

a. Parcels less than 40 acres shall have an annual gross income of not less than $10,000.00.

b. Parcels 40 acres and greater shall have an annual gross income of not less than $10,000, or an annual gross income that is based on the total amount of all prime and/or non-prime soils contained on the parcel, whichever income amount is greater:

   Prime Soils: Minimum annual gross income shall equal or exceed $250.00 per acre.

   Non-Prime Soils: Minimum annual gross income shall equal or exceed $37.50 per acre.

Exceptions to the income requirements for new contracts may be requested and considered by the Board only if the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

Exceptions for existing contracts may be requested and considered by staff provided the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

7. **Land Utilization for Grazing**

Property owners seeking a Williamson Act contract must demonstrate that each contracted parcel has met the following minimum requirements resulting from a viable commercial grazing operation in three of the five previous consecutive years prior to entering into a contract. Land utilization requirements must then be met for the duration of the contract. No minimum income is required for commercial grazing operations.

For multiple parcels under one contract, land utilization for grazing requirements will apply to the contracted area and not for each individual parcel.

a. Seventy-five percent (75%) of the parcel acreage must be used for a viable commercial grazing operation as determined by the Agricultural Advisory Committee and Agricultural Commissioner.

b. Areas dedicated to grazing must be fenced and adequate water must be available within the fenced area. Fencing must be maintained.

Exceptions to the land utilization for grazing requirements may be requested and considered by the Board only if the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

Exceptions for existing contracts may be requested and considered by staff provided the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

B. FARMLAND SECURITY ZONE AREA (FSZA/LCA) CONTRACTS – ADDITIONAL REQUIREMENTS

Property owners may request to enter into a 20-year Farmland Security Zone Area (FSZA/LCA) Contract (Government Code Section 51296, et seq.). Also, property owners already subject to a 10-year LCA Contract or Open Space/LCA Contract may petition to rescind the existing contract and enter into a new FSZA/LCA Contract. FSZA/LCA Contracts self-renew each year like other contracts. To qualify for an FSZA/LCA Contract, all of the requirements set forth in Uniform Rule 2 must be met.

In addition, the subject property must be designated by the Board as an FSZA. FSZAs shall meet all the following requirements (Government Code Sections 51296.1 and 51296.8):

1. The land must be within an AGP.

2. The land must be designated on the Important Farmland Series Map ("Map") as predominantly one of the following:

   a. Prime Farmland.

   b. Farmland of Statewide Significance.

   c. Unique Farmland.

   d. Farmland of Local Importance.

If the proposed FSZA is not designated on the Map, the land shall qualify if it is predominately prime agricultural land as defined in Government Code Section 51201(c) (Government Code Section 51296.8).

1. No land shall be included in an FSZA, unless expressly requested by the owner.

2. Any land located within a city sphere of influence shall not be included in an FSZA, unless the creation of the FSZA has been approved by resolution by the city with jurisdiction within the sphere.

3. If more than one owner of contiguous properties requests the creation of an FSZA, the County shall place those properties in the same FSZA.

4. Upon termination of an FSZA/LCA Contract, the FSZA shall simultaneously terminate.

UNIFORM RULE 3: APPLICATION PROCEDURE

In order to enter into a contract, an applicant must follow the procedures below.

A. Application Requirements

1. **Application Form**

There are two contract application forms: A/LCA and FSZA/LCA Contracts, and one form for OSE Agreements. An applicant must submit the appropriate completed application form and other required information prior to the deadlines set forth in Uniform Rule 3, Section B.1 (below).

2. **Supporting Documents**

a. <u>All Contracts/Agreements – Required Documents</u>

The following documents must be submitted at the time of application for all contracts or agreements. Separate applications must be submitted if the parcels are under separate ownership. For non-contiguous parcels under the same ownership, one application with separate site plans is required. An incomplete application submittal or insufficient information may cause delays in processing. In all cases, additional documentation may be required to clarify or supplement the application submittal as the contract or agreement is being processed.

(1) Legal parcel description.

(2) A site plan, drawn to scale and legible, of the parcel(s) for which the contract or agreement is requested. Site plans will be recorded along with the approved contract or agreement. The following must be shown on the plan(s):

(a) Parcel boundaries and dimensions, Assessor's Parcel Number(s), total gross acreage of the parcel(s), zoning designation, parcel address (if applicable), and owner's name and address.

(b) Agricultural use area(s), shown outlined and acreage noted (e.g., 10 acres of Brussels sprouts, and 5 acres of cattle grazing).

(c) Location, size, and use of all existing and proposed buildings and structures (e.g., residence, fences, and roads).

(d) Existing and proposed utilities (e.g., wells).

(e) All watercourses and water impoundments.

b. <u>All Contracts/Agreements – Proof of Legal Parcel</u>

In order to prove parcel legality, one of the following must be submitted for each parcel requesting a contract or agreement: (1) a recorded final or parcel map, or (2) a recorded Certificate of Compliance (Type A or Type B).

If after review of the submitted documents, the parcel is not determined to be legal, a Certificate of Compliance will be required and must be approved and recorded prior to recordation of the contract or agreement. Additional application forms, documentation and fees will be required to process the Certificate of Compliance.

c. <u>A/LCA and FSZA/LCA – Statement of Agricultural Uses</u>

The following must be provided on a separate sheet by the applicant for each parcel.

(1) Total gross acreage of each parcel and aggregate acreage for multiple parcels, if applicable.

(2) Total acreage of each parcel currently in agricultural production and acreage by each crop type, and grazing operation by heads of livestock and area grazed.

(3) Water source and irrigation method.

(4) Calculations and supporting compliance with Uniform Rule 2, Section A.5.b.2 (*Maximum Allowance of Compatible Uses*).

(5) Gross Agricultural Income documentation (e.g., Federal Tax Return Schedule F) substantiating compliance with Uniform Rule 2, Section A.6 (*Income Requirements for Crops*).

3. **Agricultural Preserve/Farmland Security Zone Area**

Prior to entering into a 10-year LCA Contract, the subject property must be within an AGP. If the applicant, in consultation with County Planning and Building Department staff, determines that the property is not within an existing AGP, the application shall include a request to establish or expand an AGP to include the property.

Prior to entering into a 20-year FSZA/LCA Contract, the subject property must be within an AGP and a Farmland Security Zone Area (FSZA). If the applicant, in consultation with Planning and Building Department staff,

determines that the property is not within an existing AGP or FSZA, the application shall include a request to establish or expand an AGP or FSZA to include the property.

4. **Ownership Report**

A preliminary title report prepared by a title company shall be filed with an application for a contract. The report submitted must have been issued no earlier than sixty (60) days prior to the application submittal date. If any changes in the ownership of the property occur between the date of the Ownership Report and the Planning Commission hearing, or the Board of Supervisors hearing, the applicant shall notify the Community Development Director in writing of such changes, and must provide an updated title report.

5. **Signature of Owners**

All persons, corporations, associations, partnerships, or other entities (except public utilities and public entities) having any right, or title or interest of any kind (except easement interest) in or affecting the surface use (extending to two hundred (200) feet below the surface) of the property proposed for a Contract, are required to sign the application as owners or submit written authorization.

6. **Fees**

Fees, set by the Board of Supervisors, are required to be paid in full at the time of application. During the course of the contract, if approved, additional fees may be required for compliance review.

B. Processing Applications

1. **Filing Deadline**

Applications to establish, disestablish, alter or expand the boundary of an AGP or an FSZA, and for new contracts and agreements must be filed with the Planning and Building Department by the first Friday in June. The application must include the required fee in accordance with the most recently adopted Fee Schedule. All required information must be received, and all contract area boundaries finalized, by the first Friday in July (or the following Monday if it falls on a holiday) to allow sufficient time to review and process the contracts and agreements prior to the end of the year. Applications/information received after these deadlines may delay the effective date of the contract. These deadlines may be extended by the Community Development Director upon written request by the applicant showing that circumstances beyond the applicant's control prevented submittal of the required application materials by the above deadlines.

2. **Review and Approval Process**

a. *Agricultural Advisory Committee:* All applications for LCA and FSZA/LCA Contracts and associated AGP or FSZA boundary changes shall be reviewed by the Agricultural Advisory Committee (AAC) prior to the Planning Commission or Board of Supervisors hearing. Applications for OSE Agreements are not reviewed by AAC.

b. *Planning Commission:* The Planning Commission shall hold a public hearing on proposed amendments to these Rules and proposed AGP/FSZA boundary changes, and make a recommendation to the Board of Supervisors.

c. *Board of Supervisors:* The Board of Supervisors shall hold a public hearing on these Rules, proposed AGP/FSZA boundary changes, contracts and agreements, and make a final decision to approve, partially approve, or deny each individual agreement or contract and associated AGP or FSZA boundary changes.

d. *Public Notice:* The legal notice requirements for entitlements shall apply to both the Planning Commission and Board of Supervisor hearings for the processing of contracts. If the applications include a proposal to establish, disestablish, alter or expand the boundary of an AGP or FSZA, at least a two-week notice of the hearing shall be given to the Local Agency Formation Commission (LAFCo) and to every city in the County within one mile of the exterior boundaries of the preserve (Government Code Section 51233).

3. **Completion of Contracts**

a. *Signature of Owners:* All persons, corporations, associations, partnerships, or other entities (except public utilities and public entities) having any right, or title or interest of any kind (except easement interest) in or affecting the surface use (extending to two hundred (200) feet below the surface) of the property proposed for a Contract, are required to sign the application as owners. Signatures must be notarized.

b. *Recordation of Contracts and Agreements:* After the owners and the County have signed the contracts or agreements, the project planner shall cause them, as well as any resolution(s) for associated AGP or FSZA boundary changes, to be recorded in the Office of the County Recorder no later than 20 days after the owners and the County have signed the contracts or agreements.

c. *Submission of Information on Contracted Property:* Upon the request of the County, each owner shall provide information relating to owner's

obligations under the contract or agreement including, but not limited to, a description of existing and planned land uses, structures or agricultural utilization on the contracted property.

d. *Submission of Completed Agricultural Preserve Questionnaire:* In addition to complying with the information request described in (c) above, each owner of land under contract shall complete an annual Agricultural Preserve Questionnaire and submit it to the County Assessor by the required deadline. Owners of lands under contract or agreement shall provide any/additional information requested by the County related to the assessment of the property.

UNIFORM RULE 4: RESCISSION/REENTRY, NON-RENEWAL AND CANCELLATION REQUESTS

A. Rescission/Reentry

1. Applicability

From time to time, situations will arise in which a landowner wishes to add non-contracted land to an existing contract(s), convert contracted land from one type of contract to another, or subdivide property that is under an existing contract(s). This is accomplished by rescinding the existing contract(s) and simultaneously reentering into a new contract(s) pursuant to Government Code Section 51255, referred to as "rescission/reentry." For example, a rescission/reentry may be used to convert land from an agricultural LCA Contract to an Open Space Easement Agreement. Where property under an existing contract(s) is subdivided into new lots, the contract(s) must be rescinded and new contract(s) must be entered into with the boundaries of the parcels described in the new contract(s) coinciding with the boundaries of the subdivided lots. Property may only be subdivided in accordance with Section 66474.4 of the Subdivision Map Act. New contract boundaries must be in compliance with the current Government Code provisions and these Guidelines, and shall not be for less aggregate acreage than originally contracted. All rescission/reentries must be consistent with applicable Government Code provisions, County General Plan and Zoning Ordinances, Subdivision Ordinance and these Uniform Rules.

2. Lot Line Adjustments

Government Code Section 51257 authorizes the use of rescission/reentry to facilitate a parcel map waiver/lot line adjustment (PMW/LLA), pursuant to Government Code Section 66412, involving contracted land. Such PMW/LLA requests often involve the exchange of contracted land for previously non-contracted land, or an exchange of land between contracts. In a typical case, the County and landowners mutually agree to rescind an LCA or FSZA/LCA Contract(s), and simultaneously reenter into a new contract(s) to coincide with the new legal lot boundaries.

To approve a rescission/reentry and prior to recording a PMW/LLA, and pursuant to Government Code Section 51257 and these Guidelines, the Board of Supervisors must make **all** of the following findings:

a. The new contract(s) would initially restrict land within adjusted boundaries of legal lots for at least ten (10) years for LCA Contracts and at least twenty (20) years for FSZA/LCA Contracts.

b. There would be no net decrease in the amount of the aggregate acreage (total contract acreage combined between the parcels involved in the lot line adjustment) subject to the existing and proposed contract(s).

c. At least ninety percent (90%) of the originally contracted land would be included within a new contract(s).

d. The resulting legal lot area subject to contract would be large enough to sustain qualifying agricultural uses as defined by Section 51222.

e. The lot line adjustment would not compromise the long-term agricultural production of land within the proposed legal lots or other agricultural lands subject to contract(s).

f. The lot line adjustment would not likely to result in the removal of adjacent land from agricultural uses.

g. The lot line adjustment would not result in a greater number of developable legal lots than existed prior to the adjustment or an adjusted lot that is inconsistent with the County General Plan.

Rescission/reentries to accommodate PMW/LLAs on contracted land are subject to Board approval and action (Government Code Section 51257).

3. **Filing Deadline**

Applications for rescission/reentries must be filed with the Planning and Building Department in accordance with Uniform Rule 3, Section B (above).

B. Non-Renewal

Because contracts automatically renew each year, if either the landowner or the County desires not to renew the contract, that party must serve the other with a written “Notice of Non-Renewal.”

If the County serves the notice, the landowner may file a written protest (Government Code Section 51245). An application for a written protest, including all required materials, and processing fees, must be filed with the Planning and Building Department. The signature requirements described in Uniform Rule 3, Section B (above) shall apply to a written protest of a Notice of Non-Renewal.

If the landowner desires to non-renew the contract, an application for a Notice of Non-Renewal, including all required materials and processing fees, must be filed with the Planning and Building Department. The signature requirements described in Uniform Rule 3, Section B (above) shall apply to a Notice of Non-Renewal.

Once a Notice of Non-Renewal is recorded, the contract shall remain in effect for the balance of the period remaining since its previous renewal (9 years – A/LCA Contract; 19 years – FSZA/LCA Contract) (Government Code Section 51246).

An application and fees for a non-renewal must be submitted by October 1 (or the following Monday, if October 1 falls on a weekend) to become effective on the contract renewal date, January 1 (Government Code Section 51245). Because no property would remain under contract, a non-renewal does not require AAC or Planning Commission review, nor does it have to be approved by the Board.

C. Cancellation

A landowner who wishes to terminate a contract prior to the expiration of the non-renewal period may petition the Board to cancel (terminate) the contract pursuant to Government Code Section 51280, et seq. Either the entire contract or a portion of it may be cancelled. Cancellation requests are often filed in conjunction with applications for land use entitlements, and can be submitted at any time. The procedures and requirements for cancellation are briefly summarized below.

The petition for cancellation of a contract must include a proposal for a specified alternative use of the subject parcel and the required fee. The Board will review the petition to determine whether it can make one of the following findings necessary to tentatively approve a cancellation: (1) that the cancellation is consistent with the purposes of the Land Conservation Act, or (2) that cancellation is in the public interest. Government Code Section 51282 elaborates further on specific determinations that must be made to make either of these two overall findings and any cancellation must comply with Section 51282. If cancellation of a portion of a contract is requested, the Board must determine that the portion of the property that would remain under contract complies with the Government Code and these Guidelines.

Upon tentative approval by the Board, a Certificate of Tentative Cancellation (CTC) is executed and recorded. The CTC shall state the conditions that must be satisfied before the contract may be cancelled. Once the conditions are met, the landowner must notify the Board. Within thirty (30) days of the receipt of such notice, and upon determination that the conditions stated in the CTC are satisfied, the Board shall execute and cause a Certificate of Cancellation (CC) to be recorded. The CC is then sent to the State Department of Conservation (Government Code Section 51283.4). If the Board determines the landowner did not satisfy the conditions, it shall execute and cause a Certificate of Withdrawal of Tentative Approval to be recorded. In addition to these provisions, the requirements of Government Code Section 51297 apply to cancellation of an FSZA/LCA Contract.

Cancellation of a contract also requires the property owner to pay a “cancellation fee” (Government Code Sections 51283 and 51297). The required cancellation fee for a 10-year LCA Contract is 12.5 percent of the current fair market value of

the property, determined as if the property was unencumbered by the contract restriction. The cancellation fee for a 20-year FSZA/LCA Contract is 25 percent of the current fair market value of the property determined as if the property was unencumbered by the contract restriction. This fee is in addition to the application fee required to process the cancellation application.

UNIFORM RULE 5: GUIDELINE FOR EXCHANGE OF AN EXISTING WILLIAMSON ACT CONTRACT FOR AN OPEN SPACE EASEMENT AGREEMENT

Rescission and reentry of contracted lands for Open Space Easement Agreements shall adhere to the California Land Conservation Act of 1965, and subsequent revisions (Government Code Section 51200 et. seq.).

MAR:fc:jhl – MARW0174(rev-BOS10.22.13)_WFR.DOCX
(10/22/13)

ATTACHMENT B

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

DATE: December 12, 2016

TO: Agricultural Advisory Committee

FROM: Melissa Ross, Senior Planner

SUBJECT: Agenda Topic: Williamson Act Program

BACKGROUND

At the September 12, 2016 meeting, the Agricultural Advisory Committee (AAC) requested a series of agenda items/study sessions that are focused on the regulations that are applied to projects that come before the Committee. The regulations and policies that will be brought to the Committee over the next several months include: Planned Agricultural District (PAD) Regulations, Farm Labor Housing Regulations, Williamson Act, Agricultural Tourism Guidelines, and Grading Ordinance.

This discussion is related to the Williamson Act Program.

DISCUSSION

A. History of the Williamson Act

Enacted by the State Legislature in 1965, the California Land Conservation Act (Williamson Act) authorizes local governments to enter into contracts with private landowners for the purpose of restricting development to agricultural, open space, and recreational uses on certain parcels in exchange for reduced property tax assessments. San Mateo County first entered into contracts under this Act in 1966.

In 2007, the State Department of Conservation (DOC) conducted a statewide audit of all participating cities and counties. In its audit of the County, the DOC found non-compliance with certain State regulations implementing the Williamson Act. In response, the Planning and Building Department (Department) developed a multi-step approach to address these audit findings that included a response to the audit, non-renewal of non-compliant parcels, and improvements to the County's Williamson Act Program (Program).

Since the audit, the Department has formally responded to the DOC, recorded county-initiated non-renewals for 174 non-compliant contracted parcels, resolved

11 non-renewal appeals, recorded 26 landowner initiated non-renewals, and has adopted a revised Program (2013).

Instrumental in the adoption of the revised Program was the collaboration of the Agricultural Advisory Committee's Williamson Act Subcommittee and the Department. This joint effort in drafting the current Program sought input from community members, the California Department of Conservation, San Mateo County Farm Bureau, Agricultural Commissioner, Assessor's Office, as well as comments received during the 2012 Board of Supervisors Study Session and the 2013 Williamson Act Public Workshop.

B. Adopted Williamson Act Program

The purpose and intent of the County's Program is to preserve the limited supply of agricultural land, encourage agricultural production through commercial channels, discourage premature conversion of agricultural land to non-agricultural uses, and allow compatible uses on contracted lands provided agricultural productivity is not compromised.

Role of the Agricultural Advisory Committee

The role of the AAC in supporting the purpose and intent of the Program is to review Agricultural Preserve boundary modifications, new or modified contracts, exceptions to Program requirements, Determination of Compatibility, and non-renewal appeals.

Contract Eligibility Criteria

Two contract options are available through the Program: Agricultural Land Conservation Contracts (A/LCA) and Farmland Security Zone Act Contracts (FSZA/LCA). A/LCA contracts carry an initial term of 10 years and are self-renewing; FSZA/LCA contracts carry an initial term of 20 years and are self-renewing.

All contract types must meet the following eligibility criteria:

- Located within an Agricultural Preserve
- Have a General Plan Land Use Designation of "Open Space" or "Agriculture"
- Zoned Planned Agricultural District (PAD), Resource Management District (RM), or Resource Management-Coastal Zone District (RM-CZ)
- Minimum parcel size of 10 or 40 acres depending on agricultural use
- Meet the minimum annual crop income, grazing land utilization or horse breeding requirement
- Not exceed the maximum allowance of compatible uses
- All qualifying agriculture must be ongoing and for commercial purposes.

Additional requirement for FSZA/LCA contracts:

- Land must be Prime Farmland, Farmland of Statewide Importance, Unique Farmland or Farmland of Local Importance as designated by the DOC.

Exceptions

Exceptions to some eligibility criteria (minimum parcel size, crop income, minimum grazing land utilization) may be requested for new or existing contracts. In cases of new contracts, the exception will be reviewed by the AAC and Agricultural Commissioner for recommendation to the Board of Supervisors. For existing contracts, exceptions may be considered by staff after a recommendation by the AAC and Agricultural Commissioner.

Determination of Compatibility

When non-agricultural uses are present/proposed on land under an existing/new contract, a review of these "compatible" uses is required. Compatible uses may only be allowed if the compatible use does not exceed the amount of agricultural uses on the property and the use does not significantly reduce or interfere with the agricultural activities.

The role of the AAC is to review compatible uses for compliance with the *Maximum Allowance of Compatible Uses* (compatible uses cannot exceed agricultural uses; and, in no case can compatible uses exceed 25% of the parcel size) and issue a Determination of Compatibility if the uses are compliant.

The following are exempted and not subject to Determination of Compatibility review:

a. Facilities and structures utilized in conjunction with the production, preparation, and storage of an agricultural commodity, commercial grazing, or commercial horse breeding.

b. Existing single-family residences: repairs, alterations, and additions constituting less than 50%.

c. New small structure construction of 500 sq. ft. or less (e.g., detached garage).

d. Farm labor housing.

e. Keeping of pets in association with a single-family residence, farm labor housing, or multiple-family residence.

f. Septic systems: replacement and repair of existing septic systems as required by Environmental Health Division.

g. Agricultural and domestic wells: replacement and repair of existing agricultural or domestic wells as required by Environmental Health Division.

h. Repair to existing hardscape (e.g., roads, driveways, parking areas).

i. Roof-mounted photovoltaic modules.

j. Gas, electric, water or other utilities (other than ground mounted photovoltaic) that are placed above or underground.

k. Wireless telecommunication facilities.

l. Fencing.

Contract Termination

Contracts may only be terminated by non-renewal or cancellation. Nonrenewal is a nine (9) year process; cancellation is immediate, if approved.

Non-renewal may be initiated by the landowner or County. County-initiated non-renewals require a Board of Supervisors action; landowner-initiated requests are processed by the Department. Cancellation is landowner-initiated and requires a current fair market value assessment prior to the Board of Supervisors action on the cancellation. The cancellation fee is 12.5 percent of the assessment.

County-initiated non-renewals may be appealed by the landowner. Appeals are a three (3) year process. Example: A county-initiated non-renewal recorded and appealed in 2011 must be resolved by 2014 year's end.

C. Contract Monitoring and Status

The responsibility of the Department is to implement the Program which includes review of contracted lands for compliance, evaluate existing and process new or modified contracts, and processing non-renewals and appeals.

Current Status of Contracts

Below is the status of contracted parcels, as of this report date:

Williamson Act Parcel Contract Status	
Parcels Under Active Contract	314
Parcels Non-Renewed	200
Parcel Contracts Appealed	8
Total Contracted Parcels	522

Monitoring Process and General Timeline

In partnering with the Assessor's Office, the Department reviews the Agricultural Preserve Questionnaires (Questionnaires) mailed annually to landowners by the Assessor to evaluate ongoing commercial agriculture on contracted lands. The following provides a general timeline for Department processing of county-initiated contract non-renewals.

February-March	Assessor's Office Agricultural Questionnaire mailings.
April-May	Assessor's Office receipt and processing of returned Questionnaires.
May-August	Transmittal of Questionnaires to the Department; Department review and subsequent mailings to landowners requesting additional information; preparation for Board of Supervisors public hearing.
September-October	Board of Supervisors public hearing; Notice of Intent of non-renewal mailed to landowners.
November-December	Appeal period.
December	Recordation of non-renewals and Department transmittal of appeals to Assessor's Office.

Past county-initiated non-renewals have been recorded on parcels where insufficient agricultural operations were identified on Questionnaires, where parcels were contract ineligible due to zoning, or where no response was received to the Questionnaire or subsequent Department requests for information.

D. Next Steps

For the upcoming 2017 Compliance Review, the Department intends to focus on grazing operations and will begin reviewing and selecting those parcels once the Questionnaires are transmitted. The Department will also select those parcels where landowners have failed to respond to the Questionnaire or where a response indicates insufficient agriculture, as an ongoing process. Where parcels are not compliant, the Department will submit to the Board of Supervisors at a public hearing a recommendation to non-renew.

The Department anticipates a sizeable number of landowners indicating grazing as the qualifying agricultural use which may require the review of these contracts to be processed in two batches (2017 and 2018). This determination will be made as the Department's review is conducted next year and will be dependent upon

the number of grazing operations and adequacy of landowner documents (e.g., commercial tenant lease agreements, site plans). After processing the grazing contracts, review of cropland will commence in the subsequent year.

The Department intends to review all parcels under contract at least once then begin the annual 20% parcel contract compliance review.

In addition to the yearly review, the Department will continue to process non-renewal appeals and submit these appeals towards the end of the three (3) year appeal process to the AAC for a recommendation to the Board of Supervisors. The next currently pending appeals will be submitted to the AAC in 2018.

MAR:aow – MARAA0630_WAU.DOCX

SAN MATEO COUNTY AGRICULTURAL ADVISORY COMMITTEE

Brenda Bonner, BJ Burns (Vice Chair), Louie Figone, John Vars, Doniga Markegard, Ron Sturgeon,

Robert Marsh (Chair), David Rosen, Jess Brown, Fred Crowder, Igor Lacan, (Rob Bartoli, Planning)

_____, 2018

San Mateo County Board of Supervisors
County Government Center
400 County Center
Redwood City, CA 94063

Dear President Pine and fellow Board Members:

In regard to the increased presence of Mountain Lions within the County's Planned Agricultural District ("the PAD") and the resulting depredation of livestock the Agricultural Advisory Committee ("the AAC") offers the following observations and recommendations:

Throughout most of the last 100 years mountain lions were virtually undetected and thought by most outdoors-people as nonexistent within San Mateo County. About 2012-2013 this perception changed as ranchers and other rural residents began to observe them and ranchers experienced livestock losses attributed thereto. In the 11 years prior to 2012 a total of **2** "depredation permits" were issued by the California Department of Fish and Game/Wildlife; in the last 6 years (from 2012 through 2017) 34 were issued; within the last 3 years **29** (averaging nearly 10/yr.). **Officially documented incidents of mountain lion predation now exceeds 50 times that of pre 2012 levels.**

The Mountain Lion Foundation proffers that there are approximately 3,145 mountain lions within the State of California, and it estimates that they are on average distributed at 4.4 individuals per 100 mi^2 of suitable habitat (www.mountainlion.org/us/ca/-ca-portal.asp); given that the land area of the County west of Hwy. 280 = 317 square miles, and subtracting the areas of HMB and Pacific (6.44 & 12.66 mi^2 respectively) but not that of Daly City, La Honda or Pescadero, the resulting approximation of its total habitat area of 300 mi^2 equates to a total expected mountain lion population in San Mateo County of **13.** The Agricultural Advisory Committee has been confidentially and reliably informed that within the above delineated "suitable habitat" that the total take of mountain lions over the last 12-16 months alone approached **40**.

The recent past and increasing incidence of lion deprivations of domestic animals has aroused the anxiety of many rural residents. Although the ACA has clarity as to the cause of this heightened anxiety; the ACA absolutely does not condone any illegal take of mountain lions. We instead offer below, for the Board's consideration, remedial approaches to address what the AAC perceives as two problems: 1) the increased incidence, tension and dismay due to the depredation of livestock; and 2) the potential for preemptive depredation of mountain lions.

The Committee's preferred approach is for the County to contract with USDA's APHIS Wildlife Services for their Integrated Wildlife Damage Management Program (of which a version may very well have saved any one or more of our lives by the work they do in controlling wild birds at airports). Contrary to the bias expressed by some, at its core it wouldn't be a program "set up to specifically kill a protected species"; it's a program that is broadly directed at protecting agriculture from damage caused by wildlife (coyotes, pigs, deer, birds, mountain lions, etc.). As regards coyotes and mountain lions in particular, Wildlife Services brings technical expertise to the assessment of any depredation situation; and advises the farmer/rancher on how to deal with the pest non-lethally, and when necessary lethally. If a lethal option is selected by the rancher/farmer, and Wildlife Services is to be involved, he/she must first sign an agreement with Wildlife

Services that bars anyone other than this Agency's personnel from engaging in any predator hunting activity on the impacted property. Thus animals are less likely to be targeted indiscriminately, **and only the offending individual is taken.** This is precisely what the California Fish and Wildlife Code envisions and directs regarding legitimate take in its provisions providing for the protection of mountain lions as a specially protected species. The species is not targeted by Wildlife Services, but individuals pursuing or devouring sheep, cattle, goats, chickens, etc. would be dealt with by nonlethal or lethal means.

ACA believes that it's important that ranching survives in San Mateo County, and that depredating wildlife must be targeted for removal if ranching/livestock production agriculture is to thrive. Ranchers have good reason to believe certain individual mountain lions can develop a taste for livestock, and must as a consequence be eliminated. Also, given the increasing concern for the adverse impacts that the over mingling of wildlife with crops in the field may have on Food Safety, the ACA believes that the cost share that would be borne by the County for the Wildlife Services' full range of agriculture protection services would be a pittance compared to the millions upon millions of public dollars that have been expended towards, in name anyway, the protection of mountain lions in San Mateo County. (For a frame of reference: In Monterey County, that is 7 times larger than San Mateo County, the County's share of the cost of their contract with Wildlife Services is approximately $150,000/yr.; and over the last 20 years of record they lethally removed on average less than 2 mountain lions per year). It is a program that San Mateo County which truly cares about preserving its agriculture should seriously consider; it's a program that if the objective is the preservation of a reasonable environmental equilibrium between the conservation of habitat values and agriculture in the PAD the County should not do without.

To maintain a balance on population reductions of coyotes and mountain lions, a contract for Wildlife Services' program would serve to discourage 'open season' by landowners, farmers and ranchers who feel there is no organized control of these predators. Livestock producers would like to know that their elected officials and County Agents are going to support the need for predator control when depredations occur.

A complementary or stand alone approach, that could be more immediately implemented, would be for the County to develop/fund a program that would compensate livestock producers for the entirety of their lost income from predators, particularly those loses due to mountain lion kills. Large swaths of the PAD have been absorbed into the public domain for primarily recreational and habitat preservation uses. As a consequence, large acreages that have been historically ranched and farmed now function as sanctuaries and "breeding grounds" for notorious predators on livestock and other domestic animals associated with agriculture. The Midpeninsula Regional Open Space District ("MROSD") has, to its credit, recognized the inherent conflict between its commitment to preserve agricultural lands as such within its "Coastal Annexation Area" and its "no hunting policy"; and it has taken a hesitant half-step in what the AAC considers the right direction in adopting its partial-indemnification program to compensate its lessees for livestock losses due to predation by mountain lions (only). The AAC urges the County and MROSD both to develop a program to compensate livestock owners for the full loss of their income from depredation by both coyotes and lions (particularly in regards to coyotes' kills and MROSD since they prohibits any hunting whatsoever on the ranch land it now owns). The County's program could perhaps impart be funded from San Mateo County's 50% share of fines collected by California Department of Fish & Wildlife.

Important note: If the County should enter into a contract with Wildlife Services, professionals would then also be available to assist in the interfacing of lions/wildlife with its urban residents, and in the increasingly associated public safety situations as they arise (Is it really a good idea to leave amateurs to their own devices when their children are threatened or when their pets, i.e., their family members, are carried off never to be seen again?).

A full-indemnification program would serve to remove a target off the species as a whole, and appropriately incentivize the taking of only those individuals demonstrably culpable for livestock losses. The wait and see what happens approach when a lion is spotted is incentivized; the kill it before it kills attitude would no longer be justifiable. Full-indemnification for losses would be good for both ranching and the welfare of the species.

The cost of a full-indemnification program to the County would by itself likely be considerably less than a contract with Wildlife Services, but there would be no professionally delivered services - the livestock owner would not only have to obtain a depredation permit for a mountain lion, but then must execute it as best he/she can. Regardless of whether the offending predators are hunted down and killed or not, livestock owners would be compensated for their loss of income, which might average $2,000 per incident (last year there were 6 depredation permits issued in the County by CDFW, so the outlay of compensation for losses might be as little as $12,000 in a given year). Fairness would suggest that the public should pay for what it wants when there is a cost incurred by private parties; and our State and Federal Constitutions stand against governmental policy that encompasses the taking of private property without just compensation.

The Agricultural Advisory Committee pleads/recommends that the Board of Supervisors appoint a subcommittee from its midst (hopefully one which includes Supervisor Horsley, who is familiar with the issues, and whose exceptional support of agriculture is deeply appreciated) delegated to facilitate the finding of common ground between the mountain lion advocates/activists and agriculturalists through acceptance and implementation of preferably both of the approaches broadly outlined above, or some other program design that will achieve the same objectives.

Last but not necessarily least: There is an abundance of research inquiring into how the loss of “apex predator species”, such as the Mountain Lion (i.e., what happens if there aren’t enough), can effect biodiversity and ecosystem function; but there is apparently none investigating what happens if there are too many! We know why the deer herds have been severely diminished in recent years, but the Committee urges you to press for research into what has happened to the County’s heretofore abundant populations of bobcats, raccoons, skunks, coyotes, badgers and ground nesting birds, etc. - that is to say, you are urged to push for research inquiring into what happens if there are too many mountain lions?

This letter approved for transmission at the AAC’s regular meeting held on _____, 2018.

AYES: ____

NOES : ____

Abstentions: ____

Sincerely, _____

Chairman, Agricultural Advisory Committee

County of San Mateo Planning & Building Department
Agricultural Advisory Committee
455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161
Fax: 650/363-4849

Meeting Minutes
Regular Meeting March 12, 2018

1. **Call to Order**

Robert Marsh, Committee Chairman, called the Regular Meeting of the Agricultural Advisory Committee (AAC) to order at 7:35 p.m. at the Ted Adcock Community Center - South Day Room, 535 Kelly Avenue, Half Moon Bay, California.

2. **Member Roll Call**

Chair Marsh called the roll. A quorum (a majority of the voting members) were present, as follows:

Regular Voting Members Present
B.J. Burns
Brenda Bonner
Robert Marsh
John Vars
Ron Sturgeon
Louie Figone

Regular Voting Members Absent
Doniga Markegard
David Rosen

Nonvoting Members Present
Rob Bartoli
Jess Brown
Fred Crowder

Nonvoting Members Absent
Jim Howard
Igor Lacan

3. Oath of Office for David Rosen

This item was continued to the next meeting of the AAC.

4. Public Comments for Items not on the Agenda

Kerry Burke asked if the County has received any applications for cannabis licenses. Planner Bartoli stated that he was not aware of any applications. She spoke about the regulations for cannabis that the City of Half Moon is currently considering.

Peter Marchi asked if only existing greenhouse could be used of cannabis cultivation, or if new ones could be built and used. Planner Bartoli stated that new greenhouses could be built for cannabis cultivation if they comply with zoning and the County's cannabis regulations.

5. Consideration of a: (1) renewal and amendment to the Coastal Development Permit and Planned Agricultural District Permit to allow construction of six new additional housing units where three units were previously approved and constructed; (2) a parcel size exception for the existing Williamson Act Contract; and (3) consideration a Determination of Compatibility for the property located at 12511 San Mateo Road, Half Moon Bay. The project is appealable to the California Coastal Commission. County File Number: PLN 2000-00031. Applicant: Kerry Burke

Planner Bartoli presented the staff report. The applicant is proposing to construct six farm labor housing units, each 490 sq. ft. in size, located at 12511 San Mateo Road, Half Moon Bay. A new septic system will be installed and the units will be connected to an existing Coastside County Water District water line. The new units and septic system will be constructed in an area that is currently developed with an existing greenhouse. The project also involves the renewal of the existing Farm Labor Housing (FLH) permit on the property for three housing units.

The project site is located on non-prime soils (Class 3, without the capacity to grow Brussel sprouts). The area that is proposed to be developed with two non-soil dependent greenhouse and is already converted soils.

Crop production for properties that have a mix of prime and non-prime soils requires a minimum parcel size of 40 acres. An exception to the parcel size can be granted provided the Agricultural Commissioner and the Agricultural Advisory Committee determine that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit. The County Planning Department has reviewed the applicant's Williamson Act survey submitted in 2017. In the past three years, the property exceeded the minimum crop income requirement of $10,000. Should the AAC and Agricultural Commissioner grant the exception, then the parcel may remain under contract.

The Agricultural Advisory Committee will also need to review the proposed compatible uses to determine whether the use is in fact compatible with and incidental to the agricultural use on the parcel.

Chair Marsh asked about the need for a parcel size exception for the property.

Commissioner Crowder asked how the County reviews farm income when there are multiple tenants on the property.

Planner Bartoli stated that currently, the County would review the documents lumped together with all tenants on the property.

Dante Silvestri asked if fire sprinklers are required for the trailers. He also asked about flood zone requirements.

Planner Bartoli stated that for state licensed trailers, sprinklers are not required. However, the fire districts recommend that they be installed. He stated that the project is located in a flood zone, not a floodway. The project would need to be above flood levels.

Planner Bartoli stated that for properties with a mix of prime and non-prime soils, the minimum parcel size is 40 acers. When a permit has been submitted on a Williamson Act Contract parcel and a property has not yet been reviewed for compliance with the Williamson Act, staff will conduct this review. As this property has mixed prime and non-prime lands, the required parcel size is 40 acres. If the property consisted only of prime lands, then only 10 acres would be required.

Kerry Burke, the project applicant, spoke about the history of the project.

Peter Marchi asked about the parcel size required for the Williamson Act.

Vice Chair Burns made a motion to recommended approval of the PAD to the Planning Commission; Committee Member Figone seconded the motion. The motion was approved (6 ayes – 0 noes).

Vice Chair Burns made a motion to approve a Williamson Act parcel size exception for the property, due to the property being highly productive; Committee Member Figone seconded the motion. The motion was approved (6 ayes – 0 noes).

Committee Member Bonner approved a Determination of Compatibility for the property; Vice Chair Burns seconded the motion. The motion was approved (6 ayes – 0 noes).

Chair Marsh then asked for members to serve on the subcommittee. Vice Chair Burns, Committee Member Sturgeon, and Jess Brown volunteered for the

subcommittee. Committee Member Bonner made a motion to appoint Vice Chair Burns, Committee Member Sturgeon, and Jess Brown to the mountain lion subcommittee; Vice Chair Burns seconded the motion. The motion was approved. (5 ayes – 0 noes).

6. Report from AAC Mountain Lion Subcommittee

Farm Bureau Director Brown stated that subcommittee did not meet. He stated that there is a sense in the community that California Fish and Wildlife needs to be more involved in the issue. He asked if staff from California Fish and Wildlife will be attending the next meeting.

Planner Bartoli stated that the staff member from California Fish and Wildlife that would be best to have at the AAC meeting has conflicts on Monday nights and will not be attending any upcoming meetings at this time.

A conversation occurred about the recent San Mateo County (SMC) Alerts that were sent out regarding mountain lion sightings. A discussion also occurred about State Proposition 117.

Commissioner Crowder stated that 2016 data for depredation permits is posted on California Fish and Wildlife's website.

Dante Silvestri spoke about the carrying capacity of mountain lions. He stated that more information regarding tracking is required.

Committee Member Sturgeon asked the AAC for feedback regarding have United States Department of Agriculture (USDA) Wildlife Services come into San Mateo County. He brought up a different program in Marin County that was focused on non-lethal deterrence for coyotes. A discussion occurred regarding the effectiveness of the program and the impacts of the program on sheep herding. Committee Member Sturgeon stated that he wanted USDA Wildlife Services to come in and address the issues of mountain lions. He stated that he has heard that up to 40 mountain lions have been killed last year.

Commissioner Crowder stated that mountain lions are a protected species in California. He stated that he questions the number of lions that were killed last year, as there is thought to be only 35-40 mountain lions in the County. He stated that he was very familiar with USDA Wildlife Services as he was in Marin County when they cancelled their services. He stated that the contract was ended as it was difficult for the County of Marin to have USDA Wildlife Services use non-lethal means of dealing with coyotes.

Committee Member Sturgeon wants to have a meeting with California Fish and Wildlife staff, mountain lion foundation staff, and staff from the County.

A discussion occurred regarding mountain lions and public safety.

Vice Chair Burns spoke about the need to control mountain lions in the County. He stated that he believes that the number of mountain lions is much higher than what California Fish and Wildlife has stated. He said that some sort of control and management is needed.

Commissioner Crowder stated that there is no current mechanism to reduce the number of lions without having State law changed. He stated that the County is looking to do more outreach and education of people in the community regarding the mountain lions. He said the County is working on being more responsive to the needs of the agricultural community.

A conversation ensued about collaring mountain lions and determining how many mountain lions may be in the County.

Committee Member Sturgeon stated that he will return to the AAC at a later meeting with a draft comment letter to review.

7. **Consideration of the Action Minutes for the January 8, 2018 regular meeting**

Committee Member Bonner moved approval of the meeting minutes for January 8, 2018 regular meeting; Vice Chair Burns seconded the motion. The motion was approved (5 ayes – 0 noes – 1 abstain (Figone)).

8. **Community Development Director's Report**

Planner Bartoli presented the Director's Report.

Adjournment (9:12 p.m.)

RB:pac - RJBCC0210_WPB.DOC

County of San Mateo Planning & Building Department
Agricultural Advisory Committee
455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161
Fax: 650/363-4849

Meeting Minutes
Regular Meeting April 9, 2018

1. **Call to Order**

Robert Marsh, Committee Chairman, called the Regular Meeting of the Agricultural Advisory Committee (AAC) to order at 7:32 p.m. at the Ted Adcock Community Center - South Day Room, 535 Kelly Avenue, Half Moon Bay, California.

2. **Member Roll Call**

Chair Marsh called the roll. A quorum (a majority of the voting members) were present, as follows:

Regular Voting Members Present
B.J. Burns
Brenda Bonner
Robert Marsh
John Vars
Ron Sturgeon
Louie Figone
David Rosen

Regular Voting Members Absent
Doniga Markegard

Nonvoting Members Present
Rob Bartoli
Fred Crowder

Nonvoting Members Absent
Jim Howard
Igor Lacan
Jess Brown

3. Oath of Office for David Rosen

Committee Member Rosen sworn in by Agricultural Commission Crowder.

4. Public Comments for Items not on the Agenda

Kerry Burke spoke about a project at Año Nuevo State Park. She stated that this project was appealed to the California Coastal Commission.

Peter Marchi requested a discussion regarding Williamson Act Regulations and parcel size requirements. Chair Marsh asked to have this item placed on a future agenda.

5. Consideration of 1) a Planned Agricultural Permit and Coastal Development Permit to allow for operation of a construction equipment and materials storage use (associated with VIO2015-00056), as a use ancillary to agriculture; 2) an income exception for the existing Williamson Act Contract; and 3) Consideration a Determination of Compatibility for the property located at 4448 La Honda Rd., San Gregorio. Appealable to the California Coastal Commission. County File Number: PLN2016-00197

Planner Bartoli presented the staff report. The applicant proposes to continue the operation of a construction equipment and materials storage use, established in 1998, as a use ancillary to the primary agricultural use of the property (which the applicant states is existing and ongoing). The proposed construction equipment and materials storage use was initiated when the applicant leased the property in 2012 (Rogers took ownership in Dec 2015) and is ongoing. The use is the subject of an open County Violation Case (VIO2015-00056) as the use was established without required permits.

Planner Bartoli spoke about the history of the project and property. Starting in 2015, the County has issued several Notices of Violation on the property, mainly involving illegal grading and for development on the property without the proper permits.

The proposed PAD permit would legalize the existing use on the property. In review of the applicable PAD, Local Coastal Program, and General Plan policies, County Planning staff found that the project did not comply with the requirement that development shall be located, sited and designed to carefully fit its environment so that its presence is subordinate to the pre-existing character of the site, and its surrounding is maintained to the maximum extent practicable and that the use would substantially detract from the scenic and visual quality of the County; or substantially detract from the natural characteristics of existing major water courses, established and mature trees and other woody vegetation, dominant vegetative communities or primary wildlife habitats

Planner Bartoli also stated that the property is under a Williamson Act Contract (AP66-52) entered into by the Andrade brothers in 1966 The applicant states that hay production is ongoing and has provided two (2) leases for agricultural use of the property, both initiated on January 1, 2018. However, the information provided is not sufficient to substantiate a commercial agricultural use, where full compliance with the Williamson Act would need to demonstrate such use over the previous three of 5 years.

The Agricultural Advisory Committee will also need to review the proposed compatible uses to determine whether the use is in fact compatible with and incidental to the agricultural use on the parcel.

Planner Bartoli stated that the applicant has not provided a current Schedule F Profit or Loss From Farming form as requested by staff. He has only provided copies of land rental agreement. The project requires an income exception for the existing Williamson Act Contract. Should the AAC and Agricultural Commissioner grant the exception, then the parcel may remain under contract.

San Mateo County Code Compliance Officer Wayne Hoss stated that he visited the property today and that the property was still in violation. He presented pictures of the site that showed large vehicles and cargo containers were still located on the areas of prime soil on the property.

Kerry Burke asked if the County has initiated a non-renewal for the Williamson Act Contract.

Planner Bartoli stated that the County has not initiated a non-renewal for the Williamson Act Contract. The County has been reviewing both the Williamson Act Contract and the PAD permit at the same time.

Commissioner Crowder stated that, as there is no Form F or proof of agricultural income, the income exception would be zero dollars.

Planner Bartoli stated that was correct.

Chair Marsh asked about the prime soils parcel size. He asked if the proposed agricultural operations are only proposed on prime soils.

Planner Bartoli stated that the property consists of 6.25 acres of prime soils. Stated that applicant is proposing to have agricultural activities on the prime soils and in the hills above the prime soils area. Cattle grazing is proposed on the hillside area. He stated that no cattle grazing currently occurs on the property.

Committee Member Sturgeon stated that on past Williamson Act surveys, the applicant has stated that cattle grazing was the operation on the property. He

stated he would like to see evidence, such as photos, of water troughs and fencing for the cattle grazing.

Planner Bartoli stated that this use has not yet be substantiated.

Code Compliance Officer Hoss stated that there is no fencing or water in the area proposed for grazing currently.

Chair Marsh stated that for grazing, the property needs to have 75% utilization.

Dante Silvestri asked about if the proposed use would be allowed if the property non-renewed their Williamson Act Contract.

Planner Bartoli stated that even if the property was non-renewed, during the phase out period, the property would still be limited to the uses of the Contract.

Peter Marchi asked if the applicant is working towards getting into compliance with the Williamson Act for the property.

James Rodgers, the applicant for the project, stated that he wants to stay in compliance with the Williamson Act. He then gave a presentation regarding the property. He stated that starting in 2015, his brother, the current property owner, Rick Rodgers, started to clean up the property and start agricultural operations on the property. He spoke about the equipment is stored on the property. He stated that the property cannot make it economically with the size of the property.

James Rodgers spoke about road on the property that is subject of the violation. He also stated that the hay has been grown on the property and sold to a cattle operation. He stated that the old fencing has been removed from the property and that new fencing has been added to the property. He stated that the prime soils area will be transition from hay to vegetable production. He also stated that the greenhouses/hoop houses have been cleaned up.

He spoke about the Williamson Act on the property. He was under the impression that he needed a lease agreement for the sale of the hay. He said that he could alter that agreement and provided the needed documents to the County.

James Rodgers stated the equipment has been moved off the prime soils on the property. Rick Rodgers is looking to keep the equipment that he feels is essential to his operation on the property with the PAD permit.

Commissioner Crowder stated that based on the documentation that was submitted to the County, it seems that the intent of the agriculture operations is just to keep the property in the Williamson Act and not provide a community or economic benefit to the agricultural community.

James Rodgers stated that he is on the fence about staying or leaving the Williamson Act program. He stated that they want to restore the old fencing and wants to do that. He stated that the County would not issue any permits because of the violations on the property. He also spoke about the history of the road that was expanded on the property.

Peter Marchi stated that he feels that the applicant has time to get into compliance with the Williamson Act. He also spoke about water rights to the property as well.

James Rodgers stated that based on the lease agreements he has on the property, he does comply with the Williamson Act Requirements, as there was approximately $11,000 dollars made in agricultural production this year. He stated that he is opening to amending his paperwork to show that he complies with the regulations.

Chair Marsh asked how much of that money was from the sale of hay.

James Rodgers stated that about $5,000 of it was from hay sales. He also spoke about the previous owner and the strawflowers that were grown on the property. He spoke more about the road on the property and the landslide that occurred.

Chair Marsh asked if the property is out of compliance for Williamson Act, if a PAD permit for this type of use could be allowed.

Planner Bartoli responded by saying that the property would still need to follow the requirements of the contract if a PAD permit was to be issued.

James Rodgers stated he is willing to amend his tax returns to put the farm income on his Schedule F Form.

Chair Marsh asked who farmed the hay on the property.

Ronnie, a member of the public in the audience, stated that he farmed the hay on the property for his cattle. He stated that he farms hay from three fields.

Planner Bartoli stated that one of these fields was not on the subject property. The Williamson Act Contract boundary is coterminous with the property boundaries. The County needs to understand where the agricultural uses are located and what income was generated from these uses. He stated that there are areas that are under hay cultivation are not on the property.

Peter Marchi asked if the property had a gross income of over $10,000 last year. He spoke about the history of the property.

James Rodgers stated that last year they did not meet this requirement. He stated that this year they would meet this requirement.

Vice Chair Burns asked if this use is considered a commercial business.

Planner Bartoli stated that is the concern that County Planning has about the operation. Currently the application does not meet the secondary to agricultural operations on the property.

Vice Chair Burns stated that he does not want to see people come to the coastside to use agricultural lands for commercial operations. The equipment on the site should be agricultural equipment and not commercial.

James Rodgers stated that only a limited amount of equipment is on the site and that it is moved off prime soils. He spoke about the operations that the equipment he has on the property is used for.

Code Compliance Office Hoss stated that many items are still on the area of prime soils when he visited the site today. He shared his pictures of the site with the AAC and members of the public.

Commissioner Crowder stated the property still needs to comply with both the PAD and Williamson Act Regulations. He stated that based on the information provided by the Planning Department, the property and project does not meet the requirements.

James Rodgers stated the information in the packet was incorrect.

Planner Bartoli stated that the information regarding the Williamson Act was submitted by the applicant.

Code Compliance Office Hoss spoke about the current condition of the site.

Ronnie spoke about the hay grazing operation that he conducts on the property.

Chair Marsh said that the hay needs to be grown on the property with the Williamson Act Contract for it to count towards the income requirement.

Peter Marchi spoke about the determination of compatible use requirement for the Williamson Act.

Commissioner Crowder felt like that more information from the applicant is still needed and the possibly this item could come back to the AAC to give the applicant time to respond.

Committee Member Sturgeon spoke about the purpose of the Williamson Act and how the County determines if the property is under cultivation or grazing. He stated that the property needs to show production three of the last five years. Not

three of the five next years. Based on the information presented, the property does not meet the requirements. He said that looking at the slides and pictures, the agriculture on the property is not the primary uses. He also noted that the leases are only one year leases.

Vice Chair Burns stated that the property should be cleaned up and equipment moved off site prior to applying for this type of PAD permit. He stated that the AAC is looking to protect agricultural land and make sure that the Williamson Act Regulations are being followed.

Committee Member Bonner asked about the use that is being proposed on the property. She also stated that the property under prime soils

Vice Chair Burns stated that the equipment on the property is used for commercial operations and not for agriculture.

Committee Member Vars stated that he has used equipment from Rick Rodgers for his agriculture operations.

Code Compliance Office Hoss spoke about the current violations that are open on the property.

Vice Chair Burns stated that the property should be cleaned up and put into agricultural production before any PAD permits are approved.

A discussion occurred about whether to continue the item or make a recommendation on the permit and Williamson Act Contract at the meeting tonight.

Vice Chair Burns made a motion to continue the item. He then withdrew his motion.

Committee Member Sturgeon made a motion to recommend that the Williamson Act Contract be non-renewed. A question on the motion was made by Committee Member Bonner about the next steps and what the applicant's recourse is. Committee Member Sturgeon stated that the applicant could appeal the recommendation of non-renewal to the San Mateo County Board of Supervisors. Commissioner Crowder stated that there have been deadlines set by County Code Compliance that the applicant has not met.

Committee Member Bonner seconded the motion. The motion was approved on a roll call vote. (7 ayes – 0 noes).

Committee Member Figone made a motion to recommended denial of the PAD to the Planning Commission; Vice Chair Burns seconded the motion. The motion was approved. (7 ayes – 0 noes).

6. **Report from AAC Mountain Lion Subcommittee**

Committee Member Sturgeon stated that the subcommittee has drafted a letter to the San Mateo County Board of Supervisors regarding mountain lions. He stated that the letter would be discussed at a future meeting, but wanted to give members of the AAC time to review the letter.

7. **Community Development Director's Report**

Planner Bartoli presented the Director's Report.

Adjournment (9:27 p.m.)

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

DATE: May 14, 2018

TO: Agricultural Advisory Committee

FROM: Planning Staff

SUBJECT: Community Development Director's Report

CONTACT INFORMATION: Rob Bartoli, Planner III, 650-363-1857, rbartoli@smcgov.org

The following is a list of Planned Agricultural District permits and Coastal Development Exemptions for the rural area of the County that have been received by the Planning Department from April 1, 2018 to April 30, 2018.

PLANNED AGRICULTURAL DISTRICT PERMIT OUTCOMES

No PAD permits were heard before the Planning Commission in the month April 2018.

UPCOMING PLANNED AGRICULTURAL DISTRICT PERMIT PROJECTS

No new applications for a PAD permit were received during the month of April 2018.

COASTAL DEVELOPMENT EXEMPTIONS FOR AGRICULTURAL PROJECTS

See attached status report regarding the one rural CDX applications that was received by the Planning Department in April 2018. The CDX list includes the description of the project and the status of the permit. Copies of CDX's are available for public review at the San Mateo County Planning Department office.

ADDITIONAL ANNOUNCEMENTS

The San Mateo County Resource Conservation District (RCD) will be constructing several agricultural ponds this year. RCD, state and federal agencies, and the Coastal Commission have already approved three of these pond projects. One pond is located in San Gregorio and the other two are located in Pescadero. The construction of these ponds are exempt from permits from County Planning and Building.

ATTACHMENTS

1) CDX List

RURAL CDX'S FOR 4/1/18-4/30/18

Permit Number	RECORD NAME	DATE OPENED	DESCRIPTION	APN	Address	RECORD STATUS
PLN2018-00141	BARN	4/9/2018	CD Exemption for 1620 sq/ft ag. (hay) barn; associated with BLD2018-00704.	087150090	4100 Willowside Ranch Rd, San Gregorio	Approved