Williamson Act

Board of Supervisors Meeting
January 24, 2006
Topics

• General Williamson Act Principles
• Agricultural Preserve Map
• Guideline for Commercial Agriculture
• Guideline for Compatible Use Development
• Non-Renewal Procedures – Substandard Parcels
• Open Space Easements
• General Administration, Monitoring & Enforcement
• Hypothetical Examples
General Principles

• Contracted land must be devoted to commercial agriculture; compatible uses allowed if land is devoted to agriculture

• State law presumes prime land can sustain commercial agriculture if at least 10 acres, or 40 acres if non-prime land. Staff recommends that new contracts meet these minimum sizes.

• Prime / Non-prime land designation is based upon soil resource quality
General Principles

• Property is assessed at the lower of its (i) current market value, (ii) Williamson Act value for agricultural use, or (iii) Prop. 13 value

• Residences and other compatible uses are assessed at normal values (lower of current market value or Prop. 13 value)

• Contracts last for 10 years. May only be terminated through non-renewal (9-year phase out) or cancellation (strict findings, high fee).
Agricultural Preserve Map

• Preserves are at least 100 contiguous acres
• 10 Preserves are proposed (1 large, 9 small)
• Zoning: AR, A, HS, and some RR parcels
• No harm to owners in Preserve that are not under contract
Santa Clara County's Proposed Agricultural Preserves

Proposed Agricultural Preserves
- Preserve 1 - 575,744 Acres
- Preserve 2 - 831 Acres
- Preserve 3 - 221 Acres
- Preserve 4 - 256 Acres
- Preserve 5 - 128 Acres
- Preserve 6 - 246 Acres
- Preserve 7 - 300 Acres
- Preserve 8 - 350 Acres
- Preserve 9 - 1,057 Acres
- Preserve 10 - 175 Acres

Map by BAZ, Sept. 15, 2005. Produced by Planning Office TeamGIS.
Guideline for Commercial Agriculture

• Agricultural commodities are unprocessed products of farms, ranches and production nurseries

• Contracted land must be devoted to the commercial production of agricultural commodities

• Horse-related uses may be compatible (but not primary use of the property)
Guideline for Commercial Agriculture

- **Evaluation criteria focus on four elements:**
  1. Parcel Size
  2. % Coverage
  3. Income
  4. History

- **State law presumes the minimum size needed to sustain an agricultural use is 10 acres prime land / 40 acres non-prime land ("Standard Parcels")**
Guideline for Commercial Agriculture

Standard Parcels (Prime and Non-Prime)

• At least 60% of property used for commercial agriculture

• No minimum revenue requirement, but farm revenue in 3 of last 5 years must be validated by affidavit and substantiated with verifiable documents (i.e. tax records)
Guideline for Commercial Agriculture

Substandard Prime Land
• At least 75% of property used for commercial agriculture
• At least $3,500 annual gross revenue in 3 of last 5 years

Substandard Non-Prime Land
• At least 75% of property used for commercial agriculture
• At least $2,000 annual gross revenue in 3 of last 5 years
Guideline for Commercial Agriculture

All Parcels – Income Option

• Prime Land -- At least $1,000 in annual gross revenue per acre (based on total parcel acreage) or $10,000, whichever is greater

• Non-prime Land -- At least $250 in annual gross revenue per acre (based on total parcel acreage) or $10,000, whichever is greater

• For compatible use development, at least 50% of property must be used for commercial agriculture
Guideline for Compatible Use

• Land proposed for development must be devoted to commercial agriculture

• Development must be both “compatible” and “incidental” to the agricultural use of the property; commercial agriculture must continue to be the primary use of the property

• Compatible uses are limited to 10% of the parcel, not to exceed 5 acres
Guideline for Compatible Use

• Compatible uses must comply with siting criteria (minimal grading, clustering, etc.)

• Properties using the “Income Option” must use at least 50% of the parcel for commercial agriculture

• Development restrictions apply during contract non-renewal
Non-Renewal Procedures for Substandard Parcels

• All substandard parcels will be non-renewed in 2006 (will take effect in 2007)

• Owner has 60 days to protest notice of non-renewal. County will withdraw notice if owner demonstrates land has commercial agriculture.

• During 9-year phase out, Act restrictions continue
Non-Renewal Procedures

- Substandard parcels used collectively for commercial agriculture may remain under contract if owners sign and record a joint management agreement.

- Property taxes increase during non-renewal period in accordance with a formula established by State law.

- Tax increases may be delayed for first 4 years if owner protests non-renewal.
Open Space Easements

• State law allows owner to exchange Williamson Act contract for an Open Space Easement

• Definition of “open space” is very broad

• Land must be at least 5 acres and meet other findings. Public access is not required.

• Easement must last at least 15 years and automatically renews for an additional year unless non-renewed
Open Space

• Three levels of easements proposed:
  1. No development
  2. Development restricted to 1,000 sq.ft. residence; no secondary dwellings
  3. Development restricted to 5% of property, not to exceed 5 acres

• Tax benefit depends on how easement affects property value

• Williamson Act properties with no agriculture may qualify to transfer into Open Space and construct a residence
General Administration, Monitoring & Enforcement

• Enhanced public education and outreach. Ordinance to require disclosure as part of real estate transactions.

• Establishes process for interpretation of guidelines. Interpretation decisions may be appealed.

• Development proposals will trigger compliance review. No permits issued until all criteria met.
General Administration, Monitoring & Enforcement

- **Staff to review all contracted lands at least once every three years to ensure compliance**

- **Increased follow-up on agricultural questionnaire mailed by Assessor**

- **Fees charged for transfers to Open Space Easement, development proposals, enforcement actions, monitoring substandard parcels, and for those failing to return Assessor’s questionnaire**

- **Enforcement/penalties for “material breaches” under new state law**
Hypothetical Examples

• **Options:**
  – Non-renewal of Williamson Act contract
  – Cancellation of Williamson Act contract
  – Transfer to Open Space Easement
Hypothetical Examples

• **Example #1:** Property is less than 10 acres of prime land or less than 40 acres of non-prime land, no existing agricultural use, no development on parcel

• **Options:**
  – Non-renew Williamson Act contract
  – Transfer to Open Space Easement if property meets criteria
Hypothetical Examples

• **Example #2:** Property is less than 10 acres of prime land or less than 40 acres of non-prime land in non-renewal, no existing agricultural use, no existing development but owner wants to build a house

• **Options:**
  - Wait until end of non-renewal period, then submit for development
  - Transfer to Open Space Easement if parcel meets criteria
  - Establish commercial agriculture, then submit for development

  *Note:* *If crop not maintained throughout non-renewal period, enforcement action will be pursued*
Hypothetical Examples

• **Example #3:** Property is less than 10 acres of prime land or less than 40 acres of non-prime land, owner wants to sell the property during the non-renewal period

• **Options:**
  – Assume responsibility for disclosure and proceed to market the property
  – Transfer to Open Space Easement if parcel meets criteria
  – *Note:* New owner is held to all contract requirements for the length of the non-renewal period
Hypothetical Examples

• **Example #4:** Property is less than 10 acres of prime land or less than 40 acres of non-prime land, owner receives a non-renewal notice. Some existing agriculture on parcel, but not enough to qualify to remain in Act. Owner also has adjacent contracted parcels used for commercial agriculture

• **Options:**
  – Submit documentation that the existing agriculture, operated in conjunction with adjacent parcels, meets the criteria for commercial agriculture (recorded joint management agreement required). County withdraws non-renewal notice.
  – Non-renew if property does not meet the criteria for commercial agriculture
  – Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

- **Example #5**: Property is less than 10 acres of prime land or less than 40 acres of non-prime land, owner receives non-renewal notice, but *has* existing agriculture on the property

- **Options:**
  - Submit documentation that the existing agriculture meets the criteria for commercial agriculture; County withdraws notice of non-renewal
  - Non-renew if the property does not meet the criteria for commercial agriculture
  - Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

• **Example #6:** Property is less than 10 acres of prime land or less than 40 acres of non-prime land, some agriculture but does not meet the land coverage requirement or the annual income requirement

• **Options:**
  – Non-renew
  – Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

• Example #7: Property is 20 acres of non-prime land and 75% of the land is leased for cattle grazing. Owner wants to build a house during non-renewal, and presents documentation showing lease income of $2,000 per year for each of the prior 3 years.

• Note: In this case, lease income is not commensurate with the value of the agricultural production of the land. Therefore, lease income is limited to an estimate based on the annual carrying capacity of the land (≈$500).

• Options:
  – Wait to end of non-renewal period, then submit for development
  – Establish commercial agriculture, then submit for development
  – Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

• **Example #8**: Property is 100 acres of non-prime land with no existing agriculture and no existing development

• **Options**:  
  – Establish commercial agriculture or property is subject to non-renewal when audited by the County  
  – Non-renew  
  – Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

• **Example #9:** Property is 20 acres of prime land with three acres in hay (less than 60% coverage)

• **Options:**
  – Increase agricultural use to meet the 60% coverage requirement for standard parcels or parcel is subject to non-renewal when audited by the County
  – Non-renew
  – Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

• **Example #10:** Property is 40 acres of prime land with 20 acres planted in peaches (high income crop), less than 60% coverage

• **Options:**
  – Using the “Income Option”, commercial agriculture criteria is met if revenue is at least $40,000; could also propose development under this option since 50% coverage
  – If property does not meet the “Income Option”, could increase agricultural uses to meet the 60% coverage requirement for standard parcels
  – Non-renew
  – Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

• Example #11: Property is 75 acres of non-prime land with 40 acres planted in hay (low income crop), less than 60% coverage, no development, several streams and rock outcroppings on parcel

• Options:
  – Increase agricultural uses to meet the 60% coverage requirement for standard parcels or property is subject to non-renewal when audited by the County
  – Present evidence demonstrating that a portion of the land is not conducive to commercial agriculture and request an exception to the 60% land coverage requirement
  – Non-renew
  – Transfer to Open Space Easement if parcel meets criteria
Hypothetical Examples

• **Example #12:** Property is 75 acres of non-prime land with 45 acres planted in hay (60% coverage), 15% of parcel is in existing compatible use development

• **Options:**
  – Property meets the criteria for commercial agriculture
  – Non-renew
  – *Note:* No additional or replacement development will be allowed unless existing development is reduced to a maximum 10% of parcel
Hypothetical Examples

• **Example #13:** Property is 20 acres of prime land with 2 acres planted in grapes and 12 acres developed with a home, barn, horse stables and arena. Annual revenue from grapes is $5,000. Annual revenue from horse-related uses is $16,000.

• **Note:** Only revenue derived from commercial agricultural production may be used to meet income requirement

• **Options:**
  – Existing agriculture does not meet the 60% land coverage requirement. Also, parcel does not meet “Income Option” as qualifying revenue is less than $20,000. Owner can increase agricultural uses to meet the criteria for commercial agriculture
  – Non-renew
  – **Note:** No additional or replacement development will be allowed unless existing development is reduced to a maximum 10% of parcel
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