

October 21, 2005

Dear Interested/Affected Party,

I am writing to let you know of several upcoming meetings on proposed changes to the County of Santa Clara's Williamson Act Program. The first will be a meeting of the Board of Supervisors to consider the proposed program changes and give direction to staff. The Supervisors meeting will be followed by a meeting of the Board's Housing, Land Use, Environment and Transportation (HLUET) Committee, charged with responsibility to review the actual proposed Ordinance changes and make recommendations prior to sending the Ordinance back to the Board for final action.

Also, I'd like to thank those of you who accepted our invitation to attend informational meetings, and a meeting of the (HLUET) Committee held earlier this month, to hear the specific proposed changes and learn how they would affect current and future Williamson Act contract holders. Over 400 of you attended one or more of these meetings, and shared valuable comments and questions. Your participation, and that of the Williamson Act Stakeholder Committee (comprised of representatives from local farming, real estate, cattle, open space, environmental and property assessment interests), has been instrumental in shaping the proposed program changes.

An overview of the proposed Williamson Act program changes, including options developed in response to public input, is attached (see Attachment 1). They are outlined at greater length on the County's Web site (<http://www.sccplanning.org>) and will be discussed at the upcoming meetings:

County of Santa Clara Board of Supervisors Public Meeting

(Consider proposed County Williamson Act Program concepts and criteria)

November 1, 2005, 2:00 p.m.

Board Chambers

County Government Center

70 W. Hedding Street, San Jose

HLUET (Housing, Land Use, Environment and Transportation Committee) Public Meeting

(Review and discuss proposed County Williamson Act ordinance revisions and related documents)

November 16, 2005, 1:30 p.m.

Board Chambers

County Government Center

70 W. Hedding Street, San Jose

In addition, a County of Santa Clara Board of Supervisors public meeting to consider the proposed Williamson Act Ordinance revisions and related documents is tentatively scheduled as follows:

Board of Supervisors Public Meeting (TENTATIVE)

(Take action on the proposed County Williamson Act ordinance revisions)

December 6, 2005, 2:00 p.m.

Board of Supervisors Chambers, First Floor

County Government Center

70 W. Hedding Street, San Jose

I encourage your attendance at and involvement in these meetings to learn more about what is being proposed. If you have questions or comments, please share them at the scheduled meetings or contact County staff.

Planning Department

Dana Peak - (408) 299-5798 or Dana.Peak@pln.sccgov.org
Re: Non-renewal, Open Space Easements,
Monitoring/Enforcement, Compatible Use Development

Cherry Maurer - (408) 299-5746 or
cherry.maurer@pln.sccgov.org
Re: Agricultural Preserve Map

Assessor's Office

Frank Giordano - (408) 299-5350 or
Frank.Giordano@asr.sccgov.org
Re: Property Valuation

Agricultural Commissioner's Office

Greg Van Wassenhove (408) 918-4600
Greg.Van.Wassenhove@aem.sccgov.org
Kevin O'Day (408) 465-2902
Kevin.O'Day@aem.sccgov.org
Re: Commercial Agriculture Guidelines

Thank you in advance for your attention and participation.

Sincerely,

Mrs. Jody Hall Esser
Interim Director
Department of Planning and Development

Attachments

Revised Draft

Overview of Williamson Act Proposals

General Williamson Act Principles (New and Existing Contracts)

- Land under contract must be used primarily for commercial agriculture. Compatible uses are also allowed so long as land is primarily used for agriculture.
- State law presumes that land must be at least 10 acres (prime) or 40 acres (non-prime) to sustain commercial agricultural use. Staff recommends that no new contracts be approved that do not meet these minimum sizes.
- Property is assessed at the lower of its (i) current market value; (ii) Williamson Act value for agricultural use or; (iii) Prop. 13 value. Compatible uses on contracted lands (e.g., residences) 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). If non-renewed, contract restrictions remain in effect throughout non-renewal period.

Agricultural Preserve (New and Existing Contracts)

- Preserves are generally required to be 100 contiguous acres. 10 distinct agricultural preserves are proposed (1 large, 9 small).
- Will cover all land zoned AR (Agricultural Ranchlands), A (Exclusive Agriculture), HS (Hillside), and some lands zoned RR (Rural Residential) in San Martin. (Note: For San Martin RR lands, would need to adopt zoning overlay to conform the zoning to Williamson Act requirements.)

Commercial Agriculture Guidelines (New and Existing Contracts)

- Agricultural use means commercially produced agricultural commodities (unprocessed plant and animal products). Horse-related uses (boarding, training) may be allowed as compatible uses only if land is primarily used for producing agricultural commodities.
- If property is at least 10 acres prime or at least 40 acres non-prime, at least 75% of land must be used for commercial agriculture in 3 of last 5 years. Owners must also substantiate farm revenue.
- For properties less than 10 acres prime, 90% of land shall be used for commercial agriculture and generate \$3,500 in 3 of last 5 years. For properties less than 40 acres non-prime, 90% of land shall be used for commercial agriculture and generate \$2,000 in last 3 of 5 years.
- Farm revenue must be substantiated with tax documents.

NOTE: On 10/5/05 the HLUET Committee directed staff revisit the \$3500 and \$2000 amounts (bullet three above). Staff reviewed these thresholds but does not recommend these amounts be changed

Compatible Use Development Guidelines (New and Existing Contracts)

- Land must be primarily in agricultural use before any compatible use development will be considered.
- Compatible uses must meet criteria in state law and County ordinance (e.g., must not displace or interfere with existing or future commercial agricultural use of property, must be “incidental” to agricultural use)
- No more than 10% of property (maximum of 5 acres) may be devoted to compatible uses.
- Compatible uses must comply with siting criteria (e.g., clustering, minimal grading)

Nonrenewal of Substandard Parcels (Existing Contracts)

- All parcels not meeting minimum size criteria (10 acres prime, 40 acres non-prime) will be non-renewed in 2006.
- Board will establish general criteria for parcels to be non-renewed and delegate administration/processing to staff.
- Owner has 60 days to protest non-renewal. County will withdraw notice if owner demonstrates that land meets commercial agriculture guidelines.
- Undersized parcels that are contiguous to other contracted lands that are being collectively used for commercial agriculture may remain under contract if common owner agrees not to transfer undersized parcels or if separate owners sign and record joint management agreement.
- Property taxes for non-renewed parcels increase over the non-renewal period in accordance with a formula established by state law. This formula generally results in a relatively large increase in the first year and a more gradual increase thereafter. Tax increases may be delayed for first 4 years of non-renewal period if owner protests non-renewal.

Monitoring/Enforcement¹ (New and Existing Contracts)

- Enhanced public education/outreach. E.g., when Williamson Act property is transferred, information packet will be mailed to new owner regarding requirements for Williamson Act properties.

¹ Contingent upon additional funding/staff resources.

- Increased follow-up on agricultural questionnaire mailed by Assessor, which owner must sign on penalty of perjury. If owner fails to return questionnaire, will trigger follow-up by Planning and Agricultural Commissioner staff. If investigation discloses that property is not used primarily for agriculture, contract may be non-renewed.
- Proposals for development on contracted land will trigger compliance review. No development permits will be issued until all compatible use development criteria are met.
- Staff will review all contract lands on a regular basis to ensure contract compliance.
- Material breaches of contract will be processed in accordance with state law (AB 1492 (25% penalty)).
- Monitoring/enforcement fees – (1) annual fee for owners of substandard parcels (below 10- and 40-acre minimums) as a condition of not non-renewing their contract; (2) monitoring fee for owners who do not return Assessor’s questionnaire, thus requiring follow-up investigation by staff.

NOTE: In response to input at the public information meetings October 3-4, 2005, staff developed the following policy option:

- At the owner’s request, non-renewal would be deferred for up to 3 years to allow the establishment of a commercial agricultural use pursuant to an approved plan.

Open Space Easements (Existing Contracts; New Easements)

- State law allows owner to exchange Williamson Act contract for an open space easement under Open Space Easement Act of 1974.
- Definition of “open space” under Open Space Easement Act is very broad .
- Staff is proposing 10-acre minimum to be considered for easement exchange.
- Public access is not required.
- Easements must last at least 10 years and automatically renews for an additional year each year unless non-renewed. Termination process similar to Williamson.
- Two levels of easements proposed: (1) restricts development to 1,000 sq.ft residence (this category would maximize potential tax advantages); and (2) would permit development in excess of 1000 sq.ft. and impose Design Review for construction in excess of 2000 sq.ft, but in no case could development exceed 5% of property (maximum of 5 acres).
- Tax benefit of open space easement questionable. Depends on how easement affects property value, based on market sales of similarly restricted properties. E.g., if development restrictions are not very onerous, easement may not have much effect on property value.

- Owners of Williamson Act properties who do not have an agricultural use and meet the minimum acreage requirement for an easement would be allowed to construct a residence on their property, even if tax benefit is minimal.

NOTE: In response to input at the public information meetings October 3-4, 2005, staff developed the following policy options:

- Any non-renewed parcel, regardless of size, could request to transfer to an Open Space Easement during the 9-year Williamson Act non-renewal period
- Owners could choose a no-development tier that could provide greater tax advantage for those wishing to switch to an Open Space Easement and hold land in a natural state.

Jhe 11/17/05