



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 21-206

December 07, 2021

Introduced: 11/8/2021

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

- a. Conduct a public hearing to consider six (6) 2022 Williamson Act Applications to Create a Farmland Security Zone (“FSZ”) and Contract (REF210027); and
- b. Adopt a Resolution:
 1. Finding that Open Space Contracts or Easements qualify as a Class 17 (establishment of agricultural preserves) Categorical Exemption pursuant to the California Environmental Quality Act (CEQA), California Code of Regulations (CCR) CEQA Guidelines Section 15317 and there are no exceptions pursuant to CEQA Guidelines CCR Section 15300.2; and
 2. Approving five (5) applications to create FSZs and Contracts:
 - a. FSZ Application No. 2022-01 (304 acres) - Yellow Juliet II, LLC; Assessor’s Parcel Number (APN) 145-011-064
 - b. FSZ Application No. 2022-02 (331 acres) - KVL Holdings, Inc.; APNs 183-021-016 and 183-021-033 (*Currently in escrow with Arroyo Seco Vineyards LLC, a Delaware limited liability company.)
 - c. FSZ Application No. 2022-03 (297 acres) - Nixon Farms, LLC; APNs 107-031-007 and 107-031-008
 - d. FSZ Application No. 2022-04 (756 acres) - Fanoë-Johnson Ranch Trust U/D/T dated February 9, 2021, Jane Fanoë Limited Partnership dated December 29, 1999, Trust B of James D. Fanoë, Jr. Family Trust U/A dated June 24, 1985, APNs 107-031-017 and 107-031-024; rescind Land Conservation Contract Nos. 68-022 and 70-002 and simultaneously approve FSZ No. 2022-04 as applicable to the subject property
 - e. FSZ Application No. 2022-05 (59 acres) - 1992 Beverly Silliman Revocable Trust U/D/T dated May 8, 1992, Claudia M. Kelley Revocable Trust Executed October 15, 2012, Gary A. Marsh Living Trust, dated November 29, 2012; APNs 177-081-017 and 207-121-009; and
 3. Continue one (1) application to create an FSZ and Contract to the 2023 round of Williamson Act applications (to be considered in 2022): FSZ Application No. 2022-06 (178 acres) - Linda S. De Santiago Living Trust dated December 21, 1998; APNs 165-101-006 and 165-101-008 (Application No. 2020-09 in 2019); and
 4. Authorizing the Chair to execute the recommended five (5) FSZ Contracts; and
 5. Directing the Clerk of the Board of Supervisors to record the FSZ Contracts prior to January 1, 2022 property tax lien date subject to the submittal of the corresponding recording fees by the property owners of record.

RECOMMENDATION:

- a. Conduct a public hearing to consider six (6) 2022 Williamson Act Applications to Create a Farmland Security Zone (“FSZ”) and Contract (REF210027); and
- b. Adopt a Resolution:
 1. Finding that Open Space Contracts or Easements qualify as a Class 17 (establishment of agricultural preserves) Categorical Exemption pursuant to the California Environmental Quality Act (CEQA), California Code of Regulations (CCR) CEQA Guidelines Section 15317 and there are no exceptions pursuant to CEQA Guidelines CCR Section 15300.2; and
 2. Approving five (5) applications to create FSZs and Contracts:
 - a. FSZ Application No. 2022-01(304 acres) - Yellow Juliet II, LLC; Assessor’s Parcel Number (APN) 145-011-064
 - b. FSZ Application No. 2022-02 (331 acres) - KVL Holdings, Inc.; APNs 183-021-016 and 183-021-033 (*Currently in escrow with Arroyo Seco Vineyards LLC, a Delaware limited liability company.)
 - c. FSZ Application No. 2022-03 (297 acres) - Nixon Farms, LLC; APNs 107-031-007 and 107-031-008
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 - e. FSZ Application No. 2022-05 (59 acres) - 1992 Beverly Silliman Revocable Trust U/D/T dated May 8, 1992, Claudia M. Kelley Revocable Trust Executed October 15, 2012, Gary A. Marsh Living Trust, dated November 29, 2012; APNs 177-081-017 and 207-121-009; and
 3. Continue one (1) application to create an FSZ and Contract to the 2023 round of Williamson Act applications (to be considered in 2022): FSZ Application No. 2022-06 (178 acres) - Linda S. De Santiago Living Trust dated December 21, 1998; APNs 165-101-006 and 165-101-008 (Application No. 2020-009 in 2019); and
 4. Authorizing the Chair to execute the recommended five (5) FSZ Contracts; and
 5. Directing the Clerk of the Board of Supervisors to record the FSZ Contracts prior to January 1, 2022 property tax lien date subject to the submittal of the corresponding recording fees by the property owners of record.

SUMMARY:

Each calendar year, the Board of Supervisors must consider applications for the establishment of *Agricultural Preserves (AgP) and Land Conservation Contracts* and for the creation of *Farmland Security Zones (FSZ) and FSZ Contracts*, pursuant to the California Land Conservation Act of 1965 (also known as the Williamson Act). On November 16, 2021, the Board set December 7, 2021 as the date to hold a public hearing on this matter.

This year a total of six (6) applications are before the Board of Supervisors for consideration consisting of six (6) applications for the creation of FSZs and Contracts. See **Attachment B** for the

list of 2022 Williamson Act Applications and **Attachment C** for Map of each application location. This number includes one (1) continued application from two years ago (FSZ Application No. 2022-06 Linda S. De Santiago Living Trust dated December 21, 1998 (De Santiago) was application FSZ No. 2020-09 in 2019 - Board Resolution No. 19-172) and this application was granted a two-year continuance for the property owner to satisfy conditions of approval for a minor subdivision map in order for the application to have two (2) qualifying parcels that would meet the predominantly prime FSZ criteria, because as currently configured, the subject property, is not predominantly prime agricultural land as defined in Government Code Section 65570. The conditions of approval for the minor subdivision were not satisfied. Therefore, the map has not been recorded by the Williamson Act application deadline of September 15, 2021. The Agricultural Preservation Review Committee (APRC), consisting of Staff from the Housing and Community Development (HCD) - Planning Department, Agricultural Commissioner's Office, Assessor-Recorder's Office and the Office of the County Counsel-Risk Management recommended that the Agricultural Advisory Committee (AAC) deny the De Santiago application without prejudice since the applicant did not meet the conditions of the subdivision map within the allotted two-year's time of their FSZ application continuance. On October 28, 2021, the AAC recommended that a one-year continuance should be provided for the applicant to meet the conditions of the subdivision map for the minor subdivision. The applicant is requesting a continuance of this FSZ application to next year's round of applications to satisfy the conditions of approval of the minor subdivision map in order to have two (2) qualifying FSZ parcels. See Discussion below for in depth information regarding the De Santiago application request.

Agricultural Preserves are generally comprised of "non-prime" (typically grazing) lands, whereas Farmland Security Zone acreage must be comprised of at least fifty one percent (51%) "predominantly prime" farmland (typically row crop). Board action is required to establish, by contract, AgP and FSZ status for those selected applications, to commence in the year 2022, if the subject property meets the criteria pursuant to Board Resolution No. 01-485, as amended by Board Resolution No. 03-383 (Procedures for Agricultural Preserves - **Attachment D**) and Board Resolution No. 01-486 (Procedure for the Creation of Farmland Security Zones and Contracts - **Attachment E**). Approximately 797,000 acres of land in Monterey County are currently under Williamson Act contracts. This year, there are six (6) applications for FSZs and no applications for AgPs.

The six (6) applications under consideration total 11 parcels and approximately 1,900 acres. Each application was reviewed by the APRC and the AAC to assess if each application met the criteria and if the application had complete materials. The following are each Committee's recommendation on each of the FSZ applications:

*FSZ Application No. 2022-01 (304 acres) - Yellow Juliet II, LLC; Assessor's Parcel Number (APN) 145-011-064. **Recommendation by both APRC and AAC: Approve.***

*FSZ Application No. 2022-02 (331 acres) - KVL Holdings, Inc.; APNs 183-021-016 and 183-021-033. **Recommendation by both APRC and AAC: Approve.** (*Note: This property is currently in escrow between Owner-Applicant/Seller KVL Holdings, Inc. and Potential Buyer Arroyo Seco Vineyards LLC, a Delaware limited liability company. Escrow Closing Date will be on or about November 23, 2021.)*

FSZ Application No. 2022-03 (297 acres) - Nixon Farms, LLC; APNs 107-031-007 and 107-031-008. **Recommendation by both APRC and AAC: Approve.**

FSZ Application No. 2022-04 (756 acres) - Fanoë-Johnson Ranch Trust U/D/T dated February 9, 2021, Jane Fanoë Limited Partnership dated December 29, 1999, Trust B of James D. Fanoë, Jr. Family Trust U/A dated June 24, 1985; APNs 107-031-017 and 107-031-024; rescind Land Conservation Contract Nos. 68-022 and 70-002 and simultaneously approve FSZ No. 2022-04 as applicable to the subject property. **Recommendation by both APRC and AAC: Approve.**

FSZ Application No. 2022-05 (59 acres) - 1992 Beverly Silliman Revocable Trust U/D/T dated May 8, 1992, Claudia M. Kelley Revocable Trust Executed October 15, 2012, Gary A. Marsh Living Trust, dated November 29, 2012; APNs 177-081-017 and 207-121-009. **Recommendation by both APRC and AAC: Approve.**

FSZ Application No. 2022-06 (178 acres) - Linda S. De Santiago Living Trust dated December 21, 1998; APNs 165-101-006 and 165-101-008 (Application No. 2020-09 in 2019). **Recommendation by APRC: Deny without prejudice.**

Recommendation by AAC: Continue FSZ Application one (1) year to next year's round of applications to provide applicant with additional time to meet the minor subdivision map conditions of approval.

DISCUSSION:

A Williamson Act Land Conservation Contract is an agreement between a property owner and the County whereby the landowner may receive a reduced property tax assessment by agreeing that their property is to be utilized solely for commercial agricultural production of food or fiber and a limited number of “compatible uses”.

The County of Monterey provides two (2) options for landowners who wish to restrict their land to commercial agricultural uses: *Agricultural Preserves (AgP)* and *Farmland Security Zones (FSZ)*. Entering into these contracts is entirely voluntary for both the landowner and the County. The minimum initial term for an agricultural preserve and farmland security zone contract in Monterey County is 20 years. Contracts renew annually on each succeeding January 1, unless either party files a “notice of nonrenewal.” If a notice of nonrenewal is filed, the property taxes begin to rise as the contract runs out during the remaining years of the term. Historically, local governments receive an annual subvention of forgone property tax revenues from the State through the Open Space Subvention Act of 1971. Unfortunately, subvention payments were suspended in Fiscal Year 2009-2010 because of the State’s fiscal constraints. Regardless of the availability of subvention funds, Williamson Act contracts between landowners and local governments, which provide for a reduced property tax valuation, remain in force.

In Monterey County, the following Board of Supervisor’s Resolutions authorize the Board of Supervisors to enter into contracts with private landowners:

- *Board of Supervisors Resolution No. 01-485* “Amending Procedure for Agricultural Preserves” as amended by *Board of Supervisors Resolution No. 03-383. (Attachment D);*

and

- *Board of Supervisors Resolution No. 01-486* “Amending Procedure for the Creation of Farmland Security Zones (FSZ) and Contracts”; (**Attachment E**)

All six (6) applications are for FSZs. FSZ application nos. 2022-01 to 2022-04 meet the requirements of the FSZ program. FSZ application no. 2022-05, Silliman et al (formerly applied as Martin Ranch), meets the FSZ program requirements subject to Board of Supervisors finding that an application with land of 40 acres or more would preserve the unique characteristics of the agricultural enterprise. The APCR and the AAC recommend that the Board of Supervisors approve the Silliman application, with land of 40 acres or more, consisting of 59 acres. See *Other Agency Involvement* section below for details.

OTHER AGENCY INVOLVEMENT:

Agricultural Preservation Review Committee: The APCR comprised of representative from the following County departments, Housing and Community Development - Planning, Office of the County Counsel-Risk Management, Assessor-Recorder’s Office and the Agricultural Commissioner’s Office, reviewed all six (6) of the 2022 applications on October 4, 2021. The APCR recommends approval of the following applications: FSZ No. 2022-01 (Yellow Juliet II), FSZ No. 2022-02 (KVL Holdings), FSZ No. 2022-03 (Nixon Farms), FSZ No. 2022-04 (Fanoie-Johnson Ranch), FSZ No. 2022-05 (Silliman); and denial without prejudice of FSZ No. 2022-06 (De Santiago).

Application No. 2022-05, Silliman (Martin Ranch) - less than 100 acres, but more than 40 acres: One of the qualifications to enter into a Williamson Act contract is that the land must be a minimum of 100 acres, with an exception that the Board of Supervisors may consider applications with land of 40 acres or more, if the Board of Supervisors finds that these contracts would preserve the unique characteristics of the agricultural enterprise in the area and that the establishment of the FSZ of less than 100 acres is consistent with the general plan of the County. The subject Silliman application is for an FSZ of 59 acres. The applicant explains in their application packet the reasons why they feel they meet the “unique characteristics” criteria (see **Attachment F**). In summary, the applicant’s justification is as follows:

- The subject parcels are situated on Hunter Lane, between the southern end of the City of Salinas and town of Spreckels where plots of agricultural land are smaller than in the typical Salinas Valley areas. An example cited is the Scattini parcel on Hunter Lane that was accepted into an FSZ contract with 45.8 acres in 1999.
- The subject parcel’s soil is “fundamentally rich and exceptionally productive” and critically important to preserve in agriculture, especially because the land in the area has a higher threat of urban expansion as it is located between the City of Salinas and the town of Spreckels.

The APCR agreed with the applicant’s justification and unanimously voted to recommend approval of the subject FSZ application with 59 acres.

Application No. 2022-06, De Santiago- APCR Recommendation of Denial without Prejudice: The APCR unanimously voted to recommend “denial without prejudice” of the De Santiago FSZ application involving two (2) contiguous parcels totaling 170 acres, which originally applied for an FSZ contract in 2014, receiving many continuances since then. As currently configured, the subject properties are not predominantly prime agricultural land as defined in Government Code Section 65570. In December 2019, the Board of Supervisors adopted a

resolution to continue this application to this year's round of Williamson Act applications to give ample time to the owner-applicant to record an approved minor subdivision map, which would reconfigure the land and at that point, two (2) of the newly created parcels would meet the predominantly prime requirement. The Board allowed a final continuance to this year's Williamson Act round of applications, subject to the following conditions: Filing the final subdivision map with the County Recorder and submitting revised FSZ application materials (e.g., new lot configuration information, by the Williamson Act application deadline of September 15, 2021). The filing of the subject minor subdivision map with the County Recorder and revised FSZ application filing did not occur by September 15, 2021.

Therefore, the APCR voted to recommend *denial without prejudice* of this FSZ application to the AAC. A "denial without prejudice" recommendation allows the applicant to re-apply for the FSZ contract (for example, filing a complete application and payment of the applicable fees) by the annual Williamson Act application deadline.

Agricultural Advisory Review Committee: AAC reviewed the 2022 applications on October 28, 2021. The AAC recommended approval of the following applications: FSZ Application No. 2022-01 (Yellow Juliet II), FSZ Application No. 2022-02 (KVL Holdings), FSZ Application No. 2022-03 (Nixon Farms), FSZ Application No. 2022-04 (Fanoe-Johnson Ranch), FSZ Application No. 2022-05 (Silliman); and recommended a one-year continuance of FSZ Application No. 2022-06 (De Santiago).

FSZ Application No. 2022-06, De Santiago - AAC Recommendation for One Year Continuance: The applicant Linda De Santiago submitted a letter addressed to the AAC (see **Attachment G**) asking for a recommendation for a one-year continuance of her FSZ application to allow her more time to record her subdivision map so that she could qualify for FSZ contracts on two (2) of her newly created parcels and asked the AAC to not recommend denial. The applicant justifies her inability to record her subdivision map to challenging times during the COVID-19 pandemic with very limited staffing hours with her surveyor and County department services. The AAC was sympathetic to these reasons and unanimously recommended a one-year continuance of the De Santiago FSZ application.

The APCR and AAC made its recommendations using the criteria set forth in Board Resolution No. 01-486 (Procedures for the Creation of FSZs).

Notification to the City of Salinas: FSZ Application No. 2022-05 (Silliman et al aka Martin Ranch) is outside the City of Salinas Sphere of Influence boundary, but within one (1) mile of the City of Salinas boundaries which requires notification of the subject Farmland Security Zone application to the City. On October 8, 2021, Staff sent a notification of this application to the City of Salinas. See Attachment H. No objection from the City of Salinas has been received.

FINANCING:

Allowing the subject applications to attain FSZ status will reduce the assessed valuation of each property involved. The estimated impact amounts for all six (6) of the applications to be considered are shown on the Financial Impact Report attached herein (**Attachment I**).

The Assessor’s Office estimates that the annual net tax loss, if the six (6) applications are approved would be \$145,230 without subvention payments and \$130,493 with subvention payments.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The processing of Williamson Act Contract Applications in a timely manner represents the County’s effective and timely response to Agricultural Commissioner’s and Housing and Community Development customer requests. Additionally, the ability to maintain a Williamson Act Contract provides an economic benefit to the agricultural industry, which is a main economic driver of Monterey County.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Nadia Garcia, Agriculture Resource and Policy Manager III, Agricultural Commissioner’s Office, ext. 7384

Reviewed by:

- Jose Chang, Assistant Agricultural Commissioner/Sealer of Weights and Measures, Agricultural Commissioner’s Office
- Craig Spencer, Chief of Planning, Housing and Community Development-Planning

Approved by:

- Henry S. Gonzales, Agricultural Commissioner/Sealer of Weights and Measures, Agricultural Commissioner’s Office
- Erik V. Lundquist, AICP, Director of Housing and Community Development, Housing and Community Development

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This report was prepared with assistance by:

- Mary Grace Perry, Deputy County Counsel, Office of the County Counsel-Risk Management
- Marc Gomes, GIS Analyst, Agricultural Commissioner’s Office
- Gregg Macfarlane, Supervisor Appraiser, Assessors-Recorder’s Office

The following attachments are on file with the Clerk of the Board:

- Attachment A - Draft Board Resolution
- Attachment B - List of 2022 Williamson Act Applications
- Attachment C - County-wide Map- Monterey County 2022 Williamson Act
- Attachment D - Board Resolution No. 01-485, as amended by Board Resolution No. 03 383 (Procedures for Agricultural Preserves)
- Attachment E - Board Resolution No. 01-486 (Procedure for the Creation of Farmland Security Zones and Contracts)
- Attachment F - Excerpt of Application Justification for FSZ contract of 59 acres for FSZ

Application No. 2022-05; Silliman (Martin Ranch)
Attachment G - De Santiago, FSZ Application No. 2022-06, Applicant Continuance
Letter, dated October 27, 2021
Attachment H - County Notification Letter to City of Salinas dated October 8, 2021
Attachment I - Financial Impact Report for 2022 Williamson Act Applications

cc: Front Counter Copy; Board of Supervisors; Jose Chang, Assistant Agricultural
Commissioner/Sealer of Weights and Measures, Agricultural Commissioner's Office; Craig Spencer,
Chief of Planning- HCD; Nadia Garcia, Ag Resource and Policy Manager, Agricultural
Commissioner's Office; Mary Grace Perry, Deputy County Counsel, Office of the County
Counsel-Risk Management; Gregg Macfarlane, Supervising Appraiser, Assessor-Recorder's Office;
Applicant/Owners and/or Applicant/Owners' respective Legal Representatives/Agents; The Open
Monterey Project; LandWatch; Project File REF210027.