



# Monterey County

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## Board Report

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**Matter Type:** General Agenda Item

### **REF160046 - Williamson Act 2017 Contract Applications (BOS Hearing 12.06.2016)**

Conduct a public hearing to consider and adopt a Resolution to:

- a. Continue four (4) applications to the 2018 round of applications;
- b. Approve a total of six (6) contracts to create five (5) Farmland Security Zones ("FSZ") and FSZ Contracts and establish one (1) Agricultural Preserve ("AgP") and Land Conservation Contract;
- c. Authorize the Chair to execute the recommended Farmland Security Zone Contracts and Agricultural Preserve Land Conservation Contract; and
- d. Direct the Clerk of the Board of Supervisors to record the Farmland Security Zone and Agricultural Preserve Land Conservation Contracts prior to the January 1, 2017 property tax lien date subject to the submittal of recording fees by the property owners of record.

(REF160046- Williamson Act 2017 Contract Applications, County-wide)

#### RECOMMENDATION:

It is recommended that the Board of Supervisors conduct a public hearing and adopt a Resolution to:

- a. Continue the following four (4) contracts to the 2018 round of applications (**Attachment A,B**):
  1. No. 2017-006 (FSZ): Thomas M. Borchard and Katherine V. Borchard  
APN 253-011-006
  2. No. 2017-010 (FSZ): Clinton F. Miller, Jr. and Karen V. Miller, Trustees of the Miller Family Trust dated December 9, 1999  
APNs 117-411-012 and 117-411-024
  3. No. 2017-011 (FSZ): Linda S. De Santiago Living Trust dated December 21, 1998  
APNs 165-101-006 and 165-101-008  
(Continued FSZ Application No. 2016-001)
  4. No. 2017-012 (AgP): George R. Work, Colleen M. Work, Jody L. Birks, Johnita A. Fisher Life Estate  
APNs 424-161-020; 424-181-022 and 424-181-002  
(Continued AgP Application No. 2016-002)
- b. Approve the following six (6) applications to create five (5) Farmland Security Zones ("FSZ") and FSZ Contracts and establish one (1) Agricultural Preserve ("AgP") and Land Conservation Contract (**Attachment A,B**):

1. No. 2017-001 (FSZ): L&J Farms Caraccioli, LLC, APN 167-052-023, to create an FSZ and approve an FSZ Contract as applicable to the real property described in Exhibit A “Legal Description” to proposed new FSZ Contract No. 2017-001
  2. No. 2017-002 (FSZ): Asellus Monterey, LLC, APN 417-151-001 and 417-151-026, to create an FSZ and approve an FSZ Contract as applicable to the real property described in Exhibit A “Legal Description” to proposed new FSZ Contract No. 2017-002
  3. No. 2017-003 (FSZ): Ventana Properties Holdings, LLC/The Roy C. Gianolini and Virginia B. Gianolini 2000 Family Trust dated October 20, 2000, APN 183-021-035 to create an FSZ and approve an FSZ Contract as applicable to the real property described in Exhibit A “Legal Description” to proposed new FSZ Contract No. 2017-003
  4. 2017-004 (AgP): David and Lori Grow, APN 417-151-060, to establish an AgP and approve a Land Conservation Contract as applicable to the real property described in Exhibit A “Legal Description” to proposed new AgP Contract No. 2017-004
  5. 2017-005 (FSZ): JR Norton Ventures LP, APN 153-011-054 and 153-011-055, to create an FSZ and approve an FSZ Contract as applicable to the real property described in Exhibit A “Legal Description” to proposed new FSZ Contract No. 2017-005
  6. 2017-007\*(FSZ): RCT Land Co., LP; APN 145-181-006 (*\*Combining FSZ Application Nos. 2017-007, 2017-008 and 2017-009*), to create an FSZ and approve an FSZ Contract as applicable to the real property described in Exhibit A “Legal Description” to proposed new FSZ Contract No. 2017-007  
And  
Rescind a portion of Agricultural Preserve and Land Conservation Contract No. 71-1 and simultaneously place the property in a new Farmland Security Zone and Contract as applicable to the real property described in Exhibit A “Legal Description” to the proposed new Farmland Security Zone Contract No. 2017-007
- c. Authorize the Chair to execute the recommended Farmland Security Zone Contracts and Agricultural Preserve Land Conservation Contract.
- d. Direct the Clerk of the Board of Supervisors to record the Farmland Security Zone and Agricultural Preserve Land Conservation Contracts prior to the January 1, 2017 property tax lien date subject to the submittal of recording fees by the property owners of record.

SUMMARY:

Each calendar year, the Board of Supervisors must consider Agricultural Preserve Contracts (AgP) and Farmland Security Zone (FSZ) Contracts. This year, a total of ten (10) applications will be considered for the establishment of six (6) FSZ Contracts and four (4) AgP Contracts. The ten (10) applications under consideration total sixteen (16) parcels and approximately 2,747 acres. Out of

these ten (10) applications, four (4) are recommended to be continued to the 2018 round of Williamson Act Contract applications. These include the following:

- FSZ Application No. 2017-006 (Borchard): This application for an FSZ is recommended for continuance because the application materials as submitted, have errors, specifically in the legal description of the property. Also, the property is the subject of a pending Lot Line Adjustment application, which will result in new legal descriptions. The continuance would allow additional time for the applicant to complete the lot line adjustment and submit the required legal description.
- FSZ Application No. 2017-010 (Miller): On November 9, 2016, County staff received a continuance request from the applicants' representative to continue their application for an FSZ to the 2018 round of applications in order to allow the applicants' additional time for estate planning.
- FSZ Application No. 2017-011 (De Santiago): The property is the subject of a pending application for a four (4) lot subdivision pursuant to Planning File No. PLN030214. Therefore, it is recommended that this application for an FSZ be continued to the 2018 round of Williamson Act applications. This application was continued from last year's round of applications for the same reason.
- AgP Application No. 2017-012 (Work): This application was continued from last year because it lacked complete ownership information, and legal descriptions, from the applicants. The same issues remain, and the application remains incomplete. A continuance will give the applicants additional time to meet the application requirement to provide a title company lot book report with ownership interests and legal descriptions for processing with the 2018 round of applications.

If approved by the Board, the four (4) applications recommended for continuance to next year's round of applications, will preserve the non-refundable application fees which have already been submitted with the respective applications.

The six (6) applications moving forward this year all meet the requirements of the respective AgP and FSZ programs. See **Attachment A** for Application Matrix with detailed explanation of each application. Approval of the recommended applications would add approximately 1,685 acres to the approximately 784,000 acres of presently contracted Williamson Act land (FSZ + AgP) in Monterey County. Approximately 516 acres which are being considered for an FSZ are already subject to an AgP Contract. The property which is the subject of FSZ Application No. 2017-007 is currently subject to Land Conservation Contract No. 71-1.

#### BACKGROUND:

The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to be utilized solely for commercial agricultural production of food or fiber and a limited

number of “compatible uses”. In return, landowners receive property tax assessments which are typically lower because the tax assessments are based upon agricultural uses as opposed to full potential market value. 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 as a result of the State’s fiscal constraints. The Williamson Act contracts between landowners and local governments, however, remain in force regardless of the availability of subvention funds.

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 AgP and FSZ 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.

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. 01-486*: “Amending Procedure for the Creation of Farmland Security Zones (FSZ) and Contracts”; (**Attachment C**) and
- *Board of Supervisors Resolution No. 01-485*: “Amending Procedure for Agricultural Preserves” as amended by *Board of Supervisors Resolution No. 03-383* for the Creation of Agricultural Preserves (AgP) and Contracts. (**Attachment D**)

#### *Agricultural Preserves and Farmland Security Zones*

AgPs and FSZs differ in both eligibility requirements and property tax calculations. FSZs are often referred to as “Super Williamson Act” Contracts because landowners receive an additional tax benefit and, unlike AgPs and Land Conservation Contracts, FSZs and FSZ Contracts that require the property be comprised of at least fifty one percent (51%) “predominantly prime” farmland (typically row crop). AgPs are generally comprised of “non-prime” (typically grazing) lands.

FSZs offer landowners greater property tax reductions than AgPs. Land restricted by an FSZ Contract is valued for property assessment purposes at sixty five percent (65%) of its Williamson Act valuation, or sixty five percent (65%) of its Proposition 13 valuation, whichever is lower. FSZ Contracts, however, require that the property is predominantly prime agricultural land, as discussed above.

The qualifications shared for both AgP and FSZ Contracts are the following:

- Minimum acreage: AgPs and FSZs must consist of 100 or more acres. Areas of less than 100 acres, but 40 or more acres, may be eligible if necessary to preserve the unique characteristics of the surrounding agricultural enterprises.
- Land must have a recent history of being used primarily for the production of food or fiber for three (3) of the past five (5) years.
- Minimum income: The property must generate at least \$8,000 of annual gross income during

three (3) of the past five (5) years from production of animals and/or unprocessed agricultural plant products. Recently improved lands must have the potential of a gross \$8,000 income during the next succeeding year.

- Must be consistent with the County General Plan.
- If the property is within one mile of a city, that city has not protested or will not protest the preserve or contract.

CONCLUSION:

Staff is recommending approval of six (6) applications to create five (5) FSZs and approve the corresponding FSZ Contracts and establish one (1) Agricultural Preserve (“AgP”) and approve the corresponding Land Conservation Contract. See Attachment A for the 2017 Application Matrix. These applications meet the qualifications for their respective programs. Approval of the recommended six (6) applications would add approximately 1,685 acres to the approximately 784,000 acres of presently contracted Williamson Act land (FSZ + AgP) in Monterey County

OTHER AGENCY INVOLVEMENT:

The Monterey County Agricultural Advisory Committee (AAC) and the Agricultural Preserve Review Committee (APRC), which consists of representatives from the Agricultural Commissioner’s Office, Resource Management Agency-Planning Department, County Assessor-Recorder’s Office and the Office of the County Counsel, reviewed the 2017 Applications.

The APRC meeting took place on October 7, 2016, where Application Nos. 2017-007, 2017-008 and 2017-009 for RCT Land Co. LP (now combined into one [1] application), was recommended for a continuance because the legal descriptions submitted described proposed reconfigured lots for an approved subdivision application for which the final map has not been recorded. After the APRC meeting and prior to the October 27, 2016 AAC meeting, staff consulted with the applicant’s representative regarding the legal descriptions not describing what currently exists, but rather the proposed reconfigured lots for an approved application for a minor subdivision for which the final map has not yet been recorded. In order to proceed with the FSZ application, the applicant agreed to consolidate Application Nos. 2017-007, 2017-008 and 2017-009 and process the three (3) applications as one (1) application under FSZ Application No. 2017-007 with the existing legal description. This was satisfactory to staff and the AAC. The AAC recommended approval of Application No. 2017-007 as consolidated to include Application Nos. 2017-008 and 2017-009 which will allow for processing of the subject property as it legally exists now.

In addition, the AAC recommended approval of the following applications:

- FSZ No. 2017-001 - L&J Farms Caraccioli, LLC, APN 167-052-023
- FSZ No. 2017-002 - Asellus Monterey, LLC, APN 417-151-001 and 417-151-026,
- FSZ No. 2017-003 - Ventana Properties Holdings, LLC/The Roy C. Gianolini and Virginia B. Gianolini 2000 Family Trust dated October 20, 2000, APN 183-021-035
- Ag P No. 2017-004 - David and Lori Grow, APN 417-151-060
- FSZ No. 2017-005 - JR Norton Ventures LP, APN 153-011-054 and 153-011-055
- FSZ No. 2017-007 - RCT Land Co., LP; APN 145-181-006 \*Combining FSZ Application Nos. 2017-007, 2017-008 and 2017-009 and rescinding a portion of Agricultural Preserve and Land Conservation Contract No. 71-1 and simultaneously placing the property in a new

FSZ and Contract as applicable to the real property described in Exhibit A “Legal Description” to the proposed new FSZ Contract No. 2017-007.

▪ FSZ No. 2017-010 - \*Miller - \*Applicants requested a continuance after the AAC meeting. The AAC has also recommended continuance to the 2018 round of Williamson Applications of the following applications: FSZ Application No. 2017-006 (Borchard), FSZ Application No. 2017-011 (DeSantiago) and, AgP Application No. 2017-012 (Work).

The APRC and AAC made its recommendations using the criteria set forth in Board Resolution No. 01-485, as amended by Board Resolution No. 03-383 (Procedures for Agricultural Preserves) and Board Resolution No. 01-486 (Procedures for the Creation of FSZs).

#### FINANCING:

Allowing the subject properties recommended for approval to attain FSZ and AgP status will reduce the assessed valuation of each property involved. The estimated impact amounts for all of the applications to be considered are shown on the Financial Impact Analysis attached herein **(Attachment E)**. The Assessor’s Office estimates that the annual net tax loss, in the event that the six (6) applications recommended for approval were to be accepted, would be approximately \$157,000.

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

Attachment A - 2017 Application Matrix

Attachment B - County-wide Map- Monterey County 2017 Williamson Act Applications

Attachment C - Board Resolution No. 01-486 (Procedure for the Creation of Farmland Security Zones and Contracts)

Attachment D - Board Resolution No. 01-485, as amended by Board Resolution No. 03-383 (Procedures for Agricultural Preserves)

Attachment E - Financial Impact Analysis

Attachment F - Board Resolution for the establishment of 2017 Farmland Security Zones and Contracts and Agricultural Preserves and Land Conservation Contracts

cc: Front Counter Copy; Board of Supervisors; Jacqueline Onciano, Planning Services Manager; Nadia Amador, Associate Planner; Mary Grace Perry, Deputy County Counsel; Gregg MacFarlane, Assessor-Recorder’s Office; Bob Roach, Agricultural Commissioner’s Office; Christina McGinnis, Agricultural Commissioner’s Office; Applicant/Owners and/or Applicant/Owners’ respective Legal Representatives/Agents; The Open Monterey Project; LandWatch; Project File REF160033

