



Monterey County

Item No.

Board Report

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

Legistar File Number: RES 20-204

December 08, 2020

Introduced: 11/18/2020

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

- a. Conduct a public hearing to consider eight (8) 2021 Williamson Act Applications to Create a Farmland Security Zone (“FSZ”) or to Establish an Agricultural Preserve (“AgP”) (REF200034); and
- b. Adopt a Resolution:
 1. Finding that Open Space Contracts or Easements qualify as a Class 17 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 CC Section 15300.2;
 2. Approving eight (8) applications to establish two (2) AgPs and Land Conservation Contracts and approving six (6) applications to create FSZs and Contracts:
 - a. FSZ Application No. 2021-01 (140 acres) - Flatland Properties LLC; APN 153-011-067 (Continued FSZ Application No. 2020-08)
 - b. FSZ Application No. 2021-02 (260.17 acres) - Boggiatto Ranch, LLC; APNs 113-021-017; 113-021-001 and 113-013-001
 - c. AgP Application No. 2021-03 (679.86 acres) - Tira Nanza Ranch, LLC; APNs 417-101-035; 417-101-036; 417-062-054; 417-062-055; 417-062-056 and 417-062-057
 - d. AgP Application No. 2021-04 (250 acres) - Stanley George Silva, II Declaration of Trust dated February 24, 2004 as Amended and Restated February 5, 2008, as to an undivided 50% interest and Tammy L. Silva, as her sole and separate property, as to an undivided 50% interest, as tenants in common; APN 167-071-007 and 167-071-012
 - e. FSZ Application No. 2021-05 (305.67 acres) - William D. Massa, Trustee of the 1994 William D. Massa Revocable Trust U/D/T dated February 7, 1994; APN 145-011-064
 - f. FSZ Application No. 2021-06 (305.88 acres) - T.M.V. Lands, LLC; APNs 269-062-003; 269-063-002 and 269-063-003
 - g. FSZ Application No. 2021-07 (238.59 acres) - T.M.V. Lands, LLC; APNs 223-031-018 and 223-071-001
 - h. FSZ Application No. 2021-08 (318 acres) - T.M.V. Lands; APN 221-011-040; rescind Land Conservation Contract No. 73-8 and simultaneously approve FSZ No. 2021-008 as applicable to the subject property;
 3. Authorizing the Chair to execute the recommended two (2) AgP Land Conservation Contracts and six (6) FSZ Contracts; and
 4. Directing the Clerk of the Board of Supervisors to record the AgP Land Conservation Contracts and FSZ Contracts prior to January 1, 2021 property tax lien date subject to the submittal of the corresponding recording fees by the property owners of record.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution (**Attachment A**):

1. Finding that Open Space Contracts or Easements qualify as a Class 17 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 CC Section 15300.2;
2. Approving eight (8) applications to establish two (2) AgPs and Land Conservation Contracts and approving six (6) applications to create FSZs and Contracts, consisting of nineteen (19) parcels totaling 2,498 acres:
 - a. FSZ Application No. 2021-01 (140 acres) - Flatland Properties LLC; APN 153-011-067 (Continued FSZ Application No. 2020-08)
 - b. FSZ Application No. 2021-02 (260.17 acres) - Boggiatto Ranch, LLC; APNs 113-021-017; 113-021-001 and 113-013-001
 - c. AgP Application No. 2021-03 (679.86 acres) - Tira Nanza Ranch, LLC; APNs 417-101-035; 417-101-036; 417-062-054; 417-062-055; 417-062-056 and 417-062-057
 - d. AgP Application No. 2021-04 (250 acres) - Stanley George Silva, II Declaration of Trust dated February 24, 2004 as Amended and Restated February 5, 2008, as to an undivided 50% interest and Tammy L. Silva, a married woman, as her sole and separate property, as to an undivided 50% interest, as tenants in common; APN 167-071-007 and 167-071-012
 - e. FSZ Application No. 2021-05 (305.67 acres) - William D. Massa, Trustee of the 1994 William D. Massa Revocable Trust U/D/T dated February 7, 1994; APN 145-011-064
 - f. FSZ Application No. 2021-06 (305.88 acres) - T.M.V. Lands, LLC; APNs 269-062-003; 269-063-002 and 269-063-003
 - g. FSZ Application No. 2021-07 (238.59 acres) - T.M.V. Lands, LLC; APNs 223-031-018 and 223-071-001
 - h. FSZ Application No. 2021-08 (318 acres) - T.M.V. Lands; APN 221-011-040; rescind Land Conservation Contract No. 73-8 and simultaneously approve FSZ No. 2021-008 as applicable to the subject property;
3. Authorizing the Chair to execute the recommended two (2) AgP Land Conservation Contracts and six (6) FSZ Contracts; and
4. Directing the Clerk of the Board of Supervisors to record the AgP Land Conservation Contracts and FSZ Contracts prior to January 1, 2021 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 17, 2020, the Board set December 8, 2020 as the date to hold a public hearing on this matter.

This year a total of eight (8) applications were submitted for consideration consisting of; six (6) applications for the creation of FSZs and FSZ Contracts and two (2) applications to establish AgPs and Land Conservation Contracts. See **Attachment B** for List of 2020 Williamson Act Applications

and **Attachment C** for Maps of each application. This number includes one (1) continued application from last year's round of applications (FSZ Application No. 2021-01 Flatland Properties LLC was last year's application FSZ No. 2020-08 which was submitted by The John Hansen Cumming and Constance Marie Cumming Revocable Trust dated October 15, 2001 et al). FSZ Application No. 2020-08 was continued to this year's round of applications to provide additional time for the previous property owner to satisfy conditions of approval for a then recently approved lot line adjustment. The prior property owner satisfied conditions of approval and sold the property to Flatland Properties LLC, the current applicant for FSZ Application No. 2021-01.

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 2021, 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 795,476 acres of land in Monterey County are currently under Williamson Act contracts.

The eight (8) applications under consideration total 19 parcels and approximately 2,498 acres. Each application was reviewed by the Agricultural Preserve Review Committee (APRC) and the Agricultural Advisory Committee (AAC) to assess if each application met the criteria and if the application had complete materials.

Monterey County would add 19 parcels and 2,498 acres of land to the Williamson Act program if the Board accepts the following recommendations for the 2021 application year:

FSZ Application No. 2021-01 (140 acres)- Flatland Properties LLC; APN 153-011-067 (Continued FSZ Application No. 2020-08): Recommendation: **APPROVE.**

FSZ Application No. 2021-02 (260.17 acres) - Boggiatto Ranch, LLC; APNs 113-021-017; 113-021-001 and 113-013-001: Recommendation: **APPROVE.**

AgP Application No. 2021-03 (679.86 acres) - Tira Nanza Ranch, LLC; APNs 417-101-035; 417-101-036; 417-062-054; 417-062-055; 417-062-056 and 417-062-057. Recommendation: **APPROVE.**

AgP Application No. 2021-04 (250 acres) - Stanley George Silva, II Declaration of Trust dated February 24, 2004 as Amended and Restated February 5, 2008, as to an undivided 50% interest and Tammy L. Silva, a married woman, as her sole and separate property, as to an undivided 50% interest, as tenants in common; APN 167-071-007 and 167-071-012. Recommendation: **APPROVE.**

FSZ Application No. 2021-05 (305.67 acres)- William D. Massa, Trustee of the 1994 William D. Massa Revocable Trust U/D/T dated February 7, 1994; APN 145-011-064. Recommendation: **APPROVE.**

FSZ Application No. 2021-06 (305.88 acres)- T.M.V. Lands, LLC; APNs 269-062-003; 269-063-002 and 269-063-003. Recommendation: **APPROVE.**

FSZ Application No. 2021-07 (238.59 acres) - T.M.V. Lands, LLC; APNs 223-031-018 and 223-071-001. Recommendation: **APPROVE.**

FSZ Application No. 2021-08 (318 acres) - T.M.V. Lands; APN 221-011-040: Rescind Land Conservation Contract No. 73-8 and simultaneously approve FSZ No. 2021-008 as applicable to the subject property. Recommendation: **APPROVE.**

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. The Williamson Act contracts between landowners and local governments, however, remain in force regardless of the availability of subvention funds.

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 eight (8) applications meet the requirements of the respective AgP and FSZ programs.

OTHER AGENCY INVOLVEMENT:

Agricultural Preserve Review Committee: The Agricultural Preserve Review Committee (APRC) reviewed all eight (8) 2021 applications on October 9, 2020. The APRC consists of staff representatives from the Agricultural Commissioner’s Office, Resource Management Agency-Planning (RMA-Planning), the Assessor-Recorder’s Office and the Office of the County Counsel-Risk Manager. The APRC recommends approval of the following Applications: FSZ No. 2021-01 (FSZ-Flatland Properties), FSZ No. 2021-02 (FSZ- Boggiatto); AgP No. 2021-03 (AgP- Tira Nanza Ranch); FSZ No. 2021-05 (FSZ- Massa); FSZ No. 2021-06 (FSZ - TMV Lands); FSZ No. 2021-07 (FSZ-TMV Lands) and FSZ No. 2021-08 (FSZ-TMV Lands); and a No Consensus recommendation on No. 2021-04 (AgP-Silva). See below for explanation on “No Consensus” vote.

AgP Application No. 2021-04, Silva for the establishment of an AgP and Contract for 250 acres received a “no consensus” recommendation vote from the APRC. A “no consensus” vote is granted by the APRC when the APRC does not reach a unanimous vote. In the case of the Silva Application, the vote was three (3) yes, one (1) no. The “no” vote recommendation was from an APRC member that felt the application did not meet the minimum gross income requirement for the establishment of an AgP. According to Board Resolution No. 03-383 for AgPs (**Attachment D**), it states, in part, under “Minimum size and gross income” the following (**emphasis added**):

Applications for the establishment of an agricultural preserve will not be considered unless the parcel or group of contiguous parcels to be included in the preserve contains 100 or more acres and shall have had an annual gross income during three of the last five years **from the production of animals and/or unprocessed agricultural plant products of not less than \$8,000...**

The one (1) APRC member who voted “no” opined that the \$8,000 annual gross income should be based on the “fair rent” valuation of the land as opposed to the annual income derived from the sale of cattle. The application’s financial statement shows it meets the \$8,000 annual gross income for 2016, 2017 and 2018 from sales of cattle/cattle products. Three (3) of four (4) APRC members opined that the Silva application met the minimum income requirement to establish an AgP as set forth in Board Resolution No. 01-485 as amended by Board Resolution No. 03-383. Since there was no consensus among the APRC, sought the AAC’s input on the Silva application. See AAC information below.

Agricultural Advisory Committee: The Monterey County Agricultural Advisory Committee (AAC) reviewed the 2021 Applications on October 22, 2020. The AAC unanimously recommended approval of all eight (8) applications, including AgP Application No. 2020-04- Silva.

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).

Notification to the City of Salinas: FSZ Application Nos. 2021-001 (Flatland Properties) 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 26, 2020, staff sent a notification letter of this application to the City of Salinas. See **Attachment F**. No objection from the City of Salinas has been received.

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 eight (8) of the applications to be considered are shown on the Financial Impact Report (FIR) attached herein **(Attachment G)**.

The Assessor's Office estimates that the annual net tax loss, if the eight (8) applications are approved would be approximately \$249,589 without subvention payments and approximately \$236,471 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 RMA 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 *NG*

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Approved by: Henry S. Gonzales, Agricultural Commissioner/Sealer of Weights and Measures, Agricultural Commissioner's Office *HSG for Henry Gonzales*

This report was prepared with assistance by:

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Gregg Macfarlane, Supervising Appraiser, Assessor's Office

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

Attachment A - Draft Board Resolution

Attachment B - List of 2021 Williamson Act Applications

Attachment C - Maps of 2021 Williamson Act Apps for 8 apps being considered

Attachment D - Board Reso No. 01-485, as amended by Board Reso No. 03-383

Attachment E - Board Reso No. 01-486

Attachment F - County Notification Letter to City of Salinas dated October 26, 2020

Attachment G - Financial Impact Report (FIR) for 2021 Williamson Act Applications

cc: Front Counter Copy; Board of Supervisors; Jose Chang, Assistant Agricultural Commissioner/Sealer of Weights and Measures, Agricultural Commissioner's Office; Brandon Swanson, RMA-Planning Services Manager; Nadia Garcia, Ag Resource and Policy Manager, Agricultural Commissioner's Office; Mary Grace Perry, Deputy County Counsel, Office of the County Counsel-Risk Manager; 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 REF200034.