



Monterey County

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Board Report

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REF170038- Williamson Act 2018 Contract Applications

Conduct a public hearing to consider seven (7) 2018 Williamson Act Applications and adopt a Resolution to:

- a. Find that the project is for Open Space Contracts or Easements which qualifies as a Class 17 Categorical Exemption pursuant to Section 15317 of the CEQA Guidelines, and there are no exemptions pursuant to CEQA Guidelines Section 15300.2;
- b. Continue three (3) applications to the 2019 round of applications;
- c. Approve a total of four (4) contracts to create three (3) Farmland Security Zones ("FSZ") and FSZ Contracts and establish one (1) Agricultural Preserve ("AgP") and Land Conservation Contract;
- d. Authorize the Chair to execute the recommended Farmland Security Zone Contracts and Agricultural Preserve Land Conservation Contract; and
- e. 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, 2018 property tax lien date subject to the submittal of recording fees by the property owners of record.

Proposed CEQA Action: Categorically Exempt per CEQA Guidelines Section 15317. Project Location: Various locations

RECOMMENDATION:

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

- a. Find that the project is for Open Space Contracts or Easements which qualifies as a Class 17 Categorical Exemption pursuant to Section 15317 of the CEQA Guidelines, and there are no exemptions pursuant to CEQA Guidelines Section 15300.2;
- b. Continue the following three (3) applications to the 2019 round of applications:
 1. No. 2018-001 (FSZ) - Clinton F. Miller, Jr. and Karen V. Miller, Trustees of the Miller Family Trust dated December 9, 1999; Assessor's Parcel Numbers (APNs) 117-411-012 and 117-411-024 (Continued FSZ Application No. 2017-010)
 2. No. 2018-006 (FSZ) - Linda S. De Santiago Living Trust dated December 21, 1998; APNs 165-101-006 and 165-101-008 (Continued FSZ Application No. 2017-011)
 3. No. 2018-007 (AgP) - George R. Work as Trustee of the WORK FAMILY ESTATE TRUST, 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. 2017-012);

- c. Approve the following four (4) applications to create three (3) Farmland Security Zones (“FSZ”) and FSZ Contracts and establish one (1) Agricultural Preserve (“AgP”) and Land Conservation Contract:
 1. No. 2018-002 (AgP) - Kyler N. Hamann and Jamie Hamann and Kristan A. Hamann; APNs 423-151-059 and 423-151-060
 2. No. 2018-003 (FSZ) - Mechanics Bank, Sole Successor Trustee under and pursuant to the Decree of Distribution in the matter of the Estate of Edie Westphal Herold, deceased; APN 223-061-023-000
 3. No. 2018-004 (FSZ) - Blackie Road Holdings, LLC, a California Limited Liability Company; APNs 133-013-001; 133-013-002; 133-013-003
 4. No. 2018-005 (FSZ) - Thomas M. Borchard, Sr. and Katherine V. Borchard; APN 253-011-006 (Continued FSZ Application No. 2017-006);
- d. Authorize the Chair to execute the recommended Farmland Security Zone Contracts and Agricultural Preserve Land Conservation Contract; and
- e. 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, 2018 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 applications for the establishment of Agricultural Preserve (AgP) and Land Conservation Contracts (LCC) and the creation of Farmland Security Zone (FSZ) and FSZ Contracts. This year, a total of seven (7) applications will be considered for the establishment of five (5) FSZ Contracts and two (2) AgP LCC Contracts. The seven (7) applications under consideration total fourteen (14) parcels and approximately 2,925 acres. Out of these seven (7) applications, three (3) are recommended to be continued to the 2019 round of Williamson Act Contract applications. These include the following:

- FSZ Application No. 2018-001 (Miller): On October 20, 2017, County staff received a continuance request from the applicant’s representative to continue the Miller application for an FSZ to the 2019 round of applications in order to allow the owner-applicants additional time for estate planning. This application was continued from last year’s round of applications for the same reason. The applicant’s representative expressed that the estate planning matters should be resolved by next year’s application deadline, which is September 15, 2019.
- FSZ Application No. 2018-006 (DeSantiago): This property is the subject of an application for which a tentative map for a four (4) lot minor subdivision was approved pursuant to Planning File No. PLN030214. The owner-applicant is working with RMA Planning staff to meet the conditions of approval for the approved tentative map. If the conditions of approval

are not met and the final map is not recorded by April 22, 2019, the conditional approval of the tentative map for the minor subdivision will expire. The owner-applicant is requesting this continuance of their FSZ application to next year, which by then, they plan to have a recorded subdivision. Therefore, it is recommended that this application for an FSZ be continued to the 2019 round of Williamson Act applications. This application was continued from last year's round of applications for the same reasons. The subject property is within an existing Agricultural Preserve pursuant to LCC No. 73-014.

- AgP Application No. 2018-007 (Work Family Estate Trust et. al.): This application was continued from last year because a title company lot book report was not provided with the subject application as required per Board of Supervisors Resolution No. 01-485 "Amending Procedure for Agricultural Preserves" as amended by Board of Supervisors Resolution No. 03-383. Therefore, the subject application is incomplete and lacks verifiable ownership information, and corresponding legal descriptions. 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 2019 round of applications. The applicants' representative, Mr. Ben Work, has expressed that he will be working with a title company to submit the required title company lot book report by next year's application deadline, which is September 15, 2019.

If approved by the Board, a continuance of the three (3) 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 four (4) 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. Although under 100 acres, AgP Application No. 2018-002 (Hamman) is a request to add 80 acres of grazing land to an existing AgP (LCC No. 74-15), which meets the qualifications for an AgP and LCC. Approval of the recommended applications would add approximately 1,067 acres to the approximately 785,871 acres of presently contracted Williamson Act land (FSZ + AgP) in Monterey County. Approximately 1,165 acres being considered for FSZ are already under AgP Contract. The property which is the subject of FSZ Application No. 2018-004 (Blackie Road Holdings, LLC, a California Limited Liability Company) is subject to an existing AgP (LCC No. 77-1).

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 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.

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 such nonrenewal notice 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 Supervisors’ 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*. (**Attachment D**)

Agricultural Preserves and Farmland Security Zones

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

FSZs offer landowners greater property tax reductions than agricultural preserves. 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.

CEQA:

The project qualifies for a Categorical Exemption pursuant to Class 17, Section 15317 (Open Space Contracts or Easements) of the CEQA Guidelines. This section, categorically exempts the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area.

CONCLUSION:

Staff is recommending approval of four (4) applications to create three (3) FSZs and approve the corresponding FSZ Contracts and establish one (1) Agricultural Preserve (“AgP”) and approve the corresponding LCC. See Attachment A for the 2018 Application Matrix. These applications meet the qualifications for their respective programs. Approval of the recommended four (4) applications would add approximately 1,067 acres to the approximately 785,871 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 2018 Applications.

The APRC meeting took place first on October 8, 2017. The APRC recommended approval of Application Nos. 2018-002 (Hamman); 2018-003 (Mechanics Bank/Edie Westphal Herold Trust); and 2018-004 (Blackie Road Holdings). They recommended continuance of Application Nos. 2018-001 (Miller); 2018-005 (Borchard) and 2018-006 (De Santiago) to next year’s round of applications. A recommendation for denial was given for Application No. 2018-007 (Work).

Borchard (2018-005) Application: After the APRC meeting and prior to the October 26, 2017 Agricultural Advisory Committee (AAC) meeting, staff consulted with the applicant’s representative Mr. John Piini regarding the Borchard application and APRC recommendation:

- *Borchard FSZ Application No. 2018-005:* The APRC recommended to continue this application to the 2019 round of applications in order for the applicant to meet the conditions of approval of a recently approved lot line adjustment application, involving the subject 269.10 acre property (APN 253-011-006-000) which consists of a lot line adjustment between two (2) legal lots of record. Among other conditions, the conditions of approval for the approved lot line adjustment require that the applicant submit new legal descriptions in order to record certificates of compliance for the reconfigured parcels. In order to proceed with the FSZ application, the applicant’s representative agreed to provide the existing legal description for the existing 269.10 acre property which consists of two (2) legal lots of record and the legal descriptions for the reconfigured parcels. The existing and the adjusted lot configurations both meet the eligibility criteria for an FSZ contract. If conditions of approval for the approved lot line adjustment are met and Certificates of Compliance are recorded for the reconfigured parcels by the time this application is considered by the Board, an FSZ contract for the reconfigured parcels can be recorded with the County Recorder in time to meet the January 1,

2018 property tax lien date. If conditions of approval for the approved lot line adjustment are not met, and Certificates of Compliance for the reconfigured parcels are not recorded by the time this application is considered by the Board, an FSZ contract with the existing lot configuration can be executed and recorded in time to meet the January 1, 2018 tax lien date and, once the Certificates of Compliance for the reconfigured parcels are recorded, and the reconfigured parcels exist, an FSZ Contract which rescinds and supersedes the contract for the existing parcels can be recorded with the County Recorder. With the Board's approval of either scenario, and subject to the timely receipt of the legal descriptions for the reconfigured parcels and recordation of the Certificates of Compliance for said reconfigured parcels, the County can move forward with either scenario by the end of this calendar year for the owner-applicants to enter into an FSZ contract for 2018. This was satisfactory to staff and to the AAC. The AAC recommended approval of Application No. 2018-005.

Work Family Estate Trust et. al. (2018-007) Application: After the APRC meeting and prior to the October 26, 2017 Agricultural Advisory Committee (AAC) meeting, staff consulted with Work Family Estate Trust et. al. representatives Mr. and Mrs. Ben Work, regarding the application and the APRC recommendation:

- *Work Family Estate Trust et. al. AgP Application No. 2018-007:* The APRC recommended to deny this application because a title company lot book report was not provided with the subject application as required per Board of Supervisors Resolution No. 01-485: "Amending Procedure for Agricultural Preserves" as amended by Board of Supervisors Resolution No. 03-383. Therefore, the subject application is incomplete and lacks verifiable ownership information and corresponding legal descriptions. The application has been incomplete since 2015. After the October 8 APRC meeting, staff contacted Mr. and Mrs. Ben Work and notified them of the APRC's recommendation to deny the application and of the October 26, 2017 Agricultural Advisory Committee meeting. Mr. and Mrs. Work were present at the October 26 Agricultural Advisory Committee meeting. Mr. Ben Work expressed his desire to have their application continued to next year's round of Williamson Act applications because it has been financially difficult to obtain the required title company lot book report. Mr. Work stated that he may be revising the AgP application to reduce the land area, as that may be more financially feasible when obtaining the required lot book report from the title company. The AAC recommended that the subject AgP Application No. 2018-007 be continued to the 2019 round of applications, with the condition that a title company lot book report be provided by the September 15, 2018 deadline for the 2019 applications. Staff agrees with the recommendation to continue this application to the 2019 round of applications with the condition that a title company lot book report be submitted by the owner-applicants by the September 15, 2018 application deadline.

In addition, the AAC's recommendation was as follows for the remaining five (5) applications:

- **FSZ No. 2018-001** (Miller) - Continue to 2019
- **AgP No. 2018-002** (Hamman) - Approve
- **FSZ No. 2018-003** (Mechanics Bank; Westphal Herold Trust) - Approve

- **FSZ No. 2018-004** (Blackie Road Holdings, LLC) - Approve (Note: This property is currently under AgP (LCC No. 77-1) established per Board of Supervisors' Resolution No. 77-59-1. The approval of the FSZ would rescind this portion of the land from the existing AgP (LCC No. 77-1) and establish a new FSZ contract as applicable to the subject property.
- **FSZ No. 18-006** (De Santiago) - Continue to 2019

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

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 four (4) applications recommended for approval were to be accepted, would be approximately \$77,794.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing these applications in accordance with all applicable policies and regulations also provides accountability for proper management of our land resources. Agriculture is one of the economic pillars for Monterey County. Williamson Act Contracts help to preserve and protect agricultural resources by restricting Williamson Act land to commercial agricultural production.

Check the related Board of Supervisors Strategic Initiatives:

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

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Reviewed by: Brandon Swanson, RMA Planning Services Manager
Approved by: Carl P. Holm, AICP, RMA Director

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

- Attachment A - 2018 Application Matrix
- Attachment B - County-wide Map- Monterey County 2018 Williamson Act Applications
- Attachment C - Board Resolution No. 01-486 (Amending Procedure for the Creation of Farmland Security Zones and Contracts)
- Attachment D - Board Resolution No. 01-485 (Amending Procedure for Agricultural Preserves) as amended by Board Resolution No. 03-383
- Attachment E - Financial Impact Analysis

Attachment F - Board Resolution for the creation of Farmland Security Zones and Contracts and the establishment of an Agricultural Preserve and Land Conservation Contract

cc: Front Counter Copy; Board of Supervisors; Jacqueline R. Onciano, RMA-Chief of Planning; Nadia Amador, Associate Planner; Mary Grace Perry, Deputy County Counsel, Office of the County Counsel; Gregg MacFarlane, Senior Agricultural Appraiser, Assessor-Recorder's Office; Robert A. Roach, Agricultural Commissioner, Agricultural Commissioner's Office; Christina McGinnis, Management Analyst III, Agricultural Commissioner's Office; Applicant/Owners and/or Applicant/Owners' respective Legal Representatives/Agents; The Open Monterey Project; LandWatch; Project File REF170038.