

County of Santa Clara
Department of Planning and Development



24-4411

DATE: March 12, 2024 (Item No. {{item.number}})

TO: Board of Supervisors

FROM: Jacqueline R. Onciano, Director, Dept. of Planning and Development
Joseph Deviney, Agricultural Commissioner/Sealer of Weights and Measures

SUBJECT: Update to Williamson Act Program and Implementation of Farmland Security Zone Program

RECOMMENDED ACTION

Consider recommendations relating to proposed updates to the Williamson Act program and implementation of the Farmland Security Zone program. California Environmental Quality Act (CEQA): Separately and independently exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines. Location: Countywide. File No. PLN20-09-CWP. (Department of Planning and Development/Consumer and Environmental Protection Agency)

Possible action:

- a. Introduce and preliminarily adopt Ordinance No. NS-1203.130, an Ordinance of the Board of Supervisors of the County of Santa Clara repealing and reenacting Division C13 of the Ordinance Code of the County of Santa Clara relating to Williamson Act contracts and Farmland Security Zones.
- b. Approve consolidated and revised program guidelines for administering the Williamson Act and Farmland Security Zone programs effective on the effective date of Ordinance No. NS-1203.130.

COMMITTEE RECOMMENDATIONS

On November 19, 2020 (Item No. 11) and on August 18, 2022 (Item No. 5), the Housing, Land Use, Environment, and Transportation (HLUET) Committee reviewed the proposed modifications and received reports of proposed updates. The composition of HLUET has since changed; the Planning and Development Department recently briefed the current Chair (and new member) of HLUET on the proposed changes and project history.

FISCAL IMPLICATIONS

Enabled by the California legislature, Williamson Act and Farmland Security Zone programs are the most cost-effective voluntary incentives for agricultural preservation available to local

jurisdictions. Properties enrolled in such programs receive a reduced property tax assessment, which results in reduced revenue to the County General Fund and other public entities that receive property tax revenues.

Implementation of Farmland Security Zone Program

Adoption of a Farmland Security Zone (FSZ) program would allow property owners to enroll in FSZ contracts, which expand upon the Williamson Act program and offer greater tax benefits in exchange for a longer contract term, thereby reducing their property tax rate and the resulting property tax revenue received by the County. A property restricted by an FSZ contract is valued for property assessment purposes at 65% of its Williamson Act valuation, or 65% of its Proposition 13 valuation, whichever is lower. Therefore, in most cases, enrollment in an FSZ contract would result in a 35% reduction on the existing property tax valuation.

If all currently enrolled Williamson Act properties that are eligible to upgrade to an FSZ contract did so, the anticipated net decrease in property taxes would be approximately \$177,427 annually. Administration expects that a small percentage of eligible parcels will choose to enroll in an FSZ contract. It is estimated that if five eligible Williamson Act properties per year chose to enroll in an FSZ contract, the net loss in revenue would be approximately \$3,285 in the first year and slightly more each year thereafter.

The minimum initial term for an FSZ contract is 20 years, as compared to the 10-year term of a Williamson Act contract. FSZ contracts are automatically renewed each year for an additional year unless the property owner or County provides notice of contract renewal, which is the same as Williamson Act contracts.

The Board would need to authorize each individual FSZ contract and could consider any fiscal impacts of the specific contract at that time.

Update to Williamson Act Program

The proposed updates to the Williamson Act program, specifically the definitions of commercial agricultural production, could result in new properties choosing to enroll in the program. General Fund impact, if any, is projected to be minimal. It is difficult to anticipate how many new properties would enroll and what the associated costs would be. As an example, averaged across all current Williamson Act costs and property values, five new contracts per year would result in approximately \$25,170 of annual net loss in revenue.

Based on the proposed changes, the parcels most likely to enroll would be far smaller than average in size and therefore result in a lower net cost per contract.

The Board would need to authorize each individual Williamson Act contract and could consider any fiscal ramifications of the specific contract at that time.

Update to Compatible Use Determination Process

The streamlining of the Compatible Use Determination process discussed in this report would result in a reduction of staff time expended on the Williamson Act program and a reduced fee for property owners, approximately \$500 less per application; on average, staff receive three of these applications per year.

REASONS FOR RECOMMENDATION

The Department of Planning and Development (Department), in coordination with the Agricultural Commissioner's Office, proposes amendments to the Ordinance Code (refer to Attachment A) and an update to the administrative guidelines to implement the Williamson Act and Farmland Security Zone programs (refer to Attachment B). The proposed amendments and updates have been developed to further the goal of preserving Santa Clara Valley's agricultural lands and viability for regional resilience.

As delineated in the 2018 Santa Clara Valley Agricultural Plan (Ag Plan), the preservation of County farms and rangeland directly accrues public benefits in the form of natural infrastructure and ecosystem services, including carbon sequestration, groundwater recharge, wildfire mitigation, sprawl prevention, and reduction of greenhouse gas emissions.

The introduction of a Farmland Security Zone (FSZ) program would offer property owners greater benefits in exchange for an increased commitment to preservation. The proposed changes to the Williamson Act program aim to revitalize this longstanding preservation tool by improving program criteria and application processes. Together, such amendments will ensure the continued relevance of the County's most cost-effective voluntary incentives for agricultural preservation. In summary, the proposed amendments will:

1. Expand agricultural property owner options through the creation of an FSZ program, which builds upon the Williamson Act and offers greater tax benefits in exchange for a longer contract term;
2. Broaden eligibility for commercial agricultural properties to enroll in a Williamson Act or FSZ contract; and,
3. Streamline the process of receiving a Compatible Use Determination (CUD), which is necessary prior to any development, agricultural or otherwise, on a property under a Williamson Act or FSZ contract.

As an implementation measure of the Ag Plan, the Board directed County staff and County Counsel to prepare, for consideration by the Board, proposed amendments to the County's Ordinance Code to establish a Farmland Security Zone Program in unincorporated Santa Clara County and to prepare Administrative Guidelines to implement and administer the

Ordinance (Item No. 20, Legislative File No. 93381). Additional information regarding the FSZ program is available in Legislative File No. 93095 under Item No.5.

In addition to implementing the Board's direction for the establishment of an FSZ program, staff has prepared updates to the County's Williamson Act program for Board consideration, namely through the program's administrative guidelines. The proposed updates are the result of years of outreach to the agricultural community, in a collaborative effort between the Department and the Agricultural Commissioner's Office to improve this program. Such amendments would unify multiple guideline documents into one document, update the classification of commercial agriculture definitions, and streamline the process for CUD applications. The three sets of proposed changes are discussed in further detail below.

Implementation of Farmland Security Zone Program

The Planning Department is proposing amendments to the County Code to establish a process for the creation of FSZs and related contracts. An FSZ is an area created within an agricultural preserve by a legislative body upon the request by a landowner or group of landowners. To be eligible for an FSZ contract, the land must be designated on the Important Farmland Series maps as either prime farmland, farmland of statewide importance, unique farmland, or farmland of local importance. If the proposed area is not designated on the Important Farmland Series maps, the land shall qualify if it is predominantly prime agricultural land.

FSZ contracts offer landowners greater property tax reductions compared to the Williamson Act. Land restricted by an FSZ contract is valued for property assessment purposes at 65% of its Williamson Act valuation, or 65% of its Proposition 13 valuation, whichever is lower. Therefore, in most cases, enrollment in an FSZ contract would result in a 35% reduction on the existing property tax valuation. The FSZ contract enforceably restricts land to an agricultural use for a minimum initial term of 20 years. Like a Williamson Act contract, FSZ contracts self-renew annually, which means the contract is automatically renewed each year for an additional year, unless either party files a "notice of nonrenewal." The FSZ process is entirely voluntary for both the landowner and the County. The proposed amendments to the County Code establish an FSZ application and process for approval, administration, and oversight that is aligned with the procedures used for Williamson Act contracts.

Modifications to Commercial Agricultural Use Definitions

All properties enrolled in the Williamson Act or FSZ programs are required to be devoted to commercial agricultural production. The Board has maintained an administrative guideline (*Guideline for Commercial Agricultural Use*) defining "commercial agricultural production" for contracted lands in unincorporated Santa Clara County. The current guideline has not been updated since 2011.

The proposed modifications would restructure the existing commercial agricultural categories

by delineating a set of requirements for three general forms of commercial agriculture: cultivation, grazing/livestock, and timber. This change would incorporate a table that is easier to interpret, replacing a list of seven specific categories of agricultural operations, as shown in Attachment C – *Proposed Changes to Commercial Agriculture Definitions*. Property owners would also be given increased flexibility on how they meet the definition of commercial agriculture.

Importantly, the revisions would also eliminate the current County requirement that, to newly enroll in the Williamson Act, a parcel of prime agricultural land must be at least 10 acres in size and a parcel of non-prime agricultural land must be at least 40 acres in size. Under the enacting State legislation for the Williamson Act program, parcels that are a minimum of 10 acres for prime agricultural land and 40 acres for non-prime agricultural land are presumed categorically to be suitable for commercial agricultural use, but there is no requirement to use such standards. The proposed revisions to the definition of commercial agriculture adopt new standards to ensure that the proposed property is supportive of a variety of forms of commercial agriculture.

Attachment C is a summary table comparing the current definitions to the proposed definitions. These new definitions incorporate three modifications to update thresholds and standards to reflect current agricultural conditions in the County:

1. Minimum revenue requirements would be updated from the values established in 2011;
2. Minimum acreage requirements would be modified to allow new, commercially viable farms on properties under 10 acres to enroll; and,
3. A minimum revenue requirement would also apply to properties with grazing operations.

Modifications to Compatible Use Determination Process

The Williamson Act Compatible Use Determination (CUD) is issued by the County for proposed development on Williamson Act contracted lands to ensure the onsite commercial production of agricultural commodities is maintained, and that the proposed development is compatible and incidental to the primary commercial agricultural use (Santa Clara County Code, § C13-15). The CUD process would also apply to lands enrolled in the proposed FSZ program. Under the proposed modifications to the CUD process, all development applications for contracted lands must satisfy the compatibility principles in the County Ordinance Code (Sec. C13-15) and the Williamson Act (Government Code section 51238.1). The proposed modifications replace two specific lists of uses deemed to be compatible in addition to requiring that the use satisfy compatibility principles. Over time these lists of uses have become outdated and misaligned with those in our Zoning Ordinance.

Currently, a property owner must apply for a CUD and pay a fee of \$1,152 to begin the

review process, which takes, on average, approximately one to three months to complete. Historically, the CUD process has required that an onsite audit of commercial agricultural activity be conducted *only* when development is proposed, and *every* time development is proposed. This approach has proven problematic because several properties without development proposals have fallen out of compliance, while others in good standing have been required to repeatedly apply for CUDs for each new agricultural structure necessary to their commercial agricultural operation.

Related updates to the program guidelines were approved by the Board on January 28, 2020, (Item No. 27, Legislative File No. 99850) to establish a more robust annual questionnaire process for verification of commercial agricultural use and contract compliance. The new annual verification process is more consistent and reliable and as necessary, can involve contracted lands being audited through site visits and otherwise. With this shift in verification, it is duplicative and no longer necessary that the County require additional auditing of commercial agricultural activity for each time that a development application is submitted.

The proposed modifications would build upon the 2020 amendments and streamline the CUD review using the Planning Clearance application process and the Board-adopted fee of \$519. This would significantly reduce the required staff time involved in processing CUD applications as well as costs to the applicant, making these programs (Williamson Act and FSZ) more efficient and cost-effective to administer.

Attachment D – *CUD Flow Charts* summarizes the current and proposed CUD processes.

Overlap with Open Space Easement Contracts

The program guidelines used for the Williamson Act have historically also referenced the implementation of the Open Space Easement (OSE) program. The proposed amendments and consolidation of these guidelines include the elimination of references to the OSE contracts to avoid any confusion and eliminate redundancies. Although OSE contracts are like Williamson Act and FSZ contracts in certain ways, the County's OSE program uses entirely different eligibility criteria and standards for evaluating compatible uses, which can be found in Santa Clara County Code, § C13-15 and other existing County guidance documents that have been adopted by the Board (i.e., *Guideline for Policies Governing the Exchange of an Existing Williamson Act Contract for an Open Space Easement* and *Open Space Easement Compatible Use Determination Development Handbook*). Administration has determined that the limited references to OSE contracts in the guidelines being amended and consolidated are duplicative and unnecessary for the continued implementation of the OSE program.

Public Outreach and Stakeholder Feedback

Over the course of many years, the proposed changes were conceived and developed in collaboration with a variety of stakeholders from the County's diverse agricultural

community and presented to groups like the Santa Clara County Farm Bureau. Staff from the Department and the Agricultural Commissioner's Office have interviewed representatives of different sectors of the agricultural economy that could take advantage of the Williamson Act and FSZ programs, from ranchers to specialty crop producers to timber operators. The result of such outreach and stakeholder engagement is a set of proposed amendments designed to maximize the ongoing relevance and applicability of the program while minimizing potential for misuse.

California Environmental Quality Act (CEQA)

The Department evaluated the proposed amendments and determined that the subject amendments are exempt from CEQA review pursuant to Sections 15307 and 15308 of the CEQA Guidelines. Separately and independently, the project would be exempt under Section 15307, which exempts actions by regulatory agencies for protection of natural resources, as well as under Section 15308, which exempts actions by regulatory agencies for protection of the environment. The proposed update to the Williamson Act program and implementation of the FSZ program would help to protect and preserve the farmland of Santa Clara County.

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

Updating and improving the administrative guidelines for the Williamson Act program and adopting the FSZ program will help to preserve and encourage the long-term viability of agriculture and agricultural lands in unincorporated Santa Clara County, recognizing the vital contributions they make to regional resilience and quality of life. These public benefits include natural infrastructure and ecosystem services like carbon sequestration, groundwater recharge, wildfire mitigation, sprawl prevention, and reduction of greenhouse gas emissions, among others.

BACKGROUND

The Williamson Act is a State-authorized agricultural land protection program in which local governments may elect to participate. The program preserves agricultural lands by incentivizing commercial agricultural operations on private property and discouraging development or conversion to non-agricultural uses.

Property owners may voluntarily contract with the County to restrict their land to agricultural and compatible uses. In return, parcel owners receive property tax assessments at a rate that reflects the property's value with the contract restrictions as defined by Revenue & Taxation Code § 423.3 of the California Revenue and Taxation Code et seq., with property tax assessments for contracted land based upon general income as opposed to potential market value of the property. Contract restrictions are enforced through a rolling ten-year contract term, which is renewed annually unless the parcel owner or the County files a notice of nonrenewal.

The Board-adopted Ag Plan identified the Williamson Act as a critical incentive to support and retain agricultural operations. The County has seen more than 20,000 acres of farmland lost to development since the 1980s. Streamlining and refining the Williamson Act program is essential for the preservation of agriculture in unincorporated Santa Clara County.

Starting with development of the Ag Plan, Staff has conducted significant research and outreach on how best to improve the County's Williamson Act program. Over the intervening years, the proposed changes have been refined several times as a result of outreach. The proposed changes aim to find a balance appropriate for a diversity of commodities, without opening the door to misuse of the program. In conducting outreach and developing the proposed changes, the Department worked closely with the Agricultural Commissioner's staff as well as the County's University of California Cooperative Extension (UCCE) agricultural advisors. Staff conferred with representatives of diverse sectors within the agricultural community (e.g., ranching, wineries, field crops, Asian vegetables, etc.) and drafted the proposed changes with an aim to accommodate the full gamut of agricultural operations and parcel types in the County.

2006 Revisions to Williamson Act Program

In 2002, the California Department of Finance, on behalf of the California Department of Conservation (DOC), completed an audit of the County's compliance with the Williamson Act. The audit found the County to be generally in compliance with the Williamson Act. In the State's opinion, however, allowing the subdivision and lot line adjustment of Williamson Act lands, which facilitated the conversion of such land to rural ranchettes, was not consistent with the intent of the Williamson Act.

As a result of the State audit, revisions to the County's Williamson Act administrative policies and guidelines were adopted by the Board on March 14, 2006 (Agenda item #51).

The guidelines were revised to both (1) provide clarification/interpretation of existing contract language, so that County staff and landowners have more definitive guidance regarding what constitutes contract compliance and when/what type of compatible use

development is allowed; and (2) to ensure that the County's administration and enforcement of its Williamson Act program is consistent with State law, including amendments that have been enacted since the existing contracts were approved.

The revisions currently being proposed further clarify and refine the process by which County staff and landowners may determine contract compliance, while also streamlining the compatible use determination process and expanding the eligible types of commercial agricultural operations allowed on contracted lands.

CONSEQUENCES OF NEGATIVE ACTION

If the Board does not take action on the proposed amendments, the County would not update the Williamson Act program or implement the Farmland Security Zone program. Should the Board wish to pursue a different approach, Administration would incorporate Board feedback and bring an amended proposal to the Board for review.

STEPS FOLLOWING APPROVAL

Upon processing, the Clerk of the Board will notify Michael Meehan and Joanna Wilk in the Department of Planning and Development and provide electronic documents with final signatures and adoption dates for inclusion in the Planning Division files. The proposed Ordinance Code amendments would take effect 30 days from the date of Board approval and the Guidelines would take effect upon the effective date of the Ordinance.

ATTACHMENTS:

- Attachment A1 Division C13 Amendments (clean)
- Attachment A2 Division C13 Amendments (redline)
- Attachment B1 Guidelines for Williamson Act + FSZ Contracts (clean)
- Attachment B2 Guidelines for Williamson Act + FSZ Contracts (redline)
- Attachment C Commercial Ag Definition
- Attachment D CUD Flow Charts