

County Of Sonoma Agenda Item Summary Report

Clerk of the Board Use Only

Meeting Date

Held Until

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Agenda Item No:

Agenda Item No:

Department: Permit and Resource Management Department

4/5 Vote Not Required

Contact:
Melinda Grosch

Phone:
(707) 565-2397

Board Date:
9/1/2009

Deadline for Board Action:

AGENDA SHORT TITLE: Williamson Act Contract Rescind and Replace: [REDACTED], AGP08-0028.

REQUESTED BOARD ACTION: Resolution rescinding an existing Type II Williamson Act Contract and authorizing the Chair of the Board of Supervisors to sign a replacement Type II Williamson Act Open Space Contract encumbering the same land as requested by [REDACTED] for 45 +/- acres located at 5665 Burnside Road, Sebastopol; A.P.N. 076-170-003 and 027-040-014; Supervisorial District 5.

CURRENT FISCAL YEAR FINANCIAL IMPACT - None.

Explanation (if required): None.

Prior Board Action: A Type II Williamson Act Contract was granted to the property for agricultural uses in 1972.

Alternatives – Results of Non-Approval: The contract will not be converted to an Open Space Contract leaving the property potentially out of compliance with the Williamson Act Contract.

Background:

The property owner requests that the Board of Supervisors rescind and replace an existing Type II Williamson Act Contract that was established for agricultural lands with a Type II Williamson Act Contract for Open Space purposes.

The subject property is comprised of two Assessor's Parcels as Burnside Road cuts off a 5.55 acre portion of the property. The total acreage under contract is 45 +/- acres. The property consists of non-native annual grassland, valley and foothill riparian community, and oak woodland. The riparian area is the headwaters of the Atascadero Creek. Currently, the property is undeveloped with structures. The site was previously used for cattle grazing as part of a dairy operation.

According to the State of California Department of Fish and Game's (DFG) assessment of the site approximately 12 acres comprise the headwaters/riparian corridor. This area is surrounded by approximately 39 acres of steep upslope areas above the creek headwaters. The headwaters of the Atascadero Creek will be subject to restoration and habitat management under the contract. Roughly six acres will continue to be used for agricultural purposes and will be planted with herbs. The applicant plans to construct a single family residence for himself on the property.

The parcel is zoned LEA (Land Extensive Agriculture), B6-60 acres per dwelling unit, J (Mobile Home Exclusion), Z (Second Unit Exclusion), SR (Scenic Resources), BR (Biotic Resources). The habitat value of the parcel was evaluated by DFG. In a letter dated June 3, 2009, DFG provides the following assessment:

"Although areas of wildlife habitat will be lost, the property would appear to continue to provide valuable wildlife and fish habitat resources, especially following the success of the proposed riparian restoration plan"

and

"Based on the property's currently moderate and potentially higher (after the restoration project is complete) natural resource value, DFG believes the re-designation of the land as Open Space Land under the Williamson Act is appropriate. DFG recommends the property's Williamson Act Contract be amended accordingly"

Sonoma County Rules and Regulations for Administration of Agricultural Preserves, Type A-II lists Open Space uses under Section B. Compatible Uses as follows:

B. Compatible Uses. The following uses will be permitted within the definition of "agricultural or compatible uses," if the zoning classification for the land in question permits such use subject to first securing a use permit: 1- 14 are not included here.

15. Those open space uses which are defined in Government Code Section 51201(o).

The California Government Code defines Open Space in Section 51201 (o) which states:

(o) "Open-space use" is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within:

- (1) A scenic highway corridor, as defined in subdivision (i).
- (2) A wildlife habitat area, as defined in subdivision (j).
- (3) A saltpond, as defined in subdivision (k).
- (4) A managed wetland area, as defined in subdivision (l).
- (5) A submerged area, as defined in subdivision (m).
- (6) An area enrolled in the United States Department of Agriculture Conservation Reserve Program or Conservation Reserve Enhancement Program.

Pertinent Sections of 51201 read as follows:

51201. As used in this chapter, unless otherwise apparent from the context, the following terms have the following meanings: *(Only Sub-section (j) is included here as it is the only relevant definition.)*

(j) A "wildlife habitat area" is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state.

The subject property qualifies for an Open Space contract based use as a wildlife habitat area under Section 51201(j) and under Section 51201 (o)(2), both defined above, as verified by the Department of Fish & Game's review of the proposal.

The subject property contains the headwaters of the Atascadero Creek - a creek that supports or has supported coho salmon, steelhead, and other anadromous fish. Damage from past grazing has resulted in degraded banks and siltation which can negatively affect spawning beds lower down in the creek proper. Also overgrazing and vegetation removal by the previous owners resulted in invasion of the area with non-native species, especially Himalayan blackberry.

The applicant proposes to restore the Atascadero headwaters through removal of non-native vegetation, particularly Himalayan blackberries, re-planting with native species, and stabilizing areas prone to erosion due to damage caused by past agricultural activities. This should result in improved water quality entering the Atascadero Creek which will eventually lead to improved quality of spawning beds as the gravels are swept clean by clear running storm water runoff.

Except for the area to be devoted to herb growing and drying and the new single family residence for the owner, the parcel will be devoted to open space. All of the 12 acres that are designated as the primary headwaters area will be restored and preserved as open space for the benefit of the Atascadero Creek.

The parcel, at 45 +/- acres meets the 40 acre minimum parcel size for a Type II Williamson Act Contract and will provide Open Space functions as required for an Open Space Contract. The majority of the parcel will be devoted to the open space functions. Therefore, staff recommends approval of the request to rescind the existing Type II Williamson Act Agricultural Contract and replace it with a Type II Williamson Act Open Space Contract.

The parcel is currently under a Type II Williamson Act contract for grazing, a contract entered into by the previous owners who operated a dairy on the site. Without the conversion to a Type II Williamson Act Open Space contract the property will be out of compliance with the obligations of the current contract since the property currently has insufficient qualifying agricultural uses.

Attachments: Draft Resolution.

On File With Clerk: Site Plan, letter from State of California Department of Fish and Game, and Riparian Restoration Plan.

CLERK OF THE BOARD USE ONLY

Board Action (If other than "Requested")

Vote: