

***Processing Procedures for Subdivisions of Land
under a Williamson Act Contract***

PURPOSE

The purpose of this policy is to provide guidance to project planners when reviewing certain subdivisions of land that involve land restricted by Williamson Act contract(s).

GENERAL

Subdivision of land under a Williamson Act contract may only be approved when the legislative body makes findings that the subdivision is consistent with the General Plan and zoning, each parcel conforms with the requirements of the Williamson Act and the provisions of the Subdivision Map Act.

The General Plan requires that subdivision of any Williamson Act contracted lands shall not result in any new parcel less than 10 acres in size for Type 1 preserves or 40 acres in size for Type 2 preserves, or the established minimum lot size, whichever is more restrictive. Under Section 66474.4 (a) of the Subdivision Map Act a Tentative or Parcel Map must be denied if the resulting parcels are too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the land. The Map Act further states that land shall be presumed to be in parcels too small to sustain their agricultural use if the land is less than 10 acres in size in the case of prime agricultural land (Type 1), or less than 40 acres in size in the case of land that is non-prime agricultural land (Type II).

In addition to the minimum parcel size requirements, each resulting lot must be devoted to a qualifying open space or agricultural use; must meet the minimum income requirements (except in the case of open space contracts); and, must meet the contract restrictions related to agricultural and compatible land uses defined in the County Rules for Administration of Agricultural Preserves or as otherwise allowed by state law.

A subdivision of land under contract should be conditioned to require an application for rescission and replacement of separate contracts on each parcel to avoid problems with future transfers of ownership and potential for separate owners to cause a breach of the contract.

AUTHORITY

1. Government Code (Subdivision Map Act) § 66474.4
2. Government Code (California Land Conservation Act of 1965 - Williamson Act) § 51200, et seq.
 - Section 51201(b): *Agricultural use* means use of land for the purpose of producing an

- agricultural commodity for commercial purpose.
 - Section(5)(d): *Agricultural Preserve* means an area devoted to either agricultural use, as defined by in subdivision (b), recreational use as defined....."
 - Section 51242: No County or city may contract with respect to any land pursuant to this chapter unless the land:
 - (a) is devoted to *agricultural use*
 - (b) is located within an area designated by a city or county as an *agricultural preserve*
3. General Plan Policy AR-8c (Agricultural Resource Element)
AR-8c: Subdivision of any Williamson Act contracted lands shall not result in any new parcel less than 10 acres in size for Type 1 preserves or 40 acres in size for Type 2 preserves, or the established minimum lot size, whichever is more restrictive. Each proposed new parcel must separately meet the economic criteria that the original parcel met at the time that the contract was executed.
4. Sonoma County Subdivision Ordinance (County Code Chapter 25)

PROCEDURE

A. Required application materials. The applicant is required to submit the following:

1. Landowners Statement of Compliance with the Williamson Act PJR-049 (Attachment A)
The resulting parcels must be devoted to a qualifying open space or agricultural use and the use of the land restricted to agricultural and compatible uses as defined in the County Rules. *Agricultural use means the use of land for the purpose of producing an agricultural commodity for commercial purposes. Agricultural commodity means any and all plant and animal products produced for commercial purposes.*

It should be noted that horses are not considered *food or fiber* under the California Constitution provision authorizing the Williamson Act, and cannot be used to demonstrate compliance with income and commercial agricultural use requirements. However, horses can be considered a permitted *compatible* use under the contract that is incidental to a primary agricultural use.

Open Space use means *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 essential 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)*
- 2. Supplemental Questionnaire and Income Statement (both forms are part of the Agricultural Preserve application packet) for all proposed lots. Applicant must demonstrate that each lot will individually meet all requirements of the Williamson Act contract, including the minimum acreage and income requirements, at the time the application is filed or before the application can be deemed complete for processing (i.e. vineyard is planted, livestock is being grazed, grazing lease has been executed). Although there are no minimum income requirements for lands included within an Open Space contract, documentation to support the type of open space use in conformance with the contract and state law is required.
- 3. General Plan and Subdivision Map Act Consistency Analysis. An analysis demonstrating consistency of the proposed subdivision project with § 66474.4 of the Subdivision Map Act and with General Plan policy AR-8c. In addition to the minimum parcel size for continued open space or agricultural use, evidence to support a finding that the subdivision would not result in residential development that is not incidental to the agricultural operation or open space use is required. Government Code Section 51205 states that agricultural land and uses shall be deemed to include qualifying open space land and uses as defined in the Williamson Act.

A subdivision cannot be conditioned to demonstrate consistency with the Williamson Act contract prior to recording the Parcel Map or Final Map as this would be inconsistent with the requirements of General Plan Policy AR-8c and the findings listed in Section 66474.4 of the Map Act.

- B. Minor subdivisions (one public hearing). Minor subdivisions will go to PRAC (Project Review Advisory Committee) for a recommendation to the Board of Supervisors on the subdivision and conditions. The PRAC meeting is not a noticed public hearing. The Board of Supervisors is the final decision making body and the subdivision will be a noticed public hearing on the afternoon agenda.
 - 1. Set PRAC/Board Agenda Dates. Once the application is deemed complete the planner sets the subdivision for a PRAC agenda. At the same time, the Planner requests on the Agenda Request form that a Board of Supervisors date to be set. Clerical support contacts the Clerk of the Board to set a time and date for the Board of Supervisors hearing. The Board of Supervisors hearing date is scheduled as a Regular Calendar Public Hearing beginning at 2:05 p.m. The item may be scheduled as an uncontested hearing item, if appropriate. PRAC will make recommendations to the Board of Supervisors on the subdivision and the draft list of conditions.
 - 2. Graphics Request. Once the Board of Supervisors hearing date and time has been set, the

Planner shall complete a graphics request form, attach all graphics needed for the Power Point presentation and give it to DIS staff.

3. Board Staff Report. For the Board of Supervisors Regular Calendar Public Hearing item, the Planner prepares a staff report in the land use memorandum format outlining all the issues. The staff report should include, besides all the standard discussion for land use, zoning, and CEQA issues, an issue outlining the subdivision's consistency determinations under Section 66474.4 of the Map Act, General Plan policy AR-8c and the County's Rules for Administration of Agricultural Preserves. If the recommendation is to approve the subdivision, the Board of Supervisors Resolution must include findings that specifically outline the consistency determinations under Section 66474.4 of the Map Act and General Plan policy AR-8 c and the County Rules for Administration of Agricultural Preserves. The analysis must include a finding that the resulting lots will be devoted to commercial agricultural operations and conform with the Williamson Act contract and that the subdivision would not result in residential development that is not incidental to the agricultural operation is also required. Refer to sample findings in Attachment B.
- C. Major subdivision (two public hearings). Major subdivisions will go to PRAC (Project Review Advisory Committee) for a recommendation to the decision-making body on the subdivision and conditions. This is not a noticed public hearing. The Planning Commission holds a noticed public hearing, reviews PRAC recommendations and makes a recommendation to the Board of Supervisors. The Board of Supervisors is the final decision making body and considers the Planning Commission's recommendation at a noticed public hearing.
1. Set PRAC/Planning Commission/Board Agenda Date. Once the file is deemed complete the Planner sets the subdivision for a PRAC agenda. After PRAC has made a recommendation on list of conditions, the Planner sets the subdivision for Planning Commission hearing date (standard staff report template used). At the same time, the Planner requests on the Agenda Request form that a Board of Supervisors date to be set. Clerical support contacts the Clerk of the Board to set a time and date for the Board of Supervisors hearing. The Board of Supervisors hearing date is scheduled as a Regular Calendar Public Hearing beginning at 2:05 p.m. The item may be scheduled as an uncontested hearing item, if appropriate. PRAC and Planning Commission both make recommendations to the Board of Supervisors on the subdivision and the list of conditions.
 2. Planning Commission and Board Staff Report. For the Board of Supervisors Regular Calendar Public Hearing item, the Planner prepares a staff report in a memorandum format outlining all the issues. The Planning Commission minutes and staff report are attachments. The staff report should include, besides all the standard discussion for land use, zoning and CEQA, a discussion explaining the subdivision's consistency

determinations under Section 66474.4 of the Map Act and General Plan policy AR-8c. If the recommendation is to approve the subdivision, the Board of Supervisors Resolution must include findings that specifically outline the consistency determinations under Section 66474.4 of the Map Act and General Plan policy AR-8c. A finding that the resulting lots are devoted to commercial agricultural operations in conformance with the Williamson Act contract and that the subdivision would not result in residential development that is not incidental to the agricultural operation is also required. Refer to sample findings in Attachment B.

ATTACHMENTS

A. Landowners Statement of Compliance with the Williamson Act PJR-049

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B. Sample Findings for Approval of Subdivisions on Land Under Williamson Act Contract

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Approved by:

/s/ Pete Parkinson

Pete Parkinson, Director

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