



Agenda Date: 7/19/2005
Agenda Placement: 8E
Set Time: 11:30 AM PUBLIC HEARING
Estimated Report Time: 30 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Cathy Gruenhagen for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Carly Aubrey, Planner III, 265-2325
SUBJECT: Williamson Act Agricultural Contract Cancellation

RECOMMENDATION

Consideration and possible actions regarding applicant's (William Hill Napa, Inc.) request for a partial cancellation of existing Williamson Act contract number 95255-AGK, rescission of the remaining portion of contract 95255-AGK (APN 039-190-048), rescission of contract number 95256-AGK (APN 039-190-049) in its entirety; and execution of a new Williamson Act contract for the subject property with the exception of a one-acre home site. Actions include:

1. Findings pursuant to Government Code Section 51282;
2. Determination and certification to the Auditor the amount of the cancellation fee that the landowner shall pay upon cancellation; and
3. Approval of the tentative cancellation of Type H Agricultural Preserve Contract No. 95255-AGK (originally 93284-AGK) for a 1-acre adjusted parcel;

If the tentative cancellation is approved and conditions are met by the applicant, the following actions will be scheduled for Board consideration on the same day, July 19, 2005, at 2:30 p.m.: approval of a final certificate of cancellation, approval for rescission of two Williamson Act contracts to be replaced by one new Williamson Act contract and adoption of a resolution establishing the new Williamson Act Preserve and contract.

EXECUTIVE SUMMARY

The applicant, William Hill Napa, Inc. has applied for, and received conditional approval of, a lot-line adjustment between two parcels – APNs 039-190-048 (13.7 acres) and 039-190-049 (13.9 acres). The lot-line adjustment creates a 1-acre parcel and a 26.6-acre parcel. Both parcels are currently subject to Williamson Act contracts. In order to not be in breach of the Williamson Act, the applicant has decided to utilize the option of partial cancellation of the Williamson Act contract for the 1-acre parcel and rescission and replacement of the Williamson Act contracts for the 26.6-acre parcel, so that the vineyard land which was previously under two Williamson Act contracts is consolidated into one Williamson Act contract.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Conservation, Development & Planning
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Board of Supervisors has the authority to accept or deny this proposal.
Is the general fund affected?	Yes
Future fiscal impact:	There is an application fee of \$8,871.00 assessed for the processing of cancellations based on an estimate of time and materials spent by staff.

The cancellation fee required by the Williamson Act is 12.5% of the cancellation value of the land subject to cancellation when it is assessed at fair market value. The cancellation fee in this case has been established by the County Assessor as \$125,000. The entirety of this fee goes to the State of California's General Fund.

Properties covered by the Williamson Act are assessed at the lower of their factored base year of their income-capitalization restricted value. To the extent that properties are assessed at a lower restricted value the County will receive reduced revenue. Because the proposed vineyard parcel is currently under contract, no reduction in revenue is anticipated.

Consequences if not approved: None.

Additional Information: None

ENVIRONMENTAL IMPACT

California Environmental Quality Act Status: Categorically exempt under 14 CFR 15317 ("Class 17") and 15305 ("Class 5")

The establishment of agricultural preserve and execution of contracts under the Williamson Act, and the transfer of lands subject to the Williamson Act from one owner to another is categorically exempt (Class 17).

In addition, minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density are also categorically exempt (Class 5).

BACKGROUND AND DISCUSSION

The applicant, William Hill Napa, Inc. has applied for, and received conditional approval of, a lot-line adjustment between two parcels – APNs 039-190-048 (13.7) and 039-190-049 (13.9 acres). The lot-line adjustment creates a 1-acre parcel and a 26.6-acre parcel. Both parcels are currently subject to Williamson Act contracts.

Parcel 048 currently contains an area of approximately one acre that is not planted to vineyard and has a

residential structure on it. Following the lot-line adjustment, that 1-acre area is proposed to become one parcel ("Subject Parcel"), with the vineyard consolidated onto the other, 26.6-acre parcel ("Vineyard Parcel").

At this time, if the lot-line adjustment were approved by Public Works, the applicant would be in breach of its Williamson Act contract because the Subject Parcel would not meet the 10-acre minimum parcel size required by the California Land Conservation Act of 1965, specifically Government Code Section 51222, and Napa County Type H Contract Local Rules for prime agricultural lands. In order to prevent a breach of contract the applicant must choose one of the following options: revise the lot-line adjustment application, withdraw the lot-line adjustment application, file a Notice of Non-Renewal of the Williamson Act contract and wait 10 years for this to become effective, or cancel part or all of the Williamson Act contract and rescind and replace the Williamson Act contract.

The applicant has decided to utilize the option of partial cancellation of the Williamson Act contract for the Subject Parcel and rescission and replacement of the Williamson Act contracts for the Vineyard Parcel, so that the vineyard land which was previously under two Williamson Act contracts is consolidated into one Williamson Act contract.

The two subject parcels are located in the Agricultural Watershed (AW) zoning district. The proposed lot line adjustment would not increase the development potential allowed under AW zoning for either parcel. The proposed adjustment would also not result in the loss of any of the existing vineyard land.

Should the Board wish to approve the application, a number of actions must be taken and certain findings must be made, and these are outlined in detail below:

1. Cancellation of the Williamson Act contract for the Subject Parcel requires the Board to make a number of findings. Draft findings have been provided by the applicant, along with the rationale for each (see Attachment A).
2. Government Code Section 51283 provides for a cancellation fee of 12 ½ percent of the cancellation valuation of the property. Pursuant to Government Code Section 51283(a), the County Assessor has determined the current fair market value of the land as though it were free of the contractual restriction. The County Assessor has determined and certified to the Board a "cancellation valuation" for the Subject Parcel for the purpose of determining the cancellation fee. The Board must determine and certify the amount of the cancellation fee which the landowner shall pay upon cancellation (see Attachment B).
3. The Board must vote to tentatively approve the cancellation of the Williamson Act contract for the Subject Parcel (see Attachment C).

If the Board approves the certificate of tentative cancellation and the applicant meets the conditions included therein, the proposal will be brought back to the Board for the following: approval of the final certificate of cancellation, approval of the rescission of the Williamson Act contracts for the Vineyard Parcel and approval of a new Type H Williamson Act contract for the Vineyard Parcel, so that all of the agricultural land on the Vineyard Parcel is subject to the Williamson Act.

The California Department of Conservation has reviewed the application and findings and found that the proposed cancellation is consistent with the purposes of the Williamson Act (see Attachment D).

There has been only one previous contract cancellation in Napa County since the implementation of the Williamson Act in 1969. It was a partial cancellation involving three separate and adjacent Williamson Act contracts and involved a total of 1.8 acres of land. That cancellation was approved by the Board on November 24, 1992.

Government Code Section 51283(e) states "When cancellation fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as

provided in subdivision (d). The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4." This section is in reference to the State of California's Controller and General Fund. Currently, Napa County does not receive any amount of the cancellation fee. The Williamson Act does provide in Section 51240 for cities and counties to assess payments and fees in addition to those required by the Act. The Board may want to consider directing Staff to look into this option for the next contract updates that are scheduled to occur early next year.

SUPPORTING DOCUMENTS

- A . Draft Findings for Cancellation
- B . Cancellation Valuation
- C . Certificate of Tentative Cancellation
- D . California Dept. of Conservation letter

CEO Recommendation: Approve

Reviewed By: Andrew Carey