



MEETING DATE: 11/3/08

ITEM NO.

2

COUNCIL AGENDA REPORT

DATE: October 29, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

A handwritten signature in black ink, appearing to read "Greg Larson".

SUBJECT: ADOPT A RESOLUTION TO SERVE A NOTICE OF NON-RENEWAL ON A .33 ACRE PORTION OF LAND UNDER A WILLIAMSON ACT CONTRACT WITH THE TOWN. PROPERTY LOCATION: **15300 KENNEDY ROAD**. FILE# WA-08-001. PROPERTY OWNER/APPLICANT: FREDERICK AND MAUD HOLLEY.

RECOMMENDATION:

Adopt a resolution authorizing Frederick and Maud Holley to issue a notice on non-renewal for a .33 acre piece of land located at 15300 Kennedy Road.

BACKGROUND:

The subject site is located on the south side of Kennedy Road approximately 150 ft west of Top of the Hill Road. The property was placed in a Land Conservation Contract in 1971. A lot line adjustment and Williamson Act Contract modification were approved by the Town Council in 1988 to correct inaccuracies in the parcel descriptions.

DISCUSSION:

Project Summary

The applicant is seeking to serve a notice of non-renewal on a .33 acre portion of the land under a Land Conservation Contract with the Town. The portion of land being removed from the contract is represented in Attachment 3. Currently, the land is under lease to the neighboring property at 15294 Kennedy Road and has been used as the property's backyard for nearly 15 years. The applicant and the neighboring property owner are interested in making the lease agreement permanent through a lot line adjustment. A lot line adjustment application is currently being processed through the Development Review Committee which will be conditioned upon approval and recordation of the amended Williamson Act Contract.

PREPARED BY: Bud N. Lortz, Director of Community Development

SLB

Reviewed by: 053 Assistant Town Manager ok Town Attorney _____ Clerk _____ Finance _____
 ✓ Community Development

Revised: 10/29/08 11:06 AM

Reformatted: 5/30/02

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MAYOR AND TOWN COUNCIL

SUBJECT: NOTICE OF NON-RENEWAL, FILE # WA-08-0001

October 30, 2008

Williamson Act Contract

Williamson Act Contracts are entered into by property owners of large pieces of agricultural land and the governing jurisdiction for the purpose of preserving the agricultural use of the land. In exchange, the property owner receives a reduced property tax assessment. Traditionally land less than 40 acres does not qualify under the Williamson Act. In 1971, the Town entered into a Land Conservation Contract with the previous owners of the property based on the unique type of land and its location in relation to the Mid Peninsula Regional Open Space. The property retains a portion of trail that connects separate properties in the Mid Peninsula Regional Open Space.

The portion of land proposed to be removed from the contract will not affect the findings made in support of the original contract. The retention of the rear of the property as agricultural open space is highly desirable to the Town and the region as a whole.

Land Use

The property is zoned RC, Resource Conservation, and permits one single family dwelling and agricultural uses. The proposal to modify the Williamson Act Contract will not result in any additional development of the property.

CONCLUSION:

Staff recommends that the Town Council allow the property owner to serve a notice of non-renewal on the specified .33 acre of land.

FISCAL IMPACT: None

ENVIRONMENTAL ASSESSMENT:

It has been determined that the proposed project is Categorically Exempt pursuant to Section 15371 of the State Environmental Guidelines as adopted by the Town.

Attachments:

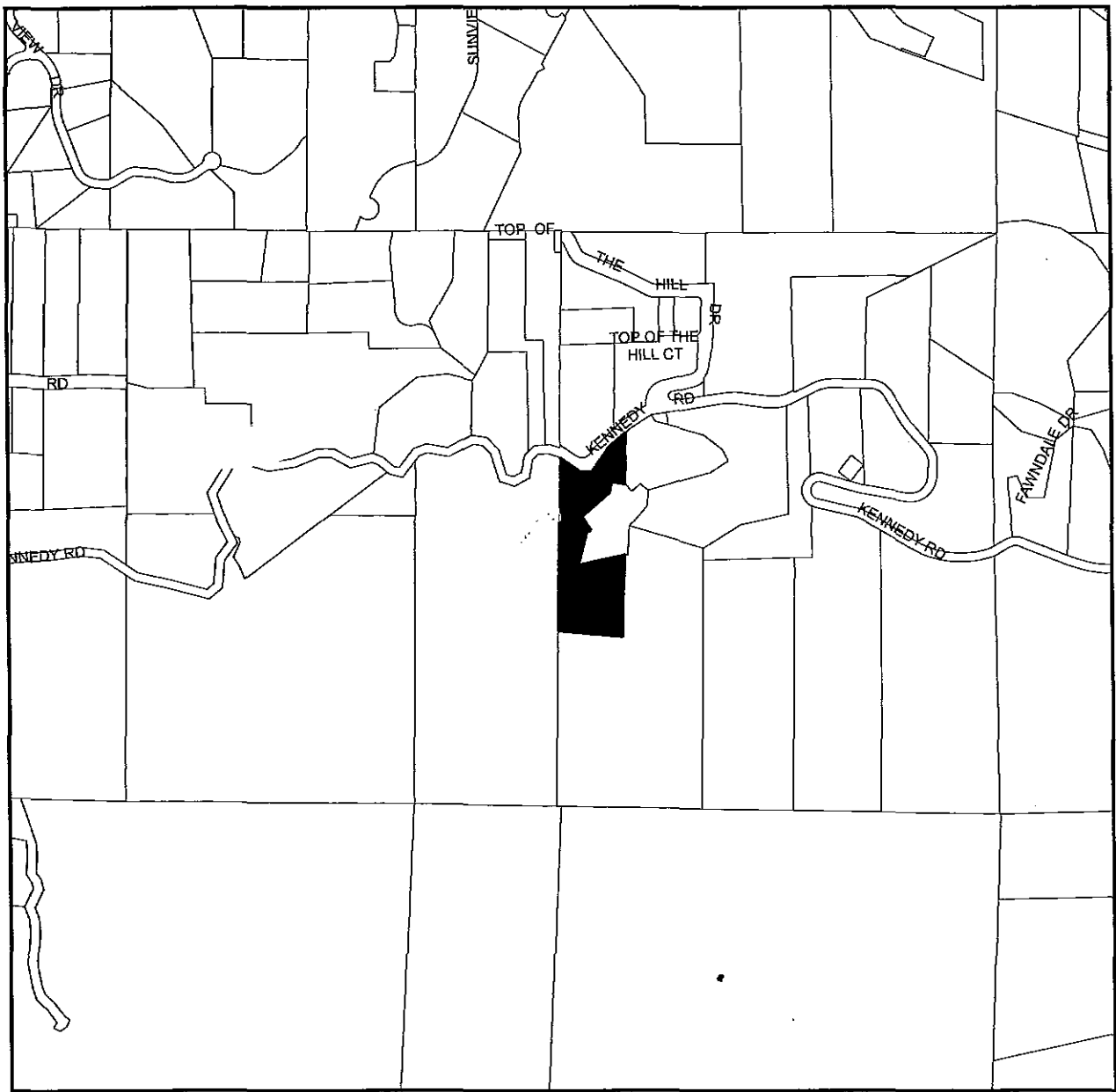
1. Location Map (one page)
2. Resolution No. 1977-28 (two pages)
3. Land Conservation Contract dated February 14, 1977 (eight pages)
4. Resolution (one page)
5. Site Plan received July 10, 2008 (one page)

Distribution:

Frederick and Maud Holley, 15298 Kennedy Rd, Los Gatos, Ca 95032

BNL:MM

15300 Kennedy Road



RESOLUTION NO. 1977-28

RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF LOS GATOS ESTABLISHING AN
AGRICULTURAL PRESERVE WITHIN THE TOWN
OF LOS GATOS AND AUTHORIZING THE
EXECUTION OF LAND CONSERVATION CONTRACTS

WHEREAS, ROBERT J. NASH and BETTY L. NASH are owners of land in the Town of Los Gatos, Santa Clara County, California, and have applied to have such land designated an agricultural preserve under the provisions of the Land Conservation Act of 1965, and have submitted contracts executed by them as owners acceptable to the Town Council; and

WHEREAS, the Town Council has received and reviewed the report of the Planning Director concerning the request to establish this preserve and hereby finds that the establishment of this preserve is consistent with the General Plan of the Town of Los Gatos and further finds that the establishment of this preserve, which includes an area of approximately 5.1 acres, is necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of a preserve of such size is consistent with the General Plan of the Town of Los Gatos, for the following reasons:

1. Historically, agricultural operations in the area have been conducted on comparatively small holdings and an imposition of 100 acre size on agricultural preserves would unreasonably prevent the maintenance of land in an agricultural or rural status.

2. The terrain is such that the appearance and substance of an agricultural or rural environment would be maintained on parcels of less than 100 acres.

BE IT RESOLVED:

1. The area described in the attached Exhibit "A" is hereby designated and established as an agricultural preserve under the provisions of the California Land Conservation Act of 1965 (Williamson Act), subject to the policies and rules heretofore and hereafter adopted by the Town Council.

2. The Land Conservation Contract, a copy of which is attached hereto, is approved and the Mayor is authorized and directed to execute the contract on behalf of the Town.

3. The Town Clerk is directed to perform any act necessary for the attestation of the contracts and the filing of a copy of this resolution and of the contract in the Office of the County Recorder of the County of Santa Clara and such other filings and acts as are required by law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the 7th day of February, 1977, by the following roll call vote:

AYES:	COUNCIL MEMBERS	<u>Mark B. DiDuca, Mardi Gualtieri,</u> <u>John B. Lochner, Albert B. Smith and Ruth Cannon</u>
NOES:	COUNCIL MEMBERS	<u>None</u>
ABSTAIN:	COUNCIL MEMBERS	<u>None</u>
ABSENT:	COUNCIL MEMBERS	<u>None</u>

SIGNED: *Ruth Cannon*
MAYOR OF THE TOWN OF LOS GATOS

ATTEST:
Jo Leidy
CLERK OF THE TOWN OF LOS GATOS

TOWN OF LOS GATOS
After recording mail to: Town Clerk
Town of Los Gatos
P.O. Box 949
Los Gatos, California 95030

5733463

LAND CONSERVATION CONTRACT

Co No 77.711
C 734 PAGE 596

THIS AGREEMENT is made between the TOWN OF LOS GATOS, a municipal corporation of the State of California (TOWN), and ROBERT J. NASH and BETTY L. NASH (OWNERS), and is made with reference to the following facts.

The OWNERS own real property located in the TOWN. The property is described in Exhibit "B" attached hereto and throughout this agreement is called the property. The property is located in an agricultural preserve established by the TOWN. The OWNERS and the TOWN wish to limit the use of the property to agricultural uses and uses compatible with agricultural uses in order to preserve the limited supply of agricultural land, to discourage the premature or unnecessary conversion of agricultural land to urban uses and to permit the maintenance of open space and land of rural character. The OWNERS and the TOWN recognize that agricultural land has public value as open space and that agricultural land constitutes an important social, aesthetic and economic asset to the people of the TOWN and of the State of California. The OWNERS and the TOWN intend that this contract is, and shall be throughout its term, including any extensions, an enforceable restriction within the meaning of section 8 of Article XIII of the Constitution of the State of California and under the provisions of section 422 of the California Revenue and Taxation Code.

The TOWN and the OWNERS agree as follows:

1. Contract Under California Land Conservation Act.

This contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7, Part 1, Division 1, Title 5 of the Government Code, commencing with section 51200) and is subject to all of the provisions thereof.

2. Restriction on Use of Property.

During the term of this contract and of all extensions or renewals thereof, the property described in Exhibit "B" shall not be used by the OWNERS for any purpose other than the production of agricultural commodities for commercial purposes, and uses compatible therewith. All such compatible uses are listed in the attached Exhibit "A". The TOWN, by resolution of its Council, may from time to time revise the list of compatible uses for the agricultural preserve in which the property is located, but such revision shall be limited to the addition of new uses to the list, unless the OWNERS consent in writing to deletions. Neither this contract nor the foregoing reference to the adoption of resolutions shall be interpreted as limiting, superseding, or restricting the planning and zoning powers of the TOWN.

During the term of this contract and of all extensions or renewals thereof, the OWNERS shall not remove, cut down or destroy any tree on the property having a trunk diameter of more than six inches measured at an elevation of four feet from the ground without prior approval of the Planning Director of the TOWN, nor perform on the property any grading which involves either displacing or filling a total of 50 cubic yards, or

substantial diversion of surface water or any damming or diversion of a water course without prior approval of the Director of Public Works of the TOWN.

3. Term of Contract.

This contract is effective on February 1, 1977. Its initial term is ten years, commencing January 1, 1977 and ending January 1, 1987. Each January 1 beginning January 1, 1978 is the contract's annual renewal date, and on each annual renewal date one year shall be added automatically to the contract's initial term unless notice of nonrenewal is given as provided in Part 4.

4. Notice of Nonrenewal.

Either party may prevent automatic renewal of the contract by serving written notice of nonrenewal on the other. The notice shall be effective only if it is served by the landowner on the TOWN at least ninety days prior to the renewal date, or by the TOWN on the landowner at least sixty days prior to the renewal date. Unless notice is so served, the contract is renewed annually as provided in Part 3.

The OWNERS, upon receipt of a notice of nonrenewal from the TOWN, may in writing protest the proposed nonrenewal. The TOWN may, at any time prior to the renewal date, withdraw the notice of nonrenewal. If either party serves proper notice of nonrenewal on the other, the contract shall remain in effect for the balance of the ten year period (measured from the beginning of the contract's initial term if the notice is served during the first contract year, or from the contract's last annual renewal date

if the notice is served in a subsequent contract year) and shall then terminate.

5. Consideration.

The consideration for the execution of this contract is the public benefit to be derived by the TOWN from the restriction on the use of the property, and the property tax benefits to the OWNERS which will occur as the result of imposition of the restriction.

6. Successors in Interest.

This contract and the restrictions imposed hereunder shall be binding upon, and inure to the benefit of, the successors in interest of the OWNERS. Whenever any of the property described in Exhibit "B" is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided property, any of the rights of the owners in this contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land described in Exhibit "B" shall not be imputed to the owners of the remaining parcels and shall have no effect on this contract as it applies to the remaining parcels of the divided property.

7. Cancellation.

This contract may be cancelled as to all or a part of the subject property only upon the petition of the OWNERS to the TOWN and after a public hearing has been held and notice thereof given as required by section 51284 of the Government Code. The Town Council of the TOWN may approve cancellation only as provided

by Article 5 of the Act.

8. Notices.

All notices required or permitted by this contract, including notice of a change of address, shall be in writing and given by personal delivery or sent by United States mail addressed to the party intended to be notified. Notice shall be deemed given on the date of personal delivery, or twenty-four hours after deposit, postage prepaid, in any post office or mail box regularly maintained and served by the United States Postal Service.

Notice to the TOWN shall be addressed:

Town Clerk, Town of Los Gatos
Civic Center
110 E. Main Street
P. O. Box 949
Los Gatos, California 95030

Notice to OWNERS shall be addressed:

Robert J. Nash and Betty L. Nash
15300 Kennedy Road
Los Gatos, California 95030

IN WITNESS WHEREOF the parties hereto have caused this contract to be executed: by OWNERS on Feb. 14, 1977 and by TOWN on Feb. 7, 1977.

TOWN OF LOS GATOS,
a municipal corporation.

ATTEST:

By Ruth Caputo
Mayor

TOWN.

Jo. Spitz
Town Clerk

Robert J. Nash
ROBERT J. NASH

Betty L. Nash
BETTY L. NASH

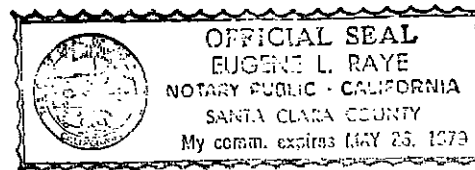
OWNERS.

STATE OF CALIFORNIA)
) ss.
 COUNTY OF SANTA CLARA)

On this 14th day of February, 1977, before me,
Eugene L. Raye, a Notary Public, personally
 appeared ROBERT J. NASH and BETTY L. NASH, known to me to be the
 persons whose names are subscribed to the within instrument,
 and acknowledged that they executed the same.

Witness my hand and official seal.

Eugene L. Raye
 Notary Public in and for the State
 of California, County of Santa Clara.
 My Commission Expires:



OFFICIAL RECORDS
 SANTA CLARA COUNTY
 GEORGE A. MATH
 REGISTRAR - CONDOR

MAY 4 10 25 AM '77

Journal of the State

FILED FOR 1980
 AT RECORDS

LAND CONSERVATION CONTRACT COMPATIBLE USES

Following is a list of land uses determined to be compatible with the agricultural use of the land subject to this agreement:

1. Agriculture, including but not limited to horticulture and grazing.
2. Nurseries for the culture of plants for wholesale, or for sale for use in agricultural enterprises, but not other types of nurseries.
3. Open space.
4. Forest preserves.
5. Outdoor recreation facilities.
6. Public utility and service.
7. Riding and hiking trails.
8. Private and commercial stables, provided that any commercial stable must provide access to public riding and hiking trails.
9. Residence of owner and his employees engaged in domestic or agricultural work on the premises.

All that certain parcel of land situate in the City of Town of Los Gatos, County of Santa Clara, State of California, described as follows:

BEGINNING at the point of intersection of the Westerly line of that certain parcel of land described as Parcel No. 7 in the Deed to Wilson Investment Company, Inc., a corporation, recorded November 14, 1963 in Book 6272 of Official Records, page 527, Santa Clara County Records, with the Southerly line of Kennedy Road; thence from said point of beginning and leaving Kennedy Road South $0^{\circ} 5' 27''$ West along the most Westerly line of the property of Wilson Investment Company, Inc., for a distance of 800.0 feet; thence leaving said most Westerly line South $86^{\circ} 14' 46''$ East for a distance of 300.0 feet; thence North $0^{\circ} 5' 27''$ East for a distance of 375.0 feet to a point in the general Southerly line of that certain parcel of land described in the Deed to Tom B. Markley, et ux, recorded February 13, 1968 in Book 8024 of Official Records, page 5, Santa Clara County Records, thence North $86^{\circ} 14' 46''$ West for a distance of 65.0 feet; thence South $64^{\circ} 24' 41''$ West for a distance of 157.44 feet; thence North $5^{\circ} 42' 38''$ West for a distance of 20.10 feet; thence North $16^{\circ} 35' 53''$ East for a distance of 108.52 feet; thence North $75^{\circ} 57' 50''$ West for a distance of 16.49 feet; thence North $16^{\circ} 55' 39''$ East for a distance of 24.04 feet; thence North $49^{\circ} 32' 16''$ East for a distance of 44.69 feet; thence North $45^{\circ} 11' 31''$ West for a distance of 67.21 feet; thence North $47^{\circ} 59' 19''$ East for a distance of 176.31 feet; thence North $5^{\circ} 42' 38''$ East for a distance of 50.25 feet; thence South $81^{\circ} 45' 13''$ East for a distance of 69.72 feet; thence North $0^{\circ} 5' 27''$ East for a distance of 205 feet to a point on the Southerly line of Kennedy Road; thence South $51^{\circ} 13' 27''$ West for a distance of 136.0 feet; thence South $42^{\circ} 30' 27''$ West for a distance of 99.17 feet; thence continuing along the Southerly line of Kennedy Road in a generally Westerly direction North $89^{\circ} 30' 27''$ West for a distance of 43.27 feet; thence North $57^{\circ} 29' 33''$ West for a distance of 95.59 feet to the point of beginning.

RESOLUTION 2008-

RESOLUTION OF THE TOWN OF LOS GATOS TO ACCEPT A NOTICE OF NON-RENEWAL FOR A 14,375 SQ FT PORTION OF LAND UNDER CONTRACT WITH THE TOWN AS AN AGRICULTURE PRESERVE

WHEREAS, Frederick and Maud Holley are owners of land in the Town of Los Gatos, Santa Clara County, California, and have 4.33 acres of land designated an agriculture preserve under the provisions of the Land Conservation Act of 1965; and

WHEREAS, the Town of Los Gatos received and reviewed a Notice of Non-renewal for a 14,375 sq ft portion of such land, shown in Exhibit A, to facilitate a lot line adjustment which would include said portion of land with property not now subject to a contract under the provisions of the Act.

THEREFORE, BE IT RESOLVED that, based on the Facts and Findings in Resolution No. 1977-28 the retention of the remaining said land shall remain under contract with the Town of Los Gatos as an Agriculture preserve.

BE IT FURTHER RESOLVED that the Owners, Frederick and Maud Holley shall file and record all necessary paperwork with Santa Clara County Recorder and as otherwise required by law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the _____ of _____, 2008, by the following vote:

COUNCIL/AGENCY MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA