



Board Agenda Item 11

DATE: June 4, 2019

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Partial Cancellation of Agricultural Land Conservation Contract No. 5261 (RLCC No. 989)

RECOMMENDED ACTION(S):

1. **Adopt Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 5261 filed by Salam Obadi Kassim, based on the ability to make the five Consistency Findings listed under Government Code, Section 51282 (b); and**
2. **Authorize the Chairman to sign the Certificate of Tentative Cancellation and recording of the Certificate of Cancellation when all conditions included in the Certificate of Tentative Cancellation have been satisfied.**

The subject property is located on the north side of E. Conejo Avenue between State Route 43 and S. Thompson Avenue, approximately three miles west of the nearest city limits of the City of Kingsburg (APN 393-280-84s).

Approval of the recommended actions will remove a 1.82-acre portion of an 18.15-acre parcel with soil classification of Prime Farmland from the Williamson Act Program to replace and expand an existing market. The Applicant has filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 5261 in conjunction with Variance Application (VA) No. 4023 and Classified Conditional Use Permit (CUP) No. 3281 to remove a 1.82-acre portion of an existing 18.15-acre parcel with Prime soil to accommodate replacement and expansion of an existing market currently located on an adjacent 0.53-acre parcel owned by the Applicant, resulting in the creation of a new 2.35 acre parcel. This item pertains to a location in District 4.

This item comes to your Board with a recommendation for approval by the Agricultural Land Conservation Committee, subject to the following conditions:

1. The landowner shall obtain the necessary land use approvals, including approval of a mapping application to create the 2.35-acre parcel for the proposed market.
2. The Applicant shall pay the Cancellation Fee in the amount of \$22,500 as determined by the County Assessor and certified by the Board of Supervisors for issuance of a Certificate of Cancellation by the Board. The Cancellation Fee will be forwarded to the State by the County Auditor. The Cancellation Fee shall be paid and a Certificate of Cancellation issued prior to recording of the mapping application to create the 2.35-acre adjusted parcel for the proposed market.

ALTERNATIVE ACTION(S):

Your Board may determine that the required findings cannot be made and deny the cancellation.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. The Applicant paid the County an application fee of \$3,290 to process the petition.

DISCUSSION:

The Applicant, Salam Obadi Kassim, has filed a petition for partial cancellation of ALCC No. 5261.

Approval of the recommended actions will remove a 1.82-acre portion of an 18.15-acre parcel with soil classification of Prime Farmland from the Williamson Act program to replace and expand an existing market currently located on an adjacent 0.53-acre parcel owned by the Applicant, resulting in a newly created 2.35-acre parcel. Exhibit A is a location map of the subject property, Exhibit B depicts the zoning of the subject parcel and surrounding area, Exhibit C depicts the existing land use of the subject parcel and surrounding parcels, and Exhibit D is an aerial photo of the subject parcel showing the 1.82-acre portion of the 18.15-acre parcel subject to the cancellation.

Pursuant to Government Code, Section 51282, a landowner may petition the Board of Supervisors for cancellation of any contract as to all or any part of the contracted land. The Board may grant tentative approval for cancellation of a contract only if it makes all of the five findings listed under Government Code, Section 51282(b).

The Department of Public Works and Planning staff analysis of the proposal against the required findings is as follows:

1. *That the cancellation is for land on which a Notice of Nonrenewal has been served, pursuant to Section 51245 of the Government Code.*

An executed Notice of Nonrenewal for ALCC No. 5261 was accepted by the County Recorder on April 30, 2013 and was assigned Document No. 2013-0062317. This Nonrenewal is for the 18.15-acre parcel currently known as APN 393-280-84s, which includes the 1.82-acre portion subject to this petition. The 18.15-acre subject parcel is less than the minimum required parcel size to be enrolled in the Williamson Act Program. The County's minimum parcel size for parcels with Prime soil is 20 acres. Therefore, the Notice of Non-Renewal was recorded for the entire 18.15-acre parcel.

Based on the facts stated above, Department staff believes that Finding No. 1 can be made.

2. *That the cancellation is not likely to result in the removal of adjacent lands from agricultural use.*

The subject property and surrounding parcels are located in a rural area of the County, designated as Agricultural, and zoned AE-20 (Exclusive Agriculture, 20-acre minimum parcel size). The surrounding parcels, and according to the Applicant, the 16.33-acre balance of the subject parcel will continue to remain in agricultural use and the market will be located on a separate 2.35-acre parcel. Based on these factors, the removal of the 1.82-acre portion of the subject 18.15-acre parcel will not result in discontinuous patterns of urban development.

Based on the statement above, Department staff believes that Finding No. 2 can be made.

3. *That the cancellation is for an alternative use which is consistent with the applicable provisions of the County General Plan.*

The 18.15-acre parcel is designated for Agricultural use in the General Plan and is zoned AE-20 (Exclusive Agriculture, 20-acre minimum parcel size). The Applicant proposes to cancel a 1.82-acre portion of the subject property to replace and expand an existing market currently located on a 0.53-acre adjacent parcel to 2.35 acres. The existing market is located along State Route 43 (SR 43) which runs north-south through rural farmland connecting the towns of Shafter, Wasco, Corcoran, Hanford, and Selma, running roughly parallel to State Route 99 (SR 99). SR 43 is part of the California Freeway and Expressway System, a network of highways that are considered essential to the county's economy and mobility. According to the Applicant, the market that is located on the 0.53-acre adjacent parcel has been operating and serving the needs of the surrounding community and the travelers of SR 43 for more than sixty years.

Policy LU-A.3 of the General Plan states the County may allow by discretionary permit in areas designated Agricultural, agricultural commercial center uses, and other non-agricultural uses are subject to the following criteria:

- a. The use shall provide a needed service to the surrounding agricultural area which cannot be provided more efficiently within urban areas of which requires location in a non-urban area because of unusual site requirements or operational characteristics;
- b. The use should not be sited on productive agricultural lands if less productive land is available in the vicinity;
- c. The operational or physical characteristics of the use shall not have a detrimental impact on water resources or the use or management of surrounding properties within at least one-quarter mile radius;
- d. A probable workforce should be located nearby or be readily available;
- e. For proposed agricultural commercial center uses the following additional criteria shall apply:
 1. Commercial uses should be clustered in centers instead of single uses.
 2. To minimize proliferation of commercial centers and overlapping of trade areas, commercial centers should be located a minimum of four miles from any existing or approved agricultural or rural residential commercial center or designated commercial area of any city or unincorporated community.
 3. New commercial uses should be located within or adjacent to existing centers.
 4. Sites should be located on a major road serving the surrounding area.
 5. Commercial centers should not encompass more than one-quarter mile of road frontage, or one-eighth mile if both sides of the road are involved, and should not provide potential for developments exceeding ten separate business activities, exclusive of caretakers' residences.

With regard to criterion "a.", the project proposal will allow a market and gas station to replace the existing legal non-conforming market. This use will provide a service to the surrounding agricultural area where the most similar use is approximately 2.9 miles north of the project site. Additionally, the nearest urban areas are the City of Selma, located approximately 1.98 miles north of the project site, and the City of Kingsburg, which is 2.95 miles away.

With regard to criterion "b.", the project site is already improved with an existing legal nonconforming market and mobile home. The additional land being provided through the Property Line Adjustment has not been actively farmed in recent times and is currently vacant. Therefore, the project is not seen as being sited on productive agricultural land.

With regard to criterion "c.", the State Water Resources Control Board; the Fresno County Department of Public Health - Environmental Health Division; and the Department's Water and Natural Resources Division have reviewed the subject application and set forth requirements in

addressing water resource management.

With regard to criterion “d.”, the project site is located approximately 1.98 miles from the nearest city limits of the City of Selma and approximately 2.95 miles from the nearest city limits of the City of Kingsburg. Both cities can be considered for a probable workforce for the proposed project.

With regard to criteria “e.1. through e.5.”, the proposed project will develop a market and gas canopy within a legal agricultural commercial center compliant with development standards of the underlying zone district, intended to replace an existing legal non-conforming market located along a major road (State Route 43) serving the surrounding area.

As mentioned earlier, General Policy LU-A.3 provides for Agricultural Commercial Centers in areas designated as Agricultural. However, establishing an Agricultural Commercial Center is subject to approval of Conditional Use Permit (CUP) No. 3281, which is a discretionary approval process. CUP No. 3281 and concurrent Variance Application (VA) No. 4023 were recommended for approval by the Planning Commission on April 11, 2019. CUP No. 3281 and VA No. 4023 are on your Board’s June 4, 2019 agenda along with this cancellation petition.

Based on the discussion above, Department staff believes that Finding No. 3 can be made.

4. *That the cancellation will not result in discontinuous patterns of urban development.*

The subject property and surrounding parcels are located in a rural area of the County and are designated as Agricultural and are zoned AE-20 (Exclusive Agriculture, 20-acre minimum parcel size). The surrounding parcels and the 16.33-acre balance of the subject parcel will continue to remain in agricultural use and the market will be located on a separate 2.35-acre parcel. Based on these factors, the removal of the 1.82-acre portion of the subject 18.15-acre parcel will not result in discontinuous patterns of urban development.

Based on the statement above, Department staff believes that Finding No. 4 can be made.

5. *That there is no proximate, non-contracted land which is both available and suitable for the use to which it is proposed that contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.*

Department staff provided a map identifying similar size non-contracted parcels within a five-mile radius of the subject parcel and asked that the Applicant address availability and suitability of the identified non-contracted parcels for the proposed alternate use. In each case where the Applicant states that a site is not available, the Applicant must document that the site is not available. Similarly, in each case where the petitioner states that a noncontracted parcel is not suitable, the petitioner must address in detail why the subject parcel is not suitable to accommodate the use.

The Applicant mailed letters to the property owners of non-contracted parcels identified in the map discussed above requesting that the landowners notify the Applicant if their properties were available for sale. The Applicant’s letters were sent as certified mail and copies of the certified mailing receipts were provided to Department staff. As of December 8, 2018, the date the staff report was presented to the Agricultural Land Conservation Committee, the Applicant had not received any responses from the property owners who were contacted.

Based on the statement above, Department staff believes that Finding No. 5 can be made.

OTHER REVIEWING AGENCIES:

As of January 1, 2001, Government Code, Section 51284.1(a) requires notification to be provided by the County to the Director of the California Department of Conservation (DOC Director) once a cancellation petition has been accepted as complete. Under Government Code, Section 51284.1(c), the DOC Director's comments, if provided, are required to be considered by the Board of Supervisors before acting on the proposed cancellation.

The petition was forwarded to the DOC on February 12, 2018. Department staff allows at least 30 days for the DOC to provide comments. No response has been provided by the DOC for your Board's consideration.

PUBLIC HEARING NOTICE:

The DOC and all contracted landowners within one-mile of the subject property were noticed and notice for today's hearing was published as required.

AGRICULTURAL LAND CONSERVATION COMMITTEE RECOMMENDATION:

The ALCC reviews petitions for cancellation of Williamson Act Contracts and provides recommendations to the Board. At its December 5, 2018 hearing, the ALCC conducted a hearing on this item and at the conclusion of the hearing unanimously recommended approval of the petition to your Board subject to the Conditions listed on page one of this agenda item and Certificate of Tentative Cancellation.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits A-D
On file with Clerk - Resolution
On file with Clerk - Certificate of Tentative Cancellation

CAO ANALYST:

Sonia M. De La Rosa