



Board Agenda Item 10

DATE: August 9, 2022

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. 6899 (RLCC No. 1025 - Bledsoe)

RECOMMENDED ACTION:

1. **Consider petition for partial Cancellation of Agricultural Land Conservation Contract No. 6899 filed by Walter James Bledsoe and Elizabeth D. Bledsoe to remove a 6.64-acre portion of a 79.89-acre parcel from the Williamson Act contract to allow the creation of a 4.62-acre parcel and a 2.02-acre parcel for residential use; and**
2. **If your Board is able to make all five required Consistency Findings listed under Government Code, Section 51282(b), adopt a Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 6899; and**
3. **Authorize the Chairman to sign the Certificate of Tentative Cancellation and approve recordation of the Certificate of Cancellation when all conditions included in the Certificate of Tentative Cancellation have been satisfied.**

The subject parcel is located on the south side of Harlan Avenue and on the east and west sides of Bryan Avenue, approximately one mile northeast of the unincorporated community of Lanare (20141 Bryan Avenue) (APN: 053-031-03s).

This item comes to your Board with a recommendation for denial of the cancellation petition by the Agricultural Land Conservation Committee (ALCC) based on its inability to make required Findings No. 2 and No. 3 listed under Government Code, Section 51282(b).

This Petition for partial Cancellation was filed in conjunction with Variance Application (VA) No. 4109 to permit a substandard-sized parcel less than the minimum parcel size of 20 acres in the AE (Exclusive Agricultural) Zone District and to subsequently subdivide an existing 79.89-acre (gross) parcel into four separate parcels, including a 38.23-acre (gross) parcel, a 35.61-acre (gross) parcel, a 4.62-acre (gross) parcel, and a 2.02-acre (gross) parcel through a Parcel Map application. The subject parcel is located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District and is designated as Agricultural in the County General Plan. The subject parcel is currently planted with pistachio trees. According to the applicant's Variance application, the request is being made to allow the applicant to retain the proposed 38.23-acre (gross) parcel and the proposed 35.61-acre (gross) parcel for farming purposes while separately conveying the proposed 4.62-acre (gross) parcel and the proposed 2.02-acre (gross) parcel for residential use.

The County's Williamson Act Guidelines require parcels to have at least 20 acres of prime soil and an active agricultural operation or at least 40 acres of non-prime soil and an active agricultural operation to be eligible to remain in the Williamson Act Program. Therefore, the proposed 4.62-acre and 2.02-acre homesite parcels are not eligible to be enrolled in the Williamson Act Program, thus the applicants have filed a petition to remove the proposed 4.62-acre and 2.02-acre homesite parcels, 6.64 acres total, from the Williamson Act Program. This item pertains to a location in District 1.

ALTERNATIVE ACTION:

If your Board determines that any of the required findings cannot be made, your Board must deny the partial cancellation of Agricultural Land Conservation Contract No. 6899.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The applicants paid the application fee of \$3,290 for the cost of processing the cancellation petition.

DISCUSSION:

The applicants filed this petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 6899 in conjunction with VA Application No. 4109, which proposes to create a 4.62-acre homesite parcel and a 2.02-acre homesite parcel from an existing 79.89-acre parcel located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

Attachment A is a location map of the subject parcel, Attachment B depicts the zoning of the subject parcel and surrounding area, Attachment C depicts the existing land use of the subject parcel and surrounding parcels, Attachment D is an aerial photograph of the subject parcel including the 6.64-acre portion subject to the cancellation, and Attachment E is a map of the proposed Tentative Parcel Map.

On April 20, 2022, staff presented the proposed cancellation petition to the Agricultural Land Conservation Committee (Committee). In its report to the Committee, Attachment F, staff indicated that they were unable to make Findings No. 2 and No. 3 of the five required findings listed under Government Code, Section 51282(b) and therefore, staff recommended that the Committee recommend that your Board deny the proposed cancellation petition.

The applicants' representative addressed the Committee regarding staff's inability to make Finding Nos. 2 and 3. Staff informed the Committee that the subject parcel is under Williamson Act contract and therefore, to allow the proposed 2.02-acre and 4.62-acre homesite parcels to be created as separate parcels, the 6.64-acre portion of the subject parcel must first be removed from the Williamson Act program. In order to approve the petition to remove the subject parcel from the Program, the decision-making body must be able to make all five consistency findings listed under Government Code, Section 51282(b).

After considering staff's presentation and public testimony, the Committee recommended on a four to one vote (with one Committee Member absent) that your Board deny the proposed petition based on the inability to make required Findings No. 2 and No. 3 listed under Government Code, Section 51282(b). Staff notes that the dissenting vote made by one Committee member was because he believed Finding No. 2 could be made, but not Finding No. 3.

REQUIRED FINDINGS:

The proposed petition is being processed under the provisions of Government Code Sections 51282(a)(1) and 51282(b), which allows your Board to grant tentative approval for cancellation of a contract if your Board can make all of the findings listed under Government Code, Section 51282(b).

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 Partial Nonrenewal for Williamson Act Contract No. 6899 was accepted by the County Recorder on November 12, 2021 and was assigned Document No. 2021-0187621. Said Nonrenewal is for the proposed 6.64-acre portion of the 79.89-acre parcel associated with this Petition for Partial Cancellation.

Based on the above discussion, staff informed the Committee that Finding No. 1 can be made. The Committee concurred with this position.

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

The County's Williamson Act Guidelines require parcels to have at least 20 acres of prime soil and an active agricultural operation or at least 40 acres of non-prime soil and an active agricultural operation to be eligible to remain in the Williamson Act Program.

The existing 79.89-acre parcel contains soils classified as Prime Farmland and Farmland of Statewide Importance on the California Department of Conservation Important Farmland Map. The property is planted with pistachio trees. The neighboring parcels are designated as Agricultural in the County General Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size), and are actively farmed.

With respect to Finding No. 2, approval of the proposed Petition would allow creation of a 4.62-acre parcel and a 2.02-acre parcel following the approval of VA No. 4109 and the subsequent Parcel Map. The current and future owners of the two substandard-sized parcels could subsequently apply for a second residential unit on each parcel through a Director Review and Approval (DRA). This may result in four residential units on the proposed parcels that may be occupied by persons who are not involved in the farming operations. In addition, the owners of the proposed 38.23-acre parcel and the 35.61-acre parcel can each build a house on the resulting parcels.

Creation of additional substandard parcels could exacerbate (or create) conflicts with tenants or residents related to the inconveniences that are associated with agricultural uses, including dust, application of pesticides and herbicides, odors and flies generated by animal confinement facilities such as dairies, feedlots, poultry operations, and other similar uses that by the nature of the operation require a location in a sparsely populated area found in agricultural areas of the County. The residential use of these substandard parcels could create incompatibility between the agricultural uses and the residential uses in an area of the County that is designated and zoned for intensive agricultural uses and could result in the removal of adjacent lands from agricultural production due to restrictions placed on neighboring agricultural operations.

Moreover, allowing the cancellation of a Williamson Act contract to create separate substandard parcels may set a precedent to create similar parcels in the area, compounding the incompatibility between agricultural and residential uses of lands in an area of the County designated and zoned for agricultural operations.

Based on the above discussion, staff informed the Committee that Finding No. 2 cannot be made. The majority of the Committee members concurred with this position.

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

The existing 79.89-acre parcel is designated as Agricultural in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The Agriculture and Land Use

Element of the General Plan sets goals and policies promoting the long-term conservation of productive agricultural lands. General Plan Policy LU-A.1 states that the County shall maintain agriculturally designated areas for agricultural use and shall direct urban growth to cities and unincorporated communities. General Plan Policy LU-A.6 states that the County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated as Agricultural. Policy LU-A.7 states that the County shall generally deny requests to create parcels less than the minimum parcel size specified in Policy LU-A.6 based on the concerns that such parcels would be less viable economic farming units and the resultant increase in residential density would increase the potential for conflict with normal agricultural practices on adjacent parcels. Policy LU-A.12 requires protection of agricultural activities from encroachment of incompatible uses. Policy LU-A.13 states the County shall protect agricultural operations from conflicts with non-agricultural uses.

The project entails the creation of a 4.62-acre parcel and a 2.02-acre parcel from an existing 79.89-acre parcel to be used as separate legal substandard-sized residential parcels. As stated under Finding No. 2, owners of the two proposed parcels may apply for a Director Review and Approval (DRA) to include additional residential units that will most likely be occupied by persons not involved in agricultural operations. Staff believes the proposed parcels are residential uses and are not compatible with the existing neighboring agricultural operations in an area designated and zoned for production of food and fiber and those uses that due to the nature of their use require location in rural areas of the County that are sparsely populated.

Based on the above discussion, staff informed the Committee that the proposed alternative use is not consistent with County General Plan Policies LU-A.1, LU-A.6, LU-A.7, LU-A.12, and LU-A.13 and therefore, Finding No. 3 cannot be made. Each member of the Committee concurred with this position.

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

With respect to this finding, the subject property is located approximately one mile northeast of the unincorporated community of Lanare and the proposal in and of itself does not appear to result in a discontinuous pattern of urban development near the unincorporated community of Lanare.

Based on the above discussion, staff informed the Committee that Finding No. 4 can be made. The Committee concurred with this position.

5. *That there is no proximate non-contracted land that is both available and suitable for the use to which it is proposed that the 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 generated a map and list of non-contracted parcels approximately 4.62 acres and 2.02 acres in size located within a five-mile radius of the existing parcel. Letters were sent to the property owners of these non-contracted parcels requesting that the owners notify Department staff if their parcels are for sale. Staff was contacted by three property owners about the availability of their parcels for the alternative use.

The applicant contacted the property owners. It was determined that of the three properties, one property was not suitable for the property owner because it did not have a residence. The second property was not available. The third property owner did not respond to the applicant's inquiry.

Based on the above discussion, staff informed the Committee that Finding No. 5 can be made. The Committee concurred with this position.

AGRICULTURAL LAND CONSERVATION COMMITTEE PUBLIC MEETING:

The Committee reviews petitions for cancellation of Williamson Act Contracts and provides recommendations to your Board. As stated above, at the April 20, 2022, meeting, the Committee received staff's presentation and testimony from the applicants' representative and after considering the matter, the Committee recommended that your Board deny the proposed petition based on the inability to make required Findings No. 2 and No. 3 listed under Government Code, Section 51282(b).

PLANNING COMMISSION ACTION:

The Planning Commission at its April 28, 2022, public hearing considered VA No. 4109 and associated Initial Study (IS) Application No. 8090. The Commission received the staff's presentation and testimony from the applicant. At the conclusion of the public hearing, the Planning Commission voted on a 4 to 2 vote (with Commissioners Chatha and Ewell absent) to approve VA 4109. For the Variance to be effectuated (implemented) through a subsequent mapping application, the Cancellation must also be approved by your Board.

ENVIRONMENTAL DETERMINATION:

Initial Study (IS) Application No. 8090 was prepared for Variance (VA) No. 4109 to address the potential environmental impacts associated with the cancellation of the Williamson Act contract on the proposed 6.64-acre portion of the 79.89-acre parcel and concluded that creation of the proposed homesite parcels in and of itself will not result in a significant impact on the environment.

PUBLIC HEARING NOTICE:

The landowners within one-quarter mile of the subject property were provided notice of today's hearing, and the notice was also published in the Business Journal, which is a newspaper of general circulation.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A - F
On file with Clerk - Resolution
On file with Clerk - Certificate of Tentative Cancellation

CAO ANALYST:

Salvador Espino