



# Board Agenda Item 48

DATE: October 22, 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. 6142 (RLCC No. 990 - Duane and Karen Soares)

RECOMMENDED ACTION(S):

- 1. Adopt Resolution approving partial Cancellation of Agricultural Land Conservation Contract No. 6142 filed by Duane and Karen Soares, 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 approve recordation 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 W. Central Avenue between S. Valentine Avenue and S. Brawley Avenue approximately two miles west of the nearest city limits of the City of Fresno (APN 327-061-27s).**

The Applicants have filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 6142 in conjunction with Variance Application (VA) No. 4038. Approval of the recommended actions will remove 2.5-acre portion of a 39.10-acre parcel with soil classification of Prime Farmland from the Williamson Act Program (Program) to create a separate homesite 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 2.5-acre homesite parcel.
2. The Applicant shall pay the Cancellation Fee in the amount of \$12,500 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 2.5-acre homesite parcel.

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 Applicants paid the County an application fee of \$3,290 to process the petition.

DISCUSSION:

The Applicants, Duane and Karen Soares, have filed a petition for partial cancellation of ALCC No. 6142. Approval of the recommended actions will remove a 2.5-acre portion of a 39.10-acre parcel with soil classification of Prime Farmland from the Program to create a separate homesite 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. Exhibit D is an aerial photo of the subject parcel showing the 2.5-acre portion of the 39.10-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. 6142 was accepted by the County Recorder on August 9, 2018 and was assigned Document No. 2018-0097418. The Nonrenewal is for the 2.5-acre portion of the subject 39.10-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.*

According to the California Department of Conservation's Important Farmland 2014 Map and the Natural Resources Conservation Services (NRCS) Soil Survey, the subject 39.10-acre parcel contains soil that is classified as Prime Farmland. The subject property was purchased by the Applicant's grandparents in 1948 and has continuously been in agricultural production (rotation of alfalfa, silage corn, and winter forage). The 39.10-acre subject parcel was conveyed to the current owners (Applicants) by a grant deed on April 30, 2004. The Applicants propose to cancel the Williamson Act contract on a 2.5-acre portion of the property to create a separate parcel for residential use, to include an existing residence and related structures. The Applicants state that the 36.6-acre balance of the property is currently leased to an adjacent farming operation.

Department staff does not believe that removal of the 2.5-acre portion of the site from ALCC No. 6142 will result in removal of the balance of the parcel or adjacent lands from agricultural use and therefore, 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 39.10-acre parcel is designated for Agricultural use in the General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The Agricultural and Land Use Element of the General Plan sets goals and policies promoting long-term conservation of productive agricultural lands. Policy LU-A.1 of the General Plan directs urban-type development away from valuable

agricultural lands to cities and unincorporated communities where public facilities and infrastructure are available or could be made available to accommodate such developments.

Policy LU-A.6 states the County shall maintain 20 acres as the minimum permitted parcel size in areas designated as Agricultural. However, Policy LU-A.9 of the General Plan states the County may allow the creation of homesite parcels smaller than the 20-acre minimum parcel size if the parcel involved in the division is at least 20 acres in size, subject to the following criteria:

- a. The minimum lot size shall be 60,000 square feet of gross area, except that a lesser area shall be permitted when the owner submits evidence satisfactory to the Health Officer that the soils meet the Water Quality Control Board Guidelines for liquid waste disposal, but in no event shall the lot be less than one gross acre; and
- b. One of the following conditions exists:
  1. A lot less than 20 acres is required for financing construction of a residence to be owned and occupied by the owner of abutting property; or
  2. The lot or lots to be created are intended for use by persons involved in the farming operation and related to the owner by adoption, blood, or marriage within the second degree of consanguinity, there is only one lot per related person, and there is no more than one gift lot per 20 acres; or
  3. The present owner owned the property prior to the date these policies were implemented and wishes to retain his/her homesite and sell the remaining acreage for agricultural purposes.

Upon review, Department staff determined that the Applicants did not qualify for any of the exceptions listed under Policy LU-A.6; therefore, VA No. 4038 was filed proposing to create the 2.5-acre homesite parcel. On August 8, 2019, the Planning Commission, as part of its regular agenda, considered the Staff Report and testimony on VA No. 4038. At the conclusion of the public hearing, the Planning Commission unanimously approved VA No. 4038.

As indicated in Finding No. 2, the subject parcel contains soil that is classified as Prime Farmland according to the Department of Conservation's Important Farmland 2014 Map and the Natural Resources Conservation Services' Soil Survey. This classification is considered to have the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops.

Although the subject parcel contains prime soil, the 2.5-acre proposed parcel contains an existing residence and related structures. Additionally, removal of the 2.5-acre portion from the 39.10-acre parcel to create a residence does not appear to have an impact on agricultural operations of the balance of the parcel.

Based on the statement 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, are designated as Agricultural and are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The surrounding parcels and the 36.6-acre balance of the subject parcel will continue to remain in agricultural use. The removal of the 2.5-acre portion of the subject 39.10-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.*

Finding No. 5 requires that the Applicants demonstrate that the non-contracted parcels within a five-mile radius of the subject property identified by Department staff are not suitable or available to accommodate the alternate use.

Department staff provided a map identifying similar size non-contracted parcels within a five-mile radius of the subject parcel and asked that the Applicants address why the identified non-contracted parcels could not be used for the proposed alternate use. The Applicants submitted information regarding the availability of those parcels identified by staff.

The Applicants mailed letters to the property owners of non-contracted parcels identified in the map, requesting that the landowners notify the Applicants if their properties were available for sale. As of March 6, 2019, the date the Staff Report was presented to the Agricultural Land Conservation Committee, the Applicants 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 January 30, 2019. No response has been provided as of September 2019 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 March 6, 2019 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 Board Report.

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