



Board Agenda Item 13

DATE: September 12, 2017

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. 91 (RLCC No. 980)

RECOMMENDED ACTION(S):

- 1. Adopt Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 91 filed by Debbie Davis, 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 at such time as all conditions included in the Certificate of Tentative Cancellation have been satisfied.**

The applicant has filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 91 in conjunction with Unclassified Conditional Use Permit Application No. 3535. ALCC No. 91 covers the subject parcel as well as several surrounding parcels. Approval of the recommended actions will remove a 19.55-acre parcel with a Non-Prime soil classification from the Williamson Act program to permit a High Intensity Park for special events with a commercial stable and riding academy. A High Intensity Park is not a permitted or a compatible use on contracted land and therefore, the subject parcel must be removed from the Williamson Act Program. The Planning Commission at its July 20, 2017 public hearing approved Unclassified Conditional Use Permit No. 3535 on a vote of 4-2 (three Commissioners absent).

The subject property is located on the north side of E. Bullard Avenue between N. Academy Avenue and the N. Madsen Avenue alignment approximately five miles east of the City of Clovis. (See Location Map Attachment A, Zoning Map Attachment B, Existing Land Use Map Attachment C and Aerial Image Attachment D) (APN 308-350-24).

This item comes to the 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 compliance with all conditions of the aforementioned approved Unclassified Conditional Use Permit (UCUP) to permit the 19.55-acre parcel subject to the cancellation petition for a High Intensity Park for special events with a commercial stable and riding academy.
2. The applicant shall pay the Cancellation Fee in the amount of \$35,000 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 shall be paid and a Certificate of Cancellation issued prior to issuance of any permit or commencement of the Conditional Use Permit (CUP).

ALTERNATIVE ACTION(S):

Determine that the required findings cannot be made and deny the cancellation.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The applicant paid the County a fee of \$3,290 to process the petition.

DISCUSSION:

The applicant, Debbie Davis, has filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 91. Approval of the recommended actions will remove a 19.55-acre parcel with a Non-Prime soil classification from the Williamson Act program to permit a High Intensity Park for special events with a commercial stable and riding academy.

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 if:

The Cancellation is consistent with the purposes of the Land Conservation Act (LCA) of 1965[Government Code Section 51282. (a)(1)].

Cancellation of a contract is consistent with the purposes of the Williamson Act if the Board makes all of the five findings listed in Government Code Section 51282. (b).

Staff's analysis of the proposal against the required Findings is as follows:

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

An executed Irrevocable Notice of Partial Nonrenewal for ALCC No. 91 was accepted by the County Recorder on August 24, 2016 and was assigned Document No. 2016-0112834. This Nonrenewal is for the 19.55-acre parcel subject to this petition.

Based on the facts stated above, 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 19.55-acre parcel contains soils that are classified as Rural Residential Land and Semi-Agricultural and Rural Commercial Land on the California Department of Conservation's Important Farmland 2014 Map. The subject parcel had been used as a High Intensity Park including commercial stable and riding academy for over sixteen years without a permit when the applicant/owner acquired the property in 2000. The 19.55-acre parcel includes an existing residence owned and occupied by the applicant, a park-like area for weddings and special events and an equine facility (commercial stables, riding arenas and associated structures). The proposed alternate use will result in the loss of approximately twenty acres of non-prime farmland. Pursuant to the Fresno County Interim Guidelines and Procedures for implementation of the Williamson Act program, non-prime agricultural parcels must be at a minimum forty acres in size to sustain a commercial agricultural use and to be eligible to be enrolled in the Williamson Act program.

The surrounding parcels contain soils that are classified as Grazing Land and Farmland of Local Importance on the California Department of Conservation's Important Farmland 2014 Map. The adjacent parcels to the east and west are currently under a Williamson Act contract. The adjacent parcels to the north and south are not restricted by a Williamson Act contract.

As was noted above, the subject parcel contains non-prime soil and therefore must be at least forty acres to be considered a sustainable parcel for commercial agricultural operation and to be eligible for enrollment in the Williamson Act program. Since the parcel is a substandard Williamson Act parcel and has not been farmed for approximately sixteen years, it is not eligible to be enrolled in the Williamson Act program.

Staff does not believe that the cancellation of the Contract to remove this parcel from the Williamson Act Program will result in removal of adjacent lands from Williamson Act contracts, thus Finding No. 2 can be made.

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

The Agriculture and Land Use Element of the Fresno County General Plan, sets out goals and policies promoting long-term conservation of productive and potentially productive agricultural lands. The County General Plan includes policies to protect agricultural activities from incompatible uses that may restrict farming activities.

Goal LU-A of the Agriculture and Land Use Element of the General Plan promotes long-term conservation of productive and potentially-productive agricultural lands and to accommodate agricultural-support services and agriculturally-related activities that support the viability of agriculture and further the County's economic development goals.

Policy LU-A.12 of the Agriculture and Land Use Element of the General Plan states "In adopting land uses policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses."

Policy LU-A.14 of the Agriculture and Land Use Element of the General Plan states "The County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate."

The soil composition and the size of the parcel does not qualify the subject parcel to be a sustainable agricultural parcel. The parcel has not been farmed for the past sixteen years and should not be enrolled in the Williamson Act Program. The goals and policies of the General Plan are to protect productive agricultural lands from conversion to nonagricultural uses. Also, the Williamson Act Program provides a tax break to parcels that are utilized for production of food and fiber. As discussed under Finding No. 2, the subject parcel is not eligible to be enrolled in the Williamson Act Program and is not a productive agricultural parcel.

Based on the above discussion, staff believes that the proposed alternate use is consistent with the policies of the General Plan for protection of productive agricultural land, and therefore, believes Finding No. 3 can be made.

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

The proposed High Intensity Park for special events with a commercial stable and riding academy will not result in discontinuous patterns of urban development, should the proposed cancellation be approved.

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 Agricultural, 20-acre minimum parcel size) and therefore, will not result in discontinuous patterns of urban development.

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

5. That there is no proximate, non-contracted land which is both available and suitable to accommodate the use or the development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

County staff provided a map identifying similar sized non-contracted parcels within a 5- mile radius of the subject parcel and asked that the applicant address utilizing any of the non-contracted parcels for the proposed alternate use. The applicant submitted information regarding the availability of those parcels identified by County staff.

In addressing availability, the applicant determined two parcels may be suitable for the proposed alternate use. However, the applicant indicated that none of the potential parcels were available for sale.

Staff believes that the applicant has done a reasonable search to find a non-contracted parcel that can be used for the alternate use, thus Finding No. 5 can be made.

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

ENVIRONMENTAL DETERMINATION:

An Initial Study (IS) (No. 7170) was prepared for Conditional Use Permit Application No. 3535 by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA), to permit a High Intensity Park for special events with a commercial stable and riding Academy. The IS included analysis regarding the proposed cancellation petition. Based on the IS conclusion, staff determined that there will be no significant impact on the environment and a Negative Declaration was issued and circulated according to CEQA. At the Planning Commission hearing of July 20, 2017, the Planning Commission adopted the Negative Declaration and approved Unclassified Conditional Use Permit No. 3535.

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 State Department of Conservation (DOC Director) once a cancellation petition has been accepted as complete. Under Government Code Section 51284.1(c), the Director's comments, if provided, is required to be considered by the Board of Supervisors before acting on the proposed cancellation.

The petition was forwarded to the Department of Conservation (Department) on January 31, 2017. Staff allows at least 30-days for the Department to provide comments. On February 24, 2017, the Department responded that the Department has reviewed the cancellation petition submitted by Fresno County and does not have any comments for the Board (see Attachment E).

The Department of Conservation and all 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 Agricultural Land Conservation Committee (ALCC) reviews petitions for cancellation of Williamson Act Contracts and provides recommendations to the Board. At its April 5, 2017 hearing, the ALCC unanimously voted

to forward the petition to the Board with a recommendation for approval of the petition subject to the Conditions listed on page one of this Agenda Item.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A-E

On file with Clerk - Resolution

On file with Clerk - Certificate of Tentative Cancellation

CAO ANALYST:

John Hays