



Board Agenda Item 10

DATE: June 22, 2021

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. 2093 (RLCC No. 1008)

RECOMMENDED ACTIONS:

- 1. Consider petition for partial Cancellation of Agricultural Land Conservation Contract No. 2093 filed by True Organic Products, LLC, to remove three parcels totaling 66.68 acres to expand an existing fertilizer manufacturing and storage facility; and**
- 2. If your Board can make all the required Findings listed under Government Code, Section 51282(b), adopt a Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 2093; 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 parcels are located on the southwest corner of W. Kamm Avenue and the S. Butte Avenue alignment, approximately three miles west of the unincorporated community of Helm (APNs: 040-080-42s, 040-080-43s, 040-080-44s). This item pertains to a location in District 1.

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

1. The landowner shall obtain the necessary land use approvals, including CUP No. 3656.
2. The applicant shall pay the Cancellation Fee in the amount of \$34,375 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 exercising CUP No. 3656 or issuance of any permit associated with the proposed use.

ALTERNATIVE ACTION:

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 application fee of \$3,290 for the cost of processing the cancellation petition.

DISCUSSION:

This petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 2093 was filed in conjunction with Classified Conditional Use Permit (CUP) Application No. 3656 and associated Initial Study (IS) Application No. 7681, which proposes to expand an existing fertilizer manufacturing and storage facility onto three parcels abutting the existing facility totaling 68.67 acres. The subject parcels are located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District and are designated as Agricultural in the County General Plan.

Attachment A is a location map of the subject parcels, Attachment B depicts the zoning of the subject parcels and surrounding area, Attachment C depicts the existing land use of the subject parcels and surrounding parcels, and Attachment D is an aerial photograph of the subject parcels.

On April 7, 2021 staff presented the cancellation petition to the Agricultural Land Conservation Committee (Committee). In its report to the Committee, Attachment E, staff indicated that they were able to make all of the five required findings to support the cancellation of contract on the subject parcels.

After considering staff's presentation and public testimony, the Committee recommended on a unanimous vote (4 to 0 with two Committee members absent) that your Board approve the proposed petition based on the ability to make all of the required findings listed under Government Code, Section 51282(b).

On April 22, 2021, after considering staff's presentation and public testimony, the Planning Commission approved CUP Application No. 3656 and associated IS Application No. 7681 on a unanimous vote of 7 to 0 with two Commissioners absent.

REQUIRED FINDINGS:

The proposed petition is being processed under the provisions of Government Code Section 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. 2093 was accepted by the County Recorder on April 28, 2020 and was assigned Document No. 2020-0052505. Said Nonrenewal is for the 25.78-acre parcel, the 20.45-acre parcel and the second 20.45-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.

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

Surrounding parcels are designated as Agricultural in the County's General Plan and are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The adjacent parcels to the north, south and west of the subject site are under Williamson Act contract. However, none of the parcels are being actively farmed. The adjacent parcel to the east, identified as Assessor's Parcel Number 040-080-15s, has been fully developed as a photovoltaic solar power generation facility and is not under contract. The existing fertilizer manufacturing facility has been in operation since 1990 and this proposed petition is to remove the subject parcels from the Williamson Act Contract to expand the facility.

Based on the above discussion, staff informed the Committee that the proposed use will not result

in the removal of the adjacent parcels from agricultural use as they are not being actively farmed and therefore, Finding No. 2 can be made.

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

The subject parcels are designated as Agricultural in the County General Plan and are 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 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.3 states that the County may allow by discretionary permit in areas designated Agriculture, special agricultural uses and agriculturally related activities. General Plan Policy LU-A.12 requires protection of agricultural activities from encroachment of incompatible uses. General Plan Policy LU-A.13 states that the County shall protect agricultural operations from conflicts with non-agricultural uses. General Plan Policy LU-A.14 states that 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 applicant acquired the subject parcels in 2015 and has not utilized the subject parcels for commercial agricultural purposes. Review of aerial photographs dating back to 2004 show no agricultural use on the subject parcels. Further, according to the applicant, there are no water wells located on the subject parcels, nor do the subject parcels receive any surface water allocation.

Regarding Policy LU-A.3, the project entails expansion of an existing fertilizer processing plant that manufactures fertilizer that is used by local farmers in the area and throughout the County. The project site is not prime farmland and is classified as Farmland of Local Importance and Semi-Agricultural and Rural Commercial Land on the 2016 Fresno County Important Farmland Map.

Regarding Policies LU-A.12 and LU-A.13, this proposal entails expansion of an existing fertilizer manufacturing and storage facility on agricultural parcels that have been enrolled in the Williamson Act program but have not been used by the applicant for commercial agricultural operation. Concerning LU-A.14, this project will result in the loss of 66.68 acres of farmland. However, as stated previously, the parcels have not been actively farmed for years.

Based on the above discussion, staff informed the Committee that Finding No. 3 can be made.

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

The subject parcels are located in a rural area away from any city or unincorporated community, and neighboring parcels are designated as Agricultural in the County General Plan and therefore, staff believes this proposal does not represent a discontinuous pattern of urban development.

Based on the above discussion, staff informed the Committee that Finding No. 4 can be made.

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.*

Finding No. 5 requires search for non-contracted parcels that are available and suitable to accommodate the proposed alternative use. If there are comparable size parcels identified to accommodate the proposed alternative use, the applicant must address why none of the identified parcels are available and suitable to accommodate the proposed alternative use.

Staff generated a map and list of non-contracted parcels ranging in approximate size from 68 to 75 acres located within a five-mile radius of the subject parcels and sent letters to the owners of these non-contracted parcels requesting that said owners notify staff if their parcels are for sale. Staff was not contacted by any of the landowners within the five-mile radius about the availability of their parcels for the proposed use.

Based on the above discussion, staff informed the Committee that Finding No. 5 can be made.

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 its April 7, 2021 meeting, the Committee received staff's presentation and after considering the matter, the Committee recommended on a unanimous vote of four to zero with two Committee members absent that your Board approve the proposed petition based on the ability to make all of the required findings listed under Government Code, Section 51282(b).

ENVIRONMENTAL DETERMINATION:

Initial Study (IS) No. 7681 prepared for CUP Application No. 3656 addressed the potential environmental impacts associated with the cancellation of the contract and concluded that the cancellation will not result in a significant impact on the environment because the subject parcels are non-active agricultural lands that have been fallowed for years and the project is considered an appropriate use in an agricultural zone district.

PUBLIC HEARING NOTICE:

The State of California Department of Conservation (DOC) and all landowners within one quarter mile of the subject property were provided notice of today's hearing, and the notice was also published.

ATTACHMENTS INCLUDED AND/OR ON FILE:

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

CAO ANALYST:

Ron Alexander