



Board Agenda Item 12

DATE: February 12, 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. 3726 (RLCC No. 979)

RECOMMENDED ACTION(S):

1. **Adopt Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 3726 filed by Ceres Ranch No. 4 LLC, 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 E. South Avenue between S. Alta Avenue and S. Navelencia Avenue, approximately two miles northeast of the nearest city limits of the City of Reedley APN: 373-070-50 (portion).

The applicant has filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 3726. Approval of the recommended actions will remove an approximately 1.50-acre portion of an 18.86-acre parcel with Farmland of Statewide Importance soil classification from the Williamson Act Program (Program) to allow the creation of a 1.50-acre separate parcel. The remainder 17.36 acres will be merged with an adjoining 39.49-acre parcel identified as APN 373-070-87s through a Lot Line Adjustment to form a 56.85-acre parcel, allowing the balance of the subject parcel to remain in the Program. The existing 18.86-acre parcel is enrolled in the Program under Contract No. 3726 and the existing 39.49-acre parcel is enrolled in the Program under Contract No. 8302. Therefore, a Rescission and Re-entry of the Williamson Act Contracts is required to reflect the boundaries of the adjusted contracted parcel. This item pertains to a location in District 4.

This item comes before 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 Parcel Line Adjustment resulting in an adjusted 1.50-acre parcel and combine the 17.36-acre balance of the subject parcel with an adjoining 39.49-acre parcel resulting in a separate 56.85-acre adjusted parcel. Further, as the existing 18.86-acre parcel is enrolled in the Program under Contract No. 3726 and the existing 39.49-acre parcel is also enrolled in the Program under Contract No. 8302, a Rescission and Re-entry of the Williamson Act Contracts is required to reflect the boundaries of the adjusted contracted parcel.

2. The applicant shall pay the Cancellation Fee in the amount of \$5,625 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 Recordation of the Parcel Line Adjustment.

ALTERNATIVE ACTION(S):

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

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 Cancellation Petition.

DISCUSSION:

The applicant, Ceres Ranch No. 4 LLC, has filed a Cancellation Petition for partial cancellation of ALCC No. 3726. Approval of the recommended actions will remove an approximately 1.50-acre portion of an 18.86-acre parcel with Farmland of Statewide Importance soil classification from the Program to allow the creation of a 1.50-acre separate parcel.

On September 21, 2017, the Planning Commission denied Variance (VA) Application No. 3998 (5 to 2, with two Commissioners absent), which proposed to allow creation of the subject 1.50-acre parcel and a 17.36-acre parcel from an existing 18.86-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The 17.36-acre balance of the 18.86-acre parcel to be combined with an adjacent 39.49-acre parcel also zoned AE-20 by a Parcel Line Adjustment resulting in the creation of a 56.85-acre parcel.

The applicant appealed the Planning Commission's determination and on November 14, 2017, the Board of Supervisors was able to make the required variance findings and approved VA Application No. 3998.

Pursuant to Government Code Section 51282. (a)(1), a landowner may petition the Board of Supervisors for cancellation of any contract as to all or any part of the contracted land and the Board may grant tentative approval for cancellation of a contract only if the Board finds that the cancellation is consistent with the purposes of the Williamson Act.

Cancellation of a contract shall be consistent with the purposes of the Williamson Act only if the Board makes all of the five findings listed in 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 Partial Nonrenewal for ALCC No. 3726 was accepted by the County Recorder on June 6, 2016, and was assigned Document No. 2016-0071562. This Partial Nonrenewal is for the proposed 1.50-acre parcel subject to this Cancellation Petition.

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 applicant submitted VA Application No. 3998 and Property Line Adjustment (PLA) Application No. 18-09 to adjust property lines between an 18.86-acre parcel and an adjacent 39.49-acre parcel resulting in an adjusted 1.50-acre parcel and an adjusted 56.85-acre parcel in the AE-20 Zone District. The purpose of the PLA is to create the 1.50-acre adjusted substandard parcel, and the VA is necessary to authorize creation of a substandard sized parcel in the AE-20 Zone District. The 1.50-acre parcel is smaller than the 20-acre required minimum parcel size and therefore, is not eligible to remain in the Program. The landowner has submitted a petition to remove the subject 1.50-acre portion of an 18.86-acre parcel from the Program. The remaining 17.36-acre balance will be combined with an adjacent 39.49-acre parcel to form a 56.85-acre parcel and will continue to be farmed. Neighboring parcels to the north, south, and west are subject to Williamson Act contracts.

The adjacent surrounding parcels are designated as Agricultural in the County General Plan, are zoned AE-20, and many are currently restricted by Williamson Act contracts with active agricultural operations.

Based on the discussion above, Department staff does not believe that removal of the subject 1.50-acre portion from contract restrictions will result in removal of adjacent land from agricultural uses; therefore, 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 existing 18.86-acre parcel is designated as Agricultural in the County General Plan and is zoned AE-20.

The Agricultural Land Protection theme of the General Plan states “The plan seeks to protect its productive agricultural land as the County’s most valuable natural resource and the historical basis of its economy through directing new urban growth to cities and existing unincorporated communities and by limiting the encroachment of incompatible development upon agricultural areas.”

Policy LU-A.1 of the General Plan’s Agriculture and Land Use Element states “The County shall maintain agriculturally-designated areas for agriculture use and shall direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available.”

Policy LU-A.6 of the General Plan’s Agriculture and Land Use Element states “The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10 and LU-A.11. The County may require parcel sizes larger than twenty (20) acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.”

However, Policy LU-A.9 of the General Plan’s Agriculture and Land Use Element states “The County may allow creation of homesite parcels smaller than the minimum parcel size required by Policy LU-A.6, if the parcel involved in the division is at least twenty (20) acres in size, subject to the following criteria:

- a. The minimum lot size shall be sixty thousand (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 (1) gross acre; and
- b. One of the following conditions exists:
 1. A lot less than twenty (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 (1) lot per related person, and there is no more than one (1) gift lot per twenty (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.

Each homesite created pursuant to this policy shall reduce by one (1) the number of residential units otherwise authorized on the remainder parcel created from the original parcel. The remainder parcel shall be entitled to no less than one residential unit."

The applicant does not intend to use the proposed site as a Financing Parcel and upon review, it was determined that the applicant did not qualify for any of the other exceptions noted above and therefore, a variance application had to be filed.

As indicated above, the soil of the subject parcel is classified as Farmland of Statewide Importance on the Fresno County Important Farmland Map. This classification is considered to have some the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops.

Although the subject parcel contains soil that is classified as Farmland of Statewide Importance, the proposed 1.50-acre parcel contains a residence and a garage and therefore, it is not a sustainable agricultural parcel. The 17.36-acre remainder parcel will be combined with an adjacent 39.49-acre parcel to form a 56.85-acre parcel.

Based on the discussion above, Department staff believes that the proposed alternate use is not inconsistent with County General Plan policies for protection of agricultural resources due to the small size of the homesite parcel that contains a residence; therefore, 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 designated as Agricultural and zoned AE-20. Therefore, staff believes the proposed cancellation will not result in discontinuous patterns of urban development.

Based on the facts stated 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 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 provided a map and list of non-contracted parcels of similar size within a five-mile radius of the subject parcel, and asked that the applicant address why the identified non-contracted parcels are not available and suitable for the proposed alternate use. The applicant submitted information regarding the availability of those parcels identified by Department staff. In addressing availability, the applicant stated that two of the ten parcels met the applicant's criteria. However, neither of the two non-contracted parcels within a five-mile radius were available for sale.

Based on the facts stated above, Department staff believes that the applicant has done a reasonable search to find a non-contracted parcel that can be used for the alternate use and therefore, Finding No. 5 can be made.

ENVIRONMENTAL DETERMINATION:

The Initial Study (IS) that has been completed by Department staff for the proposed alternate use also

addresses the potential environmental impacts associated with the cancellation of the contract. IS Application No. 7160 was completed and circulated prior to the Planning Commission hearing for the VA. The IS did not identify any potentially significant impact resulting from removal of the 1.50-acre homesite from the Program.

AGRICULTURAL LAND CONSERVATION COMMITTEE RECOMMENDATION:

The ALCC reviews petitions for cancellation of Williamson Act Contracts and provides recommendations to your Board. At its meeting on May 3, 2017, the ALCC unanimously voted to forward this request to the Board with a recommendation for approval subject to the Conditions listed on page one of this Agenda Item.

NOTICING:

The Department of Conservation and all contracted landowners within one-mile of the subject property were noticed and notice was published in a newspaper of general circulation (Fresno Business Journal) as required.

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 (the Director) once a cancellation petition has been accepted as complete. Under Government Code Section 51284.1(c), the 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 Department of Conservation (Department) on March 17, 2017. Department staff allows at least 30 days for comment; however, no comments were received.

ATTACHMENTS INCLUDED AND/OR ON FILE:

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

CAO ANALYST:

Sonia M. De La Rosa