



Board Agenda Item 5

DATE: December 13, 2016

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Initial Study No. 7147 and Amendment Application No. 3809 (applicant:
Bonadelle Neighborhoods)

RECOMMENDED ACTION(S):

1. Consider and adopt the Negative Declaration prepared for Initial Study Application No. 7147; and
2. Approve Ordinance pertaining to Amendment Application No. 3809 rezoning four contiguous parcels totaling 77.96 acres from the R-1-B(c) (Single-Family Residential, Conditional) Zone District and the R-1-C(c) (Single-Family Residential, Conditional) Zone District to the 'O' (Open Conservation Land Use) Zone District to allow the properties to be farmed with recycled water from an existing wastewater treatment facility. The use of recycled water was authorized by Conditional Use Permit No. 3503.

The project site is located within the Millerton Specific Plan, approximately 3,794 feet west of Auberry Road, 2,250 feet south of Millerton Road and 2.5 miles east of the unincorporated community of Friant (Sup. Dist. 5) (APN 300-542-15S, 16S, 17S & 18S).

This item was continued from the September 27, 2016 Board of Supervisors hearing at the Applicant's request to address written concerns submitted by some area residents in response to public notices associated with the rezoning and to facilitate consultation with Table Mountain Rancheria. This item comes before the Board with a unanimous recommendation for approval (8 to 0; one Commissioner absent) from the Planning Commission.

ALTERNATIVE ACTION(S):

If the Board determines that the rezoning is not consistent with the General Plan, a motion to deny Amendment Application No. 3809 would be appropriate.

FISCAL IMPACT:

Pursuant to the County's Master Schedule of Fees, the Applicant has paid \$12,086 in land use processing fees to the County for the processing of the Amendment Application request.

DISCUSSION:

A rezoning is a legislative act requiring final approval by the Board. Final action by the Board is also required for the adoption of the Initial Study Application (IS), filed concurrently with the rezoning application. If approved, the rezoning would then become effective 30 days after adoption.

The applicant is proposing to rezone the property from the R-1-B(c) and R-1-C(c) Zone Districts to an 'O' Zone District to allow the properties to be farmed with recycled water from an existing wastewater treatment facility. The property is located within the Millerton Specific Plan, approximately 3,794 feet west of Auberry Road, 2,250 feet south of Millerton Road and 2.5 miles east of the unincorporated community of Friant.

Previously, Unclassified Conditional Use Permit No. 3503 was approved on April 14, 2016 to permit the use of tertiary-treated recycled water from an existing Wastewater Treatment Facility to irrigate the subject 77.96-acre property in the R-1-B(c) and R-1-C(c) Zone Districts. The current proposal to rezone the property from the R-1-B(c) and R-1-C(c) Zone Districts to an 'O' (Open Space) Zone District will permit the property to be actively farmed. Open Space is considered conditionally compatible with land designated Medium-Low-Density Residential in the Millerton Specific Plan. Further, the Applicant proposes specific conditions to limit farming practices in such a manner as to not impact surrounding residential uses.

This item was considered by the Planning Commission on July 21, 2016. After receiving staff's presentation and considering public testimony from the Applicant and his representative, the Commission approved a unanimous motion (8 to 0; one Commissioner absent) to forward to the Board a recommendation adopting the Negative Declaration prepared for the project and approving the proposed rezone request, subject to the Conditions of Approval and Project Notes listed in the Staff Report (See Exhibit 1 for the Planning Commission Action). At the hearing, one member of the public, a nearby property owner, expressed concerns with farming activities proposed close to residential development. A copy of the July 21, 2016 Planning Commission Staff Report is attached as Exhibit 2.

On September 27, 2016, the Board considered a request from the Applicant that the item be postponed to allow time to discuss concerns raised by neighboring homeowners regarding the onsite farming activities to their neighborhood. Those concerns were provided in correspondence received prior to the Board Hearing and are included as part of the reference material associated with September 27, 2016 Board Agenda Item No. 10. In summary, the correspondence submitted consisted of seven letters expressing identical concerns related to farm operations and the installation of orchards including concerns with noise, odors, dust, and the application of chemical fertilizers, pesticides and herbicides. An eighth letter from an individual who indicated they lived on land that is actively farmed and understands the impacts of farming operations was also submitted.

Staff also informed the Board that additional time was necessary to coordinate with Table Mountain Rancheria (TMR) to determine the project's potential impact on cultural resources as requested by TMR and per the requirements of Assembly Bill No. 52. TMR had made a written request to staff requesting consultation shortly before the September 27th Board Hearing. After receiving this information from staff and the Applicant's request, a motion was made to continue the item to a date uncertain and the motion was approved unanimously by the Board (5 to 0).

The Applicant engaged in discussion with the project's neighboring homeowners through a series of neighborhood meetings that occurred on October 3rd, 8th and 9th of this year. The Applicant indicated that at those meetings he explained the project location, the topographical situation associated with the application (there are two mountain ranges between the project and the concerned parties' neighborhood), that the request is to rezone from residential to open space zoning, and that orchard access is proposed from Marina Drive to the south. The Applicant also indicated that he emphasized if the land were to remain residential, access would likely be through their community.

According to the Applicant, based on discussions with those in attendance at the meetings, some of those present indicated a preference for additional housing in lieu of an agricultural operation or if an orchard were to be established, that it be organically farmed. The Applicant then stated a reluctance to commit to organic farming based on a general inexperience with farming and under the advisement of his farm management company (Wonderful Ag).

Staff met with representatives of TMR on October 19, 2016 and provided project documentation to tribal representatives and explained the County's consultation process under AB 52. On October 24, 2016, staff

received a letter from TMR stating that based on the additional information provided the subject application would have no potential impacts to Tribal Cultural Resources thus concluding consultation under Assembly Bill 52. A copy of that letter is attached as Exhibit 4.

On November 8, 2016, staff received a request from the Applicant to reduce the overall size of the area to be rezoned to open space from 77.96 acres to 71.3 acres. According to information provided by the Applicant and attached as Exhibit 5, the proposed reduction was done in part to address concerns by neighboring property owners associated with the overall size of the area to be rezoned, and to accommodate a potential conflict with approved Tract map No. 4934 which would have encroached into the southwest area of the rezoning. As the overall area is a reduction of the original area proposed, and no other boundaries are being shifted with this requested modification, staff believes the Board can consider the requested reduction without amending the Initial Study prepared for this rezoning. The revised rezoning map and legal description have also been incorporated into the rezoning ordinance should the Board act to approve this request.

If the Board determines that the proposed rezoning is consistent with the General Plan, an approval motion would be appropriate stating in its motion to approve that the Board is adopting the Negative Declaration prepared for Initial Study No. 7147. The proposed Negative Declaration prepared for IS No. 7147 is attached as Exhibit 3. If the Board determines that the rezoning is not consistent with the General Plan, denial of the application would then be appropriate, citing the reasons for denial and the proposal's inconsistency with the General Plan.

REFERENCE MATERIAL:

BAI #10, September 27, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits 1 - 5
Ordinance

CAO ANALYST:

John Hays