



County of Fresno

BOARD OF SUPERVISORS

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Notice of Public Hearing

Notice of hearing before the Board of Supervisors of the County of Fresno on **PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 5834 (RLCC NO. 1030)**

Notice is hereby given that the Board of Supervisors of the County of Fresno has set this hearing for **Tuesday**, the **9th day of July** at the hour of **9:30 A.M. (or as soon thereafter as possible)**, in the **Board of Supervisors Chambers**, Room 301, Hall of Records, 2281 Tulare St., Fresno, California, as the time and place for holding a public hearing on the following matter:

To remove a 2.00-acre portion of a 32.22-acre parcel from the Williamson Act contract to allow the creation of a 2.00-acre separate parcel for residential use. The subject parcel is located on the south side of Rainbow Route, between Turney Avenue and Riverbend Avenue, approximately one and a half miles northeast of the nearest city limits of the City of Sanger (APNs 333-021-91 and 333-021-92) (Sup Dist. 5).

Please see map on Reverse Side

For information, contact **Alexander Pretzer**, Department of Public Works and Planning, 2220 Tulare Street, (Corner of Tulare & "M" Streets, Suite B), Fresno, CA 93721, telephone **(559) 600-4205**, or email **apretzer@fresnocountyca.gov**.

The full text of this Public Hearing will be available on the Fresno County website <https://fresnocounty.legistar.com/Calendar.aspx> under the July 9, 2024, meeting at the Meeting Details link by Wednesday, July 3, 2024.

PROGRAM ACCESSIBILITY AND ACCOMMODATIONS: The Americans with Disabilities Act (ADA) Title II covers the programs, services, activities, and facilities owned or operated by state and local governments like the County of Fresno ("County"). Further, the County promotes equality of opportunity and full participation by all persons, including persons with disabilities. Towards this end, the County works to ensure that it provides meaningful access to people with disabilities to every program, service, benefit, and activity, when viewed in its entirety. Similarly, the County also works to ensure that its operated or owned facilities that are open to the public provide meaningful access to people with disabilities.

To help ensure this meaningful access, the County will reasonably modify policies/ procedures and provide auxiliary aids/services to persons with disabilities. If, as an attendee or participant at the meeting, you need additional accommodations such as an American Sign Language (ASL) interpreter, an assistive listening device, large print material, electronic materials, Braille materials, or taped materials, please contact the Policy Planning staff as soon as possible during office hours at **(559) 600-4230** or at **jpotthast@fresnocountyca.gov**. Reasonable requests made at least 48 hours in advance of the meeting will help to ensure accessibility to this meeting. Later requests will be accommodated to the extent reasonably feasible.

NOTES:

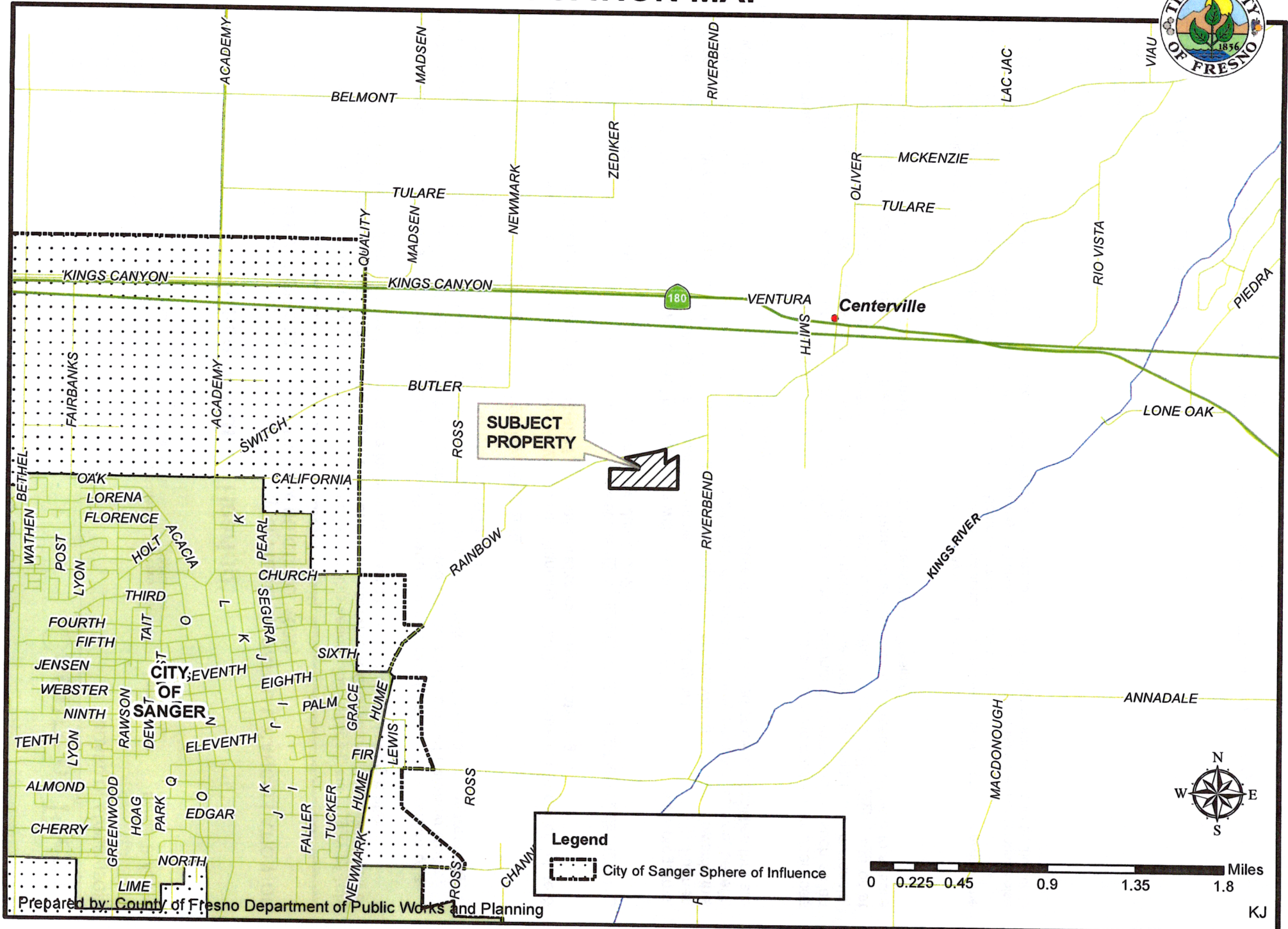
- Anyone may testify, please share this notice with your neighbors or anyone you feel may be interested.
- The Board of Supervisors will also accept written testimony such as letters, petitions, and statements. In order to provide adequate review time for the Board of Supervisors, please submit these documents to the Clerk to Board prior to the hearing date.
- If at some later date you challenge the final action on this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

DATED: June 21, 2024

BERNICE E. SEIDEL
Board of Supervisors

By Alexander Viana, Deputy

LOCATION MAP



Proof of Service by Mail

(Code of Civil Procedure § 1013a)

I, Alexandria Vieira, declare as follows:

1. I am over 18 years of age and not a party to the matter connected with this proof of service.
2. I am employed by the County of Fresno in the office of the Clerk of the Board of Supervisors, at 2281 Tulare Street, Room 301, in Fresno, California 93721.
3. On June 21, 2024, I served the attached Notice of Hearing before the Board of Supervisors of the County of Fresno for the Partial Cancellation of Agricultural Land Conservation Contract No. 5834 (RLCC No. 1030).
4. I served the documents by enclosing them in an envelope and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelopes were addressed and mailed to each of the owners at their addresses, as shown on the current Fresno County Assessment Roll and on the property list compiled from said rolls, as set forth on the attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 21th day of June, 2024, in Fresno, California.



Deputy, Clerk of the Board

The original proof of service, including the list of persons and their addresses to whom notice was mailed, is maintained by Public Works staff.

Fresno County Board of Supervisors
2281 Tulare, Room #301
Fresno, CA 93721



Item 7
7/9/2024

CLERK. BOARD OF SUPERVISORS

July 9, 2024

RE: Item No. 7 on the Board of Supervisors Agenda for July 9, 2024: Partial Cancellation of Agricultural Land Conservation Contract No. 5834 (RLCC No. 1030 - Gerdt's Family Trust)

Dear Members of the Board of Supervisors:

I'm writing this letter to call your attention to information in the accompanying staff report, on the County's *California Land Conservation Act* webpage, in Attachment G for this agenda item and in an earlier staff report to the Planning Commission for Variance Application No. 4076.

Hopefully, reviewing this information will enable you to see that the cancellation request is unwarranted, inappropriate and contrary to established law and the County's land use policies.

With regard to the matter of law, the staff report for this item contains this paragraph:

"The Supreme Court of California has stated that cancellation is not appropriate where the objectives served by cancellation could be served by nonrenewal [Sierra Club v. City of Hayward (1981) 28 Cal.3d 840, 852-853]. The State Attorney General's Office has opined that cancellation is impermissible "except upon extremely stringent conditions" [62 Ops. Cal. Atty. Gen. 233, 240 (1979)]. The Attorney General has also opined that nonrenewal is the preferred contract termination method, as stated: 'If a landowner desires to change the use of his land under contract to uses other than agricultural production and compatible uses, the proper procedure is to give notices of nonrenewal pursuant to Section 51245' [54 Ops. Cal. Atty. Gen 90, 92 (1971)]."

In other words, rather than cancel the contract, a landowner should instead choose not to renew it. As shown below, this same idea is expressed clearly on the County's *California Land Conservation Act* webpage."

"Removing a Parcel From the Williamson Act

To end a contract, a 'notice of nonrenewal' is filed with Public Works and Planning to start the 9-year nonrenewal period....A taxpayer may request an immediate cancellation only in extreme and stringent situations, or where the public interest is no longer best served by continuing the contractual restrictions."

The law is clear that cancellation of an agricultural land conservation contract should take place only under extraordinary circumstances. Supporting this view are the deliberations of the County's Agricultural Land Conservation Committee. On November 9, 2022, the Committee reviewed the application before you today. Because of the Committee's inability to make Finding Nos. 2 and 3 under Government Code Section 51282(b), the Committee recommends denial of the partial cancellation of Agricultural Land Conservation Contract No. 5834.

The Committee rightly concluded (1) that carving out a residential parcel in an area zoned Agriculture and currently used for farming could eventually lead to the removal of adjacent lands from agricultural operation and (2) that allowing cancellation of a Williamson Act contract for creation of a substandard parcel for residential use may set a precedent for other landowners to create similar residential parcels in areas of the County zoned and designated for agricultural use, which would compound the incompatibility between agricultural and residential land uses.

The Committee also correctly reasoned that the creation of a 2-acre parcel should be disallowed because doing so would conflict with General Plan Policies LU-A.1, LU-A.6, LU-A.7, LU-A.12 and LU-A.13.

There's another good source of information. Excluded from your board packet is a staff report to the Planning Commission for Variance Application No. 4076. That variance application and the item before your Board today are one and the same: they both address the creation of a substandard parcel on the subject property to allow for the development of a single-family residence.

Now admittedly, the acreage differs a bit between the matter before your Board today and Variance Application No. 4076, but proof that the two matters are equivalent rests with the fact that the County has chosen to evaluate both proposals using the same initial study, namely, Initial Study No. 7677.

Variance Application No. 4076 was set for hearing before the Planning Commission twice — on November 17, 2022 and then again on March 23, 2023. Even though neither hearing was held, both hearings having been cancelled, the accompanying staff report remains valid since it contains a very good appraisal of the parcel split that is driving this request for partial cancellation of Agricultural Land Conservation Contract No. 5834.

Your Board should give careful consideration to the thoughts expressed on pages 8 and 11 of the staff report for Variance Application No. 4076.

From Page 8:

"While the impact of this singular variance may not constitute a materially detrimental impact, staff notes that the creation of separate legal non-conforming parcels has the potential to increase residential density in the area by allowing an additional single-family residence on each parcel through the Director Review and Approval process. Cumulatively this and other such increases in residential density has the potential to conflict with adjacent agricultural operations in the area. The minimum acreage requirement of the AE20 Zone district is intended to arrest this parcellation pattern and limit the potential conflicts between residential agricultural activities."

From Page 11:

"The existence of other small parcels in the area is not a basis for granting a variance. Granting of the variance could be construed as inconsistent with Government code section 65906 which prohibits granting of unqualified variances and states in part "...shall constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated...."

Based on the factors cited in the analysis, the required Findings for granting the Variance Application cannot be made:

- There are no exceptional or extraordinary circumstances or conditions applicable to the property,
- The variance is not necessary for the preservation and enjoyment of a substantial property right..., which right is possessed by other property owners under like conditions in the vicinity, and
- The application is contrary to the goals and policies of the General Plan.”

Staff also noted that the subject property could be improved with a single-family residence in the referenced location without the need for a parcel split, as General Plan Policy LU-A.8 allows the landowner to construct a residence on the subject property by right.

As you may recall, on November 7, 2023, your Board granted a similar request — partial cancellation of Agricultural Land Conservation Contract No. 152 that removed 2.41 acres from a 42.93-acre parcel. Unlike the proposal before your Board today, the acreage removed from that contract was grazing land, not prime farmland, and the property removed was already improved with a single family residence.

Whether the two requests are distinguishable is of little importance. What’s important to note is that your Board made little to no effort to justify granting the cancellation. Your Board did not discuss the matter, and the only Board member to speak was Supervisor Magsig, who made the motion to approve the request. In total, he said:

Magsig: *Since this is in my district and I know that we do this as long as land’s going to continue to be farmed, we’ll carve off a piece for a family member. That helped me to, you know, be able to make the remainder of the findings so with that I will move to grant this request for the 2.41-acre piece to be carved off — and the cancellation of Williamson Act.*

If my understanding is correct, Supervisor Magsig asserted that as a matter of course the County carves off acreage from parcels under agricultural land conservation contracts for family members.

If this is so, then should your Board decide today to grant partial cancellation of Agricultural Land Conservation Contract No. 5834, I ask that your Board identify the laws, ordinances and/or General Plan policies that support such action. In addition, I ask your Board to provide solid evidence in support of your ability to make Finding Nos. 2 and 3 under Government Code Section 51282(b).

I see this agenda item as a test of the County’s resolve to conserve agricultural land under provisions afforded by law and under the goals and policies of the General Plan. This may seem a small matter — involving only 2 acres — but its importance must not be underestimated. Your decision will have a profound long-lasting impact on the conservation of Fresno County farmland.

Thank you,

Radley Reep
radleyreep@netzero.com

Item #7
7-9-24

July 8, 2024

To whom it may concern:

My name is Mark Helm and my family and I have lived at 1096 S Rainbow Ave for more than 21 years.

During this time, I have come to know the Gerdt's family and have been their neighbor for that time. I have found them to be quality neighbors.

I have absolutely no concerns or hesitations should they desire to construct a new dwelling. As their neighbor, I would fully support this potential construction project.

Kindly,

Mark S Helm

559-259-2502

CLERK

ROUTE



THE SOUTH LINE OF
SECTION 7, 14/23.

SECTION FOR THE SOUTHWEST
QUARTER OF SECTION 7, 14/23.

Item #7
7-9-24

Date: July 8, 2024
To: Fresno County Board of Supervisors
From: Greg Browne (representing Greg and Eilene Browne)
1394 South Rainbow Avenue
Sanger, CA 93657
Subject: Request of the Gerdts Family Trust to remove 2 acres from Agricultural Land
Conservation Contract (Williamson Act Contract)

I am writing to indicate strong support for the request of the Gerdts Family Trust to remove 2 acres from an Agricultural Land Conservation Contract (Williamson Act Contract) to serve as a home site for a Gerdts family son. The plan is that the son will help the parents, Marvin and Janice, manage their farm and health as they get older.

My support for this request is rooted in knowledge of the Gerdts family. I grew up as one of their neighbors from the late 1960's to early 1980s, and, after returning to Sanger with my wife, Eilene, became a neighbor of Marvin and Janice Gerdts again. A few of my memories of Marvin and Janice's neighborhood contributions include: 4-H and agricultural science leadership for their kids and many others, including me; fostering of community quilting arts, which became a major part of my mother's life and many others in the region; and sharing farm equipment and personal labor with my family and other neighbors to complete challenging farm tasks. Collectively, the Gerdts family has contributed at regional and international levels to agricultural science and its production systems. They have invaluable enriched the lives of their neighbors and friends, near and far.

The brief account above only scratches the surface of the Gerdts' favorable impacts on their community, but it represents some reasons that I trust the judgement that they put into their request for removal of the 2 acres from the Williamson Act Contract. My wife, Eilene, and my father, Todd Browne (another long-time neighbor of the Gerdts, 1489 South Rainbow Avenue, Sanger), feel as I do; we all support the request of the Gerdts Family Trust and think that granting it will help to preserve their influence on the land and its neighbors.

Best Regards,


Greg T. Browne

7/3/24

To whom it may concern,

My name is Matthew McNab and I live at 784 S Riverbend Ave, Sanger CA. My family moved here in 1977 and we have been neighbors with the (GERTZ) family for over 45 years. They have been the best neighbors a person could have and we are so excited to have Kerry break off property from his parents and build a house nearby us. I did the same with my family over 25 years ago and it has been very beneficial in helping my parents in the later years of their life and help run the family ranch as I know it will be for Kerry. If you have any questions or concerns, please feel free to reach out to me, Thank you.



Matthew McNab

(559) 259-8306

mattm@moglia.org

THE BUSINESS JOURNAL

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P.O. Box 126

Fresno, CA 93707

Telephone (559) 490-3400

(Space Below for use of County Clerk only)

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

Notice of Public Hearing

PARTIAL CANCELLATION OF AGRICULTURAL LAND
CONSERVATION CONTRACT NO. 5834 (RLCC NO. 1030).

DATE AND TIME OF PUBLIC
HEARING:
JULY 9, 2024 AT 9:30 am

DECLARATION OF PUBLICATION (2015.5 C.C.P.)

MISC. NOTICE

STATE OF CALIFORNIA

COUNTY OF FRESNO

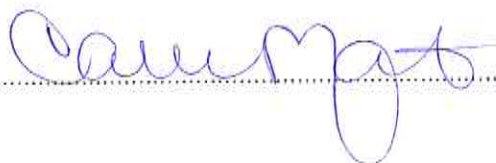
I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of **THE BUSINESS JOURNAL** published in the city of Fresno, County of Fresno, State of California, Monday, Wednesday, Friday, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Fresno, State of California, under the date of March 4, 1911, in Action No. 14315; that the notice of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

JUNE 28, 2024

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Fresno, California,

JUNE 28, 2024

ON



Notice of Public Hearing
Notice of hearing before the Board of Supervisors of the County of Fresno on PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 5834 (RLCC NO. 1030).

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To remove a 2.00-acre portion of a 32.22-acre parcel from the Williamson Act contract to allow the creation of a 2.00-acre separate parcel for residential use. The subject parcel is located on the south side of Rainbow Route, between Turney Avenue and Riverbend Avenue, approximately one and a half miles northeast of the nearest city limits of the City of Sanger (APNs 333-021-91 and 333-021-92) (Sup Dist. 5).

For information, contact Alexander Pretzer, Department of Public Works and Planning, 2220 Tulare Street, (Corner of Tulare & "M" Streets, Suite A), Fresno, CA 93721, telephone (559) 600-4205.

The full text of this Land Use Hearing will be available on the Fresno County website <https://fresnocounty.legistar.com/Calendar.aspx> under the July 9, 2024 meeting at the Meeting Details link by Wednesday, July 3, 2024.

PROGRAM ACCESSIBILITY AND ACCOMMODATIONS: The Americans with Disabilities Act (ADA) Title II covers the programs, services, activities, and facilities owned or operated by state and local governments like the County of Fresno ("County"). Further, the County promotes equality of opportunity and full participation by all persons, including persons with disabilities. Towards this end, the County works to ensure that it provides meaningful access to people with disabilities to every program, service, benefit, and activity, when viewed in its entirety. Similarly, the County also works to ensure that its operated or owned facilities that are open to the public provide meaningful access to people with disabilities.

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Nathan Magsig, Chairman
Board of Supervisors
ATTEST:
BERNICE E. SEIDEL
Clerk, Board of Supervisors
06/28/2024