



Board Agenda Item 8

DATE: October 11, 2016

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. 5204 (RLCC No. 974) - Eriksson LLC

RECOMMENDED ACTION(S):

1. **Adopt Resolution authorizing Cancellation of Agricultural Land Conservation Contract No. 5204 filed by Eriksson 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 at such time as all conditions included in the Certificate of Tentative Cancellation have been satisfied.**

The applicant has filed a petition for cancellation of Agricultural Land Conservation Contract (ALCC) No. 5204 in conjunction with Classified Conditional Use Permit (CUP) No. 3505. The Planning Commission approved the CUP No. 3505 on August 11, 2016. Approval of the recommended actions will remove a 40.20-acre parcel with Prime soil classification from the Williamson Act program for establishment of a commercial pistachio huller and processing facility.

The subject property is located on the east side of West Lawn Avenue between Cerini Avenue and Harlan Avenue approximately 8.1 miles southwest of the Unincorporated Community of Caruthers. (See Location Map Exhibit A, Zoning Map Exhibit B, Existing Land Use Map Exhibit C, Aerial Image Exhibit D) (APN 053-420-02s).

This item comes before 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 a Conditional Use Permit (CUP) to establish the proposed pistachio huller and processing facility on the subject property. As noted above, Classified Conditional Use Permit application No. 3505 was approved by the Fresno County Planning Commission on August 11, 2016.
2. The applicant shall pay the Cancellation Fee as determined by the County Assessor and certified by the Board of Supervisors in the amount of \$70,000 for issuance of a Certificate of Cancellation by the Board. The Cancellation Fee shall be paid and a Certificate of Cancellation issued prior to commencement of the CUP including issuance of any grading or construction permits.

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, Eriksson LLC, has filed a petition for cancellation of Agricultural Land Conservation Contract (ALCC) No. 5204. Approval of the recommended actions will remove a 40.20 acre parcel with Prime soil classification from the Williamson Act program for establishment of a commercial pistachio huller and processing facility.

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 only if it makes one of the following findings (Government Code Section 51282. (a):

- (1) That the cancellation is consistent with the purposes of the Williamson Act.
- (2) That the cancellation is in the public interest.

Cancellation of a contract is consistent with the purposes of the Williamson Act if the Board makes 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 Notice of Nonrenewal for ALCC No. 5204 was accepted by the County Recorder on April 29, 2016, and was assigned Document No. 2016-0053479. This Nonrenewal is for the 40.20 acres 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 potential for future conversion of surrounding farmland to other similar uses exists. However, most of the parcels surrounding the subject parcel are currently restricted by Williamson Act contracts and all have active agricultural operations. Future conversion of these parcels would require cancellation of the Williamson Act contract which will be evaluated on a case-by-case basis. Many of the surrounding parcels are owned by the applicant and will be used to grow pistachios that will be processed by the proposed alternate use.

Staff believes the proposed cancellation will not likely result in the removal of adjacent lands from agricultural use, 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 40.20-acre parcel subject to the petition is designated for Agricultural use in the General Plan and is zoned AE-20 (Exclusive Agriculture, 20-acre minimum parcel size). The General Plan and Zoning Ordinance make provisions for agriculturally related activities, such as agricultural processing facilities, subject to the approval of a discretionary permit.

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, including value added processing facilities, and certain non-agricultural uses. Approval of these and similar uses in areas designated as Agriculture are subject to specific criteria listed under the policy. The General Plan provides for ag-related facilities that due to their size or the nature of their operation require a location in an agriculturally designated area that is sparsely populated.

The proposed pistachio processing facility meets the intent of Policy LU-A.3. The applicant has submitted an application for a Conditional Use Permit (CUP) for establishment of the pistachio processing facility on the subject parcel. As part of the processing of the CUP application, proposed agriculturally related activities will be evaluated against the criteria listed in Policy LU-A.3.

Based on the above discussion, staff believes that the proposed alternate use meets the County General Plan policies of the Agriculture and Land Use Element of the General Plan, and therefore, believes Finding No. 3 can be made.

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

The pistachio hulling facility will not result in any discontinuous patterns of urban development, should the proposed cancellation be approved. The subject parcel is located in an agricultural area of the County and will have no impact on urban development patterns. Surrounding properties consist of orchards and other farming operations.

Based on these facts, 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 or would provide more contiguous patterns of urban development than development of proximate non-contracted land.

County staff provided a map and a list identifying similar sized non-contracted parcels within a 5-mile radius of the subject parcel and asked the applicant to address why none of the identified parcels are available or suitable for the proposed alternate use. For each parcel, the applicant provided information as to why the parcel was not suitable or available. Reasons provided for the lack of suitability included parcels being irregularly shaped or being within a 100 year flood zone. The applicant has stated that proximity of the subject site to parcels owner by Eriksson LLC on which the applicant plans to apply wash water produced by the pistachio hulling operation for irrigation purposes makes the subject parcel a suitable plant location. The applicant also contacted property owners of the non-contracted parcels and the parcels were not available for sale.

Staff believes that the applicant has done a reasonable search to find non-contracted parcels that could potentially be used for the alternate use and therefore 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. 7001) was prepared for Conditional Use Permit (CUP) Application No. 3505 by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA), for the establishment of the proposed commercial pistachio huller and processing facility. The IS included analysis regarding the proposed cancellation petition. Based on the IS conclusion, staff determined that a Mitigated Negative Declaration was appropriate which was adopted by the Planning Commission on August 11, 2016 when the Commission approved CUP No. 3505.

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 Director on May 3, 2016. Comments were received from the DOC on June 7, 2016 (see Exhibit E). The Department believed that the Board of Supervisors has sufficient evidence to support the cancellation findings for the subject property.

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 July 6, 2016, the ALCC unanimously voted to forward the petition to the Board with a recommendation for approval subject to the Conditions listed on page one of this Agenda Item.

ATTACHMENTS INCLUDED AND/OR ON FILE:

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

CAO ANALYST:

John Hays