



Board Agenda Item 6

DATE: January 26, 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. 3342 (RLCC No. 1009)

RECOMMENDED ACTION:

1. **Consider petition for partial Cancellation of Agricultural Land Conservation Contract No. 3342 filed on behalf of C & A Farms, LLC. (located on South Rolinda Avenue, between Jensen Avenue and North Avenue, west of the City of Fresno Super. Dist. 1 APN 25-041-37s);**
2. **Adopt Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 3342 based on the five Consistency Findings listed under Government Code, Section 51282(b); 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.**

This item comes to your Board with a recommendation for denial of the cancellation petition by the Agricultural Land Conservation Committee (ALCC) based on its inability to make the required findings listed under Government Code, Section 51282(b). This item pertains to a location in District 1.

The property owner submitted the cancellation in conjunction with a variance to waive the minimum lot size requirements to allow the creation of a 1.18-acre parcel from an existing 40.00-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

Staff would like to inform your Board that the proposed cancellation petition is placed on your agenda after the appeal of the denial of Variance Application No. 4084 by the Planning Commission. If your Board concurs with the Planning Commission's action on the Variance application, there is no need for Board action on the cancellation petition. However, if your Board determines to uphold the appeal of the Planning Commission's action, your Board's action on the proposed petition is required.

ALTERNATIVE ACTION:

If your Board determines that all of the required findings can be made, your Board may approve the partial cancellation of Agricultural Land Conservation Contract No. 3342, subject to the following conditions:

1. The landowner shall obtain the necessary land use approvals (Zone Variance and Parcel Map) to create the proposed 1.18-acre homesite parcel.
2. The applicant shall pay the Cancellation Fee in the amount of \$7,500 as determined by the County Assessor and certified by the Board of Supervisors for issuance of a Certificate of Cancellation by

your Board. The Cancellation Fee shall be paid and a Certificate of Cancellation issued prior to recording the Parcel Map to create the proposed 1.18-acre homesite parcel.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The applicant paid the application fee of \$3,290 for the cost of processing the cancellation petition.

DISCUSSION:

The applicant (C & A Farms, LLC) filed this petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 3342 in conjunction with Variance Application (VA) No. 4084 and its associated Initial Study (IS) Application No. 7811, which proposes to allow the creation of a 1.18-acre parcel from an existing 40.00-acre parcel located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The property owner submitted the cancellation in conjunction with a variance to waive the minimum lot size requirements to allow the creation of a 1.18-acre parcel from an existing 40.00-acre parcel. In his statements to the Planning Commission, at which the variance application was being considered, a representative for the proposal stated that the property is involved in a contractual agreement for the sale of the agricultural balance of the property.

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

The proposed petition is being processed under the provisions of Government Code Sections 51282(a)(1) and 51282(b), which allows your Board to grant tentative approval for cancellation of a contract if the 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. 3342 was accepted by the County Recorder on August 7, 2020 and was assigned Document No. 2020-0102319. Said Nonrenewal is for the proposed 1.18-acre parcel associated with this petition for partial cancellation.

Based on the fact stated above, 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.*

On May 25, 2004, the Board of Supervisors revised the County's Williamson Act Guidelines to require parcels to have at least 20 acres of prime soil and an active agricultural operation or at least 40 acres of sub-prime soil and an active agricultural operation to be eligible to remain in the Williamson Act Program. The existing 40.00-acre parcel contains soil classified as Prime Farmland on the California Department of Conservation Important Farmland Map and is utilized for cultivation of almonds. Additionally, neighboring parcels are designated as Agricultural in the County General Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size), and are actively farmed.

The proposed 1.18-acre parcel will not be eligible to be enrolled in the Williamson Act Program, thus the applicant has filed a petition to remove the proposed 1.18-acre parcel that will be used as a residence from the Williamson Act contract.

With respect to Finding No. 2, substandard parcels that are created for residential purposes will likely interfere with agricultural operations on surrounding parcels that are designated and zoned for production of food and fiber and other agriculturally-related uses, and may potentially result in removal of adjacent or neighboring lands from agricultural use. Moreover, it may set a precedent for other landowners to create similar residential parcels in the area, which will compound the incompatibility between the agricultural and residential use of lands located in an area of the County designated and zoned for agricultural operations.

Based on the above discussion, staff informed the Committee that the proposed cancellation may result in the removal of adjacent lands from agricultural use, and therefore Finding No. 2 cannot be made.

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

The existing 40.00-acre parcel is designated as Agricultural in the County General Plan and is 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.6 states that the County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture. General Plan Policy LU-A.7 states that the County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that such parcels would be less viable economic farming units and the resultant increase in residential density would increase the potential for conflict with normal agricultural practices on adjacent parcels. 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.

Based on the above discussion, staff informed the Committee that the proposed alternative use is not consistent with the County General Plan policies for protection of agricultural land from incompatible uses, and therefore believes Finding No. 3 could not be made.

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

The proposed 1.18-acre parcel is for a residential use not associated with any agricultural operation. However, the subject property is located approximately seven miles west of the nearest city limits of the City of Fresno, and therefore it does not appear that the proposed alternative use represents a discontinuous pattern of urban development.

Based on the above discussion, staff informed the Committee that staff believes 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.*

Staff generated a map and list of non-contracted parcels approximately 1.18 acres in size located within a five-mile radius of the existing parcel and sent letters to the owners of these non-contracted parcels requesting that said owners notify staff if their parcels are for sale. Policy Planning Unit 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 staff believes 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. At its September 9, 2020 meeting, the Committee received staff's presentation and testimony from the applicant's representative. Staff informed the Committee that based on staff's evaluation of the proposed project, not all of the required findings could be made.

The applicant's representative stated at the Committee's September 9, 2020 meeting that agricultural impacts were identified as less than significant in IS No. 7811 prepared for VA Application No. 4084. Additionally, the representative also stated that the proposed 1.18-acre parcel is already developed with a residence and no future construction is proposed thereon. Further, the representative also stated that the existing residence located on the proposed 1.18-acre parcel was constructed in 1931, which pre-dates the Williamson Act and the AE-20 Zoning of the area.

An attorney representing the owner of an adjacent parcel spoke in opposition to the proposed cancellation at the Committee's September 9, 2020 meeting, citing the purpose of the Williamson Act program for preservation of agricultural land. The attorney also expressed his client's concern that the proposed 1.18-acre parcel could be sold to someone not involved in farming operations.

After considering staff's presentation and public testimony, the Committee recommended on a unanimous vote of five to zero that your Board deny the proposed petition based on the inability to make all the required findings listed under Government Code, Section 51282(b).

The Committee staff report is included with this Agenda Item as Attachment E.

Subsequent to the Committee's September 9, 2020 meeting, the neighboring property owner submitted a letter to the District 1 Supervisorial office requesting that he be informed of future meetings. Said letter is included with this Agenda Item as Attachment F. Staff has confirmed that the property owner was informed of today's Board hearing.

ENVIRONMENTAL DETERMINATION:

IS No. 7811 prepared for VA Application No. 4084 addressed the potential environmental impacts associated with the cancellation of the contract and concluded that creation of the proposed parcel in and of itself will not result in a significant impact on the environment.

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

CAO ANALYST:

Samantha Buck