County of Fresno

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Legislation Details (With Text)

File #:	17-0610	**Name:**	Partial Cancellation of ALCC No. 1440 (RLCC No. 967)
		In control:	Public Works & Planning
On agenda:	7/11/2017	**Final action:**	7/11/2017
Enactment date:		**Enactment #:**	Resolution No. 17-379

Title: Adopt Resolution authorizing Partial Cancellation of Agricultural Land Conservation Contract No. 1440 filed by George Tavares, based on the ability to make the five Consistency Findings listed under Government Code Section 51282 (b); and authorize Chair to sign Certificate of Tentative Cancellation and approve recordation of Certificate of Cancellation at such time as all conditions included in Certificate of Tentative Cancellation have been satisfied

Sponsors: Mohammad Khorsand

Indexes:

Code sections:

Attachments: 1. Agenda Item, 2. Exhibits A-F, 3. Resolution No. 17-379, 4. Certificate of Tentative Cancellation

Date	Ver.	Action By	Action	Result
7/11/2017	1	Board of Supervisors	Conducted Hearings	Pass

DATE: July 11, 2017

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. 1440 (RLCC No. 967) George Tavares

RECOMMENDED ACTION(S):

1. **Adopt Resolution authorizing Partial Cancellation of Agricultural Land Conservation Contract No. 1440 filed by George Tavares, based on the ability to make the five Consistency Findings listed under Government Code Section 51282 (b); and**

2. **Authorize the Chair 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 partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 1440. Approval of the recommended actions will remove approximately 4.50 acres with Prime soil classification from the Williamson Act program from Contract No. 1440 to allow the creation of a 2.50-acre and a 2.00-acre parcel. The applicant also filed a Variance Application to allow the creation of the substandard homesites in an agricultural area. On March, 30, 2017, the Planning Commission approved Variance Application (VA) No. 3987 (7-0 with 2 Commissioners absent) to allow the creation of the two substandard parcels. The Commission's action was not appealed and is final.

The subject property is located on the on the south side of West North Avenue between South Cornelia

Avenue and South Blythe Avenue approximately two-miles west of the City of Fresno. (See Location Map Exhibit A, Assessor's Map Exhibit B, Site Plan Exhibit C, Existing Zoning Map Exhibit D, Existing Land Use Map Exhibit E and Aerial Map Exhibit F) (APN: 327-220-43 (portion) and 27 (financing parcel).

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 land use approvals, including a Zone Variance and a Parcel Map.

2. The remainder 13.23 acres shall be merged with the adjoining 38.20-acre parcel known as APN 327-220-01s through recordation of a Parcel Map to create a 51.43-acre parcel.

3. The applicant shall pay the Cancellation Fee in the amount of $12,500 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 a parcel map and issuance of any permit on the subject property.

ALTERNATIVE ACTION(S):

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 action. The applicant paid the County a fee of $3,290 to process the petition.

DISCUSSION:

The applicant, George Tavares, has filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 1440. Approval of the recommended actions will remove 4.50 acres with Prime soil classification from the Williamson Act program to allow the creation of two parcels for residential use.

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 a Notice of Nonrenewal has been served, pursuant to Section 51245 of the Government Code.*

   Executed Notices of Nonrenewal for the 2.50 acres and 2.00 acres subject to this petition for ALCC No. 1440 were accepted by the County Recorder on May 20, 2016, and were assigned Document Nos. 2016-0064946 and 2016-0064945.

Based on the fact 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 Applicant proposes to cancel a 2.50-acre portion and a 2.00-acre portion of APNs 327-220-43 and 27 in order to create separate parcels for residential use, while the remaining 13.23 acres of APN 327-220-43 will be combined with an adjoining 38.20-acre parcel, APN 327-220-01s, to form a 51.43-acre parcel which will continue to be farmed. The applicant intends to keep the existing residences on the 2.50-acre and 2.00 -acre parcels which have been in the family for many years. The applicant has submitted a Tentative Map application to merge and re-subdivide, a 17.73-acre parcel and a 38.20-acre parcel to create a 2.50-acre homesite parcel, a 2.00-acre homesite parcel and an approximately 51.43-acre parcel. The resulting 51.43 -acre parcel will continue to be farmed. The surrounding parcels are subject to Agricultural Land Conservation Contracts.

Based on the discussion above, staff does not believe that removal of the 2.50-acre and 2.00-acre portions of the parcels from Contract restrictions will result in removal of adjacent land from farming; therefore, staff believes this Finding can be made.

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

The General Plan includes the following theme as one of the ten major themes of the Fresno County General Plan:

The plan seeks to protect its productive agricultural land as the county's most valuable natural resource and the historical basis of its economy by directing new urban growth to cities and existing unincorporated communities and by limiting the encroachment of incompatible developments upon agricultural areas.

The General Plan also includes policies for the preservation of productive farmland by protecting agricultural areas from incompatible uses as listed below.

The entire area of the 17.73-acre parcel is designated as Agricultural in the General Plan and is zoned AE-20 (Agricultural Exclusive, 20-acre minimum parcel size). The Agricultural and Land Use Element of the General Plan sets goals and policies promoting long term conservation of productive agricultural lands.

Goal LU-A of the Agriculture and Land Use Element of the General Plan promotes long-term conservation of productive and potentially-productive agricultural lands and to accommodate agricultural-support services and agriculturally-related activities that support the viability of agriculture and further the County's economic development goals.

Policy LU-A.1 of the Agriculture and Land Use Element of the General Plan 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 requires that the County maintain 20-acres as the minimum permitted parcel size for areas designated as Agricultural.

Exceptions to Policy LU-A.6 for creation of a homesite are provided in Policy LU-A.9 if one of the following conditions exist.

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 (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.

Policy LU-A.12 of the Agriculture and Land Use Element General Plan states “In adopting land uses policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.”

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 Prime Farmland on the Fresno County Important Farmland Map. This classification is considered to have the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops.

Although the subject parcels contain Prime soil, the proposed 2.50-acre and 2.00-acre parcels contain single-family homes and therefore, they are not sustainable agricultural parcels. The 13.23-acre remainder parcel will be combined with an adjoining parcel to form a 51.43-acre parcel and will continue to be farmed. Additionally, the applicant’s search for homesites of comparable size parcels concluded that homesites of comparable sizes do not exist in the vicinity of the subject parcel.

Based on these facts, staff believes that the proposed alternate use is not inconsistent with the County General Plan policies for protection of agricultural resources and therefore, believes Finding No. 3 can be made.

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

The subject property and surrounding parcels are located in a rural area of the County and are designated as Agricultural and are zoned AE-20 (Agricultural Exclusive 20-acre minimum parcel size). Therefore, staff believes the proposed cancellation will not result in discontiguous patterns of urban development.

Based on the facts stated above, staff believes 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.*

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 Finding No. 5 as to why the listed non-contracted parcels could not accommodate the proposed alternate use. The applicant submitted information regarding the availability of those parcels identified by County staff. In addressing availability, the applicant mailed out 77 letters to property owners within a five-mile radius on July 20, 2016. The applicant received 18 responses of which two parcels were available for sale. However, the two available parcels are not suitable due to the fact that no residences were on the parcels.

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 staff for the proposed alternate use also addresses the potential environmental impacts associated with the cancellation of the contract. IS Application No. 7077 was completed and circulated prior to the Planning Commission hearing for the Variance application.

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 (the 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 Department of Conservation (Department) on September 27, 2016. Staff allows at least 30-days for the Department to provide comment. However, staff did not receive comments from the Department.

AGRICULTURAL LAND CONSERVATION COMMITTEE RECOMMENDATION:

The Agricultural Land Conservation Committee (ALCC) reviews petitions for cancellation of Williamson Act Contracts and provides recommendations to your Board. At its meeting December 7, 2016, 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 as required.

ATTACHMENTS INCLUDED AND/OR ON FILE:

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

CAO ANALYST:

John Hays