



County of Fresno

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Legislation Text

File #: 18-0534, **Version:** 1

DATE: July 10, 2018

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. 6456 (RLCC No. 988)

RECOMMENDED ACTION(S):

- 1. Adopt Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 6456 filed by Gary and Ann Gipson, 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 when all conditions included in the Certificate of Tentative Cancellation have been satisfied.**

The subject property is located on the north side of E. Dinuba Avenue between S. Crawford Avenue and S. Porter Avenue approximately two miles north of the City of Dinuba (APN 373-300-04).

The applicant has filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 6456 in conjunction with Tentative Parcel Map Application No. 8170 to remove a 2.5-acre portion of a 19.87-acre parcel with Prime Farmland soil classification from the Williamson Act program and create a separate homesite parcel. This item pertains to a location in District 4.

This item comes to 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 approval of a mapping application to create the 2.5-acre homesite parcel.
2. The applicant shall pay the Cancellation Fee in the amount of \$6,250 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 will be forwarded to the State by the County Auditor. The Cancellation Fee shall be paid and a Certificate of Cancellation issued prior to submittal of the mapping application to create the homesite parcel.

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

DISCUSSION:

The applicants, Gary and Ann Gipson, have filed a petition for cancellation of ALCC No. 6456. Approval of the recommended actions will remove a 2.5-acre portion of a 19.87-acre parcel with Prime Farmland soil classification from the Williamson Act program to create a separate residential parcel, see Attachments A - D.

Pursuant to Government Code, Section 51282, 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 all of the five findings listed under Government Code, Section 51282(b).

Department of Public Works and Planning staff 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.

An executed Notice of Nonrenewal for ALCC No. 6456 was accepted by the County Recorder on September 11, 2017 and was assigned Document No. 2017-0114677. This Nonrenewal is for the 19.87-acre parcel known as APN 373-300-04, which includes the 2.5-acre portion subject to this petition. Removal of the 2.5-acre proposed homesite parcel leaves a balance of 17.37 acres. This acreage is below the minimum required parcel size to be enrolled in the Williamson Act Program, the County's minimum parcel size for parcels with Prime Farmland soil is 20 acres.

Based on the facts stated above, Department 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 subject 19.87-acre parcel contains soil that is classified as Prime Farmland on the California Department of Conservation's Important Farmland 2014 Map. The subject property was purchased in 1973 and has continuously been in agricultural production (vineyard). The Applicants propose to cancel a 2.5-acre portion of the property to create a homesite parcel to include an existing residence and related structures that have been in ownership of the Applicants for over 30 years. The 17.37-acre balance of the property will be farmed at least for the duration that the land will remain under contract.

Department staff does not believe that removal of the 2.5-acre portion of the site from Contract restrictions will result in removal of adjacent land from agricultural uses; therefore, staff believes that 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 19.87-acre parcel is designated for Agricultural use in the 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. Policy LU-A.1 of the General Plan directs 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 or could be made available to accommodate the proposed development.

Policy LU-A.6 states the County shall maintain 20 acres as the minimum permitted parcel size in areas designated as Agricultural.

However, Policy LU-A.9 of the General Plan states the County may allow the creation of homesite parcels smaller than the 20-acre minimum parcel size, if the parcel involved in the division is at least 20 acres in size, subject to the following criteria:

- a. The minimum lot size shall be 60,000 square feet of gross area, except that a lesser area shall be permitted when the owner submits evidence satisfactory to the Health Officer that the soils meet the Water Quality Control Board Guidelines for liquid waste disposal, but in no event shall the lot be less than one gross acre; and
- b. One of the following conditions exists:
 1. A lot less than 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 lot per related person, and there is no more than one gift lot per twenty 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.

The subject property is located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The AE designation for the subject property took effect on August 31, 1976. As indicated in Finding No. 2, the 19.87-acre subject property was purchased in 1973 and has continuously been in agricultural production (vineyard) under the ownership of the Applicants. The Applicants propose to cancel a 2.5-acre portion of the subject property to create a separate homesite parcel to include the existing residence, and related structures that were established on the subject property over 30 years ago.

Based on the discussion above, Department staff believes the application is consistent with General Plan Policy LU-A.9 and therefore, Finding No. 3 can be made.

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

The subject property and surrounding parcels are located in a rural area of the County, designated as Agricultural and are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The surrounding parcels are in agricultural use and the homesite will retain its existing residence as a separate 2.5-acre parcel. Based on these factors, the removal of the 2.5-acre portion of the subject 19.87-acre parcel will not result in discontinuous patterns of urban development.

Based on the discussion above, Department 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 would provide more contiguous patterns of urban development than development of proximate non-contracted land.

Department staff provided a map identifying non-contracted parcels of similar size within a five-mile

radius of the subject parcel and asked that the Applicants address why the identified non-contracted parcels are not available and suitable for the proposed alternate use. The Applicants submitted information regarding the availability of those parcels identified by staff.

In addressing availability, the Applicants stated that the property has been in their ownership for approximately 45 years and that they plan to continue farming the 17.37-acre balance of the subject parcel, at least for the duration that the land remains under contract.

As indicated in Finding No. 3, the Applicants propose a 2.5-acre homesite parcel on property that has been in their ownership for the past 45 years. This is consistent with Policy LU-A.9 of the General Plan, which allows creation of homesite parcels smaller than the minimum parcel size required by General Plan Policy LU-A.6 provided the proposal meet certain criteria. Therefore, staff believes that Finding No. 5 can be made.

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 DOC Director's comments, if provided, are required to be considered by the Board of Supervisors before acting on the proposed cancellation.

The petition was forwarded to the DOC on December 12, 2017. Department staff allows at least 30 days for the DOC to provide comments. A response from the DOC was not received by the date the staff report was prepared.

The DOC and all contracted landowners within one-mile of the subject property were noticed and notice for today's hearing was published as required.

AGRICULTURAL LAND CONSERVATION COMMITTEE RECOMMENDATION:

The ALCC reviews petitions for cancellation of Williamson Act Contracts and provides recommendations to the Board. At its April 4, 2018 hearing, the ALCC unanimously recommended approval of the petition subject to the Conditions listed on the summary of this agenda item.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachments A-D
On file with Clerk - Resolution
On file with Clerk - Certificate of Tentative Cancellation

CAO ANALYST:

Sonia M. De La Rosa