



County of Fresno

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Legislation Text

File #: 19-0224, **Version:** 1

DATE: May 7, 2019

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. 775 (RLCC No. 992)

RECOMMENDED ACTION(S):

- 1. Adopt Resolution authorizing partial Cancellation of Agricultural Land Conservation Contract No. 775 filed by Richard and Carol Carstens, 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 W. Parlier Avenue Alignment between S. Valentine Avenue and S. Marks Avenue approximately nine miles west of the City of Fowler (APN 035-342-08).

The Applicants have filed a petition for partial cancellation of Agricultural Land Conservation Contract (ALCC) No. 775 in conjunction with Tentative Parcel Map Application No. 8191 to remove a 2.01-acre portion of a 40-acre parcel with Prime Farmland soil classification from the Williamson Act Program (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 2.01-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 recording of the mapping application to create the homesite parcel.

ALTERNATIVE ACTION(S):

Your Board may 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 Applicants paid the County an application fee of \$3,290 to process the petition.

DISCUSSION:

The Applicants, Richard and Carol Carstens, have filed a petition for cancellation of ALCC No. 775. Approval of the recommended actions will remove a 2.01-acre portion of a 40-acre parcel with Prime Farmland soil classification from the Program to create a separate homesite parcel. Exhibit A is a location map of the subject property, 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 map of the subject parcel including the 2.01-acre portion subject to the cancellation.

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).

The 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. 775 was accepted by the County Recorder on July 12, 2018 and assigned Document No. 2018-0082451. The Nonrenewal is for the 2.01-acre portion of the subject 40-acre parcel.

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 40-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 on September 20, 1965 by the current owners and has continuously been in agricultural production (various row crops and vineyard). The Applicants have submitted a petition to cancel a 2.01-acre portion of the property to create a homesite parcel. The Applicants have stated that the 37.99-acre balance of the property will be sold to a neighboring landowner and will continue to be farmed. Department staff does not believe that removal of the 2.01-acre portion of the site from ALCC No. 775 will result in removal of adjacent lands from agricultural use.

Based on the statement above, Department staff believes that Finding No. 2 can be made.

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

The 37.99-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 zoning for the subject property took effect on September 21, 1965. As indicated in Finding No. 2, the 40-acre subject property was purchased on September 20, 1965 and has continuously been in agricultural production (various row crops and vineyard) under the ownership of the Applicants. The Applicants propose to cancel a 2.01-acre portion of the subject property to create a separate homesite parcel. Department staff believes the application meets General Plan Policy LU-A.9.b.3 because the petitioners had owned the subject parcel prior to the date AE-20 zoning classification took effect.

Based on the statement above, Department staff believes that 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, are designated as Agricultural and are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). The surrounding parcels and the 37.99-acre balance of the subject parcel will continue to remain in agricultural use. The removal of the 2.01-acre portion of the subject 40-acre parcel will not result in discontinuous patterns of urban development.

Based on the statement 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 for the use to which it is proposed that 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.*

Finding No. 5 requires that petitioners document efforts to identify non-contracted parcels within a five-mile radius of the subject property that could accommodate the alternate use and explain why none of the non-contracted parcels are suitable and available for the alternate use.

Department staff provided a map identifying similar size non-contracted parcels within a five-mile radius of the subject parcel and asked that the Applicants address why the identified non-contracted parcels could not be used for the proposed alternate use. The Applicants submitted information regarding the availability of those parcels identified by staff.

The Applicants mailed letters to the property owners of non-contracted parcels, identified in the map discussed above, requesting that the landowners notify the Applicants if their properties were available for sale. The Applicants' letters were sent as certified mail and copies of the certified mailing receipts were provided to Department staff. As of February 6, 2019, the date the staff report was presented to the Agricultural Land Conservation Committee, the Applicants had not received any responses from the property owners who were contacted.

Based on the statement above, Department 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 California Department of Conservation (DOC) 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 October 8, 2018. No response has been provided by the DOC for your Board's consideration.

PUBLIC HEARING NOTICE:

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 February 6, 2019 hearing, the ALCC unanimously recommended approval of the petition subject to the Conditions listed on the summary of this agenda report.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibits A - D

On file with Clerk - Resolution

On file with Clerk - Certificate of Tentative Cancellation

CAO ANALYST:

Sonia M. De La Rosa