



Board Agenda Item 7

DATE: July 9, 2024

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. 5834 (RLCC No. 1030 - Gerds Family Trust)

RECOMMENDED ACTION(S):

1. **Consider petition for partial cancellation of Agricultural Land Conservation Contract (Williamson Act Contract) No. 5834 filed by Dirk Poeschel Land Development Services, Inc. on behalf of The Gerds Family Trust dated January 8, 1991, to remove a 2.00-acre portion of a 32.22-acre parcel from the Williamson Act Contract to allow the 2.00-acres to be created as a separate parcel for residential use through a Variance Application (VA) to waive the minimum parcel size; and**
2. **If your Board is able to make all five required findings listed under Government Code, Section 51282(b), take the following actions:**
 - a) **Adopt the Negative Declaration prepared for the Initial Study 7677; and**
 - b) **Adopt and authorize the Chairman to execute Resolution authorizing partial cancellation of Agricultural Land Conservation Contract No. 5834; and**
 - c) **Authorize the Chairman to execute the Certificate of Tentative Cancellation and approve recording the Certificate of Cancellation when all contingencies and conditions included in the Certificate of Tentative Cancellation have been satisfied.**

The subject parcel is located on the south side of Rainbow Route, between Turney Avenue and Riverbend Avenue, approximately one and a half miles northeast of the nearest city limits of the City of Sanger (APNs 333-021-91 and 333-021-92).

This item comes to your Board with a recommendation for denial from the Agricultural Land Conservation Committee (ALCC) based on its inability to make the required Findings No. 2 and 3 listed under Government Code, Section 51282(b). This item pertains to a location in District 5.

This petition for partial cancellation of a contract was filed in conjunction with VA No. 4076 proposing to allow a 32.22-acre parcel to be divided into a 30.22-acre parcel and a 2.00-acre substandard parcel to be developed with a single-family residence.

The subject parcel is enrolled in the Williamson Act program under Williamson Act Contract No. 5834. The property owner has submitted VA No. 4076 to create a separate legal 2.00-acre parcel to develop as a substandard-sized parcel for a future homesite.

The 2.00-acre area is currently being utilized as an orchard, and the balance of the property contains three

existing agricultural storage buildings and is farmed as an orchard. No action by the Planning Commission has been taken on VA No. 4076. Should your Board approve this cancellation request, VA No. 4076 will be brought before the Fresno County Planning Commission for consideration.

The Williamson Act Program limits the use of contracted parcels to commercial agricultural uses for production of food or fiber. Per the County's Williamson Act Guidelines, parcels are required to have at least 20 acres of prime soil or at least 40 acres of non-prime soil to be eligible to be enrolled in the Williamson Act Program.

The proposed 2.00-acre parcel does not meet the minimum required parcel size to remain under contract. The applicant submitted a cancellation petition for removal of the 2.00-acre parcel from the Williamson Act program. The subject parcel is partially located in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District and the RC-40 (Resource Conservation, 40-acre minimum parcel size) Zone District, and the portion zoned as AL-20 is designated as Agricultural and the RC-40 zoned portion is designated as Open Space in the County adopted Kings River Regional Plan.

Should your Board determine that all five required cancellation findings can be made, the proposed petition can be approved subject to the following conditions:

1. The applicant shall obtain the necessary land use approvals to create the proposed parcels.
2. The applicant shall pay the Cancellation Fee in the amount of \$31,250.00 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 by the Board and recorded prior to recording the map to create the proposed 2.00-acre and 30.22-acre parcels. If the Cancellation fee is not paid within one year of the issuance of the Tentative Certificate of Cancellation, the Cancellation fee must be re-computed by the Assessor's Office and re-certified by the Board of Supervisors.

ALTERNATIVE ACTION(S):

If your Board determines that any of the required findings cannot be made, your Board must deny the partial cancellation of Agricultural Land Conservation Contract No. 5834.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The applicant paid the application fee of \$3,290.00 for the cost of processing the cancellation petition.

DISCUSSION:

The proposed cancellation petition was presented to the ALCC on November 9, 2022. In its report to the Committee (Attachment G), staff indicated that they were unable to make Finding Nos. 2 and 3 of the five required findings listed under Government Code, Section 51282(b). Following the ALCC recommendation the corresponding VA application was paused while the applicant resolved a previous incomplete mapping application. If the petition for partial cancellation is approved by your Board and VA 4076 is approved by the Planning Commission, the applicant will be required to complete a subsequent mapping application.

Attachment A is a location map of the subject parcel, Attachment B depicts the zoning of the subject parcel and surrounding area, Attachment C depicts the existing land use of the subject parcel and surrounding parcels, Attachment D is an aerial photograph of the subject parcel, Attachment E is the site plan provided for VA No. 4076, and Attachment F is the Assessor Memo regarding the cancellation fee.

REQUIRED FINDINGS:

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 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.*

On January 21, 2020, an executed Notice of Partial Nonrenewal for Williamson Act Contract No. 5834 was accepted by the County Recorder for the 3.55 acres of land proposed for cancellation through RLCC No. 1007. The 2.00 acres of land proposed for cancellation through RLCC No. 1030 is encompassed by the Notice of Partial Nonrenewal that was recorded on the 3.55 acres of land proposed for cancellation through RLCC No. 1007.

Based on the above discussion, the ALCC was able to make Finding No. 1.

2. *That the cancellation is not likely to result in the removal of adjacent lands from agricultural use.*

Substandard parcels created for residential use in areas of the County zoned and designated for agricultural use may eventually be occupied by persons who are not involved with agricultural operations and therefore, are not tolerant of the inconveniences associated with the agricultural operations. This could create incompatibility between the agricultural and residential use of lands located in close proximity of each other and may eventually result in removal of adjacent lands from agricultural operation due to complaints from non-farmers residing on substandard parcels created for residential use. Further discussion is found in staff's report to the ALCC (Attachments G).

Based on the above discussion, the ALCC was not able to make Finding No. 2..

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

According to Kings River Regional Plan Policy 405-01:3.01, policies in the Agriculture and Land Use Element of the County General Plan shall apply to those areas designated as Agricultural in the Kings River Regional Plan.

Based on the discussion staff provided to the ALCC (Attachment G), the ALCC was unable to make Finding No. 3.

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

The existing 32.22-acre parcel is located approximately one and a half miles northeast of the nearest city limits of the City of Sanger. The proposal to create a single 2.00-acre parcel from an existing 32.22-acre parcel in and of itself does not constitute a pattern of discontinuous urban development.

Based on the above discussion, the ALCC was able to make Finding No. 4.

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 list of non-contracted parcels approximately 2.00-acres in size located within a five-mile radius of the existing parcel and utilized online tools to determine whether the parcels are for sale. In this case, none of the approximately 2.00-acre parcels were for sale.

Based on staff's research, none of the non-contracted parcels of similar size were available for the alternative use and the ALCC was able to make Finding No. 5.

Should the Board make the required findings for Nos. 2 and 3, there is a form of Resolution on file with the Clerk of the Board.

AGRICULTURAL LAND CONSERVATION COMMITTEE RECOMMENDATION:

As stated above, at the November 9, 2022 meeting, the Committee received staff's presentation and testimony from the applicant's representative and after deliberation recommended that your Board deny the proposed petition based on the inability to make required Findings No. 2 and 3 listed under Government Code, Section 51282(b).

ENVIRONMENTAL DETERMINATION:

Initial Study (IS) No. 7677 prepared for VA No. 4076 addresses potential environmental impacts associated with the cancellation of the contract. The IS was completed and was circulated for agency review on April 29, 2021 and is included in the agenda packet as Attachment "H" along with the draft Negative Declaration.

PUBLIC HEARING NOTICE:

Landowners subject to a Williamson Act Contract within one mile of the subject parcel were provided notice of both the ALCC meeting and today's hearing per Government Code Section 51284. The notice was also published in the Fresno Business Journal, which is a newspaper of general circulation.

ATTACHMENTS INCLUDED AND/OR ON FILE:

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

CAO ANALYST:

Salvador Espino