

FINDINGS AND CONDITIONS OF APPROVAL FOR JOHN LIMA AND MARCELA LUNA (APPLICANT), JOHN LIMA AND MARCELA LUNA FAMILY TRUST (OWNER); COUNTY FILE NOS. AP18-0006 AND RZ21-3263

PROJECT FINDINGS

A. Growth Management Performance Standards

1. Traffic: The proposed project involves a rezone of the subject property from Exclusive Agricultural District (A-80) to Agricultural Preserve District (A-4) for APNs 204-050-027 and 204-050-028. This rezone is requested for the purpose of placing the property into a new Land Conservation Contract, #AP18-0006. Changing the zoning from the Exclusive Agricultural District (A-80) to the Agricultural Preserve District (A-4) will not only continue the property's use for agricultural production, but also it will become further restrictive on land uses. Thus, there would be no impact to traffic in the area.
2. Water: The subject site does not receive municipal water service. Rezoning the property and continuing the existing use for agricultural production would not result in any water-related impacts.
3. Sewage: The subject site does not receive municipal sanitary service. Rezoning the property and continuing the existing use for agricultural production would not result in any sanitary-related impacts.
4. Fire Protection: The subject site receives fire protection services from the San Ramon Valley Fire Protection District. Rezoning the site would not impact fire protection services, as fire protection improvements and fees are typically required when physical development occurs, and no development is proposed at this time.
5. Public Protection: The subject site receives public protection services from the Contra Costa County Sheriff. Rezoning the site would not impact public protection services, as impacts to such services are mitigated at the time building permits are issued on lots created through a subdivision. With no proposed development, this project does not trigger the need to mitigate such services.
6. Parks and Recreation: Approval of the proposed project would not increase the population in the Tassajara area and, therefore, would not increase the demand for neighborhood parks and recreation facilities.
7. Flood Control and Drainage: The site is not located in a Special Flood Hazard Area. This rezoning application does not involve any new construction. Therefore, if drainage improvements were ever necessary, they would be required at the time any construction plans were proposed.

B. Rezone Findings

Section 26-2.1806 of the County Ordinance Code requires specific findings to be made by the planning agency when a request for change in land use district is made; they are as follows:

1. Required Finding: That the change proposed will substantially comply with the general plan.

Project Finding: The General Plan land use designation for the subject property is Agricultural Lands (AL). This land use designation includes most of the privately-owned rural lands in the county, excluding private lands that are composed of prime soils or lands located in or near the Delta. Most of these lands are in hilly portions of the county and are used for grazing livestock or dry grain farming. The purpose of the AL designation is to preserve and protect lands capable of and generally used for the production of food, fiber, and plant materials. The proposed rezone is consistent with the AL General Plan land use designation. Currently, the property is actively utilized for agricultural purposes of cattle raising and grazing. The property intends to remain in agricultural use subsequent to the completion of this project. The proposed rezone is also consistent with the following General Plan goals and policy:

Goal 8-G: To encourage and enhance agriculture, and to maintain and promote a healthy and competitive agricultural economy.

Goal 8-H: To conserve prime productive agricultural land outside the Urban Limit Line exclusively for agriculture.

Policy 8-38: Agricultural operations shall be protected and enhanced through encouragement of Williamson Act contracts to retain designated areas in agricultural use.

The project will further protect the property's agricultural use for cattle raising and grazing. This rezone will allow for the property to establish a Williamson Act contract to preserve its agricultural use for at least ten years, but statutorily it will be protected in perpetuity until a property owner requests the contract's automatic renewal to be ended. Therefore, the project will remain consistent with intent and purpose of the Agricultural Core land use designation and the General Plan overall.

2. Required Finding: That the use authorized or proposed in this land use district is compatible within the district and with uses authorized in adjacent districts.

Project Finding: The subject properties will comply with Division 810, the County's Agricultural Land Conservation Ordinance (Williamson Act), and the A-4 zoning

district's development and land use standards subsequent to the proposed rezone and adoption of a new Williamson Act contract. The subject parcels are considered non-prime agricultural land. Pursuant to Section 810-2.406, 40 acres is the minimum parcel size for non-prime agricultural land, so the two subject parcels will comply with this minimum at 80 and 81.47 acres. The subject parcels will also far exceed the A-4 requirements of a 300-foot average width and 300-foot depth. Furthermore, the property will operate as a cattle raising and grazing use, which is a primary land use of both the AL General Plan land use designation and the A-4 zoning district.

3. Required Finding: Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

Project Finding: The General Plan land use designation for the subject property is Agricultural Lands (AL). This land use designation includes most of the privately-owned rural lands in the county, excluding private lands that are composed of prime soils or lands located in or near the Delta. Most of these lands are in hilly portions of the county and are used for grazing livestock or dry grain farming. The purpose of the AL designation is to preserve and protect lands capable of and generally used for the production of food, fiber, and plant materials. The proposed rezone is consistent with the AL General Plan land use designation. Currently, the property is actively utilized for the agricultural purposes of cattle raising and grazing. The property intends to remain in agricultural use subsequent to the completion of this project.

C. CA Gov. Code Section 51242 Required Finding

No city or county may contract with respect to any land pursuant to this chapter unless the land:

1. Required Finding: Is devoted to agricultural use.

Project Finding: Owner intends to establish cattle grazing as the agricultural use on the property. The existing residence, the permitted second residence, and agricultural building would be incidental to the new primary agricultural use of the two properties for cattle grazing. These buildings allow for the property owner and any potential support in operating the agricultural use to live on-site, which is integral in assuring the health and viability of cattle grazing. Utilizing a property for cattle grazing is an agricultural use consistent with the intent and purpose of the Williamson Act and the County Code (Chapter 84-42 and Chapters 810-2 through 810-4), and the use of the property for residential purposes would also meet the intent of these ordinances when incidental to the primary agricultural use.

2. Required Finding: Is located within an area designated by a city or county as an agricultural preserve.

Project Finding: The General Plan land use designation for the subject property is Agricultural Lands (AL). This land use designation includes most of the privately-owned rural lands in the county, excluding private lands that are composed of prime soils or lands located in or near the Delta. Most of these lands are in hilly portions of the county and are used for grazing livestock or dry grain farming. The purpose of the AL designation is to preserve and protect lands capable of and generally used for the production of food, fiber, and plant materials. The proposed rezone to A-4 is also consistent with the AL General Plan land use designation and multiple General Plan goals and policies related to agriculture.

The parcels comprising the property are 80 and 81.47-acres in size, respectively, and are considered non-prime agricultural land. The parcels were created by Minor Subdivision 33-89 (County File #MS 33-89), approved by the Zoning Administrator and deemed effective on September 28, 1989, subdividing approximately 161.5 acres into two separate parcels of non-prime land. The parcels are located directly adjacent to Agricultural Preserves 23-69 and 8-76, established on January 16, 1969, and February 10, 1976, by Board Resolution No. 69/47 and 76/140, respectively. The subject parcels are not currently included in either of these agricultural preserves and are not restricted under a land conservation contract. However, because the property exceeds the 100-acre minimum for a new agricultural preserve, the property may, itself, be established as its own preserve.

D. CA Gov. Code Section 51234 Required Finding

Required Finding: The report shall include a statement that the preserve is consistent with the general plan, and the board or council shall make a finding to that effect.

Project Finding: The General Plan land use designation for the subject property is Agricultural Lands (AL). This land use designation includes most of the privately-owned rural lands in the county, excluding private lands that are composed of prime soils or lands located in or near the Delta. Most of these lands are in hilly portions of the county and are used for grazing livestock or dry grain farming. The purpose of the AL designation is to preserve and protect lands capable of and generally used for the production of food, fiber, and plant materials. The proposed rezone is consistent with the AL General Plan land use designation. Currently, the property is actively utilized for agricultural purposes of cattle raising and grazing. The property intends to remain in agricultural use subsequent to the completion of this project. The proposed rezone is also consistent with the following General Plan goals and policy:

Goal 8-G: To encourage and enhance agriculture, and to maintain and promote a healthy and competitive agricultural economy.

Goal 8-H: To conserve prime productive agricultural land outside the Urban Limit Line exclusively for agriculture.

Policy 8-38: Agricultural operations shall be protected and enhanced through encouragement of Williamson Act contracts to retain designated areas in agricultural use.

The project will further protect the property's agricultural use for cattle raising and grazing. This rezone will allow for the property to establish a Williamson Act contract to preserve its agricultural use for at least ten years, but statutorily it will be protected in perpetuity until a property owner requests the contract's automatic renewal to be ended. The property will remain in agricultural use subsequent to the completion of this project, and establishment of a new agricultural preserve serves to further ensure this. Therefore, the project will remain consistent with intent and purpose of the Agricultural Core land use designation and the General Plan overall.

E. CA Gov. Code Section 51238.1.(a) Required Findings

Uses approved on contracted lands shall be consistent with all of the following principals of compatibility:

1. Required Finding: The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

Project Finding: Owner intends to establish cattle grazing as the agricultural use on the property. The existing residence, permitted second residence, and agricultural building would be incidental to the new primary agricultural use of the two properties for cattle grazing. These buildings allow for the property owner and any potential support in operating the agricultural use to live on-site, which is integral in assuring the health and viability of cattle grazing. Utilizing a property for cattle grazing is an agricultural use consistent with the intent and purpose of the Williamson Act and the County Code (Chapter 84-42 and Chapters 810-2 through 810-4), and the use of the property for residential purposes would also meet the intent of these ordinances when incidental to the primary agricultural use.

2. Required Finding: The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including harvesting processing, or shipping.

Project Finding: The Owner intends to establish cattle grazing as the agricultural use on the property. The existing residence and agricultural building would be incidental to the new primary agricultural use of the two properties for cattle grazing. Utilizing a property for cattle grazing is an agricultural use consistent with the intent and purpose of the Williamson Act and the County Code (Chapter 84-42 and Chapters 810-2 through 810-4), and the use of the property for residential purposes would also meet the intent of these ordinances when incidental to the primary agricultural use. The existing residence, permitted second residence, and agricultural building would be incidental to the new primary agricultural use of the two properties for cattle grazing. These buildings allow for the property owner and any potential support in operating the agricultural use to live on-site, which is integral in assuring the health and viability of cattle grazing.

3. Required Finding: The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

Project Finding: The proposed use of the property would not result in the significant removal of adjacent contracted land from agricultural or open-space use. The addition of new contracted land would not induce contracted land to cease agricultural or open-space use, and the subsidiary residential use is common throughout the area for property owners to both live and operated their agricultural uses on their property.

CONDITIONS OF APPROVAL

Administrative

1. Approval is granted to rezone the subject property from A-80 Exclusive Agricultural District to A-4 Agricultural Preserve District to establish new Land Conservation Contract No. AP18-0006.

Fees

2. This application is subject to an initial application deposit of \$7,500.00, which was paid with the applications' submittal, plus time, and material costs if the application review expenses exceed the initial deposit. **Any additional costs due must be paid prior to issuance of a building permit, within 60 days of the permit's effective date, or prior to use of the permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2013-340, where a fee payment is over 60 days past due from the date of approval, the application shall be charged interest at a rate of ten percent (10%). The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

ADVISORY NOTES

THE FOLLOWING INFORMATION DOES NOT CONSTITUTE CONDITIONS OF APPROVAL. IT IS PROVIDED TO ALERT THE APPLICANT TO LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES TO WHICH THIS PROJECT MAY BE SUBJECT.

- A. Notice of 90-day opportunity to protest fees, dedications, reservation, or other exactions pertaining to the approval of this permit.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservation, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90-day period after the project is approved.

The ninety (90) day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by the approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Department of Conservation & Development, Community Development Division within the 90 days of the approval date of this permit.