



Contra
Costa
County

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: May 9, 2017

Subject: Williamson Act Contract / AP12-0001/ Tassajara Valley Area

RECOMMENDATION(S):

1. OPEN the public hearing to include Assessor's Parcel No. (APN) 006-160-009, a 40 acre parcel located in the Tassajara Valley, to an existing Agricultural Preserve No. 13-74; ACCEPT testimony.
2. CLOSE the public hearing.
3. FIND that the addition of APN 006-160-009 to existing Agricultural Preserve No. 13-74 is consistent with the General Plan.
4. FIND that the addition of APN 006-160-009 to existing Agricultural Preserve No 13-74 and establishment of Land Conservation Contract AP12-0001 are consistent with the Williamson Act and the County's Williamson Act Program.
5. FIND that the proposed actions are exempt from environmental review under the California Environmental Quality Act (California Code of Regulations, Title 14, Section 15317, and Section 15061 (b) (3).

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **05/09/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 9, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: John Osborne,
925-674-7793

cc:

6. ADOPT Resolution No. 2017/113 to APPROVE the inclusion of APN 006-160-009 to existing Agricultural Preserve No. 13-74 and APPROVE Land Conservation Contract AP12-0001.

7. AUTHORIZE the Chair of the Board of Supervisors to execute, on behalf of the County, Land Conservation Contract AP12-0001.

RECOMMENDATION(S): (CONT'D)

8. DIRECT the Director of Conservation and Development, or his designee, to record Resolution No. 2017/113 and Land Conservation Contract AP12-0001 with the County Clerk Recorder and forward a copy to the California Department of Conservation, and the County Assessor's Office.

9. DIRECT the Director of Conservation and Development, or his designee, to file a CEQA Notice of Exemption with the County Clerk Recorder.

FISCAL IMPACT:

None. All costs are borne by the applicant.

BACKGROUND:

Terry and Lisa Howland, as trustees of the Terrance E. Howland and Lisa Beth Howland Revocable Trust, dated January 24, 2001 (Owners) own 40 acres of land in the Tassajara Valley area, known as Assessor's Parcel No. 006-160-009 (Property). The Owners have applied to establish a land conservation contract on the Property pursuant to the Williamson Act (Government Code, Sections 51200 et seq.).

The Williamson Act, through land conservation contracts, restricts land uses and structures on property under contract. Under the Williamson Act, property may be encumbered by a land conservation contract by mutual agreement between the County and land owner, provided that the land and the land uses complies with the requirements of the Williamson Act and the County's Williamson Act Program. The restricted parcel is assessed for property tax purposes at a rate that is consistent with the actual use, rather than the potential use.

The Property is currently being used for grazing purposes and there is a single family residence located on the Property. The Owners intend to continue to use the Property for grazing with the potential of planting orchards on a portion of the land in the future. The new contract would authorize a residential second unit, a pool and pool house, a solar power array for farm use only, and several agricultural related outbuildings. The residential structures, pool and pool house and solar panels would be limited to a 2 acre building envelope on the Property. The Owners would be required to obtain all necessary permits for construction (e.g. building permits, etc.). The Property is zoned A-80, Exclusive Agricultural District. The uses allowed in the A-80 District are consistent with the uses allowed in the A-4, Agricultural Preserve District. The proposed land conservation contract would apply to the entire Property and would restrict uses on the Property to those enumerated in the Contract. The new structures would be incidental to the primary agricultural use of the Property, would not conflict with ongoing and proposed agricultural uses, and thus are consistent with the intent and purpose of the Williamson Act and the County's Williamson Act Program.

The construction of a solar power array on contracted lands is not addressed in the County's Williamson Act Program, but can be approved as compatible with the agricultural use of the Property if consistent with the principles found in Government Code 51238.1, including:

1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or on other contracted lands in the agricultural preserve.
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or other contracted parcels in the agricultural preserve. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if the related use is directly related to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.
3. The use will not result in the removal of adjacent contracted land from agricultural or open space use.

The proposed solar power array is intended for farm use only, not commercial solar power generation, and will therefore be limited in scale. Agricultural operations will not be significantly displaced or impaired. The proposed solar power array will be directly related to agricultural production as it will serve as a power source, promoting the agricultural use of the property.

The Property meets the Williamson Act parcel size requirement in that it is 40 acres of non-prime agricultural land, but the Property is not located within an established agricultural preserve. The Williamson Act requires a minimum of 100 acres to establish a new agricultural preserve, but allows for land to be added to an existing agricultural preserve when the land meets minimum parcel size requirements and is in agricultural use. The Property lies adjacent to existing Agricultural Preserve No 13-74, which is owned by a different property owner, and such an addition is allowed under Government Code Section 51230.

Under the Williamson Act (Government Code Sections 51230 and 51233), the Board must conduct a noticed public hearing on a proposal to enlarge the size of an agricultural preserve, and provide notice of this hearing to the Contra Costa County Local Agency Formation Commission (LAFCO) and to any city within one mile of the exterior boundaries of the affected agricultural preserve. Notice of a public hearing to add the Property to Agricultural Preserve No. 13-74 has been lawfully published in the Contra Costa Times and give to LAFCO. Notice of hearing to a city was not necessary because the boundary of the agricultural preserve and Property to be added is more than one mile from the nearest city.

Staff recommends that the Board conduct a public hearing as required by the Williamson

Act and determine that the addition of the Property to Agricultural Preserve No. 13-74 is consistent with the General Plan and the provisions of the Williamson Act. The subject Property lies within an area with a General Plan designation of Agricultural Lands (AL) and is being used for agricultural purposes. The addition of the Property to the agricultural preserve furthers the purpose of the AL designation which is to preserve and protect land capable of and generally used for production of food, fiber, and plant materials.

Staff further recommends the Board approve Resolution No. 2017/113, which approves the addition of APN 006-160-009 to Agricultural Preserve No. 13-74, and approves Land Conservation Contract AP12-0001.

The establishment of an agricultural preserve and the making of a land conservation contract is categorically exempt for environmental review under the California Environmental Quality Act (California Code of Regulations, Title 14, Section 15317). Further, these actions would not cause a significant effect on the environment because they restrict uses on the Property and it can be seen with certainty that these restrictions would not have a significant effect on the environment (California Code of Regulations, Title 14, Section 15061 (b) (3).

CONSEQUENCE OF NEGATIVE ACTION:

If the Board does not approval Land Conservation Contract AP12-0001 for the Property the land would not be encumbered by a Williamson Act contract.

CLERK'S ADDENDUM

CLOSED the hearing; ADOPTED Resolution No. 2017/113 and all recommendations as presented.

ATTACHMENTS

Resolution No. 2017/113

Attachment A- Legal Description

Attachment B- Land Conservation Contract AP12-0001

AP12-0001 Hearing Notice 5/9/17