

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

204 B



REVIEWED BY EXECUTIVE OFFICE

DATE 10/9/13 MSJ
Tina Grande

Departmental Concurrence

FROM: TLMA - Planning Department

SUBMITTAL DATE:
October 2, 2013

SUBJECT: ADOPTION OF RESOLUTION NO. 2013-247 ADOPTING A CERTIFICATE OF TENTATIVE CANCELLATION FOR AGRICULTURAL PRESERVE CASE NO. 1000 – No Further CEQA Documentation Required – Applicant: Foli Family Partnership – First/First Supervisorial District – Location: Northwesterly corner of El Calamar Road and Carancho Road – REQUEST: Adopt Resolution No. 2013-247 which is the Tentative Certificate of Cancellation for Agriculture Preserve Case No. 1000. District 1/District 1 [\$0]

RECOMMENDED MOTION:

ADOPTION of RESOLUTION NO. 2013-247 ADOPTING A CERTIFICATE OF TENTATIVE CANCELLATION FOR AGRICULTURAL PRESERVE CASE NO. 1000, creating conditions upon which a Williamson Act contract as depicted on Map No. 1000 within Rancho California Agricultural Preserve No. 18 may be canceled and the preserve diminished by 44.66 acres, subject to the conditions of approval and based on the findings and conclusions contained in Attachment No. 1.

Carolyn Byrns Luna
Carolyn Byrns Luna
Planning Director

Initials:
CSL:ms/hs/dm

(continued on next page)

Policy

Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.

District: 1/1

Agenda Number:

3-60

The Honorable Board of Supervisors

Re: Resolution No. 2013-247 for a Certificate of Tentative Cancellation for Agriculture Preserve Case No. 1000.

Page 2 of 2

BACKGROUND:

The Board approved three cases on June 5, 2012, Agriculture Preserve Case No. 1000, Tentative Tract Map No. 35815, and Change of Zone No. 7659. The action on the Tentative Tract Map is final, because there are conditions on the tract requiring the Williamson Act contract's Final Certificate of Cancellation to be adopted prior to the map recording. The Change of Zone requires the adoption of an ordinance before the action is final, but that too must wait for a Final Certificate of Cancellation, because the zoning must remain Agricultural while the contract is still valid. The Williamson Act case (AG1000) must first have a Certificate of Tentative Cancellation adopted, which is Resolution 2013-247. Then the applicant must satisfy the conditions within the Certificate of Tentative Cancellation or let a 10 year countdown complete (which is part of the Notice of Non-Renewal already filled by the applicant). Once all conditions are satisfied or the 10 years completed, then a second resolution entitled the "Certificate of Final Cancellation" must be adopted by the Board of Supervisors.

The Foli Family Trust, is requesting consideration of Agricultural Preserve Case No. 345 (AG01000) proposing to diminish Rancho California Agricultural Preserve No. 18, Map No. 354, and cancel the land conservation contract as it applies to a portion of the Tentative Tract Map (which is the proposed alternate land use). On July 30, 2009, the Comprehensive Agricultural Preserve Technical Advisory Committee (CAPTAC) considered an application to diminish Rancho California Agricultural Preserve No. 18, Map No. 354, as depicted on Map No. 1000.

Pursuant to Government Code Section 51284.1, a copy of the complete application for tentative cancellation was submitted to the State Department of Conservation (SDC) for a mandatory 30-day review and comment period. Staff received no responses. Appraisals are attached to this Form 11.

CAPTAC recommended APPROVAL of the proposed diminishment citing that the cancellation was consistent with the provisions of the Agricultural Land Conservation Act. The Planning Department concurs with CAPTAC's conclusion.



Carolyn Syms Luna
Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

Memorandum

October 2, 2013

TO: Carolyn Syms Luna, Planning Director

FROM: David Mares, Principal Planner *D.M.*

RE: Resolution No. 2013-247 for Ag. Preserve 1000

Attached is a completed Form 11A (BOS) package. Because the Resolution has been drafted to presume a BOS date of October 22, 2013 please review and sign the Form 11A document before Wednesday, October 9, 2013, 9:00 A.M., so this project can be scheduled for that BOS date.

C:\Documents and Settings\dmares\Desktop\BOS Pkg Director's Signature Memo.docx

Riverside Office • 4080 Lemon Street, 12th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 • Fax (951) 955-1811

Desert Office • 38686 El Cerrito Road
Palm Desert, California 92211
(760) 863-8277 • Fax (760) 863-7555

"Planning Our Future... Preserving Our Past"

ATTACHMENT NO. 1
March 19, 2012

AGRICULTURAL PRESERVE CASE NO. 1000 (AG01000)

CONDITIONS OF APPROVAL for Agriculture Preserve Case No. 1000 (AG01000):

The applicant shall comply with the following conditions prior to issuance of each individual Certificate of Final Cancellation as outlined in Government Code Section 51283.4:

1. The cancellation fee of \$78,125.00 for AG1000 shall be paid; and,
2. All conditions necessary for the County to issue grading permits for any portion of TR35815 shall have been met.
3. The landowner shall notify the Board of Supervisors when all conditions and contingencies enumerated in the Certificate of Tentative Cancellation have been satisfied.

Within 30 days of receipt of such notice, and upon determination that the conditions and contingencies have been satisfied, the Board of Supervisors shall cause to be executed and recorded a Certificate of Final Cancellation.

FINDINGS for Agricultural Preserve Case No. 1000 (AG01000):

1. The 44.66 gross acres of the site are subject to an agricultural preserve contract.
2. The site is on the northwesterly corner of El Calamar Road and Carancho Road in the Southwest Area Plan in unincorporated Western Riverside County.
3. The project site is currently in production of avocados.
4. According to the Natural Resource Conservation Service, the soils Capability Classification as indicated in the USDA Soil Survey for Western Riverside County indicates that the site is one hundred (100) percent within Class VII.
5. The Foli Family Trust entered into a land conservation contract with the County of Riverside for land within the Rancho California Agricultural Preserve No. 18. This contract is dated February 26, 1976 and was recorded on February 26, 1976 as Instrument No. 24455 in the Office of the County Recorder of Riverside, California.
6. The subject parcel affected by the proposed diminishment is included under this single contract.
7. The cancellation is for land on which a Notice of Non-Renewal has been served pursuant to Section 401 of the Rules and Regulations Governing Agricultural Preserves in Riverside County and Government Code Section 51245. A Notice of Non-Renewal was filed with the Planning Department on April 27, 2007, and was recorded by the Riverside County Clerk and Recorder on May 9, 2007 as Instrument No. 2007-0309675. A majority of CAPTAC members found that a Notice of Non-Renewal had been served on the site. Accordingly, the Board, by a majority of its members, finds that the cancellation is for land on which a notice of non-renewal has been served.

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AGRICULTURAL PRESERVE CASE NO. 1000 (AG01000)

8. Pursuant to the owner's notice of non-renewal submitted on May 9, 2007, the land conservation contract on the subject parcels will expire on May 9, 2017 (GC§51245 and R&T Code §426(c)).
9. Tentative Tract Map 35815, intended for residential uses, constitute the applicant's proposed alternative land use of the site upon cancellation of the current land conservation contract and diminishment of the parcels from the affected agricultural preserve. The Tentative Tract Map proposes 8 lots ranging in size from 5 to 9.38 acres.
10. Upon approval of Tentative Tract Map 35815 and accompanying entitlements, the proposed alternative use will be consistent with the existing Riverside County General Plan and the proposed zoning.
11. The cancellation fee was determined by the Riverside County Assessor's Office to be \$78,125.00.
12. The cancellation of the contract for the identified 44.66 gross acres is in the public interest, because it is consistent with the General Plan Land Use Designation for the site and will maintain densities that are consistent with the vision for the area.
13. The cancellation is not likely to result in the removal of adjacent lands from agricultural use. The subject parcel is located in the Southwest Area Plan (SWAP) of western Riverside County in the Santa Rosa Plateau/De Luz area. This area is set in the Santa Ana Mountains west of the cities of Temecula and Murrieta and is characterized by rolling hills, steep slopes, and valleys, which are dotted with avocado and citrus farms on large lots, generally ranging between 5 to 25 acres. Although the parcel is designated Rural Mountainous (RM) (1 dwelling unit/10 acres), it is also subject to the Santa Rosa Plateau/De Luz Policy Area policies which permit a minimum lot size of 5 acres and is intended to help maintain the rural and natural character of the area, account for its varied topography and development constraints, and preserve scenic resources by allowing development of parcels subject to review on a case-by-case basis. Many parcels located in this area are within an agricultural preserve and under current contract. However, this has been the case for the last two decades. Continued rural development in this area will occur with or without the proposed cancellation and this cancellation, in and of itself, is not likely to result in the removal of adjacent lands from agricultural use. Based on this fact, a majority of CAPTAC members concluded that the cancellation would not result in the removal of adjacent lands from agricultural use.
14. Infrastructure for the area is available on the site.

CONCLUSIONS for Agricultural Preserve Case No. 1000 (AG01000):

1. The cancellation is for land on which a notice of non-renewal has been served.
2. The cancellation will not result in the removal of adjacent lands from agricultural use beyond that already envisioned by the Board of Supervisors and the General Plan. Therefore, though the removal of adjacent lands from agricultural use may occur, such

ATTACHMENT NO. 1
March 19, 2012

AGRICULTURAL PRESERVE CASE NO. 1000 (AG01000)

removal would not be a direct consequence of Project implementation or the proposed cancellation. Rather, the proposed cancellation would enable implementation of the vision proposed for the area. Accordingly, the Board, by a majority of its members, finds that the proposed cancellation is not likely to result in the removal of adjacent lands from agricultural use.

3. The cancellation is for an alternative use which will be consistent with the applicable provisions of the County General Plan upon project approval.
4. The cancellation will not result in discontinuous patterns of urban development.
5. Development of the contracted land would provide more contiguous patterns of development than development of proximate non-contracted land by not placing a burden on the existing infrastructure for the area.

2 **RESOLUTION NO. 2013-247**

3 **APPROVING AGRICULTURAL PRESERVE CASE NO. 1000,**
4 **ISSUING CERTIFICATE OF TENTATIVE CANCELLATION**
5 **AND DIMINISHING Rancho California Agricultural Preserve No. 18**
6 **(Government Code Section 51283.4)**

7
8 **WHEREAS**, a contract was executed pursuant to the Land Conservation Act of 1965
9 (Government Code Section 51200 et. seq.) for land within Rancho California Agricultural Preserve
10 No. 18; and,

11 **WHEREAS**, The Foli Family Trust entered into this land conservation contract dated February
12 26, 1976, with the County of Riverside for land that is currently identified as Assessor’s Parcel No.
13 (“APN”) 933-040-017 (the “Property”), which was recorded on February 26, 1976, as Instrument No.
14 24455, in the Office of the County Recorder of Riverside County, California (the “Land Conservation
15 Contract”); and,

16 **WHEREAS**, the Property is described in Exhibit A, attached hereto and incorporated herein by
17 reference, entitled “MAP NO. 354, RANCHO CALIFORNIA AGRICULTURAL PRESERVE NO. 18,
18 AMENDED BY MAP NO. 1000, AMENDMENT NO. 4, (DIMINISHMENT), MAP NO. 1000”; and,

19 **WHEREAS**, The Foli Family Trust is the current owner of the Property and filed a Notice of
20 Nonrenewal on April 27, 2007, which notice was recorded on May 9, 2007, as Instrument No. 2007-
21 0309675, in the Office of the County Recorder of Riverside County, California; and,

22 **WHEREAS**, The Foli Family Trust also petitioned to cancel the Land Conservation Contract as
23 it applies to the Property, as depicted on said Map No. 1000 and to diminish Rancho California
24 Agricultural Preserve No. 18, Map No. 354 by removing 44.66-acre area from the boundaries of said
25 agricultural preserve; and,

26 **WHEREAS**, all the provisions of the California Environmental Quality Act (CEQA) and the
27 Rules and Regulations Governing Agricultural Preserves in Riverside County (Resolution No. 84-526)
28

FORM APPROVED COUNTY COUNSEL
BY: MICHELLE CLACK
DATE: 9/25/13

1 have been satisfied, including the preparation of a Mitigated Negative Declaration for Environmental
2 Assessment No. 41950; and,

3 **WHEREAS**, The Foli Family Trust has proposed, if the cancellation is approved, that the land
4 will be used for the following alternative use: A land subdivision intended for residential purposes as
5 reflected in Tentative Tract Map No 35815 and a zone change to a residential designation of
6 Residential Agricultural 5 Acre Minimum (R-A-5) as reflected in Change of Zone No. 7659
7 (“Project”); and,

8 **WHEREAS**, the total amount of the cancellation fee for the Property, pursuant to Section
9 51283.4 of the Government Code, has been determined and certified by the Board of Supervisors to be
10 \$78,125.00; and,

11 **WHEREAS**, a public hearing was held on this matter by the Riverside County Board of
12 Supervisors on June 5, 2012.

13 **BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED** by the Board of
14 Supervisors of the County of Riverside, State of California, in regular session assembled on October
15 22, 2013, that:

- 16 1. The above recitals are incorporated herein by this reference.
- 17 2. The subject parcel affected by the proposed diminishment is included under the Land
18 Conservation Contract.
- 19 3. Pursuant to the owner’s Notice of Nonrenewal submitted on April 27, 2007, the Land
20 Conservation Contract on the subject parcel will expire on April 27, 2017 (GC§51245
21 and R&T Code §426(c)).
- 22 4. The cancellation fee was determined by the Riverside County Assessor’s Office to be
23 \$78,125.00.
- 24 5. The project site subject to the Land Conservation Contract is located Northwesterly corner
25 of El Calamar Road and Carancho Road in the Santa Rosa Plataou area (Southwest Area Plan)
26 of western Riverside County.

- 1 6. According to the Natural Resource Conservation Service, the soils Capability
2 Classification as indicated in the USDA Soil Survey for Western Riverside County
3 indicates that the site is one hundred (100) percent within Class VII.
- 4 7. The Project is also being processed with this Agricultural Preserve case and constitutes
5 the proposed alternative land use for the Property subject to this diminishment and
6 cancellation. Upon approval of the Tentative Tract Map and accompanying
7 entitlements, the proposed alternative land use will be consistent with the Riverside
8 County General Plan.
- 9 8. The alternative land uses that will be developed in accordance with the Project will also
10 be an economic benefit for the area in particular and to the County as a whole because it
11 will allow the area to transition from an agricultural use that is no longer viable on the
12 site to one that will be viable and provide additional property taxes to the County.

13 **BE IT FURTHER RESOLVED** by the Board of Supervisors that:

- 14 1. The cancellation is for land on which a Notice of Nonrenewal has been served.
- 15 2. The cancellation is not likely to result in the removal of adjacent lands from agricultural
16 use for the following reasons:
 - 17 a. The subject parcel is located in the Southwest Area Plan (SWAP) of western Riverside
18 County in the Santa Rosa Plateau/De Luz area. Although the parcel is designated Rural
19 Mountainous (RM) (1 dwelling unit/10 acres), the Santa Rosa Plateau/De Luz Policy
20 Area policies permit a minimum lot size of 5 acres.
 - 21 b. Many parcels located in this area are within an agricultural preserve and under current
22 contract. Continued rural development in this area will occur with or without the
23 proposed cancellation and this cancellation, in and of itself, is not likely to result in the
24 removal of adjacent lands from agricultural use.
 - 25 c. Accordingly, a majority of CAPTAC members concluded that the cancellation would
26 not result in the removal of adjacent lands from agricultural use.
- 27 3. The cancellation is for an alternative use that is consistent with the applicable provisions
28 of the General Plan, as it is residential.

- 1 4. The cancellation will not result in discontinuous patterns of urban development because
2 the residential development proposes eight residential lots ranging in size from five to
3 nine acres, which is consistent with the large lot residential and large lot agricultural
4 uses prevalent in the area surrounding the project site.
- 5 5. Adequate infrastructure for the proposed alternative use exists at the site.
- 6 6. Cancelling a portion of Agricultural Preserve Contract No. 1000 and diminishing
7 Agricultural Preserve No. 18 by removing 44.66 gross acres will not have a significant
8 adverse effect upon the environment and a Mitigated Negative Declaration for
9 Environmental Assessment No. 41950 is adopted based on the findings incorporated in
10 the initial study.
- 11 7. The proposed alternative use for the site is a five lot residential subdivision with a 5 acre
12 minimum. There is no proximate noncontracted land that is large enough to support a
13 subdivision of five lots that could meet the minimum five acre requirement (40 acres).
14 Therefore, there is no proximate noncontracted land suitable for the use to which the
15 contracted land in question will be put.

16 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the applicant shall comply
17 with the following conditions prior to issuance of a Certificate of Final Cancellation as outlined in
18 Government Code Section 51283.4:

- 19 1. The cancellation fee of \$78,125.00 for Agriculture Preserve Case No. 1000 shall be
20 paid;
- 21 2. All conditions necessary for the County to issue grading permits for any portion of
22 Tentative Tract Map 35815 shall have been met; and,
- 23 3. The landowner shall notify the Board of Supervisors when all conditions and
24 contingencies enumerated in the Certificate of Tentative Cancellation have been satisfied.

25 Within 30 days of receipt of such notice, and upon determination that the conditions and
26 contingencies have been satisfied, the Board of Supervisors shall cause to be executed and
27 recorded a Certificate of Final Cancellation.

1 **BE IT FURTHER RESOLVED** by the Board of Supervisors that the Clerk of this Board shall
2 file and record copies of this resolution, map and boundary description, in the Office of the County
3 Recorder of Riverside County, California, and transmit copies thereof to the Director of Conservation
4 of the State of California, the Treasurer of Riverside County, and the Assessor of Riverside County;
5 and, that, upon fulfillment of all of the conditions, the landowner will be entitled to a Certificate of
6 Final Cancellation that provides as follows:

7 1. Rancho California Agricultural Preserve No. 18, Map No. 354, adopted on February 26,
8 1976, will be amended by deleting therefrom the area shown on the map entitled "MAP NO. 324,
9 RANCHO CALIFORNIA AGRICULTURAL PRESERVE NO. 18, AMENDED BY MAP NO. 1000,
10 AMENDMENT NO. 4, (DIMINISHMENT), MAP NO. 1000," and described by boundary description
11 thereof, said map and description both being on file in the Office of the Clerk of the Board.

12 2. The Land Conservation Contract, dated February 26, 1976, and recorded in the Office of
13 the County Recorder of Riverside County, California, on February 26, 1976, as Instrument No. 24455,
14 will be canceled to the extent said contract applies to land referenced in the petition for cancellation of
15 the aforementioned property owner, thereby removing from the effect of said contract the real property
16 in the County of Riverside, State of California, described in the exhibit entitled, "MAP NO. 324,
17 RANCHO CALIFORNIA AGRICULTURAL PRESERVE NO. 18, AMENDED BY MAP NO. 1000,
18 AMENDMENT NO. 4, (DIMINISHMENT), MAP NO. 1000."

19 **BE IT FURTHER RESOLVED** by the Board of Supervisors that, if any portion of the
20 cancellation fee of \$78,125.00 is not paid within one year following the recordation of this Certificate
21 of Tentative Cancellation, that portion of the fee shall be recomputed pursuant to Government Code
22 Section 51283.4 (a), and the landowner shall be required to pay the applicable portion of the
23 recomputed fee as a condition to issuance of a Certificate of Final Cancellation of the Land
24 Conservation Contract.

25 **BE IT FURTHER RESOLVED** by the Board of Supervisors that, upon application of the
26 landowner, the Board of Supervisors may hereafter amend a tentatively approved specified alternative
27 use if the Board finds that such amendment is consistent with the findings made pursuant to
28 Government Code Section 51282.