

**FINDINGS AND CONDITIONS OF APPROVAL FOR DAVID S. PEARSON (APPLICANT) & CHRISTOPHER FOSKETT, SUCCESSOR TRUSTEE, TRUSTEE OF THE MARY DODGE FOSKETT TRUST DATED SEPTEMBER 24, 1984, JEAN E. FOSKETT, TRUSTEE OF THE JEAN E. FOSKETT TRUST DATED JANUARY 31, 2023, CHERYLE A. FOSKETT, TRUSTEE OF THE FOSKETT TRUST DATED SEPTEMBER 13, 2000, AND FOSKETT RANCH, LLC (OWNER); COUNTY FILE #AP22-0001**

**FINDINGS**

A. Growth Management Performance Standards

1. Traffic: The proposed project involves a rezone of the subject property from General Agricultural District (A-2) to Agricultural Preserve District (A-4) for the purpose of establishing a new agricultural preserve and Land Conservation Contract (Williamson Act contract). Changing the zoning from the A-2 to A-4 will not only continue the property's use for agriculture, but also it will become further restrictive on land uses and development of the properties. 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 Contra Costa County 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 Brentwood 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, except for the area adjacent to Marsh Creek in the northern corner of APN 007-

030-011. This rezoning application does not involve any new construction. Therefore, if flood or 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: The change proposed will substantially comply with the general plan.

Project Finding: The project is consistent with intent and purpose of the Agricultural Lands (AL) land use designation and the General Plan overall. 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 application is consistent with the AL General Plan land use designation. The owner intends to preserve the property for agricultural use of cattle grazing 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 grazing. This rezone will allow for the property to establish a Williamson Act contract preserving 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 Lands land use designation and the General Plan overall.

2. Required Finding: 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. The subject parcels are considered non-prime agricultural land, and the property will operate as cattle grazing land, which is a compatible land use for 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 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 and the General Plan overall. The property is proposed to be utilized for agricultural purposes in the form of cattle grazing, which is an agricultural use allowed in AL. 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: The property is proposed to be utilized for agricultural purposes in the form of cattle grazing, which is an agricultural use allowed in AL. The property intends to remain in agricultural use subsequent to the completion of this project.

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

Project Finding: The land is not currently located in an existing agricultural preserve. However, this application includes establishing a new agricultural preserve for the subject property, which consists of APN 007-040-001, and 007-050-001. These parcels are 325.59 acres, 628.39 acres, and 629.32 acres, respectively. Pursuant to Section 810-2.404(a), 100 acres is the minimum acreage to establish a new agricultural preserve, and Section 810-2.406 states that 40 acres is the minimum parcel size for non-prime agricultural land to be included in an agricultural preserve and eligible for a land conservation contract. Each of the subject parcels exceeds these minimums individually, so their combined acreage far exceeds the minimums to qualify for a land conservation contract.

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 project is consistent with intent and purpose of the Agricultural Lands (AL) land use designation and the General Plan overall. 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 application is consistent with the AL General Plan land use designation. The owner intends to preserve the property for agricultural use of cattle grazing 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 grazing. This rezone will allow for the property to establish a Williamson Act contract preserving 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 Lands 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: The property is proposed to be utilized for agricultural purposes in the form of cattle grazing. The property intends to remain in agricultural use subsequent to the completion of this project. Furthermore, this project includes no requests for new buildings or structures, so the property will remain in its current state of agricultural production without interruption.

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 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. The property is proposed to be utilized for agricultural purposes in the form of cattle grazing. The property intends to remain in agricultural use subsequent to the completion of this project. Furthermore, this project includes no requests for new buildings or structures, so the property will remain in its current state of agricultural use without interruption. Additionally, the project involves adding land into a new agricultural preserve, thus increasing the amount of contracted land in the area, so it is clear that there will be no negative impact on other contracted land.

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

Project Finding: There are several groupings of contracted lands in the surrounding area. However, as the project involves adding three new parcels in excess of 1,500 acres into a new agricultural preserve and thus increasing the amount of contracted land in the area, it is clear that the project will not result in the significant removal of adjacent contracted land from agricultural or open space use.

## **CONDITIONS OF APPROVAL**

### **Administrative:**

1. Rezoning approval is granted to rezone the subject property from General Agricultural District (A-2) to Agricultural Preserve District (A-4) to establish a new Land Conservation Contract No. AP22-0001.

### **Fees**

2. This application is subject to an initial application deposit of \$7,500.00, which was paid with the application 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.