

**FINDINGS AND CONDITIONS OF APPROVAL FOR BOB NUNN (APPLICANT) & RONALD E. AND SHIRLEY A. NUNN (OWNER); COUNTY FILE #AP19-0005, RZ20-3257 & LL19-0001**

**FINDINGS**

A. Growth Management Performance Standards

1. Traffic: The proposed project involves a rezone of the subject property from Heavy Agricultural District (A-3) to Agricultural Preserve District (A-4) for the purpose of completing a lot line adjustment and establishing a Land Conservation Contract (Williamson Act contract). Changing the zoning from the Heavy Agricultural District (A-3) 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 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. 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: The change proposed will substantially comply with the general plan.

Project Finding: The General Plan land use designation for the subject property is Agricultural Core (AC). This designation applies to agricultural lands that are composed primarily of prime (Class I or II) soils in the National Resources Conservation System (NRCS) Land Capability Classifications, which are considered the very best soils for farming a wide variety of crops. The purpose of the Agricultural Core designation is to preserve and protect the farmlands of the county that are the most capable of, and generally used for, production of food, fiber, and plant materials. The proposed rezone is consistent with the AC General Plan land use designation. Currently, the property is actively utilized for agricultural production with row crops of different varieties. The property intends to remain in agricultural production 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.*

As proposed, the project will further protect the property's agricultural use for crop production. The proposed 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 for the contract's automatic renewal to be ended. Therefore, the proposed project will remain consistent with intent and purpose of the Agricultural Core 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, lot line adjustment and adoption of a new Williamson Act contract. The subject parcels are considered prime agricultural land. APN 010-070-040 is 6.96-acres and legally a portion of neighboring APN 010-070-039 (both APNs under existing contract), but the Highway 4 Bypass bisected the property into its current configuration, thus requiring two APNs. The parcel is located in Agricultural Preserve No 2-85, established February 8, 1985, by Board Resolution No. 84/788. The parcel is currently restricted under Land Conservation Contract No. 2-85, also approved February 8, 1985 by Resolution No. 84/788 between the County and Ronald E., Shirley A., and Lindsey A. Nunn. APN 007-130-022 (the land being added to the contract) is 4.25 acres. The proposed lot line adjustment would add 6.96 acres (APN 010-070-040) to a 4.25-acre parcel (APN 007-130-022) for a total of 11.21 acres of prime agricultural land. The donor parcel is a 37.37-acre parcel comprised of APN 010-070-039 and -040. After the lot line adjustment, which combines APN 010-070-040 with APN 007-130-022, the remainder would simply be APN 010-070-039 at 30.44 acres. Pursuant to Section 810-2.406, ten acres is the minimum parcel size for prime agricultural land, so the newly adjusted parcel will comply with this minimum. Furthermore, the property will continue to operate producing row crops, which is a primary land use goal of both the AC 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 Agricultural Core designation is to preserve and protect the farmlands of the county that are the most capable of, and generally used for, production of food, fiber, and plant materials. The proposed rezone is consistent with the AC General Plan land use designation. Currently, the property is actively utilized for agricultural production with row crops of different varieties. The property intends to remain in agricultural production subsequent to the completion of this project.

C. 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 Core (AC). This designation applies to agricultural lands that are composed primarily of prime (Class I or II) soils in the National Resources Conservation System (NRCS) Land Capability Classifications, which are considered the very best soils for farming a wide variety of crops. The purpose of the Agricultural Core designation is to preserve and protect the farmlands of

the county that are the most capable of, and generally used for, production of food, fiber, and plant materials. The proposed rezone is consistent with the AC General Plan land use designation. Currently, the property is actively utilized for agricultural production with row crops of different varieties. The property intends to remain in agricultural production 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.*

As proposed, the project will further protect the property's agricultural use for crop production. The proposed 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 proposed project will remain consistent with intent and purpose of the Agricultural Core land use designation and the General Plan overall.

D. CA Gov. Code Section 51257 Required Findings

To facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the Board or Council finds all of the following:

1. Required Finding: The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

Project Finding: The proposed lot line adjustment and new contracts do not include a non-renewal request. As such, the new contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract, which would result in no less than the minimum 10 years.

2. Required Finding: There is no net decrease in the amount of acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate

acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

Project Finding: The proposed lot line adjustment would not result in a net decrease in the amount of acreage restricted. Rather, it would result in a net increase of 4.25 acres of additional land under the Williamson Act contract, which is the area currently known as APN 007-130-022.

3. Required Finding: At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

Project Finding: As mentioned in "Finding B", the proposed lot line adjustment would not result in a decrease in the amount of land under the Williamson Act contract. Rather, it would result in a net increase of 4.25 acres of additional land under the Williamson Act contract, which is the area currently known as APN 007-130-022.

4. Required Finding: After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

Project Finding: The Williamson Act provides minimum parcel size requirements for lands under contract. For land designated as "prime," such as the subject parcels, the minimum parcel size is 10 acres. The proposed lot line adjustment would add 6.96 acres (APN 010-070-040) to a 4.25-acre parcel, currently known as APN 007-130-022, for a total of 11.21 acres of prime agricultural land. The donor parcel is a 37.37-acre parcel comprised of APN 010-070-039 and -040. After the lot line adjustment, which combines APN 010-070-040 with APN 007-130-022, the remainder would simply be APN 010-070-039 at 30.44 acres. Overall, all land involved with the proposed lot line adjustment will remain large enough to sustain agricultural use.

5. Required Finding: The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

Project Finding: As mentioned in "Finding D," the proposed lot line adjustment will result in parcels large enough to sustain agricultural usage. The resulting parcels would be 11.25 acres and 30.44 acres, where the Williamson Act requires 10 acres for parcels designated as prime agricultural land. With the expansion of land in the Williamson Act contract, the proposed lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to contracts.

6. Required Finding: The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

Project Finding: As mentioned in "Finding D," the proposed lot line adjustment will result in the expansion of land in the Williamson Act contract. Adding new land to the Williamson Act is not an action likely to result in the removal of adjacent land from agricultural use, especially with much of the surrounding area is comprised of well-established agricultural uses.

7. Required Finding: The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the General Plan.

Project Finding: The proposed lot line adjustment involves the transfer of 6.96 acres from APN 010-070-040 to APN 007-130-022. The resulting parcels would be 11.25 acres and 30.44 acres, where 10 acres is the minimum for prime land in the Williamson Act and the A-4 zoning district. APN 010-070-040 is 6.96-acres and legally a portion of neighboring APN 010-070-039 (both APNs under existing contract), but the Highway 4 Bypass bisected the property into its current configuration, thus requiring two APNs. APN 007-130-022 (addition to contract) is 4.25 acres.

#### D. Lot Line Adjustment Findings

Based on staff's review, it has been determined that the proposal to reconfigure the subject parcels:

1. Does not constitute a subdivision of land.
2. Involves the reconfiguration of four or fewer existing parcels; and,
3. Conforms the County General Plan and Zoning Code.

### **CONDITIONS OF APPROVAL**

#### **Administrative:**

1. Rezoning approval is granted to rezone the subject property from Heavy Agricultural District (A-3) to Agricultural Preserve District (A-4) to establish a new Land Conservation Contract No. AP19-0005.
2. Approval is granted for a lot line adjustment based on the following conditions:

- This approval is based on documents received by the Department on April 16, 2019, including the Lot Line Adjustment maps, the legal descriptions of Area 1 (APN 010-070-051), Area 2A (APN 010-070-040), and Area 2B (APN 007-130-022), and recorded Lot Line Adjustment LL16-0014;
- Grant deeds shall be recorded to effectuate the real property transfer;
- A copy of this approval shall be attached to the grant deeds as evidence of the County's approval of the real property transfer;
- The property being transferred shall be combined with each of the receiving parcels and assessed as one parcel for tax purposes;
- The Department of Conservation and Development shall be provided with a copy of the recorded documents within 30 days from the date of recordation.

### **Fees**

3. 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.