



# County of Monterey

Item No.

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

Legistar File Number: RES 24-065

April 23, 2024

Introduced: 4/3/2024

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

### **PLN200176 - AVILA & LABARERE**

Public hearing to consider a Lot Line Adjustment of Williamson Act lands within Agricultural Preserve No. 72-1 between four lots which are subject to Land Conservation Contract No. 72-1 as amended in 1990, containing 636.8 acres (Parcel 1), 211.9 acres (Parcel 2), 321.1 acres (Parcel 3) and 222.6 acres (Parcel 4) before the adjustment and proposed to contain 519.7 acres (Parcel A), 329 acres (Parcel B), 486.1 acres (Parcel C) and 57.6 acres (Parcel D) after the adjustment..

**Proposed California Environmental Quality Act (CEQA) Action:** Categorically Exempt per California Environmental Quality Act (CEQA) Guidelines California Code of Regulations (CCR) Section 15305. Minor Alterations in Land Use Limitations. (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.

**Project Location:** The properties are located along Jolon Road south of Lockwood and northwest of Hwy 101 and Bradley, Bradley, South County Area Plan

### RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Find that the proposed Lot Line Adjustment qualifies as a Class 5 Categorical Exemption per California Environmental Quality Act (CEQA) Guidelines California Code of Regulations (CCR) Section 15305. Minor Alterations in Land Use Limitations. (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel; and there are no exceptions pursuant to CEQA Guidelines CCR Section 15300.2; and
- b. Approve a Lot Line Adjustment of Williamson Act lands within Agricultural Preserve No. 72-1 and corresponding Land Conservation Contract No. 72-1 as amended in 1990 between four lots containing 636.8 acres (Parcel 1), 211.9 acres (Parcel 2); 321.1 acres (Parcel 3) and 222.6 acres (Parcel 4) before the Lot Line Adjustment. The adjustment would result in four parcels of: 519.7 acres (Parcel A), 329 acres (Parcel B), 486.1 acres (Parcel C) and 57.6 acres (Parcel D); and
- c. Authorize the Chair of the County of Monterey Board of Supervisors to execute a new or amended Land Conservation Contract or Contracts in order to rescind a portion of the existing Land Conservation Contract No. 72-1 as amended in 1990, as applicable to the reconfigured lots only and simultaneously execute a new or amended Land Conservation Contract or Contracts for the reconfigured lots between the County and the property owners reflecting the new legal descriptions, current ownership interests and to incorporate any legislative changes to State Williamson Act provisions and current County Agricultural Preserve Policies or Procedures; and
- d. Direct the Clerk of the Board to record the new or amended Land Conservation Contract or Contracts subject to the submittal of the appropriate recording fees from the property owners

of record.

PROJECT INFORMATION:

**APNs:** 423-091-025-000, 423-091-038-000, 423-091-041-000 and 424-081-012-000

**Zoning:** PG/40 and F/40

**GP Land Use Designation:** Permanent Grazing 10-160 Acre Min/ Farmlands 40-160 Acre Min.

SUMMARY:

The subject application for a Lot Line Adjustment involving four parcels under the ownership of Sam Avila and Margaret J. Avila, as Trustees under Declaration of Trust dated August 16, 1989, and Albert J. Nicora, Successor of the Testamentary Trust of Joseph Labarere, Deceased, was filed with the County in August 2020. The proposed Lot Line Adjustment is between four lots, containing a total of 1,392.4 acres, located along Jolon Road south of Lockwood and northwest of Highway 101 and Bradley, South County Area Plan.

The Applicant-Owners report that the proposed Lot Line Adjustment has been submitted to comply with a Court Order on Petition To Authorize and Instruct Trustee Regarding Partition of Real Property dated October 16, 2019, in Monterey County Superior Court Case No. P19390 (see **Attachment F**). Lot Line Adjustments are often employed when the parties involved in a partition of real property matter want to separate their interests without selling the real property.

Agricultural Preserve and Land Conservation Contract No. 72-1. These parcels currently contain vineyards and are subject to Williamson Act Agricultural Preserve No. 72-1, established by the County of Monterey through Board of Supervisors Resolution No. 72-33-1 and corresponding Land Conservation Contract No. 72-1, recorded as Document G 06979, at Reel 756, Page 435, recorded with the County Recorder on February 29, 1972, and the 1990 Amendment to Land Conservation Contract No. 72-1, recorded as Document No. 10449 at Reel 2473, Page 1039, recorded with the County Recorder on February 20, 1990.

1990 Amendment to Land Conservation Contract No. 72-1. On February 21, 1989, the Board of Supervisors approved an amendment to existing Agricultural Preserve No. 72-1 which authorized an exchange of land and provided for the removal of a 10.97 acre parcel, and the inclusion of an adjoining 16.40 acre parcel, into Agricultural Preserve No. 72-1. Following the Board's February 21, 1989, approval of the exchange of land, the 1990 Amendment to Land Conservation Contract No. 72-1 (sometimes referred to as "the 1990 Amendment") was prepared to amend Exhibit "A" to Land Conservation Contract No 72-1, recorded February 29, 1972, at Reel 756, pages 435 and following, Official Records of Monterey County, to reflect the exchange of land as set forth in Exhibit A-I to the 1990 Amendment. The 1990 Amendment to Land Conservation Contract No. 72-1, was recorded with the Monterey County Recorder as Document No. 10449, at Reel 2473, Page 1039, on February 10, 1990. (See **Attachment C.2.** - 1990 Amendment to Land Conservation Contract No. 72-1).

Proposed Lot Line Adjustment of Williamson Act Lands.

Before Adjustment:

Parcel 1: 636.8 acres  
Parcel 2: 211.9 acres  
Parcel 3: 321.1 acres  
Parcel 4: 222.6 acres  
= 1,392.4 acres

After Adjustment:

Parcel A: 519.7 acres  
Parcel B: 329 acres  
Parcel C: 486.1 acres  
Parcel D: 57.6 acres  
= 1,392.4 acres

The zoning for the parcels is either Permanent Grazing, 40-acre minimum (PG/40), Farmlands, 40-acre minimum (F/40), or both. The existing agricultural vineyard use of the properties will continue and is consistent with the zoning designations and compatible with the existing Williamson Act contracts. The Lot Line Adjustment would not change the number of lots or decrease the acreage restricted under the existing Williamson Act Land Conservation Contract No. 72-1 as amended in 1990 (LCC No. 72-1 as amended in 1990). After the adjustment, the parcels of land subject to LCC No. 72-1 as amended in 1990 will be large enough to sustain their agricultural use. Proposed Parcels A, B, C and D would meet the minimum parcel size requirement of 40 acres pursuant to Title 21 "Zoning" Chapter 21.34 "PG/40" and "F/40" Zoning District and the required lot configuration pursuant to Title 19 "Subdivisions," Chapter 19.02.150 "Lot Line Adjustment."

DISCUSSION:

Findings for Lot Line Adjustments between four or fewer parcels pursuant to Government Code Section 66412 (d):

Pursuant to Government Code Section 66412(d)

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements.

No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. A local agency shall approve or disapprove a lot line adjustment pursuant to the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1).

Findings for Lot Line Adjustments of Williamson Act Lands pursuant to Government Code Section 51257:

Pursuant to Government Code Section 51257(a) To facilitate a Lot Line Adjustment of Williamson Act lands, pursuant to subdivision (d) of Section 66412(d), 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 (Board of Supervisors) or council finds all of the following:

- (1) 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.
- (2) There is no net decrease in the amount of the 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 rescinded contracts.
- (3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
- (4) 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.
- (5) 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.
- (6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
- (7) 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.

Parcel 1 (636.8 acres), Parcel 2 (211.9 acres), Parcel 3 (321.1 acres) and Parcel 4 (222.6 acres) will become Parcel A (519.7 acres), Parcel B (329 acres), Parcel C (486.1 acres), and Parcel D (57.6 acres), totaling 1,392.4 acres. All parcels are over the minimum requirement of 40 acres per the zoning designations of F/40 and PG/40. Staff has reviewed the proposed Lot Line Adjustment and determined that the findings required to approve the proposed Lot Line Adjustment of Williamson Act lands pursuant to Government Code Sections 51257(a) and 66412(d) can be made in this case. The findings and evidence required per Government Code Sections 51257(a) and 66412(d) are set forth in the Proposed Resolution (**Attachment A** with Exhibits 1 and 2). The proposed Lot Line Adjustment is for agricultural purposes, will not create more parcels than currently exist, and the adjusted lots will continue to be large enough to sustain their agricultural use. The new or amended contract or contracts will enforceably restrict the adjusted boundaries of the four parcels 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. There will be no net decrease in the amount of the acreage restricted. At least 90 percent of the land under the former contract or contracts will remain under the new or amended contract or contracts. 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. The proposed Lot Line Adjustment would not compromise the long-term agricultural productivity of the parcels or other agricultural lands subject to a contract or contracts. The proposed Lot Line Adjustment will 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.

In addition, the proposed Lot Line Adjustment would promote appropriate and orderly growth and development while protecting desirable land uses, in this case agricultural land uses (General Plan Goal LU-1). The proposed Lot Line Adjustment would: produce a superior lot configuration (Goal LU-1 item d); promote agriculture as a resource in this County (General Plan Goal LU-1 item f); better achieve the goals, policies, and objectives of the General Plan (General Plan Goal LU-1 item g); and facilitate routine and ongoing agricultural activities (General Plan Goal LU-1 item h)

The proposed findings for approval of the Lot Line Adjustment are included in **Attachment A** with Exhibit 1 - Conditions of Approval and Exhibit 2 - Existing and Proposed Lot Configuration Map Exhibit to this report.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the proposed Lot Line Adjustment, have comments, and/or have recommended conditions:

- South Monterey County Fire Protection District
- Environmental Health Bureau
- Public Works, Facilities, and Parks (PWFP)
- PWFP - Chief of Surveys

AGRICULTURAL ADVISORY COMMITTEE

The proposed Lot Line Adjustment was referred to the Agricultural Advisory Committee (AAC) for review on February 25, 2021. The AAC recommended approval of the proposed Lot Line Adjustment by a vote of 8-0.

FINANCING:

Funding for staff time associated with this project is included in the FY2023-24 Adopted Budget for Housing and Community Development Appropriation Unit HCD002, Unit 8543.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Maintaining parcels under the Williamson Act will ensure the protection of land designated for farming and permanent grazing and further the economic vitality of the County of Monterey. This action also represents effective and timely response to our HCD customers.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development

- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Son Pham-Gallardo, Senior Planner

Reviewed and approved by: Craig Spencer, Director of HCD CS

The following attachments are on file with the Clerk of the Board:

Attachment A - Proposed Resolution with:

- Exhibit 1 - Conditions of Approval
- Exhibit 2 - Existing and Proposed Lot Configuration Map

Attachment B - Vicinity Map

Attachment C.1. - Agricultural Preserve Land Conservation Contract No. 72-1

Attachment C.2. - 1990 Amendment to Land Conservation Contract No. 72-1

Attachment D - Board Resolution No. 00-462 (Resolution relating to the processing of Lot Line Adjustments affecting property under Agricultural Preserve Contract pursuant to the Williamson Act)

Attachment E - AAC Minutes February 25, 2021

Attachment F - Court Order on Petition To Authorize and Instruct Trustee Regarding Partition of Real Property dated October 16, 2019 in Monterey County Superior Court Case No. P19390

cc: Front Counter Copy; Craig Spencer, Acting Director of HCD; Son Pham-Gallardo, Project Planner; Mark Blum, Agent; Agricultural Preservation Review Committee: Kayla Nelson - Associate Planner, HCD-Planning, Gregg Macfarlane - Supervising Appraiser, Assessor-Recorder's Office, Nadia Ochoa - Management Analyst, Agricultural Commissioner's Office, and Mary Grace Perry, Deputy County Counsel, Office of the County Counsel; Property Owners - Sam Avila and Margaret J. Avila, as Trustees under Declaration of Trust dated August 16, 1989, and Albert J. Nicora, Successor of the Testamentary Trust of Joseph Labarere, Deceased; The Open Monterey Project (Molly Erickson); LandWatch (Director); Project File PLN200176