



December 13, 2022

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Public Hearing for the Consideration of Corrected Resolution Creating Farmland Security Zone Area to Remove Withdrawn Application for FSZA/LCA Contract No. 53-2:16.1

RECOMMENDED ACTIONS

1. **DENY** the application for approval of FSZA/LCA Contract No. 53-2:16.1 based on the information and materials presented with this Board letter (Exhibit 1).
2. **APPROVE** the amended version of Resolution Creating and Designating Farmland Security Zone Area for FSZA/LCA Contract No. 51-5:57.1 (Exhibit 2).
3. **FIND** that the proposed actions are exempt from California Environmental Quality Act (CEQA) review.

EXECUTIVE SUMMARY

On December 6, 2022 your Board held a legally noticed public hearing regarding, among other things, the County's proposed approval of two new Farmland Security Zone Area ("FSZA")/Land Conservation Act ("LCA") contracts (Agenda Item No. 74). At that hearing, a public comment was received alleging use and activities on one of the proposed contract properties, FSZA/LCA Contract No. 53-2:16.1, that is potentially inconsistent and incompatible with the Agricultural Exclusive-40 acre minimum ("AE-40 ac") zoning designation and Ventura County LCA Guidelines, which would preclude approval of the property for an LCA contract. As a result of this newly presented information, your Board elected to continue the public hearing on this single contract to December 13, 2022 to allow time for staff to investigate further. The applicant subsequently withdrew their application, and then requested that it move forward. Based on staff's preliminary investigation, staff does not believe that the required finding of land use consistency necessary for approval of the contract can be made. Therefore, staff is recommending that your Board deny approval of the requested FSZA/LCA Contract (Contract No. 53-2:16.1).

DISCUSSION

On December 6, 2022, your Board heard and considered recommendations for approval of 13 new LCA contracts. Among these, two contracts—FSZA/LCA Contract No. 53-2:16.1 and FSZA/LCA Contract No. 51-5:57.1—required a resolution creating and designating a Farmland Security Zone Area on the respective properties. The staff

materials submitted with this Board item included a proposed single resolution for approval of both contracts.

At the hearing, a public comment was received alleging use and activities on one of the contract properties—FSZA/LCA Contract No. 53-2:16.1—potentially inconsistent and incompatible with the AE-40 ac zoning designation and Ventura County LCA Guidelines. As a result of this newly presented information, your Board elected to continue the public hearing on this single contract until the December 13, 2022 hearing date to allow time for staff to investigate further. Your Board approved all other LCA contracts presented for approval at the hearing, including FSZA/LCA Contract No. 51-5:57.1.

FSZA/LCA Contract No. 53-2:16.1:

Shortly after the hearing, Planning Division and Assessor's Office staff contacted the applicant property owner for FSZA/LCA Contract No. 53-2:16.1, and scheduled a site visit for Friday, December 9, 2022. On the morning of December 7, 2022, the applicant emailed staff stating that they wished to withdraw the FSZA/LCA Contract application from consideration, and to cancel the scheduled site visit. About 24 hours later on December 8, 2022, the applicant requested to instead move forward with processing their FSZA/LCA Contract application. The applicant's message did not mention the applicant's previously-cancelled site visit. Staff responded on the same day requesting a site visit by Friday, December 9, in order to evaluate and verify all land uses occurring on the property, and to allow sufficient time for County staff to assess all relevant evidence and prepare a recommendation to your Board for the hearing on December 13, 2022. As of the completion of this Board letter, no response has been received from the applicant and no site visit has occurred.

To approve an FSZA/LCA contract, your Board must find that the contract is consistent with the requirements of the County's LCA Guidelines. (LCA Guidelines, § V.) The Board letter for the December 6, 2022 public hearing, for Agenda Item No. 74, analyzed the qualifications for the 13 LCA contracts at issue, including for FSZA/LCA Contract No. 53-2:16.1. Relevant for purposes of this Board letter is the requirement that uses of land on LCA contract properties be for agriculture or other "compatible uses." (LCA Guidelines, § V.A.4.) This requirement is set forth in the LCA Guidelines as follows:

4. Land Uses

Two types of uses are permitted on contracted property:

- a. Agricultural uses, as defined in Government Code Section 51201(b). These uses include the production of plants and floricultural crops in nurseries, whether in open fields or in greenhouses. However, uses which produce animal products for commercial purposes, but which generally are not dependent on the soils, topography, water or climate at the site, do not qualify land for LCA or FSZA/LCA Contracts (e.g., worm, algae, fur and fish farms, and feed lots). These uses may be located on land within a Contract, but outside of the area used to meet the agricultural utilization (production) requirements in Table 1.
- b. In accordance with Government Code Sections 51231, 51238, and 51238.1, "compatible uses" are those which are permitted, or conditionally permitted by the

Ventura County Coastal or Non-Coastal Zoning Ordinance in the AE-40 ac or CA zones, respectively.

If the Board cannot find that the uses of land on the property subject to the proposed FSZA/LCA contract are consistent with the above provision, then there is insufficient basis to approve the contract.

In light of the newly-received allegations, staff conducted a preliminary investigation into the use of land occurring at the property for FSZA/LCA Contract No. 53-2:16.1. Evidence obtained thus far substantiates that an unpermitted machine/manufacturing shop operation may exist on the property. A cursory web search shows that the property address (2345 Yucca Drive, Santa Rosa Valley) is the address of Hyper-Tech Manufacturing and Design, and that the co-applicant Mark Grant as the business owner. Photographs submitted appear to show large machine manufacturing equipment being transported to the property, and recorded video appears to show bright lights and loud noises emanating from the property. The commercial operation of a machine/manufacturing shop is a use that is unpermitted and inconsistent with the AE-40 ac zoning designation (Ventura County Non-Coastal Zoning Ordinance § 8105-4 – Permitted Uses) and State Williamson Act requirements. Having such operation on the property would preclude the approval of an FSZA/LCA contract pursuant to LCA Guidelines § V.A.4. The aforementioned evidence, except for the videos, is attached as Exhibit 1.

Property owners are not entitled to the substantial tax benefits of an LCA contract and bear the burden of proof to demonstrate the property qualifies for an LCA contract. In light of the information currently available to staff, staff recommends that your Board deny the pending application for FSZA/LCA Contract No. 53-2:16.1.

FSZA/LCA Contract No. 51-5:57.1:

Consideration of FSZA/LCA Contract No. 51-5:57.1 is not before your Board today, as your Board already approved this LCA Contract at the December 6, 2022 hearing. However, the proposed resolution for approval submitted with the staff materials for that hearing included both this contract and FSZA/LCA Contract No. 53-2:16.1 discussed above. Staff therefore recommend that, as a clerical matter, your Board approve an amended resolution, attached hereto as Exhibit 2, that more cleanly memorializes the action taken by your Board at the December 6, 2022 hearing to approve FSZA/LCZ Contract No. 51-5.57.1.

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CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the recommended denial of FSZA/LCA Contract No. 53-2:16.1 is not a "project" subject to CEQA. In addition, the recommended approval of the revised version of the Resolution Creating and Designating Farmland Security Zone Area for FSZA/LCA Contract No. 51-5:57.1, which merely documents action taken by your Board on December 6, 2022, is also not a new "project" subject to CEQA. Consequently, both recommended actions are statutorily exempt from CEQA.

This Board item was reviewed by County Counsel and the County Executive Office. If you have any questions regarding this matter, please contact me at (805) 654-2481 or Justin Bertoline, LCA Program Manager, at (805) 654-2466.



Dave Ward, AICP, Director
Ventura County Planning Division

Attachments:

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| Exhibit 1 | Evidence of Incompatible Land Use at Property Subject of FSZA/LCA Contract No. 53-2:16.1 |
| Exhibit 2 | Revised Resolution Creating and Designating Farmland Security Zone Area |