



County of Sonoma

State of California

Date: May 11, 2021

Item Number: _____

Resolution Number: _____

☒ 4/5 Vote Required

Resolution of the Board of Supervisors of the County of Sonoma, State of California, Approving the Request by Pikachu II, LLC to 1) Expand Existing Agricultural Preserve Area (2-411) by Adding 81.47 Acres and Establish a New Hybrid Land Conservation Act Contract; 2) Rescind Two Existing Non-Prime (Type II) Land Conservation Act Contracts and Replace them with Two Non-Prime (Type II) Land Conservation Act Contracts; and 3) Authorize the Chair of the Board to Execute the New Land Conservation Act Contract and Two Replacement Land Conservation Act Contracts and Land Conservation Plans for the Three Legal Parcels containing Agricultural Land Located at 1000, 750 and 545 Sonoma Mountain Road, Petaluma; APNs 136-220-004, 136-220-008, 136-220-021, 136-220-020, 136-160-011, and 136-220-019.

Whereas, a request has been made by Pikachu II, LLC, to expand Agricultural Preserve No. 2-411, and to authorize the Chair of the Board to approve a new land Conservation Act Contract and attached Land Conservation Plan on 272.90 acres (Parcel A) for agricultural land located at 1000 Sonoma Mountain Road, Petaluma; APNs 136-220-004, 136-220-008, and 136-220-021; Supervisorial District No. 2; and,

Whereas, Pikachu II, LLC further makes a request to authorize the Chair of the Board to rescind two existing Non-prime (Type II) Land Conservation Act Contracts and replace them with two new Non-prime (Type II) Land Conservation Act Contracts on 354.74 acres (Parcel B) and 156.37 acres (Parcel C) for agricultural land located at 750 and 545 Sonoma Mountain Road, Petaluma; APNs 136-220-020, 136-160-011, and 136-220-019; Supervisorial District No. 2; and,

Whereas, in 1972 Parcel B was entered into Non-prime (Type II) Land Conservation Act contracts for grazing land (recorded on Book 2606, Page 787, later amended under Document No. 88-112005); and,

Whereas, in 1974 Parcel C was entered into Non-prime (Type II) Land Conservation Act contracts for grazing land (recorded on Book 2841, Page 794); and

Whereas, a condition of the previously approved Lot Line Adjustment (LLA19-0005), Resolution No. 20-0021, required the landowner to file for replacement contracts to correspond with the new property line boundaries; and,

Whereas, on December 13, 2011, the Board of Supervisors adopted the updated *Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules)* (Resolution No. 11-0678), which requires that Land Conservation Plans are incorporated into Land Conservation Contracts; and,

Whereas, consistent with the *Uniform Rules*, County Counsel has revised the Land Conservation Act Contract form, which now incorporates a Land Conservation Plan identifying the various uses of the contracted land. Future changes to identified land uses require amendment of the Land Conservation Plan. The Board, pursuant to Resolution No. 11-0678, has authorized the Director of PRMD to approve amendments to executed Land Conservation Plans; and,

Whereas, Sonoma County's Land Conservation Act program has four contract-types available: a) Prime contracts for crop agriculture with a 10 acre minimum parcel size requirement; b) Non-Prime contracts for grazing with a 40 acre minimum; c) Open Space contracts with a 40- acre minimum, and d) Hybrid contracts with a mix of agricultural and open space also with a 40-acre minimum; and,

Whereas, the Board of Supervisors finds that the 272.90 acre parcel (Parcel A) is currently located adjacent to Agricultural Preserve 2-411, and meets the requirements for a new Hybrid Land Conservation Act Contract and is suitable to be added the Preserve; and,

Whereas, consistent with the *Uniform Rules*, the Board of Supervisors may concurrently consider and approve both the enlargement of Agricultural Preserve 2-411 and the new Land Conservation Contract; and,

Whereas, the Board of Supervisors finds that the inclusion of the 81.47 acres, a portion of the 272.90 acre parcel identified as APN 136-220-004, into Agricultural Preserve 2-411 is consistent with the Sonoma County General Plan and the applicable provisions of state law; and

Whereas, the Board of Supervisors finds that the 272.90 acre parcel (Parcel A) will meet the requirements for a new Hybrid Land Conservation Act Contract, upon inclusion of the 81.47 acres into the Agricultural Preserve Area 2-411.

Now, Therefore, Be It Resolved, that the Board of Supervisors finds that the project described in this Resolution is exempt from the requirements of the California Environmental Quality Act by virtue of Section 15317 Class 17 of Title 14 of the California Code of Regulations (CEQA Guidelines) which provides that establishing agricultural preserves and executing new Land Conservation Act Contracts is exempt from the California Environmental Quality Act.

Be It Further Resolved that the Board of Supervisors makes the following specific findings concerning the requirements for enlargement of Agricultural Preserve 2-411:

1. Pursuant to Government Code Section 51231 and under the County's Uniform Rules (Uniform Rule 3.5.A) the Board of Supervisors may modify an existing Agricultural Preserve by a Resolution after a public hearing. Pursuant to Government code Section 51237, the Resolution and enlarged Agricultural Preserve Map (Attachment A to the Resolution) depicting the 81.47 acres added to the preserve area will be recorded.
2. The Board of Supervisors held a public hearing on expansion of the agricultural preserve on May 11, 2021, which was noticed pursuant to California Government Code Section 6061.
3. Pursuant to Government Code Section 51234, enlargement of an Agricultural Preserve must be consistent with the General Plan. Also, the use of any land within an Agricultural Preserve must be restricted by zoning that is compatible with the agricultural or open space uses of the land within the preserve subject to Land Conservation contracts. Parcel A is currently split-zoned between Land Extensive Agriculture (LEA), Resources and Rural Development (RRD), and Diverse Agriculture (DA), with corresponding General Plan land use designations. Enlarging the existing Agricultural Preserve 2-411 is consistent with the General Plan because the land is devoted to an agricultural use consisting of vineyards and grazing, and will be designated as Diverse Agriculture (DA) under the General Plan and zoned Diverse Agriculture (DA) upon completion of a General Plan Amendment and Zone Change technical correction required by Lot Line Adjustment LLA19-0005. The Diverse Agriculture designation protects lands areas where soil, climate and water conditions support farming but where small acreage intensive farming and part-time farming activities are predominant. The enlargement of the existing Agricultural Preserve Area does not result in any loss of land under the Land Conservation Act program since 81.47 acres is being added.
4. Generally, an Agricultural Preserve must contain at least 100 contiguous acres of land unless the Board of Supervisors finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that such preserve is consistent with the General Plan and Zoning Code (Rule 3.3 A of the Uniform Rules for Agricultural Preserves). The existing preserve, 2-411, is over 6000 acres in size. The addition of 81.47 acres further increases the size of the preserve.
5. The enlargement of Agricultural Preserve 2-411 can be considered concurrently with the application for a new contract and approved by one action.
6. Pursuant to Section 15317 of the CEQA Guidelines, the project is Categorically Exempt from CEQA.

Be It Further Resolved that the Board of Supervisors makes the following specific findings concerning the requirements for a new Hybrid Land Conservation Act Contract ("Contract") for the combination of vineyard and grazing uses on Parcel A:

- a. Land is within an Agricultural Preserve: Of Parcel A's 272.90 acres, 191.43 acres are currently within Agriculture Preserve 2-411, and per Board approval, the remaining 81.47 acres will be located within Agricultural Preserve 2-411. The Board of Supervisors may approve an application for the alteration of an Agricultural Preserve concurrently with its approval of an application for a contract within the Preserve.
- b. Single Legal Parcel Requirement: The land proposed for the new contract is a single legal parcel identified by Assessor's Parcel Numbers 136-220-004, 136-220-008, and 136-220-021.
- c. Minimum Parcel Size: The land must be at least 40 acres in size for a Hybrid Land Conservation Act Contract. The 272.90 acre parcel exceeds the 40-acre minimum parcel size for a new Hybrid Land Conservation (Williamson) Act Contract.
- d. Agricultural Use Requirement: Parcels under Hybrid Land Conservation (Williamson) Act Contracts must devote at least 50 percent of the land to a combination of non-prime or prime agricultural, or open space land uses. Prime Agricultural Land is defined as land planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and meets the minimum income requirements. Non-prime Agricultural Land is defined as land used for grazing, hay production, rotational crops such as seasonal or year round row crops, ornamental trees or flowers, and dry farming and meets the minimum income requirements.

The parcel is 272.90 acres in size, with 6.37 acres (2.3%) planted in vineyard and 266.47 acres (97.6%) devoted to grazing which exceeds the 50% threshold and has produced the required income for the last five years. Therefore the land meets the definition of Prime and Non-prime Agricultural Land.

- e. Minimum Income Requirement: For vineyard land, the minimum income requirement is \$1,000.00 per planted acre gross total annual income. The vineyard averages \$84,000 per year which results in an average of \$13,186 per acre per year thus exceeding the required minimum income. For grazing land, the minimum gross annual income requirement is \$2,000.00 per farm operation and \$2.50 per acre per year. The grazing operation is expected to continue generating an average gross income of \$2,700 per year equating to \$10.13 per acre per year. Therefore the agricultural uses exceed the minimum required income.
- f. Compatible Uses for Prime and Non-Prime Land: Compatible uses of the land must be listed in the Uniform Rules as compatible uses and collectively, cannot occupy more than 15 percent or 5 acres of the total parcel size, whichever is less, excluding public roads, private access roads, and driveways. For this parcel, the 5-acre threshold would apply. The parcel contains 0.06 acres of compatible uses including a well, vineyard storage building, and barn. Therefore the parcel meets the required compatible use threshold.

Be It Further Resolved, that the Board makes the following specific findings concerning the requirements for the replacement Non-Prime Land Conservation Act Contracts (“Contracts”) for Parcels B and C in granting the request:

- a. Land is within an Agricultural Preserve: The 354.74 acre parcel (Parcel B) and 156.37 acre parcel (Parcel C) are located within established Agricultural Preserve Area Number 2-411.
- b. Single Legal Parcel Requirement: Parcel B is a single legal parcel identified by Assessor’s Parcel Number 136-220-020. Parcel C is a single legal parcel identified by Assessor’s Parcel Numbers 136-160-022 and 136-220-019.
- c. Minimum Parcel Size: The land must be at least 40 acres in size for a Non-Prime Land Conservation Act Contract. The 354.74 acre parcel (Parcel B) and 156.37 acre parcel (Parcel C) exceed the 40-acre minimum parcel size for a Non-Prime Land Conservation (Williamson) Act Contracts.
- d. Agricultural Use Requirement: Parcels under Non-Prime (Type II) Land Conservation (Williamson) Act Contracts must devote at least 50 percent of the land to non-prime agricultural land uses. Non-prime Agricultural Land is defined as land used for grazing, hay production, rotational crops such as seasonal or year round row crops, ornamental trees or flowers, and dry farming and meets the minimum income requirements.

Parcel B is 354.74 acres in size, with 353.91 acres (99.76%) devoted to grazing which exceeds the 50% threshold and has produced the required income for the last five years. Parcel C is 156.37 acres in size, with 100% of the land devoted to grazing which exceeds the 50% threshold and has produced the required income for the last five years. Therefore the land meets the definition of Non-Prime Agricultural Land.

- e. Minimum Income Requirement: For grazing land, the minimum gross annual income requirement is \$2,000.00 per farm operation and \$2.50 per acre per year. The grazing operation on Parcel B is expected to continue generating an average gross income of \$2,940 per year equating to \$8.31 per acre per year. The grazing operation on Parcel C is expected to continue generating an average gross income of \$2,400 per year equating to \$15.26 per acre per year. Therefore the grazing operations exceed the minimum required income.
- f. Compatible Uses for Non-Prime: Compatible uses of the land must be listed in the Uniform Rules as compatible uses and collectively, cannot occupy more than 15 percent or 5 acres of the total parcel size, whichever is less, excluding public roads, private access roads, and driveways. For these parcels, the 5-acre threshold would apply. Parcel B has 0.83 acres of compatible uses including a primary single-family dwelling and garage, guest house, an agricultural employee dwelling, a well pump house, two equipment storage buildings, one horse and one pole barn, a tennis court, and a corral. The remaining land is devoted to grazing. Parcel C is entirely

devoted to grazing and contains no compatible uses. Therefore the parcels meet the required compatible use threshold.

Be It Further Resolved that the Board of Supervisors hereby grants the request to enlarge Agricultural Preserve 2-411 by 81.47 acres as depicted on the map attached to this resolution as Attachment A.

Be It Further Resolved that the Board of Supervisors hereby grants the request by Pikachu II, LLC by approving a new Hybrid Land Conservation Act Contract and attached Land Conservation Plan, to restrict the 272.90 acre parcel located at 1000 Sonoma Mountain Road, Petaluma; APNs 136-220-004, 136-220-008, and 136-220-021.

Be It Further Resolved that the Board of Supervisors hereby grants the request by Pikachu II, LLC to mutually rescind and replace the two Non-prime (Type II) Land Conservation Act Contracts with two Non-Prime Land Conservation Act Contracts and attached Land Conservation Plans, within an existing Agricultural Preserve (2-411), restricting a 354.74 acre parcel and 156.37 acre parcel located at 750 and 545 Sonoma Mountain Road, Petaluma; APNs 136-220-020, 136-160-011 and 136-220-019.

Be It Further Resolved that the Board of Supervisors authorizes the Chair of the Board of Supervisors to execute the three Land Conservation Act Contracts and attached Land Conservation Plans.

Be It Further Resolved, that the Clerk of the Board of Supervisors is hereby instructed to record within 20 days and no later than December 31, 2021 (1) this Resolution and Attachment A (the Agricultural Preserve Map) and (2) the three associated Land Conservation Act Contracts and attached Land Conservation Plans with the Office of the Sonoma County Recorder.

Be It Further Resolved, that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based, including the original executed Contract and Land Conservation Plan. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Supervisors:

Gorin:

Coursey:

Gore:

Hopkins:

Rabbitt:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.