



Legislation Details (With Text)

File #: 2019-0091
Type: Consent Calendar Item **Status:** Agenda Ready
File created: 2/4/2019 **In control:** Agricultural Preservation And Open Space District
On agenda: 2/26/2019 **Final action:**
Title: Colliss Conservation Easement (0077) Settlement Agreement
Sponsors: Agricultural Preservation And Open Space District
Indexes:
Attachments: 1. Summary Report

Date	Ver.	Action By	Action	Result
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To: Board of Directors of the Sonoma County Agricultural Preservation and Open Space District
Department or Agency Name(s): Sonoma County Agricultural Preservation and Open Space District
Staff Name and Phone Number: Kathleen Marsh, 565-7262
Vote Requirement: Majority
Supervisorial District(s): Fifth District

Title:
Colliss Conservation Easement (0077) Settlement Agreement

Recommended Actions:

Consent to and authorize the President of the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District to enter into and execute a Settlement Agreement and Release of Claims with Chin S. and Li-Hua Yang, Maureen B. Colliss, and Joseph Colliss. (Fifth District)

Executive Summary:

This matter relates to the settlement of a dispute regarding the allocation of three development rights over five parcels encumbered by one Sonoma County Agricultural Preservation and Open Space District conservation easement. Two of the parcels are owned by the Colliss family and two other parcels are owned by the Yang family. The fifth parcel is not part of this dispute as it is unable to utilize any development rights. With only three development rights allowed under the easement, a dispute arose over which owner would receive two development rights and which other owner would only receive one development right. In August 2017, Colliss submitted a permitted use request to the Sonoma County Agricultural Preservation and Open Space District seeking two development rights for construction of two single-family residences on the two parcels they own that are covered by the Colliss Conservation Easement. The conservation easement does not assign development rights to any particular parcel. In September 2017, the Sonoma County Agricultural Preservation and Open Space District responded, conditionally approving the request, but noting that the three residential development rights have not been allocated among the properties belonging to Yang and Colliss. The Sonoma County Agricultural Preservation and Open Space District asked Colliss to obtain the consent of Yang, before the Sonoma County Agricultural Preservation and Open Space District could issue final approval of the Colliss request. Yang did not consent to Colliss' use request. Litigation thus ensued, with both

Yang and Colliss suing each other and the Sonoma County Agricultural Preservation and Open Space District, disputing which landowner has which development right. Mediation between all the parties was conducted on December 8, 2018, and a settlement agreement was drafted and agreed to by all parties at that time to settle this litigation and release all claims. The Sonoma County Agricultural Preservation and Open Space District requests that the Board of Directors consent and give approval to this settlement agreement.

Discussion:

The Colliss Conservation Easement was acquired in 2000, and is comprised of 5 separate parcels, each of which can be sold separately as permitted by the easement. The conservation easement permits three single-family residences. At the time of easement acquisition, these three development rights were not assigned to any particular parcels. In letters sent to the landowners in 2003 and again in 2013, the Sonoma County Agricultural Preservation and Open Space District (Ag + Open Space) recommended that to “avoid confusion or potential conflict in the future,” the landowners should record an agreement regarding the allocation of the three development rights. This was never done.

Subsequently, when Colliss submitted their 2017 permitted use request for permission to construct two single-family residences Ag + Open Space conditionally approved the request, pending consent from Yang. Colliss refused to inform Yang of the pending use requests, and Ag + Open Space therefore informed Yang of the pending request, as it directly related to the Yangs’ understanding of how many development rights they hold.

On November 20, 2017, Ag + Open Space received the Yangs’ objections to the Colliss request. Ag + Open Space was subsequently named in a suit between Yang and Colliss over the allocation of the development rights granted under the conservation easement.

On December 8, 2018 the parties mediated these issues, resulting in the drafting of a settlement agreement between all parties.

The settlement agreement proposes that Colliss obtain two of the three development rights and in exchange, Colliss will pay Yang \$60,000.00. Ag + Open Space has agreed to pay for the mediation which totaled approximately \$11,000.00.

In exchange for the above, the parties have agreed to release each other from all claims related to this dispute. The parties agree that nothing in the settlement agreement changes the terms of the conservation easement. Rather, the settlement agreement is intended to clarify the allocation of the development rights afforded under the conservation easement.

Prior Board Actions:

November 17, 1998: Board of Directors approved acquisition of a Conservation Easement over the Colliss property by Resolution No. 98-1426.

FISCAL SUMMARY

Expenditures	FY 18-19 Adopted	FY19-20 Projected	FY 20-21 Projected
Budgeted Expenses	\$11,000		

Additional Appropriation Requested			
Total Expenditures	\$11,000		
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	\$11,000		
Use of Fund Balance			
Contingencies			
Total Sources	\$11,000		

Narrative Explanation of Fiscal Impacts:

Adequate appropriations are already available in the approved budget.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A - I Step)	Additions (number)	Deletions (number)

Narrative Explanation of Staffing Impacts (If Required):

Attachments:

Related Items "On File" with the Clerk of the Board:

1. Settlement Terms
2. Colliss Conservation Deed and Agreement
3. Settlement Agreement and Release of Claims