



Legislation Text

File #: 2022-0915, **Version:** 1

To: Board of Directors, Sonoma County Water Agency

Department or Agency Name(s): Sonoma County Water Agency

Staff Name and Phone Number: Kevin Booker 707-521-1865 Jennifer Willits 707-547-1921

Vote Requirement: 4/5th

Supervisory District(s): Fourth

Title:

Pruitt Creek Restrictive Covenant Vacation

Recommended Action:

- A) Authorize the Chair of Sonoma County Water Agency's Board of Directors to sign agreements for Termination and Release of Restrictive Covenant with owners of five parcels, in a form approved by County Counsel;
- B) Adopt a Resolution determining that the proposed termination and release of covenant will not adversely affect Sonoma County Water Agency in any respect and will not have a significant adverse effect on the environment. (4/5th Vote Required)

Executive Summary:

A portion of the Shiloh Business Park at 790 Shiloh Road is encumbered with a Covenant of Limiting Improvements recorded in 1968 in favor of the former Sonoma County Flood Control and Water Conservation District; now the Sonoma County Water Agency (Sonoma Water). The covenant was intended for a potential future flood control channel at Pruitt Creek. In the interim, processes have been developed to regulate development near drainage features and the proposed flood control channel was not constructed. To allow further development of the area, Sonoma Water desires to terminate restrictive covenants which affect five parcels per request from developer and Town of Windsor.

Discussion:

Brennan Acquisitions Group, LLC. (Applicant), submitted a Pre-Conceptual Review Application for an industrial development project located in Area 4 of the Shiloh Oaks Master Plan commonly known as 790 Shiloh Road (AP No. 059-270-095) to the Town of Windsor (Town). As part of the Applicant's due diligence on the property, the restrictive covenant related to the development in favor of Sonoma Water was discovered. The covenant was recorded on December 6, 1968, in Book 2369 at Page 903, Sonoma County Records, and was signed by the property owner at the time which owned much of the land in the Shiloh Oaks Master Plan area, the Flour Products Company, Inc. The covenant restricted construction of improvements on a strip of land planned for the eventual use for drainage purposes. The drainage feature through the master plan area is now known as Pruitt Creek.

Sonoma Water staff reviewed Applicant's and Town's request to terminate the restrictive covenant and determined that the restrictive covenant was no longer needed, and that the proposed action will not adversely affect Sonoma Water in any respect and will not have a significant adverse effect on the

environment.

There are multiple reasons for terminating the restrictive covenant. A few of those reasons are as follows:

- The covenant includes portions of Caletti Avenue, Pruitt Avenue and Shiloh Road, which have been deeded to the Town.
- The alignment of Pruitt Creek has changed over the years since the covenant was recorded. A portion of the covenant even crosses over the end of Pruitt Avenue, which will be corrected by terminating the covenant.
- Since the covenant was recorded, other processes have been developed to control development adjacent to drainage features. Town will continue to impose Conditions of Approval on projects to control development along drainage features and to ensure that development is designed per Sonoma Water requirements.

The Town's Council resolved and determined, at its July 20, 2022, meeting, that the Town no longer needs the restrictive covenants for regulatory or other purposes.

Agreements for terminating the restrictive covenant have been negotiated with the following property owners:

- Town of Windsor; portions of Shiloh Road, Caletti Avenue, and Pruitt Avenue
- Trustee of the Kurz Family Trust; portion of APN 059-271-082
- Standard Industrial East, LLC; portion of APN 059-271-095
- 930 Shiloh Owner, LLC; portion of APN 059-271-105
- Storage Pro of Windsor, LLC; portion of APN 059-271-110

Sonoma Water's General Manager has determined that the agreements terminating the restrictive covenant are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), because the project involves the vacation of a covenant by Sonoma Water, as requested by the Applicant, the Town of Windsor, and the Windsor Water District, that would not have the potential for significant impacts to the environment. Any potential development on the property would be subject to future evaluation under CEQA. Sonoma Water staff has prepared a Notice of Exemption in accordance with CEQA, the State CEQA Guidelines, and Sonoma Water's Compliance Procedures for CEQA.

Strategic Plan:

N/A

Prior Board Actions:

None.

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses	\$14,000		
Additional Appropriation Requested			

Total Expenditures	\$14,000		
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	\$14,000		
Use of Fund Balance			
Contingencies			
Total Sources	\$14,000		

Narrative Explanation of Fiscal Impacts:

The Restrictive Covenant Vacation is at the request of Brennan Acquisitions Group, LLC. Funds for staff cost were budgeted in the Flood Control Zone 1A Fund; however, Brennan Acquisitions Group, LLC will reimburse Sonoma Water staff cost for the Restrictive Covenant Vacation.

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

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Resolution

Exhibit A-1 Site Plan

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

Exhibit B- Sample Agreement- Termination of Restrictive Covenant and indemnification

Notice of Exemption