

RESOLUTION NO.

DATED: 9-29-09

PLP06-0008 Melinda Grosch

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AFFIRMING AN ADMINISTRATIVE DECISION TO DENY AN APPLICATION FOR ISSUANCE OF SIX CERTIFICATES OF COMPLIANCE FOR PROPERTY LOCATED AT 2245 SPRING HILL ROAD, PETALUMA, APN 020-010-001, 020-010-002, 020-010-009, AND 020-090-004 (PLP 06-0008).

RESOLVED, that the Board of Supervisors (“the Board”) of the County of Sonoma (“the County”) hereby finds and determines as follows:

I. PROCEDURAL HISTORY

1.1 [REDACTED] and the [REDACTED] (“the Applicants”) are and were the owners of real property located at 2245 Spring Hill Road, Petaluma, known as APN 020-010-001, 020-010-002, 020-010-009, and 020-090-004 (“the Property”). The Property is approximately 560 acres in size and is zoned LEA (Land Extensive Agriculture), B6-100 acre density, Z (Second Dwelling Unit Exclusion), VOH (Valley Oak Habitat).

1.2 In 1993, the Applicants sold a conservation easement over the entirety of the Property to the Sonoma County Agricultural Preservation and Open Space District (“the District”), which easement is entitled “Deed and Agreement by and between [REDACTED] and [REDACTED] and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights,” and is recorded in the office of the Sonoma County Recorder as Instrument No. 1993-0144930 (“the Conservation Easement”).

1.3 In 2006, the Applicants applied to the Sonoma County Permit and Resource Management Department (“the Department”) for issuance of six administrative certificates of compliance on the Property pursuant to Government Code § 66499.35, seeking to resurrect six historic parcels, ranging in size from seventeen to one hundred and ninety-five acres, each allegedly created by deed prior to 1967 (“the Application”).

1.4 Among other referrals, the Application was referred to the District for a determination of the Application's consistency with the terms of the Conservation Easement. On April 7, 2009, by its Resolution No. 09-0278, the Board of Directors of the District determined that the issuance of any of the six requested certificates of compliance would violate the terms and conditions of the Conservation Easement.

1.5 After full review of the history of the Property, consideration of the terms of the Conservation Easement and the findings contained in the District's Resolution No. 09-0278, the Department determined that none of the six requested certificates could be issued. On May 5, 2009, the Department denied the Application.

1.6 Within the time and in the manner prescribed by law, the Applicants appealed the Department's denial of the certificates of compliance.

1.7 On July 14, 2009, the Board assumed original jurisdiction of the Applicants' appeal ("the Appeal") and set a public hearing for August 25, 2009.

1.8 On August 25, 2009, the Board conducted a duly noticed public hearing on the Appeal. At the hearing, the Board heard and received all oral and written testimony and evidence that were made, presented or filed, and all persons present at the hearing were given an opportunity to hear and be heard with respect to any matter related to the Appeal. The Board considered the merits of the Appeal, and, on a 4-0-1 straw vote, voted to deny the Appeal and affirm the Department's decision to deny the six requested certificates of compliance. The Board directed County Counsel to return to the Board with a resolution reflecting the consideration and actions of the Board. The Board has had an opportunity to review this resolution and the findings, determinations, declarations and orders contained herein and hereby determines that they accurately set forth the intentions of the Board regarding the Appeal.

II. FINDINGS

2.0 This Board finds that, under the facts and circumstances presented here, the Conservation Easement, recorded on the Property on October 19, 1993, precludes issuance of any of the six requested certificates of compliance on the Property.

2.1 The Conservation Easement was purchased and is held by the District, a public agency formed pursuant to the provisions of Public Resources Code §5500 et seq. The formation of the District and the imposition of a transactions and use tax to fund its

work was approved by the voters of Sonoma County in 1990 for the purpose of preserving agriculture and open space in Sonoma County for the benefit of all of the citizens of the County. The continuing work and funding of the District was affirmed in 2006 with the approval of a twenty-year extension of the transaction and use tax by the voters of Sonoma County.

2.2 The Conservation Easement was purchased by the District in 1993 with public sales tax dollars for the benefit of the public, in accordance with the District's mission.

2.3 The stated purpose of the Conservation Easement is to preserve the open space, natural, scenic and agricultural values of the Property, and most particularly to preserve the value of the Property for extensive agriculture, which depends upon large, unbroken acreage.

2.4 In furtherance of the stated purpose of the Conservation Easement, the District purchased three of the five development rights that previously existed on the Property, leaving the Property with only two development rights, reflected in the two existing parcels on the Property – one comprised of APN 020-010-002, the other comprised of APNs 020-010-001, 020-010-009, and 020-090-004 as a single unit.

2.5 The Easement expressly prohibits any further “division, subdivision or de facto subdivision” of the Property. Issuance of the requested certificates of compliance would divide the Property into smaller parcels, in violation of this prohibition.

2.6 On April 7, 2009, the Board of Directors of the District determined, by its Resolution No. 09-0278, that issuance of any of the six requested certificates of compliance on the Property would violate the terms and conditions of the Easement. This Board concurs with that determination and with each of the findings contained in the District's Resolution No. 09-0278.

2.7 This Board finds that recordation of the Conservation Easement extinguished any right to recognition of any historic parcels that may have previously existed on the Property.

2.8 This Board further finds that the County has the authority, if not the obligation, to give effect to the terms of the Conservation Easement, purchased by the

District with public funds for the public benefit of all the citizens of the County.

NOW, THEREFORE, the Board hereby declares and orders as follows:

1. The foregoing findings and determinations are true and correct, are supported by substantial evidence in the record, and are adopted as hereinabove set forth.
2. The Appeal is denied and the administrative denial of the Applicants' request for issuance of six certificates of compliance on the Property is affirmed.
3. The Clerk of the Board is designated as the custodian of documents and other material which constitute the record of the proceedings upon which the Board's decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, CA 95403.

SUPERVISORS:

BROWN_____ **KERNS**_____ **ZANE**_____ **CARRILLO**_____ **KELLEY**_____

AYES: _____ **NOES:** _____ **ABSENT:** _____ **ABSTAIN:** _____

SO ORDERED.