

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-057

Record Number PLN-2022-17598

**Assessor Parcel Numbers 510-011-013,
a portion of 510-011-014 & 511-111-057, 510-041-022**

Making the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves the Green Diamond, Alto, Suchanek Lot Line Adjustment and Zone Boundary Adjustment

WHEREAS, the owners, submitted an application and evidence in support of approving the Lot Line Adjustment between three parcels, and to make a zone boundary adjustment to adjust the zone boundary between the TPZ-AP-N-WR (Timberland Production Zone, Airport Safety Review, Noise Impact, Streamside Management Areas and Wetlands) zone and the AG-B-5(5)-AP-WR (Agriculture General, minimum size 5 acres, Airport Safety Review, Streamside Management Areas and Wetlands) zone to follow the new lines adjusted by the LLA in addition to rezoning approximately 3.02 acres of TPZ-AP-N-WR zoned lands into AG-B-5(5)-AP-WR; and

WHEREAS, the County Planning Division, the lead agency, found the project exempt from environmental review pursuant to Class 5, Section 15305(a) and Section 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on **July 6, 2023**; reviewed, considered, and discussed the application for a Lot Line Adjustment and Zone Boundary Adjustment; and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** A Lot Line Adjustment (LLA) between three legal parcels of 142.57 acres, 16.82 acres, and 16.54 acres, resulting in three parcels of approximately 139.55 (Parcel 1) (Green Diamond lands), 18.84 acres (Parcel 2) (Suchanek lands), and 17.54 acres (Parcel 3) (Alto lands). Parcel 1 is currently zoned TPZ-AP-N-WR (Timberland Production Zone, Airport Safety Review, Noise Impact, Streamside Management Areas and Wetlands); Parcels 2 and 3 are both currently zoned AG-B-5(5)-AP-WR (Agriculture General, minimum size 5 acres, Airport Safety Review, Streamside Management Areas and Wetlands). A Zone Boundary Adjustment (ZBA) is also included to adjust the zone boundaries to follow the new property lines as adjusted by the LLA by rezoning 3.02 acres from TPZ-AP-N-WR to AG-B-5(5)-AP-WR. The ZBA will ensure zoning consistency within the new property boundaries. This LLA will facilitate acquisition of Parcel 1 (lands owned by Green Diamond) into the proposed McKinleyville Community Forest. No development is proposed.

EVIDENCE: a) Project File: PLN-2022-17598

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act

have been complied with. The project is exempt from environmental review per Class 5, Section 15305(a) and Section 15061(b)(3) of the California Environmental Quality Act (CEQA).

- EVIDENCE:** a) As lead agency, the Planning and Building Department found the project to be categorically exempt per Class 5, Section 15305(a) and Section 15061(b)(3) of the CEQA Guidelines. The LLA does not result in a change in land use or overall density; it is intended facilitate the acquisition of lands for the McKinleyville Community Forest by providing formal resolution for a property line boundary dispute caused by surveying errors that occurred in the 1800s, in turn cleaning up legal descriptions and titles of lands to be conveyed. Therefore, the project is exempt pursuant to Class 5, Sections 15061(b)(3) and 15305(a) of the CEQA Guidelines. Section 15061(b)(3) applies to projects when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and Section 15305(a) applies to minor lot line adjustments not resulting in the creation of any new parcel.

LOT LINE ADJUSTMENT

3. **FINDING:** The Lot Line Adjustment application is complete

- EVIDENCE:** a) The applicant has submitted a completed and signed application form, copies of present owners' deeds, a preliminary title report, copies of the creation documents for the parcels and a Lot Line Adjustment Plot Plan.

4. **FINDING:** The project is consistent with the Subdivision Map Act.

- EVIDENCE:** a) All three parcels involved in the Lot Line Adjustment were created in compliance with the Subdivision Map Act and the governing rules at such time the parcels were created.

5. **FINDING:** The project conforms to zoning and building ordinances.

- EVIDENCE:** a) The parcels are zoned TPZ-AP-N-WR (Timberland Production Zone, Airport Safety Review, Noise Impact, Streamside Management Areas and Wetlands) and AG-B-5(5)-AP-WR (Agriculture General, minimum size 5 acres, Airport Safety Review, Streamside Management Areas and Wetlands) which both allow general agriculture and single family residential as principally permitted uses. The project will adjust the parcel lines between three parcels with Parcel 2 acquiring approximately 2.02 acres, and Parcel 3 acquiring approximately 1 acre from Parcel 1. Parcels 2 and 3 are each developed with a residence and Parcel 1 is managed for timber production. Parcel 1 is intended to be conveyed to the McKinleyville Community Service District as a part of the McKinleyville Community Forest holdings. All development standards are currently met. The new zone boundary will follow the new property lines.

The project has no impact on the combining zone standards.

6. FINDING:

The project is consistent with the General Plan.

EVIDENCE:

- a) General Plan Ch. 4: All three parcels are planned and zoned for timber and agricultural purposes. The RA5-20 (Residential Agriculture, density range of 5 – 20 acres per unit) designation applies to large lot residential uses for lands with slopes generally less than 30% and served by individual water and wastewater systems and good road access. The Timberland (T) designation applies to land that is primarily suitable for growing, harvesting and production of timber. The smaller parcels will continue to be utilized for rural residential uses and the larger parcel will become a part of the McKinleyville Community Forest.
- b) General Plan Ch. 10: The Open Space (OS) land use designation provides for land which is essentially unimproved and devoted to open space uses, conservation of natural resources and habitat, managed production of resources, outdoor recreational uses, and for protection of public safety in areas subject to flooding or unstable slopes. No development is proposed with the LLA; any potential future development and uses on the project parcels will have minimal impacts on lands planned for preservation and conservation of Open Space.
- c) General Plan Ch. 10.4 (Biological Resources). Goals and policies contained in this Chapter relate to mapped sensitive habitat areas where policies are applied to protect fish and wildlife and facilitate the recovery of endangered species. Widow White Creek, a tributary to Norton Creek, runs through a southern portion of Parcel 1 and across a portion of Parcel 2 accompanied by mapped wetlands in the same footprint. A referral response received from the Eureka Office of the California Department of Fish and Wildlife (CDFW) indicated there to be no concerns in moving forward with the lot line and zone boundary adjustments.
- d) General Plan Ch. 10.6 (Cultural Resources). Goals and policies contained in this Chapter relate to the protection and enhancement of significant cultural resources, providing heritage, historic, scientific, educational, social and economic values to benefit present and future generations. An archaeological report for this project was requested by the Tribal Historic Preservation Officers (THPO) of the Blue Lake Rancheria and Wiyot tribe and was prepared by Archaeological Research and Supply Company. Following review of said report, Referral responses received from Blue Lake Rancheria and Wiyot tribe stated having no concerns with the project moving forward and requested the standard inadvertent discovery condition be included in the conditions of approval.
- e) General Plan Ch. 14: Goals and policies contained in this Chapter relate to communities that are designed and built to minimize the potential for loss of life and property resulting from natural and manmade hazards; and to prevent unnecessary exposure to areas of geologic instability, floodplains, tsunami run-up areas, high risk wildland fire areas, and airport areas planned and conditioned to prevent unnecessary exposure

of people and property to risks of damage or injury. The site is in an area of relatively stable slope instability. The Alquist-Priolo Fault Hazard Area does run through a portion of the Green Diamond property, however, no subdivision of land occurs with this project, nor is any development proposed. According to FIRM Map Panel 680, a small portion of the Alto and Green Diamond properties are within the 100-year Flood Zone A (low flood risk) associated with Widow White Creek, a tributary of Norton Creek. The subject property is located within the State Fire Responsibility Area where the State of California has the primary responsibility for the prevention and suppression of wildland fires. All parcels are within the Arcata Fire Protection District for structural protection as well as responding to medical emergencies.

7. FINDING:

The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity.

EVIDENCE:

- a) All reviewing referral agencies have approved or conditionally approved the proposed project. The project will not result in changes in land use or density and will not create a new parcel.

8. FINDING:

The project, and the conditions under which it may be operated or maintained, will not adversely impact the environment; and the required CEQA findings can be made for any development which is subject to the regulations of CEQA.

EVIDENCE:

- a) The LLA does not result in a change in land use or overall density and is intended to remedy a century-old property line dispute and clean up legal descriptions. No development is proposed. As lead agency, the Planning and Building Department found the LLA to be categorically exempt pursuant to Class 5, Sections 15061(b)(3) and 15305(a) of the CEQA Guidelines. Section 15061(b)(3) applies to projects when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and Section 15305(a) applies to minor lot line adjustments not resulting in the creation of any new parcel.

ZONE BOUNDARY ADJUSTMENT

9. FINDING:

The proposed project is in the public interest.

EVIDENCE:

- a) The LLA involves a Zone Boundary Adjustment (ZBA) between lands zoned TPZ-AP-N-WR (Timberland Production Zone, Airport Safety Review, Noise Impact, Streamside Management Areas and Wetlands)

and AG-B-5(5)-AP-WR (Agriculture General, minimum size 5 acres, Airport Safety Review, Streamside Management Areas and Wetlands). The ZBA would rezone approximately 3.02 acres from TPZ-AP-N-WR to AG-B-5(5)-AP-WR, adjusting the zone boundary of the two smaller resultant parcels such that each parcel in its entirety is zoned AG-B-5(5)-AP-WR. This action will allow the respective owners of the two smaller parcels to implement 2020 Fire Safe mitigations, including fire safe access and fire suppression means, both defensible space buffers and reduced fuel zones. The zone boundary is proposed to be coincidental with the new lot line as adjusted, avoiding a mixed-zone condition. The Planning Division believes that the ZBA is in the public interest in that it is a minor adjustment and accurately zones property per the existing uses.

10. FINDING: The proposed change is consistent with the General Plan.

EVIDENCE: a) The properties involved in the ZBA are planned both Residential Agriculture (RA) and Timber (T) by the Humboldt County General Plan. According to the Zoning Consistency Matrix of the Humboldt County General Plan, both the RA and T plan designations are both compatible with the AG and TPZ zoning.

11. FINDING: There is no substantial evidence that the project will have a significant effect on the environment.

EVIDENCE: a) As lead agency, the Planning and Building Department found the ZBA to be exempt per Class 5, Section 15061(b)(3) of the CEQA Guidelines. 15061(b)(3) applies to projects that can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. No development is proposed which could negatively impact the environment.

12. FINDING: The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.

EVIDENCE a) These parcels were not utilized by the Department of Housing and Community Development in determining compliance with housing element law. The project has no impact on overall density.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Zoning Administrator does hereby

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Lot Line Adjustment and Zone Boundary Adjustment for the Green Diamond Resource Company, Alto, and Suchanek parties [PLN-2022-17598], based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachments 1A and 1B and incorporated herein by reference; and

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors of the County of Humboldt:

1. Hold a public hearing in the manner prescribed by law.
2. Adopt the necessary findings prepared by Planning Staff.
3. Approve the Lot Line Adjustment and Zone Boundary Adjustment.
4. Adopt Ordinance No. _____ amending Section 311-7 of the Humboldt County Code by reclassifying property in the McKinleyville area [PLN-2022-17598, Green Diamond Resource Company, Alto, and Suchanek parties] so that the zone boundary between AG-B-5(5)-AP-WR and TPZ-AP-N-WR is coincidental with the relocated property lines.
5. Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.

Adopted after review and consideration of all the evidence on **July 6, 2023**.

The motion was made by Commissioner Brian Mitchell and seconded by Commissioner Lonyx Landry.

AYES: Commissioners: Brian Mitchell, Noah Levy, Peggy O'Neill, Iver Skavdal,
Lonyx Landry, Sarah West.

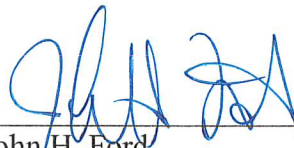
NOES: Commissioners:

ABSTAIN: Commissioners: Thomas Mulder

ABSENT: Commissioners:

DECISION: Motion carries 6/0.

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.



John H. Ford
Director, Planning and Building Department

CONDITIONS OF APPROVAL (Lot Line Adjustment)

APPROVAL OF THE LOT LINE ADJUSTMENT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE COMPLETION OF THE PROJECT:

1. A Notice of Lot Line Adjustment shall be recorded for each resultant parcel. The following information must be submitted to the Planning Department for review prior to recordation:
 - a. A copy of the existing deeds and the deeds to be recorded for the adjusted parcels. If the property is not changing ownership, only the existing deeds are required.
 - b. A Preliminary Title Report regarding ownership of parcels involved. The title report documents must be current at time of submittal. Depending on the date of the report preparation, updating may be necessary.
 - c. A completed "Notice of Lot Line Adjustment and Certificate of Compliance" form for each parcel.
 - d. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$430 per notice plus \$300 for each additional legal description plus applicable notarization and recordation fees). (Fees subject to change.)
2. When the parcels being adjusted are not held in common ownership, copies of the executed deeds (signed but not recorded) prepared by a qualified individual must be submitted for review by the Planning and Public Works Departments.
3. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$106 per parcel) as required by the County Assessor shall be paid to the Humboldt County Planning Department, 3015 "H" Street, Eureka. The check shall be made payable to the "County of Humboldt". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
4. The applicant shall comply with the provisions of Section 321-14 of the Humboldt County Code concerning reapportionment or payment of special assessments.
5. **Applicant shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the Lot Line Adjustment have been paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on**

the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the Notice of Lot Line Adjustment to satisfy this condition. *Note: The purpose of this condition is to avoid possible title consequences in the event of a tax default and sale affecting the owner's real property interest. If property is acquired as a result of a Lot Line Adjustment and said property has delinquent taxes, the property cannot be combined for tax purposes. This means, that the owner will receive two or more tax bills, and penalties and interest will continue to accrue against the land which has delinquent taxes. If five or more years have elapsed since the taxes on the subject property were declared in default, such property will be sold by the County Tax Collector for non-payment of delinquent taxes unless the amount required to redeem the property is paid before sale. Property combined by lot line adjustment but "divided" by tax sale will require separate demonstration of subdivision compliance of all resultant parcels prior to the County's issuance of a building permit or other grant of authority to develop the subject properties.*

6. The property owner(s) shall execute and file with the Planning Division the statement titled "Notice and Acknowledgment Regarding Agricultural Activities in Humboldt County" as required by Section 314-43.2 of the Humboldt County Code. Contact the Planning Division for a copy of the required document.
7. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the Planning Commission decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
8. Applicant shall obtain Board of Supervisors approval for the associated Zone Boundary Adjustment.

Informational Notes:

1. A Record of Survey as outlined in the Business and Professions Code of the State of California may be required pursuant to Section 8762 of the Land Surveyors Act which states in part, a Record of Survey shall be filed upon "...the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey...".
2. Approval of this Lot Line Adjustment does not guarantee that developable parcels will result. Final approval for any development will depend on demonstration of conformance with site suitability requirements in effect at the time development is proposed.

3. This permit, including the Lot Line Adjustment shall expire and become null and void at the expiration of three (3) years after all appeal periods have lapsed (see "Effective Date"). This approval may be extended in accordance with the Humboldt County Code.
4. The Humboldt County zoning map shall be revised to conform to the realigned zone boundary per the zone boundary determination of the Humboldt County Planning Commission (H.C.C. §311-8.2).

CONDITIONS OF APPROVAL (Zone Boundary Adjustment)

APPROVAL OF THE ZONE BOUNDARY ADJUSTMENT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE ZONE RECLASSIFICATION CAN BE SCHEDULED FOR ACTION BY THE BOARD OF SUPERVISORS:

Conditions of Approval:

1. The applicant shall submit a legal description of the area to be rezoned from TPZ-AP-N-WR into AG-B-5(5)-AP-WR for review and approval by the County Land Surveyor. The applicable review fee (currently \$292.00) must accompany the legal description. The legal description must be approved by the County Land Surveyor prior to the Zone Boundary Adjustment being scheduled for a decision by the Board of Supervisors.