

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

Resolution Number 23-105

Record Number PLN-2023-18159

Assessor Parcel Numbers 214-141-001 and 223-141-010

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approving the Sanders Hurlbutt Lot Line Adjustment, Zone Boundary Adjustment, and Amended Land Conservation Contract.

WHEREAS, the owners, submitted an application and evidence in support of approving the Lot Line Adjustment between two parcels, a Zone Boundary Adjustment to adjust the zone boundary between the Agriculture Exclusive with a 160-acre minimum parcel size (AE-B-5(160)) zone and the Timberland Production Zone (TPZ), and an Amended Land Conservation Contract; and

WHEREAS, the County Planning Division, the lead agency, found the project exempt from environmental review pursuant to Sections 15305(a), 15317, and 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on **November 30, 2023**; reviewed, considered, and discussed the application for a Lot Line Adjustment, Zone Boundary Adjustment, and Amended Land Conservation Contract; 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 two parcels of approximately 328 acres (Parcel 1) and 167 acres (Parcel 2). The LLA will exchange 13.1 acres resulting in no change to parcel sizes. A Zone Boundary Adjustment (ZBA) is also requested to adjust the zone boundaries between the Timberland Production Zone (TPZ) and Agriculture Exclusive with a 160-acre minimum parcel size (AE-B-5(160)) zone to coincide with the adjusted parcel boundaries. The purpose of the LLA is to make the property lines work better with the topography of the parcels and to achieve an equal exchange of acreage between the two parcels as part of an agreement to bring PG&E power to the Sanders parcel along an existing PG&E easement currently on the Hurlbutt property. As part of the LLA, the existing Hurlbutt Williamson Act contract will be amended to accommodate the exchange of lands. APN 214-141-001 is currently utilized for grazing cattle and APN 223-141-010 has an approved cannabis cultivation permit (PLN-11874-CUP). No development is proposed.

EVIDENCE: a) Project File: PLN-2023-18159

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The project is exempt from environmental review per Sections 15305(a), 15317, and 15061(b)(3) of the California Environmental Quality Act (CEQA).

EVIDENCE: a) Section 15317 of the CEQA Guidelines categorically exempts the establishment of agricultural preserves and open space contracts. Section 15061(b,3) exempts projects where it can be seen with certainty that there is no possibility of significant environmental impacts associated with the project. Section 15305 (a) Section 15305(a) applies to lot line adjustments not resulting in the creation of any new parcel. In this case, the rezone of approximately 13.1 acres of TPZ to AE B-5(160) and the rezone of approximately 13.1 acres of AE B-5(160) to TPZ has no possibility of significant environmental impacts because it further restricts the uses and development of the property.

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 Map.

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

EVIDENCE: a) APN 214-141-001 was legally created prior to 1964 and APN 223-141-010 was legally created through Notice of Lot Line Adjustment and Certificate of Subdivision Compliance, Instrument No. 2002-38342.

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

EVIDENCE: a) The parcels are zoned AE and TPZ and will retain their current zoning. The project will exchange 13.1 acres of land between the parcels and adjust the zone boundaries between the Timberland Production Zone (TPZ) and Agriculture Exclusive with a 160-acre minimum parcel size (AE-B-5(160)) zone to coincide with the adjusted parcel boundaries. Current permitted uses of the parcels will not change, and no development is proposed.

6. FINDING: The project is consistent with the General Plan.

- EVIDENCE:**
- a) The Agricultural Exclusive (AE) designation applies to upland areas for retention of agricultural character. The Timberland (T) designation applies to land that is primarily suitable for growing, harvesting and production of timber, and does allow existing cannabis cultivation with the appropriate permit. Parcel 1 will continue to be utilized for grazing and Parcel 2 will continue to be utilized for cannabis cultivation. The project is therefore consistent with the goals of the Land Use Element of the General Plan.
 - b) No development is proposed with the LLA, and future development and uses on the project parcels will have minimal impacts on lands planned for preservation and conservation of Open Space. With the with the exchange of 13.1 acres between the two parcels, the project is consistent with the Open Space Plan and the Open Space Action Program.
 - c) No impacts to biological resources will result from this LLA. According to the County GIS Tuttle Creek transects the northeast portion of Parcel 1. Existing development maintains required setbacks to this watercourse. Any future development will be subject to the policies of the General Plan as they apply to protection of Streamside Management Areas (SMAs). According to the County GIS there is mapped habitat for foothill yellow-legged frog and obscure bumble bee on west portions of the parcels and a northern spotted owl activity center approximately 1.3 miles east of Parcel 1; however, no development is proposed as part of the project. The project was referred to the California Department of Fish and Wildlife and they responded stating that they had no comments at this time.
 - d) The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council. The referral comments from NWIC indicated that their office had record of a previous cultural resource study and recommended further study; and also recommended County consultation with the local tribes. Neither of the tribes responded. As no development is proposed as part of the project, the County is not recommending further archaeological study. Nonetheless, the standard inadvertent discovery protocol has been conditioned for the project.
 - e) The site is in an area of high slope instability and outside of any Alquist-Priolo Fault Hazard Area. The site is outside of any flood zone. The subject property is located within an area of high fire severity and within the State Fire Responsibility Area where the State of California has the primary responsibility for the prevention and suppression of wildland fires. The parcels are outside of a mapped fire district but Parcel 2, which is the developed parcel, is within the response area of the Redway

Volunteer Fire Department who provides structural fire protection as well as responding to medical emergencies. No development is proposed. Based on this evidence, no increased risk of hazards is anticipated as a result of the project.

ZONE BOUNDARY ADJUSTMENT

7. FINDING: The proposed project is in the public interest.

EVIDENCE: a) The Zone Boundary Adjustment is requested to adjust the zone boundaries between the TPZ and AE-B-5(160) zone to coincide with the adjusted parcel boundaries. The Planning Division concludes that the ZBA is in the public interest in that it maintains the existing zoning of the properties and is minor in nature.

8. FINDING: The proposed ZBA is consistent with the General Plan.

EVIDENCE: a) The land involved in the ZBA is planned AG and T by the Humboldt County General Plan. According to the Zoning Consistency Matrix of the Humboldt County General Plan, the AG plan designation is compatible with TPZ zoning, and the T plan designation is compatible with AE zoning.

CLASS B CRITERIA – HUMBOLDT COUNTY WILLIAMSON ACT GUIDELINES

9. FINDING: The preserve area should not be less than 600 acres with no individual lot or parcel of less than 160 contiguous acres.

EVIDENCE: a) The subject preserve totals approximately 5,000 acres and will remain as such. The parcel to be adjusted that is within the preserve will remain at approximately 334 acres in size.

10. FINDING: Land not zoned Timberland Production Zone (TPZ) within the preserve must be placed within the Agricultural Exclusive zoning district with a combining zone specifying a minimum lot size of 160 acres (AE-B-5(160)) prior to the execution of the contract. All rights of division are subservient to the enforceable restrictions secured by the Land Conservation Contract and Section 8 of the Humboldt County Williamson Act Guidelines.

EVIDENCE: a) The proposed project will ensure that the AE-B-5(160) zoning within the preserve remains unchanged.

11. FINDING: The land shall consist of non-prime agricultural land of statewide or local significance.

EVIDENCE: a) The subject parcels do not contain any prime agricultural land of statewide or local significance.

**CONFORMANCE WITH GOVERNMENT CODE
SECTION 51257**

- 12. FINDING:** The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
- EVIDENCE:** a) The Hurlbutt contract automatically renews every year for a rolling ten-year period. The new contract will have the same rolling ten-year renewal period.
- 13. FINDING:** There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, the finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
- EVIDENCE:** a) The lot line adjustment is for an equal exchange of land area where 13.1 acres is being adjusted out of the land under contract, and 13.1 acres is being added. There is no net change in acreage that will be restricted.
- 14. FINDING:** At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
- EVIDENCE:** a) The lot line adjustment results in the removal of 13.1 acres of the approximately 5,000-acre ranch, resulting in over 99.7% of the land area under the former contract remaining in the contract.
- 15. FINDING:** After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain the agricultural use, as defined in Section 51222.
- EVIDENCE:** a) The lot line adjustment results in an equal exchange of land area. The Hurlbutt preserve will remain at approximately 5,000 acres which is large enough to sustain the cattle ranching operation, and the Sanders property will remain large enough to support its agricultural operation.
- 16. FINDING:** The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
- EVIDENCE:** a) There is no evidence that the equal exchange of agricultural land area will compromise the long-term agricultural productivity of the Hurlbutt preserve, and the existing cannabis operation on the Sanders parcel will benefit from the resulting provision of grid

power from PG&E.

17. FINDING: The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

EVIDENCE: a) The lot line adjustment helps to retain the non-restricted adjacent parcel in a viable agricultural operation. Therefore, the adjustment is not likely to result in the removal of any adjacent land from agricultural use.

18. FINDING: The lot line adjustment does not result in a greater number or developable parcels that existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

EVIDENCE: a) The parcel of land under the Hurlbutt preserve was legally created prior to 1964 and is approximately 334 acres in size. The adjusted 13.1 acres will result in no change in the size of the parcel and does not create an additional developable parcel. The Sanders parcel is a property legally created through Notice of Lot Line Adjustment and Certificate of Subdivision Compliance, Instrument No. 2002-38342. The lot line adjustment will not alter the size or result in any additional development potential. The proposed lot line adjustment is not inconsistent with the General Plan, as it will preserve the long-term agricultural productivity of both parcels.

ADDITIONAL REQUIRED FINDINGS

19. 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 that responded to the County have responded with no comment, approved, or conditionally approved the proposed project. The proposed project complies with all standards of the zone district which are intended to protect public health, safety, and welfare. Parcels to be adjusted are found to be in compliance with the Subdivision Map Act. The proposal neither causes non-conformance nor increases the severity of preexisting nonconformities with zoning and building ordinances.

20. FINDING: The proposed project 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) The subject 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 Planning Commission does hereby.

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Lot Line Adjustment, Zone Boundary Adjustment, and Amended Land Conservation Contract (PLN-2023-18159) subject to the conditions of approval attached hereto as Attachment 1A.

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, Zone Boundary Adjustment, and Amended Land Conservation Contract.
4. Adopt Ordinance No. _____ amending Section 311-7 of the Humboldt County Code by reclassifying property in the Redway area [PLN-2023-18159, Sanders Hurlbutt] so that approximately 13.1 acres of Agriculture Exclusive with a 10-acre minimum parcel size (AE-B-5(160)) within APN 214-141-001 is reclassified into Timberland Production Zone (TPZ), and approximately 13.1 acres of Timberland Production Zone (TPZ) within APN 223-141-010 is reclassified into Agriculture Exclusive with a 10-acre minimum parcel size (AE-B-5(160)).
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 **November 30, 2023**.

The motion was made by COMMISSIONER Thomas Mulder and second by COMMISSIONER Iver Skavdal and the following VOICE vote:

AYES: COMMISSIONERS: Thomas Mulder, Iver Skavdal, Peggy O'Neill,
Noah Levy, Sarah West, Lonyx Landry

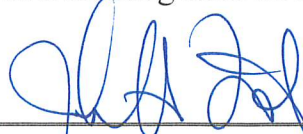
NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS: Brian Mitchell

ABSTAIN: COMMISSIONERS:

DECISION: Motion Carries 6/0/1

I, John H. 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. Per the Department of Public Works Memo dated April 19, 2023, the comers of the new property lines shall be monumented, pursuant to Section 325.5-9 of the Humboldt County Code. A Record of Survey shall be filed unless this requirement is waived by the County Surveyor. The requirement for a Record of Survey may be waived if, in the opinion of the County Surveyor, any one of the following findings can be made:
 - a. The new boundary line(s) are already adequately monumented of record.
 - b. The new boundary line(s) can be accurately described from Government Subdivision Sections or aliquot parts thereof.
 - c. The new boundary line(s) can be accurately described and located from existing monuments of record.
 - d. The new boundary is based upon physical features (i.e. roads, creeks, etc.) which themselves monument the line.
2. 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 \$445.00 per notice plus \$300.00 for each additional legal description plus applicable recordation fees).
3. 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.
4. 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 \$106.00 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.

5. The applicant shall comply with the provisions of Section 321-14 of the Humboldt County Code concerning reapportionment or payment of special assessments.
6. **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.*
8. 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.
9. Applicant shall obtain Board of Supervisors approval for the associated Zone Boundary Adjustment.
10. Applicant shall obtain Board of Supervisors approval for the associated Amended Land Conservation Contract.

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. Issuance of a building permit will require demonstration of all applicable development standards at the time a permit is requested.

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. Section 311-8.2).
5. **The following is applicable to future ground disturbing activity on any of the parcels resulting from this Lot Line Adjustment:** If cultural resources are encountered during construction activities the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) will be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

The Native American Heritage Commission (NAHC) can provide information regarding the appropriate Tribal point(s) of contact for a specific area; the NAHC can be reached at 916-653-4082. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99

The applicant is ultimately responsible for ensuring compliance with this condition.

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 AE-B-5(160) into TPZ and the area to be rezoned from TPZ into AE-B-5 (160) for review and approval by the County Land Surveyor. The applicable review fee (currently \$300.00) 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.

CONDITIONS OF APPROVAL (Amended Land Conservation Contract)

APPROVAL OF THE AMENDED LAND CONSERVATION CONTRACT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE AMENDED LAND CONSERVATION CONTRACT CAN BE SCHEDULED FOR ACTION BY THE BOARD OF SUPERVISORS.

Conditions of Approval

1. The applicant shall submit a legal description of the adjusted Agricultural Preserve for review and approval by the County Land Surveyor. The applicable review fee (currently \$445.00) must accompany the legal description. The legal description must be approved by the County Land Surveyor prior to the Amended Land Conservation Contract application being scheduled for a decision by the Board of Supervisors.
2. The applicant shall submit an executed and notarized Amended Land Conservation Contract.