

AGENDA ITEM NO.

K-1

COUNTY OF HUMBOLDT

Meeting Date: March 14, 2017

To: Board of Supervisors

From: John H. Ford, Director of Planning and Building 

Subject: ZR-14-002, AGPN-15-001, JTMP-14-002, LLA-14-016. Milk Ranch Zone
Reclassification, Agricultural preserve partial dis-establishment and partial
cancellation, Joint Timber Management Plan, and Lot Line Adjustment
Assessor Parcel Numbers: 223-042-005, 223-042-006, 223-043-004, 223-044-003,
223-045-001, 223-045-008
Application Number: 9424
Garberville area

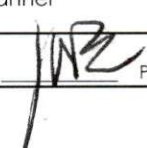
RECOMMENDATIONS

That the Board of Supervisors:

1. Introduce Ordinance No. ~~2570~~ by title and waive further reading;
2. Open the public hearing, receive and consider the staff report, the Planning Commission's findings and accept public comment;
3. Make the necessary findings as prepared by staff to approve the Zone Reclassification, and to conditionally approve (by 4/5 vote) the Joint Timber Management Plan and Lot Line Adjustment;
4. Determine that the dis-establishment and cancellation of a portion of the Schmook Ranch Agricultural Preserve is in the public interest;
5. Adopt Ordinance No. ~~2570~~ amending Section 311-7 of the Humboldt County Code by reclassifying property in the Benbow area within APNs 223-042-005, 223-042-006, 223-043-004, 223-044-003, 223-045-001 and 223-045-008 currently zoned Agriculture Exclusive with a Special Building Site combining zone specifying a minimum lot size of 160 acres (AE B-5(160)) to Timber Production Zone (TPZ) (Attachment A);

Prepared by _____
Cliff Johnson, Senior Planner

CAO Approval  _____

REVIEW: Auditor _____ County Counsel  Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

☐ Consent
☐ Departmental
☒ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell
Seconded by Supervisor Sundberg
Ayes Sundberg, Fennell, Bass, Bahn, Wilson
Nays _____
Abstain _____
Absent _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: Mar 14, 2017

By: 
Kathy Hayes, Clerk of the Board

6. Direct the Clerk of the Board to publish a summary of the zoning changes within 15 days of the date of the hearing (Attachment B);
7. Adopt Resolution No. ~~17-23~~ which contains the findings for Dis-establishment and Tentative Cancellation of the applicable portion of Land Conservation Contract No. 75-5 (AGP # 75-5) (Attachment C);
8. Direct the Clerk of the Board to record a Certification of Rezoning (Notice of Timberland Production Zone Status) (Attachment D) on the parcels pursuant to Sections 51117 and 51141 of the California Government Code (C.G.C.), after attaching a copy of the fully executed Ordinance (Attachment A);
9. Direct Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research;
10. Direct Planning Staff to publish a Notice of Decision as a display advertisement in accordance with Government Code Section 51284;
11. Direct the Clerk of the Board to record the Certificate of Tentative Cancellation of the applicable portion of Land Conservation Contract No. 75-5;
12. Direct the Clerk of the Board to give notice of the decision to the applicant, the Assessor's office, County Counsel, the Planning Division, the California Office of Land Conservation and any other interested party; and
13. Direct the Clerk of the Board to provide a copy of the published Notice of Decision to the Department of Conservation within 30 days of the tentative cancellation of the contract; and
14. Direct Planning Staff to record the Joint Timber Management Plan, and the Notices of Lot Line Adjustments upon the applicant's completion of the conditions of approval; and
15. Close the public hearing.

SOURCE OF FUNDING

Planning and Building Department's Planning and Engineering Services Revenue Account Number 1100-277-608000. Applicant is responsible for all costs related to processing of this application.

DISCUSSION

On March 5, 2015 the County Planning Commission recommended that the Board of Supervisors approve an application by Milk Ranch LLC and Gary Linneman to rezone approximately 249 acres of Agriculture Exclusive with a Building Site combining zone specifying a minimum parcel size of 160 acres [AE-B-5(160)] to Timber Production Zone (TPZ). The rezone facilitates the immediate cancellation of a portion of an existing Williamson Act Land Conservation Contract for lands currently, and proposed to be, zoned TPZ. Subsequent to the rezone and final cancellation of the Williamson Act contract the applicant proposes a Joint Timber Management Plan and Lot Line Adjustment to result in three parcels of 55 acres, 290 acres, and 200 acres. The Joint Timber Management Plan is required under State law due to the proposed creation of a TPZ zoned parcel of less than 160 acres.

Zone Reclassification

The proposed rezone will reclassify approximately 249 acres of property zoned Agriculture Exclusive into TPZ. Based on a review of aerial photography, literature and timber assessments prepared for the property, the Planning Commission concluded that the lands proposed for rezoning meet the inclusion requirements into TPZ per Government Code Section 51113.5. The

timber type is similar to adjacent lands and meets the minimum conifer stocking levels and site class designation for inclusion.

The rezone is in the public interest and is consistent with General Plan policies and the existing general plan designation. The rezone facilitates the addition of timberlands to adjoining timberlands currently zoned TPZ and increases the amount of timberlands in resource production. The rezone is consistent with the required findings for the zone reclassification, as well as the findings required under Section 312-50.8, Supplemental Timberland Production Zoning Procedures, and is consistent with the Forest Taxation Reform Act of 1976. The Forestry Review Committee reviewed and recommended approval of the proposed rezone at their meeting on November 12, 2014.

The rezone is proposed within the 3,423 acre Schmook Ranch Class B Agricultural Preserve. The properties are subject to the Land Conservation Contract recorded February 28, 1975 as amended by document recorded August 30, 2016 as document number 2016-016421. This preserve was established prior to the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976 which directed the establishment of Timberland Production Zoning. As such the lands placed under land conservation contract in 1975 were enrolled under the county's 1974 Williamson Act Guidelines provisions which recognized forest management (or "tree farming") as an allowed agricultural use in a Class B Preserve. This forest management emphasis is evident from the contract requirements that a "Forest Harvesting Plan" and a cutting plan be submitted to the county Assessor annually. The Milk Ranch portion that is the subject of this application is approximately 705 acres. Large portions of the Schmook Ranch were zoned TPZ under Lists A and B in 1977. Lands remaining under contract are those lands zoned Agricultural Exclusive and mixed-zoned AE-TPZ parcels which do not contain 160 acres of AE zoned land. Beginning in 1978 and clarified in more recent amendments to the county's Williamson Act Guidelines (2002 and 2005), Class B Preserves must be managed primarily for livestock grazing. The lands held now by Milk Ranch LLC and Gary Linneman and proposed for rezoning and Williamson Act cancellation do not comply with the annual production standards of the Guidelines as most of the preserve subject to contract is being managed as timberland rather than for livestock grazing. The reclassification to TPZ will allow for the subsequent cancellation of the Williamson Act Contract per Section 51282.5 of the California Government Code in lieu of the 9 year non-renewal of the Land Conservation Contract for the TPZ zoned Fruitland Ridge portion of the preserve.

Section 312-50 of the Humboldt County Code (H.C.C.) specifies the findings that must be made in order to approve a Zone Reclassification. These findings are as follows:

1. The proposed change is in the public interest; and
2. The proposed change is consistent with the General Plan; and
3. The amendment 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.
4. That, for zoning into TPZ,
 - a. The proposed change is consistent with Section 51113.5 of the Government Code; and
 - b. The land shall be timberland as defined by Section 51104(f) of the Government Code; and
 - c. The land shall be in compliance with the land use standards of the TPZ zone.

In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA:

5. a. The project either is categorically or statutorily exempt; or
- b. There is no substantial evidence that the project will have a significant effect on the environment or any potential impacts have been mitigated to a level of insignificance and a negative declaration has been prepared pursuant to Section 15070 of the CEQA Guidelines; or
- c. An environmental impact report (EIR) has been prepared and all significant environmental effects have been eliminated or mitigated to a level of insignificance, or the required findings in Section 15091 of the CEQA Guidelines are made.

Staff Analysis of the required findings for approval of the zone reclassification:

A.1. Public Interest. The rezone proposes to reclassify approximately 249 acres from Agriculture Exclusive and Agriculture Exclusive specifying a minimum parcel size of 160 acres, into TPZ. The rezone facilitates an immediate cancellation of a land conservation contract, and allows for the property to be classified more consistently with the actual use and conditions of the land. The evidence submitted, including timberland analyses submitted by Timberland Resource Consultants demonstrates that the findings for inclusion into TPZ can be made, and that the parcels can be managed for timber production. The FRC recommended project approval.

In 1985, the county completed its General Plan (Vol. 1, Framework) that established policies and standards for resource production land uses. TPZ "is intended to provide standards and restrictions for the preservation of timberlands for growing and harvesting timber." These lands are currently being utilized for the growing and harvesting of timber and are therefore consistent with the general plan goals for timberland.

TPZ provides relative assurances that uses allowed within the affected timberlands will be consistent with local needs in resource economics, open space and compatibility of uses. TPZ also provides a static productive land base from which accurate timber supply projections could be made.

In addition, Federal, State and county governments have numerous policies and programs that encourage timber production. As stated in Section 51101 of the California Government Code (C.G.C.) the State has found and declared the following:

1. The forest resource and timberlands of this state, together with the forest products industry, contribute substantially to the health and stability of the state's economy and environment by providing high quality timber, employment opportunities, resource protection, and aesthetic enjoyment.
2. The state's increasing population threatens to erode the timberland base and diminish forest resource productivity through pressure to divert timberland to urban and other uses and through pressure to restrict or prohibit timber operations when viewed as being in conflict with non-timberland uses.
3. A continued and predictable commitment of timberland, along with investment of capital, for the growing and harvesting of timber are necessary to ensure the long term productivity of the forest resource and the long term economic viability of the forest products industry.

Based on the above findings, the state has declared that "...in order to fully realize the productive potential of the forest resources and timberlands of the state, and to provide for a favorable climate for long term investment in forest resources, it is the policy of the state to do all the following:

- a. Maintain the optimum amount of limited supply of timberland as to ensure its current and continued availability for the growing and harvesting of timber and compatible uses;
- b. Discourage the premature or unnecessary conversion of timberland to urban or other uses;
- c. Discourage the expansion of urban services into timberland; and
- d. Encourage investment in timberlands based on a reasonable expectation of harvest."

The application of zoning that ensures compatible land uses furthers the public interest by protecting lands for continued resource production. Planning staff believes that the addition by rezoning into TPZ of qualifying timberlands enforceably restricted under the state constitution protects the timber base for future generations and is in the public interest.

A.2. General Plan Consistency. The property is currently planned Agriculture Grazing (AG) by the Framework Plan. Per the Zoning Consistency Matrix, Figure 2-10 Volume 1 of the Framework Plan, the rezone into TPZ is consistent with the AG designation. The Framework Plan, Section 2514, contains numerous policies that encourage timber production and long-term management of timberlands. The goal of the policies is to actively protect and conserve timberlands for long-term economic utilization and to actively enhance county timber production capabilities. Zoning lands into TPZ is consistent with the goals and policies of the General Plan which protects timberlands for the growing and harvesting of timber.

A.3. Housing Element Law. The lands are currently planned and zoned for agricultural use and timber production and, as such, were not included in the housing assessment. The parcels will continue to be resource lands, planned and zoned for agricultural use and timber production. The project does not reduce the residential density utilized by the Department of Housing and Community Development.

A.4. Consistency with California Government Code Sections 51113.5 and 51104. Per information and timber reports submitted by Timberland Resource Consultants, the project is consistent with the requirements for inclusion into TPZ. The areas to be rezoned into TPZ can meet the minimum conifer stocking levels and site class designation to be included in TPZ. The soils series is primarily Hugo (812). Hugo soil series are identified as having very high suitability for timber production. All of the parcels proposed for rezoning are capable of meeting the acreage annual growth requirements of C.G.C. Section 51104 (average annual volume of wood fiber of at least 15 cubic feet per acre). The existing land use is in compliance with the land use standards of the TPZ.

The FRC reviewed and recommended project approval at their November 12, 2014 meeting.

A.5 Environmental Impact. Planning staff believes that the project, as designed and conditioned, will not result in a significant adverse effect on the environment and is exempt from environmental review pursuant to the California Environmental Quality Act. The rezone into TPZ is exempt per Section 15264 of the CEQA Guidelines and Section 51119 of the California Government Code.

Williamson Act Cancellation

The rezone is proposed within the 3,423 acre Schmook Ranch Class B Agricultural Preserve No. 75-5. The properties are subject to the Land Conservation Contract recorded February 28, 1975 as amended by document recorded August 30, 2016 as document number 2016-016421. The Milk Ranch portion that is the subject of this application is approximately 705 acres. The lands

proposed for rezoning and Williamson Act cancellation do not comply with the annual production standards of the guidelines as most of the preserve is being managed as timberland rather than for livestock grazing. The reclassification to TPZ will allow for the concurrent cancellation of the Williamson Act Contract per Section 51282.5 of the California Government Code in lieu of the 9 year non-renewal of the Land Conservation Contract for the 705 acre Milk Ranch portion of the preserve. Once the zoning reclassification is effective, the application will come back in front of the Board of Supervisors for final agricultural preserve dis-establishment and cancellation of the Williamson Act contract.

Lot Line Adjustment

The LLA is proposed between three parcels and will result in parcels of approximately 55 acres, 290 acres, and 200 acres. These parcels are referred to on the applicant's lot line adjustment map as parcels 1, 2 and 4. Parcel 3 as shown on the map is intended for rezoning but no adjustment to the parcel boundaries is proposed.

Pursuant to Section 325.5-6 of the Humboldt County Code, a lot line adjustment shall be approved or conditionally approved when the following findings can be met:

- a) The application is found to be complete.
- b) Either the parcels to be adjusted are found to be in compliance with the Subdivision Map Act and local subdivision regulations or a Conditional Certificate of Subdivision Compliance has been issued for recordation prior to or concurrent with the lot line adjustment.
- c) The proposal neither causes non-conformance nor increases the severity of pre-existing nonconformities with zoning and building ordinances.
- d) Additionally, pursuant to SB 497 (Sher) the lot line adjustment is in conformance with the adopted General Plan.

The application for the lot line adjustment was complete as of October 31, 2014. All three of these parcels were the subject of a determination of parcel status (DS-02-02) that found the parcels to be legal in their current configurations. The Planning Commission found that the findings for the LLA can be made based upon the submitted evidence (Attachment 8).

Because the applicant is not demonstrating compliance with Section 51257 of the California Government Code regarding lot line adjustments within Williamson Act properties, the lot line adjustment may not be completed until after the final cancellation of the Williamson Act contract has occurred. Final cancellation of the Williamson Act contract will occur after recordation of the rezone and tentative cancellation, and after publication of a notice of proposed final cancellation.

Joint Timber Management Plan

The lot line adjustment proposal will result in one parcel that is approximately 55 acres in size that is entirely zoned Timber Production Zone (TPZ). The minimum parcel size for TPZ zoned properties is 160 acres, or 40 acres if the provisions of Government Code Section 51119.5 are met. Section 51119.5 of the Government Code states the following:

Parcels zoned as timberland production under this chapter may not be divided into parcels containing less than 160 acres unless the original owner prepares a joint timber management plan prepared or approved as to content by a registered professional forester for the parcels to be created. The joint timber management plan shall provide for the management and harvesting of timber by the original and any subsequent owners, and shall be recorded with the county recorder as a deed restriction on all newly created parcels. The deed restriction shall run with the land rather than with the owners, and shall remain in force for a period of not less than 10 years from the date

division is approved by the board or council. The division shall be approved only by a four-fifths vote of the full board or council, and only after recording of the deed restriction.

Pursuant to the requirements of Section 51119.5 of the Government Code, the applicant has submitted a Joint Timber Management Plan (JTMP) for approval and recordation. The JTMP has been prepared by Timberland Resource Consultants and was reviewed by the Humboldt County Forestry Review Committee (FRC) at their meeting of November 12, 2014. The FRC found the JTMP to be satisfactory and has recommended that the Board of Supervisors approve the JTMP and subsequent lot line adjustment. Pursuant to Section 51119.5, the JTMP must receive a 4/5's affirmative vote of the Board of Supervisors to become effective.

FINANCIAL IMPACT: The change in zoning to TPZ, if adopted, will place the subject property into a tax restricted classification, resulting in an overall reduction in the property tax assessment for the valuation of the land during the period that the property remains in TPZ (10-year minimum term). The reduction will be adjusted annually by the County Assessor in the manner prescribed in the California Revenue and Taxation Code. Additionally, the applicant has paid for all costs incurred in processing the application.

BOARD'S STRATEGIC FRAMEWORK:

The county's Williamson Act and TPZ program support the Board's Strategic Framework through its core role of enforcing laws and regulations and its priorities to manage our resources and ensure sustainability of services. Actions related to Land Conservation Contracts are consistent with the Board's priorities to facilitate public/private partnerships and to work towards the protection of the county's agricultural resources. Approval of the zoning reclassification and subsequent lot line adjustment and joint timber management plan is consistent with the county's priorities to encourage proper management of timberlands.

OTHER AGENCY INVOLVEMENT: The project was circulated to various State and local agencies for comments and recommendations. Both the Forestry Review Committee and the Planning Commission have recommend approval. The approved minutes of the Forestry Review Committee and the adopted resolution from the Planning Commission are included in Attachment 5 to this report.

ALTERNATIVES TO PLANNING COMMISSION RECOMMENDATIONS: On March 5, 2015 the Planning Commission recommended that the Board of Supervisors approve the proposed project. The Board may choose not to accept the Planning Commission recommendation of approval. As documented in the Planning Commission Resolution (Attachment 5), the Planning Commission believes that satisfactory evidence has been provided in the project record to support making the required findings. Accordingly, both the Planning Commission and Planning staff do not recommend this alternative.

ATTACHMENTS:

The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

Attachment 1	Ordinance No. 2570 and Certification of Rezoning Exhibit A (legal description), Exhibit B (map)
Attachment 2	Summary of Ordinance, Map to be published (Exhibit A)
Attachment 3	Resolution for Tentatively Dis-establishing a portion of the Schmook Ranch Class "B" Preserve and Tentative cancellation of the associated portion of the Land Conservation Contract
Attachment 4	Certificate of Tentative Cancellation
Attachment 5	Planning Commission Resolution and Staff Report
Attachment 6	Certificate of Rezoning (Notice of Timberland Production Status)

Attachment 7	Department of Conservation Comments on Petition for Partial cancellation
Attachment 8	Findings for approval of the Lot Line Adjustment and Lot Line Adjustment Map
Attachment 9	Conditions of approval for the Lot Line Adjustment
Attachment 10	Joint Timber Management Plan