



# COUNTY OF HUMBOLDT

## Legislation Details (With Text)

**File #:** 23-1378      **Version:** 1      **Name:**

**Type:** Zoning Ordinance      **Status:** Passed

**File created:** 10/4/2023      **In control:** Planning and Building

**On agenda:** 10/24/2023      **Final action:** 10/24/2023

**Title:** Rock and Sky, LLC, General Plan Amendment and Zone Reclassification  
 Assessor Parcel Numbers (APNs) 033-101-011, 033-041-038, 033-091-025, 033-091-026, 033-091-027, 033-091-033, 033-091-034, 033-091-035, 033-101-001, 033-101-002, 033-101-003, 033-101-004, 033-101-005, 033-101-006, 033-101-007, 033-101-008, 033-101-010, 033-101-015, 033-101-021, 033-101-022, 033-101-028, 033-101-029, 033-101-031, 033-101-032, and 033-101-035  
 Record No.: PLN-2021-17209  
 Garberville/Benbow Area

**Sponsors:** Planning and Building, Laura McClenagan

**Indexes:**

**Code sections:**

**Attachments:** 1. Staff Report, 2. Attachment 1 - Resolution, 3. Attachment 2 - Rezone Ordinance, 4. Attachment 3 - Site Plan 05.12.2021, 5. Attachment 4 - Referral Comments, 6. Attachment 4A - Public Works, 7. Attachment 5 - Constraints Exhibits, 8. Attachment 6 - Resolution 23-072\_Rock and Sky\_17209, 9. Attachment 7 - Post Adoption Summary of Ordinance, 10. Attachment 8 - Public Comment 10-18-2023

Date	Ver.	Action By	Action	Result
10/24/2023	1	Board of Supervisors	approved as amended	Pass

**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**Vote Requirement:** Majority

**SUBJECT:**

Rock and Sky, LLC, General Plan Amendment and Zone Reclassification  
 Assessor Parcel Numbers (APNs) 033-101-011, 033-041-038, 033-091-025, 033-091-026, 033-091-027, 033-091-033, 033-091-034, 033-091-035, 033-101-001, 033-101-002, 033-101-003, 033-101-004, 033-101-005, 033-101-006, 033-101-007, 033-101-008, 033-101-010, 033-101-015, 033-101-021, 033-101-022, 033-101-028, 033-101-029, 033-101-031, 033-101-032, and 033-101-035  
 Record No.: PLN-2021-17209  
 Garberville/Benbow Area

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Adopt the resolution (Resolution 23-\_\_\_). (Attachment 1) which does the following:
  - a. Makes all of the required findings for approval based on evidence in the staff report and

- public testimony; and  
b. Approves the General Plan Amendment and Zone Reclassification

SOURCE OF FUNDING:

Applicant fees. (1100277)

DISCUSSION:

A General Plan Amendment (GPA) and Zoning Reclassification (ZR) of 25 parcels totaling 33.46 acres. The GPA is from Residential Low Density (RL) and Residential Estates (RE) to Residential Agriculture (RA). The Zone Reclassification is from Residential Single Family (R-1), Residential Multi-Family (R-3) and Residential Suburban (RS) to Agriculture General (AG).

On Jan. 5, 2021 the Board of Supervisors adopted Resolution No. 21-05 accepting the applicant's petition to apply for a General Plan Amendment and Zone Reclassification (PLN-2020-16218), and authorizing submittal of an application. On July 20, 2023 the Planning Commission unanimously voted to recommend that the Board of Supervisors approve the General Plan Amendment and Zone Reclassification.

The owner seeks to change the underlying General Plan designation and Zone classification on 25 parcels involving approximately 33 acres in the Benbow area to reduce the development potential on the parcels. The applicant seeks the proposed changes to allow for a better use of the properties consistent with the physical characteristics of the land. The applicant indicates the 25 parcels would be reconfigured into 11 parcels and will, "...eliminate multiple zoning districts within a parcel, allow historical use, eliminate unbuildable parcels, reduce water use, traffic and erosion." The properties are heavily constrained by steep topography and moderate to poor road access and have historically been utilized for more open space and agricultural uses. The General Plan Amendment and zone Reclassification would align the land use designation and zoning district with the historical and preferred use of the property.

Section 312-50.5 of Humboldt County Code specifies that petitions for zoning map amendments shall be 1) in the public interest, and 2) consistent with the General Plan. Section 312-50.6 specifies that a petition for amendment of the text or the zoning maps of the Zoning Regulations may also be initiated in conjunction with a petition for a General Plan amendment. Section 3.3 of the General Plan, Amendments, states, "*The General Plan may only be amended 'in the public interest' as determined by the Board of Supervisors...the Plan can only be amended when the change benefits the entire County, not merely because the change would benefit a particular property owner. Every General Plan amendment must also be consistent with the rest of the Plan or appropriate changes need to be made to the Plan to achieve consistency with the proposed amendment.*"

**Public Interest**

The subject properties have three different zoning designations that currently apply (R-1, R-3 and RS), allowing for differing types of residential uses as principally permitted uses. The applicant notes that most of these properties are effectively unbuildable due to physical constraints of topography, septic system limitations and limited access. Attachment 5 - Constraints Exhibits, illustrate these physical constraints to development at the present plan densities from slope, land instability, and historic

landslides. The applicant also notes that the historic use of the lands was, until a 2018 County abatement action, primarily utilized for cannabis cultivation and the land is better suited to this use than to residential development. The potential use of the property for cannabis cultivation again is attractive due to the proximity to a cannabis dispensary nearby at the entrance to the Benbow Valley.

It is arguably in the public interest to modify the General Plan land use designation and zoning for the subject properties to allow for agricultural uses that are otherwise not permitted under existing General Plan and zoning classifications. This would help to alleviate what are otherwise largely developmentally-constrained lands due to the above-noted physical conditions, and could support agricultural (cannabis) operations, if ultimately approved by the County, in support of the nearby cannabis dispensary. The actions will also resolve split-lot zoning of R-1-B-3-D and R-3-D-P that affects a portion of the subject property (APN 033-041-038), and would lead to a reduction the number of existing parcels (25, to be merged into 11, based on the applicant's stated intent to merge parcels). The proposed Agriculture General (AG) zone would allow for one single-family residence and general agriculture as principally permitted uses. Attachment 5 - Figure 4 shows that the lands being considered for this land use and zone change were not included in the 2019 Regional Housing Needs Assessment (RHNA) Vacant Land Inventory.

### **Consistency with the General Plan**

The current General Plan land use designations for the subject properties are as follows, with descriptions of each designation from the Land Use Element:

#### ***Residential Low Density (RL)***

*The RL designation is used for areas suitable for residential use where urban services are available or are anticipated to be available. Single family units on individual lots are the dominant use, but the designation can accommodate a mix of housing types including townhouses and common-wall clustered units.*

#### ***Residential Estates (RE)***

*This designation is used for lands adjacent to urban areas or rural communities with limited public services but suitable for single-family residential use. It is also intended as a transition from urban development to rural lands. Clustering policies are suggested to assist in buffering adjacent resource production or open space uses and to retain contiguous open space. This designation is commonly used in water-only service areas.*

The proposed General Plan land use designation for the subject properties is RA, described below:

#### ***Residential Agriculture (RA)***

*This designation applies to large lot residential uses that typically rely upon on-site water and wastewater systems. Varying densities are reflective of land capabilities and/or compatibility issues. RA5-20 and RA20 are rural residential designations for lands with slopes generally less than 30% and served by individual water and wastewater systems and good road access. RA40, RA60, and RA160 designations are applied to more remote, steep and high hazard areas or where appropriate to ensure compatibility with adjacent resource production and open space uses.*

As evidenced by the Constraints Exhibit (Attachment 5) the land area is more appropriately designated

for lower density, more open space and agricultural-oriented land uses such as contemplated in the RA designation.

Table 4-H of the General Plan (Land Use Element) shows the proposed RA - Residential Agriculture land use designation would be compatible with the proposed AG - Agriculture General zone. And through this proposed zone designation the goals of the RA designation will be implemented, through encouraging less intensive development and more agricultural-oriented development.

FINANCIAL IMPACT:

There will be no impact on the General Fund. The applicant is responsible for paying all actual costs involved.

STAFFING IMPACT:

Staff time related to implementation has been accomplished with current staff resources. The applicant is responsible for paying all actual costs of staff time.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework priority of enforcing laws and regulations to protect residents

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all but one responding agency have either recommended approval or provided no comment (Attachment 4). The Northwest Information Center recommended that a cultural resources survey (CRS) be conducted and that the application be referred to local tribes. The application was referred to local tribes and a Cultural Resources Survey was prepared. The study found that there were no archaeological or cultural resources in the project area.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Board of Supervisors could elect not to approve the project. This alternative should be implemented if the Board is unable to make all of the required findings. Planning staff believes that the required findings can be made and does not recommend further consideration of this alternative.

ATTACHMENTS:

1. Resolution
2. Rezone Ordinance
3. Maps
4. Referral Agency Comments and Recommendations
  - A. Public Works Referral
5. Constraints Exhibits
6. Planning Commission Resolution
7. Post Adoption Summary
8. Public Comment

Applicant and Owner

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