



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 23-1033, Version: 1

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Consent

**SUBJECT:**

Rock and Sky, LL, 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

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).

**RECOMMENDATION(S):**

That the Planning Commission:

1. Adopt the resolution (Resolution 23-\_\_\_). (Attachment 1) which does the following:
  - a. Make all of the required findings for approval based on evidence in the staff report and public testimony; and
  - b. Recommend the Board of Supervisors approve the General Plan Amendment and Zone Reclassification subject to the recommended conditions of approval

**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 January 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.

The owner seeks to change the underlying General Plan designation and Zone classification on 25 parcels involving approximately 33 acres in the Benbow area. The applicant seeks the proposed changes to allow for better integration between the current land use and the properties physical characteristics. The applicant indicates the 25 parcels would be reconfigured into 11 parcels and will, "...eliminate multiple zoning within a parcel, allow historical use, eliminate unbuildable parcels, reduce water use, traffic and erosion."

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 for cannabis grows, and seeks to allow agricultural operations again given lack of current production use of the lands as well as 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, could support agricultural (cannabis) operations, if ultimately approved by the County, in support of the nearby cannabis dispensary, 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. A table comparing permitted and conditionally permitted uses of the existing RS, R-1 and R-3 zones to the proposed AG zone is attached to this report.

### 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.*

The RA designation has a residential range of 5-160 acres/unit.

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. Adjoining lands to the south of the subject properties are also designated RA.

**Project Location:** The project is located generally on both sides of Fir Gate Court, at the intersection of Fir Gate Court and West Blue Rock Road, east of Highway 101 in the Garberville/Benbow area.

**Present General Plan Land Use Designation:** Residential Low Density (RL) and Residential Estates (RE)

**Present Zoning:** Residential Single Family (R-1), Residential Multi-Family (R-3) and Residential Suburban (RS)

**Environmental Review:** Planning staff believes that the project has no potential for causing a significant effect on the environment. The project can be found exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), it can be seen with certainty that the project does not have the potential to cause significant impacts because it is a downzoning to a reduced residential density, fewer urban features, and less disturbance to the environment.

**State Appeal:** Project is not appealable to the California Coastal Commission.

**Major concerns:** None.

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 no response was received. Since no development is proposed at this time, it was determined that a CRS is not warranted.

Public Works Department: DPW commented that the County road system in this area is prone to slope instability and is actively failing in places, and recommends that the road network be reviewed for needed improvements to serve increased development potential resulting from the rezone. However, the rezoning will change from a number of residential classifications of varying densities, to Agriculture General, thereby greatly reducing the potential numbers of future residents and traffic. Also, lot line adjustments currently proposed for all of this property will reduce the number of lots from 25 down to eleven, further decreasing the potential for traffic. Lastly, the applicant's express purpose is to facilitate agricultural use of the land. Therefore, the project will not increase traffic and there is not a nexus a review for road improvements at this time.

Bear River Band and the Northwest Information Center: both entities requested a cultural resource survey (CRS). A CRS was prepared and no artifacts were found. Additionally, no development is proposed at this time.

CDFW did not respond to the consultation referral, but staff later sent a biological assessment report to CDFW when CDFW requested the opportunity to review all such reports. The assessment did not identify any sensitive wildlife species or habitat, and recommended that disturbance be conducted outside the nesting season. However, no physical work is proposed with this project as it represents only designations on the General Plan land use diagram and the zoning map. CDFW staff requested to be contacted if there is any new information. If and when a discretionary proposal comes forward, there will be new referrals and a determination can be made at that time regarding appropriate conditions.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect not to recommend approval of the project. This alternative should be implemented if the Commission 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
  - A. Conditions of Approval

2. Rezone Ordinance
3. Maps
4. Referral Agency Comments and Recommendations
5. Constraints Exhibits
6. DPW Comments
7. Zoning Comparison Table

Applicant and Owner

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Agent

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Please contact Desmond Johnston at 707-441-2622 or via email at [djohnston@co.humboldt.ca.us](mailto:djohnston@co.humboldt.ca.us) if you have any questions about the scheduled public hearing item.