

Resolution PC 2022-029

A Resolution of the Planning Commission of the County of Siskiyou, State of California, Recommending that the Siskiyou County Board of Supervisors Determine the Project Exempt from the California Environmental Quality Act and Approve the Hickey Zone Change (Z-22-04) by Adopting a Draft Ordinance Rezoning 10 Acres (APN 019-080-060, 019-080-080, 019-080-090) from AG-2 to C-H.

Whereas, an application has been received from Teresa Hickey to rezone approximately 10 acres (APN 019-080-060, 019-080-080, 019-080-090) from Non-Prime Agricultural (AG-2) district to Highway Commercial (C-H) district; and

Whereas, the project site is currently developed with a multitude of structures that are appropriate to the C-H district, including a service station building originally built in 1936, Deer Mountain Lodge originally built in 1948, and a restaurant originally built in 1954; and

Whereas, a Notice of Public Hearing was published in the Siskiyou Daily News on November 2, 2022; and

Whereas, public hearing notices were provided pursuant to Siskiyou County Code Section 10-6.2805 *et seq.*; and

Whereas, comments received on the project resulted in conditions of approval being recommended by staff; and

Whereas, the Planning Division presented its oral and written staff report on the Hickey Zone Change (Z-22-04) at a regular meeting of the Planning Commission on November 16, 2022; and

Whereas, there is not substantial evidence, in light of the whole record before the County, that the proposed zone change would have a significant effect on the environment; and

Whereas, the Planning Division recommended that the project be determined exempt from the California Environmental Quality Act (CEQA) based on the “common sense” that CEQA only applies to projects with the potential to result in a significant impact on the environment in accordance with CEQA Guidelines Section 15061(b)(3); and

Whereas, the Planning Division recommended that the project be determined exempt from CEQA pursuant to *Existing Facilities* (Section 15301), which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures where there is negligible or no expansion of existing or former use; and

Whereas, the Planning Division recommends approval of the Hickey Zone Change (Z-22-04) subject to the conditions of approval included in Attachment A-1 to this resolution; and

Whereas, on November 16, 2022, the chair of the Planning Commission opened the duly noticed public hearing on the Hickey Zone Change (Z-22-04) to receive testimony both oral and written, following which the Chair closed the public hearing and the Commission discussed Z-22-04 prior to reaching a decision; and

Now, Therefore, Be It Resolved that the Planning Commission adopts the recommended findings set forth in Exhibit A-2 of the written staff report; and

Be It Further Resolved that the Planning Commission, based on the evidence in the record and the findings set forth in Exhibit A-2, hereby takes the following actions on the Hickey Zone Change (Z-22-04):

1. Recommends that the Board of Supervisors of Siskiyou County determine the project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) and Section 15301; and
2. Recommends that the Board of Supervisors of Siskiyou County approve Zone Change (Z-22-04), subject to the conditions of approval contained in Attachment A-1 to this resolution.

It is **Hereby Certified** that the foregoing Resolution PC 2022-029 was duly adopted on a motion by Commissioner Fowle and seconded by Commissioner MeLo at a regular meeting of the Siskiyou County Planning Commission held on the 16th day of November 2022 by the following vote:

Ayes: Commissioners Melo, Fowle, Veale and Lindler

Noes:

Absent: Commissioner Hart

Abstain:

Siskiyou County Planning Commission



Danielle Lindler, Chair

Witness, my hand and seal this 16th day of November 2022


Hailey Lang, Secretary of the Commission

Exhibit A-1 to Resolution PC 2022-029
Notations and Recommended Conditions of Approval

Notations

1. Within ten (10) days following the date of the decision of the Siskiyou County Planning Commission, the decision may be appealed to the Siskiyou County Board of Supervisors. The appeal shall be filed with the Clerk of the Board of Supervisors.
2. Upon adoption of the categorical exemption, a check in the amount of \$50 made payable to the Siskiyou County Clerk and submitted to the Siskiyou County Planning Division is necessary in order to file the Notice of Exemption. Failure to file the Notice of Exemption extends the statute of limitations for legal challenges to the categorical exemption from 35 days to 180 days.
3. If timber is to be commercially harvested as part of the zone change, the conditions set forth in the California Forest Practice Rules pertaining to Conversion of Timberland (Title 14, CCR, Article 7, Section 1104.02) shall be adhered to.
4. If any timber operations (as defined by PRC Section 4527) are involved with a project, they must be approved by Cal Fire prior to undertaking operations. A Timber Harvesting Plan (THP) may be required. A Timberland Conversion Permit (TCP) may also be required.
5. If a proposed project will result in the conversion of greater than three (3) acres of timberland to non-timber use, a TCP is required prior to undertaking any conversion operations. Provisions and procedures for filing an application for a TCP are found in Article 9, Division 4, Chapter 8 of the Public Resources Code. If the area to be converted is less than three acres, the project may qualify for a "Less Than 3-Acre Conversion Exemption" under 14CCR 1104.
6. A building permit must be obtained prior to any future development or placement of structures on the property. This requirement includes, but is not limited to, any enlargement, alteration, replacement, repair, or improvement of any existing structures.
7. The property owner is advised that a Caltrans encroachment permit is required to utilize and maintain the highway connection. Encroachment permits are non-transferrable. The encroachment permit records the change in ownership and assigns the maintenance responsibilities for the connection to the current owner. For more information regarding encroachment permit fees or the encroachment permit process, the owner/applicant may contact the District 2 Permits Office located at 1657 Riverside Drive in Redding. The telephone number is (530) 225-3400 and the email address is D2epermit@dot.ca.gov. Encroachment permit applications are also available from the Caltrans website at www.dot.ca.gov.

8. The property owner is advised that Caltrans may require additional permit(s) for any change in use. For more information, the owner/applicant may contact the District 2 Permits Office located at 1657 Riverside Drive in Redding. The telephone number is (530) 225-3400.

Conditions of Approval

1. The project shall substantially conform to the project description and zone change map reviewed by the Planning Commission on November 16, 2022, and subsequently approved by the Siskiyou County Board of Supervisors. Any proposed amendment(s) shall be submitted for consideration to the Deputy Director of Planning to determine the review process pursuant to the Siskiyou County Code. Minor amendments shall be considered by the Community Development Director. Major amendments shall be considered by the Planning Commission.
2. The applicant shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding (collectively, "Action") against the County, its agents (including consultants), officers or employees to attack, set aside, void, or annul the approvals, or any part thereof, or any decision, determination, or Action, made or taken approving, supplementing, or sustaining, the project or any part thereof, or any related approvals or project conditions imposed by the County or any of its agencies, departments, commissions, agents (including consultants), officers or employees, concerning the project, or to impose personal liability against such agents (including consultants), officer or employees resulting from their non-negligent involvement in the project, which action is brought within the time period provided by law, including any claim for private attorney general fees claimed by or awarded to any party from the County. Said responsibilities shall be pursuant to the County's standard Agreement for Indemnification in effect at the time of application approval or Agreement for Indemnification if signed and effective prior to the date the application is approved. In the event that the applicant fails to comply with the terms of the applicable agreement, the applicant does hereby consent and agree to all remedies in said agreement and does hereby agree and consent to the County rescinding all applicable project approvals.

Findings

Zoning Consistency Findings

1. The proposed Zone Change is consistent with the applicable elements and policies of the Siskiyou County General Plan, as documented herein.
2. The proposed Zone Change application is consistent with Siskiyou County Code, Title 10, Chapter 6, Article 28.
3. The proposed Zone Change from Non-Prime Agricultural (AG-2) to Highway Commercial (C-H) is consistent with existing and permitted land uses surrounding the project site.
4. The proposed Zone Change is compatible with the surrounding zoning of Non-Prime Agricultural (AG-2), Prime Agricultural (AG-1), and Rural Residential Agricultural (R-R).
5. The Planning Commission has considered all written and oral comments received and based on its analysis of the public testimony and staff's analysis, the Commission has determined that the project as designed and conditioned would be compatible with existing and planned uses of the area.

General Plan Consistency Findings

Composite Overall Policies

Policy 41.3(a) All heavy commercial, and heavy industrial uses must provide or have direct access onto major thoroughfares or existing industrial/commercial streets capable of accommodating the traffic that could be generated from the proposed use.

The project site has direct access to U.S. Route 97, a public road capable of accommodating the traffic that could be generated from the proposed use.

Policy 41.3(c) All heavy commercial and heavy industrial uses should be located away from areas clearly committed to residential use.

The project site is surrounded by undeveloped land zoned for agricultural and rural residential agricultural uses and utilized for timber production. The closest area clearly committed to residential use is the Mount Shasta Vista Subdivision, which is approximately 2.5 miles directly west-southwest or approximately 6 miles away by road.

Policy 41.3(e) All proposed uses of the land shall be clearly compatible with the surrounding and planned uses of the area.

No new uses of land are proposed as part of this zone change. The existing use of the land started in 1936 with the construction of a service station, followed by a motel in 1948 and a restaurant in 1954. Therefore, the use of the land is clearly compatible with the surrounding and planned uses of the area.

Policy 41.3(f) All proposed uses of the land may only be allowed if they clearly will not be disruptive or destroy the intent of protecting each mapped resource.

No new uses of land are proposed as part of this zone change. Therefore, the proposed zone change will not be disruptive or destroy the intent of protecting each mapped resource, as described herein.

Policy 41.5 All development will be designed so that every proposed use and every individual parcel of land created is a buildable site, and will not create erosion, runoff, access, fire hazard or any other resource or environmentally related problems.

The project site is already developed, and no new development is proposed. Any new development will have to meet State and County requirements for erosion, runoff, access, fire hazard, or any other resource or environmentally related problems.

Policy 41.6 There shall be a demonstration to the satisfaction of the Siskiyou County Health Department and/or the California Regional Water Quality Control Board that sewage disposal from all proposed development will not contaminate ground water.

The project site is already developed, and no new development is proposed. Any new development will have to meet State and County requirements and standards for sewage disposal.

Policy 41.7 Evidence of water quality and quantity acceptable to the Siskiyou County Health Department must be submitted prior to development approval.

The project site is already developed, and no new development is proposed. Any new development will have to meet State and County requirements and standards for water quality and quantity.

Policy 41.9 Buildable, safe access must exist to all proposed uses of land. The access must also be adequate to accommodate the immediate and cumulative traffic impacts of the proposed development.

The subject parcels have immediate access to U.S. Route 97, a public road that is adequate for the immediate and cumulative traffic impacts of the project.

Policy 41.18 Conformance with all policies in the Land Use Element shall be provided, documented, and demonstrated before the County may make a decision on any proposed development.

Staff has reviewed all Land Use Element policies and has determined that the project is consistent with the Siskiyou County General Plan as documented herein.

Map 2: Erosion Hazard

Policy 7 – Specific mitigation measures will be provided that lessen soil erosion, including contour grading, channelization, revegetation of disturbed slopes and soils, and project time (where feasible) to lessen the effect of seasonal factors (rainfall and wind).

Any future development is required to meet Building Code requirements for erosion and runoff.

Map 3: Building Foundation Limitations

Policy 8 – Enforce building construction standards (uniform building code) and public works requirements.

No new development is proposed as part of this project. Any future development will be required to meet building code and public works requirements.

Map 4: Severe Septic Tank Limitations

Policy 9 – The minimum parcel size shall be one acre of 0-15% slope and 5 acres on 16-29% slope. The permitted density will not create erosion or sedimentation problems.

No new parcels are proposed as part of this project and the proposed project will not create erosion or sedimentation problems.

Policy 10 – Single family residential, heavy or light industrial, heavy or light commercial, open space, non-profit and non-organizational in nature recreation uses, commercial/recreation uses, and public or quasi-public uses only may be permitted. The permitted uses will not create erosion or sedimentation problems.

The proposed zone change to Highway Commercial in order to bring the zoning into conformance with the historic use of the property of for commercial purposes is permitted per Policy 10 and will not create erosion or sedimentation problems.

Map 5: Excessive Slope

Policy 11 – All areas with 30% or greater natural slope shall not be developed with facilities requiring septic tanks for sewage disposal.

Excessive slope area is isolated to a small, undeveloped portion of the project site and no new development is proposed as part of this project.

Policy 12 – If areas designated as 30% or greater natural slope are proven to be less than 30% slope, the minimum parcel size shall be one acre on 0-15% slope, and 5 acres on 16-29% slope. The permitted density will not create erosion or sedimentation problems.

No new parcels are proposed as part of this project and the proposed project will not create erosion or sedimentation problems.

Policy 16 – Single family residential, light industrial, light commercial, open space, non-profit and non-organization in nature recreational uses, commercial/recreational uses, and public of quasi-public uses only may be permitted, if the area is proven to be less than 30% slope. The permitted uses will not create erosion or sedimentation problems.

Excessive slope area is isolated to a small, undeveloped portion of the project site and no new development is proposed as part of this project. The existing commercial development on the property is permitted per Policy 16 and will not create erosion or sedimentation problems

Map 9: Deer Wintering Areas

Policy 28 – Single-family residential, light commercial, light industrial, open space, non-profit and non-organizational in nature recreational uses, commercial/recreational uses, and public or quasi-public uses only may be permitted. The permitted uses will not create erosion or sedimentation problems.

The existing commercial use of the project site is permitted per Policy 28 and will not create erosion or sedimentation problems.

Policy 29 – The minimum parcel also permitted shall only be those as designated on the critical deer wintering area map. The permitted density will not create erosion or sedimentation problems.

The existing parcels were created prior to the General Plan Deer Wintering Areas map. No new parcel or change to the existing parcels is proposed as part of this project. The existing density will not create erosion or sedimentation problems.

Map 10: Wildfire Hazard

Policy 30 - All development proposed within a wildfire hazard area shall be designed to provide safe ingress, egress, and have an adequate water supply for fire suppression purposes in accordance with the degree of wildfire hazard.

No new development is proposed as part of this project. Any future development will be required to comply with fire safe standards enacted pursuant to Public Resources Code (PRC) Section 4290 and California Code of Regulations, Title 14, Fire Safe Regulations, to the satisfaction of Cal Fire and Siskiyou County Building.

California Environmental Quality Act (CEQA) Findings

1. Pursuant to CEQA Guidelines, Section 15061(b)(3), because there is not substantial evidence, in light of the whole record before the County, that the project would have a significant effect on the environment, this use permit project is exempt pursuant to the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines.
2. Pursuant to CEQA Guidelines, Section 15301, Class 1 projects consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures where there is negligible or no expansion of existing or former use. Because the zone change is proposed to correct the zoning district to one that more accurately reflects the historic use of the land for commercial purposes, and no new development is proposed, this project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301.
3. In making its recommendation, the Planning Commission has reviewed and considered the proposed project and all comments submitted and has determined that the record, as a whole, demonstrates that there is no evidence that the proposed project will have an individually or cumulatively significant effect.
4. The Planning Commission has determined that the custodian of all documents and material which constitute the record of proceedings shall rest with the County of Siskiyou Community Development Department.