

Resolution PC 2024-006

A Resolution of the Planning Commission of the County of Siskiyou, State of California, Conditionally Approving the McMahon Boundary Line Adjustment (BLA-23-18) and Recommending that the Board of Supervisors Determine the Project Exempt from the California Environmental Quality Act and Approve the McMahon Zone Change (Z-23-05) by Adopting a Draft Ordinance Rezoning 14 acres of APN: 020-400-190 from AG-2 to AG-2-B-40 and 6 acres of APN 020-380-030 from AG-2 to AG-2-B-40.

Whereas, an application has been received from Justin McMahon to rezone approximately 14 acres (APN 020-400-190) from Non-Prime Agricultural, AG-2 to Non-Prime Agricultural, 40-acre minimum parcel size (AG-2-B-40) and 6 acres of APN 020-380-030 from Non-Prime Agricultural (AG-2) to Non-Prime Agricultural, 40-acre minimum parcel size (AG-2-B-40); and

Whereas, the applicant concurrently submitted a boundary line adjustment application (BLA-23-18) to adjust the boundary between two legal parcels in order to consolidate all lands improved and utilized for agricultural uses on one large parcel; and

Whereas, the proposed boundary line adjustment was evaluated along with the proposed rezone pursuant to the California Environmental Quality Act (CEQA); and

Whereas, a Notice of Public hearing was published in the Siskiyou Daily News on March 6, 2024; 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 McMahon Zone Change (Z-23-05) and Boundary Line Adjustment (BLA-23-18) at a regular meeting of the Planning Commission on March 20, 2024; 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 the California Environmental Quality Act (CEQA) pursuant to *Existing Facilities* (Section 15301), which includes the operation of existing public or private structures, facilities, or mechanical equipment involving negligible or no expansion of existing or former use; and

Whereas, the Planning Division recommended approval of Boundary Line Adjustment BLA-23-18 and Zone Change Z-23-05 subject to the conditions of approval included in Attachment A-1 to this resolution; and

Whereas, on March 20, 2024, the chair of the Planning Commission opened the duly noticed public hearing on the McMahan Zone Change (Z-23-05) and Boundary Line Adjustment (BLA-23-18) to received testimony both oral and written, following which the Chair closed the public hearing and the Commission discussed the project prior to reaching its decision.

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 McMahan Zone Change (Z-23-05) and Boundary Line Adjustment (BLA-23-18):

1. Conditionally approves Boundary Line Adjustment BLA-23-18 based on the recommended findings and subject to the recommended conditions of approval contained in Attachment A-1 to this resolution; and
2. 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), Section 15301; and
3. Recommends that the Board of Supervisors of Siskiyou County approve Zone Change (Z-23-05), subject to the conditions of approval contained in Attachment A-1 to this resolution.

Exhibit A-1 to Resolution PC-2024-006
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.

Conditions of Approval

1. The project shall substantially conform to the project description, boundary line adjustment map, and zone change map reviewed by the Planning Commission on March 20, 2024, 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.
2. Development of the subject property shall comply with all adopted rules and regulations of the Siskiyou County Code and all other local and state regulatory agencies.
3. The applicant shall provide a legal description of the parcel that is to exist. The legal description must be typed on plain white paper with one-inch borders. The legal description must be prepared and submitted by either a Registered Civil Engineer that is licensed to practice land surveying (registered in California prior to 1982) or a Licensed Land Surveyor and be accompanied by a map showing the parcel as depicted by the legal description. The legal description and exhibit map shall be made to the satisfaction of the Deputy Director of Planning, whereupon they shall be recorded along with the other required boundary line adjustment documents.
4. The applicant shall provide the Planning Division with the name of the local title company that will complete all title documents and record the final approval. Upon recordation, the Planning Division shall be provided with copies of all documents including a "dated down" title report reflecting completion of all requirements.

Exhibit A-1 to Resolution PC-2024-006
Notations and Recommended Conditions of Approval

5. A notation shall be included on the recorded boundary line adjustment stating as follows:
“This approved boundary line adjustment relates only to issues of compliance or non-compliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcels described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinances enacted pursuant thereto. Development of the parcels may require issuance of a permit or permits, or other grant or grants of approval.”
6. The boundary line adjustment shall become null and void if the boundary line adjustment documents and any required deed(s) have not been recorded within one (1) year of the date of approval. A twelve (12) month extension of the expiration date may be obtained upon the submittal of a written application and fee to the Planning Division, prior to the expiration of the approved boundary line adjustment.
7. The approval of the boundary line adjustment does not guarantee that said parcel: (1) can be built upon; (2) has legal access; (3) has water and sewer to support development; or (4) there is the ability to obtain the necessary permits or other grant or grants of approval to allow development.
8. The existing Williamson Act contracts shall be rescinded and reissued and recorded simultaneously with the boundary line adjustment and in compliance with the Siskiyou County’s “Rules for the Establishment and Administration of Agricultural Preserves and Williamson Act Contracts”.
9. 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), officers 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.

Exhibit “A-2”
Recommended Findings – March 20, 2024
McMahon Zone Change (Z-23-05) and Boundary Line Adjustment (BLA-23-18)

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 above.
2. The proposed zone change application is consistent with Siskiyou County Code Title 10, Chapter 6, Article 28.
3. The proposed zone change to Non-Prime Agricultural (AG-2) and Non-Prime Agricultural with a 40-acre minimum parcel size (AG-2-B-40) is consistent with existing and permitted land uses surrounding the project site.
4. The proposed zone change is compatible with the surrounding zoning of Rural Residential Agricultural (R-R), Non-Prime Agricultural (AG-2) and Prime Agricultural (AG-1)
5. The proposed Resultant Parcels are consistent with the consequent zoning districts.

General Plan Consistency Findings

Composite Overall Policies

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

The uses presently allowed and established on the project site are compatible with the surrounding area and would remain the same.

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.

The uses presently allowed and established on the project site are not disruptive or damaging to mapped resources and would remain the same.

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 contains existing residential uses and will not create erosion, runoff, access, fire hazard or any other resource or environmentally related problems. No new development is proposed as part of this project.

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.

Resultant parcels have existing onsite sewage disposal systems.

Exhibit "A-2"
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Policy 41.7 Evidence of water quality and quantity acceptable to the Siskiyou County Health Department must be submitted prior to development approval.

Resultant Parcels have existing water wells.

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.

Both proposed parcel configurations have access to State Highway 97, a public road capable of handling traffic generated by the parcels. Additionally the Goltz parcel has access to Rainbow Way. No new development is proposed as part of this 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.

Map 2 Soils: 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 timing (where feasible) to lessen the effect of seasonal factors (rainfall and wind).

No new development is proposed as part of this project; any future development will be required to meet building code standards including any local, state, or federal applicable requirements for development. Because on-site soils consist of well drained, very gravelly loam and the terrain is without slopes exceeding 50%, the potential for erosion hazards has been evaluated as minimal and is consistent with Policy 7.

Map 8 : Surface Hydrology

Policy 27 No residential or industrial development shall be allowed on water bodies. Exceptions may be considered for water supply, hydroelectric power generation facilities, public works projects necessary to prevent or stabilize earth movement, erosion, and the enhancement of migratory fish and other wildlife, light commercial, open space, non-profit and non-organization in nature recreational uses, and commercial/recreational uses.

No new construction is proposed for the site at this time. This policy would be enforced with the review of any development application(s) for future construction purposes.

Exhibit "A-2"
Recommended Findings – March 20, 2024
McMahon Zone Change (Z-23-05) and Boundary Line Adjustment (BLA-23-18)

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. However, this project is on state Highway 97, which is a public road that provide safe ingress and egress. All future development would be required to meet ingress and egress standards to ensure wildfire safety, and future development would be reviewed to ensure there are no impact to existing water supply.

Map 11: Woodland Productivity

Policy 31 – The minimum parcel size shall be one acre on 0-15% slope, and 5 acres on 16-29% slope.

Policy 32 – 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.

Policy 33 – All land uses and densities shall be designed so as not to destroy timber productivity on large parcels of high suitability woodland soils. (Class I and II.)

The proposed project would not change the existing agricultural uses of the property with residences. The existing cattle ranch is compatible with the timber production potential of lands located in the Woodland Productivity area, and the parcel sizes of 10 and 467 acres meets the minimum parcel size requirement for woodlands with zero and fifteen percent slopes. As a result, the project is consistent with policies adopted for lands within the Woodland Productivity area.

Map 12: Prime Agricultural Soils

Policy 35 – The minimum parcel size on prime agricultural land shall be 40 acres.

The permitted uses will not create erosion or sedimentation problems.

The mapped prime agricultural land is within the resultant 467-acre parcel. There is no development proposed as part of this project and thus would not create erosion or sedimentation problems.

Policy 36 – In commercial agricultural areas mapped as prime agricultural land but proven not to be prime agricultural land or land clearly committed to urbanization, but not within a city or service district sphere of influence, the minimum parcel size shall be 10-20 acres, depending on distance from major agricultural areas.

The permitted density will not create erosion or sedimentation problems.

A minimum parcel size of 20 acres is required in areas that are adjacent to or in close proximity to major commercial agricultural operations.

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Recommended Findings – March 20, 2024
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The intent of this policy is to allow a higher density on land that is not capable of being productive for agriculture, and at the same time retaining a residential density in the major agricultural areas of the county that is compatible with agricultural interests.

No new parcels are proposed to be created as part of this project. The project includes rezoning a combined total of 14 acres between Non-Prime Agricultural (AG-2) and Non-Prime Agricultural with a 40-acre minimum parcel size (AG-2-B-40) which would ensure all resultant parcels are compliant with the proposed zoning designations of the resultant parcels.

Policy 37 – Only agricultural uses are permitted on prime agricultural soil.

No new uses are proposed as part of this project. The project proposes to consolidate the prime agricultural land on one 467-acre parcel and consolidate the non-farmable land for residential uses on one 10-acre parcel.

California Environmental Quality Act (CEQA) Findings

1. Because there is not substantial evidence, in light of the whole record before the County, that the zone change and boundary line adjustment would have a significant effect on the environment, Staff is recommending the "common sense exemption" be adopted in accordance with Section 15061(b)(3) of the CEQA Guidelines.
2. Section 15301, Class 1 projects consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures involving negligible or no expansion of use are categorically exempt from the provisions of CEQA. This exemption applies to the project because it involves property that is already developed with an existing agricultural operation, single-family dwelling, and accessory structures.
3. The Planning Commission has determined that the custodian of all documents and other material which constitute the record of proceedings shall rest with the County of Siskiyou Planning Department.
4. 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.