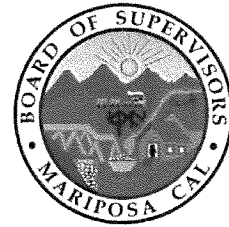


MARIPOSA COUNTY

Planning • 209-966-5151



RESOLUTION - ACTION REQUESTED 2018-550

MEETING: November 13, 2018

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Public Hearing: ZA 2018-160, LLA 2018-161, COC 2018-162, LCA Mod. 2018-163 APNs 004-100-039 & 026

RECOMMENDATION AND JUSTIFICATION:

PUBLIC HEARING: Adopt a Resolution Approving Zoning Amendment No. 2018-160, Lot Line Adjustment No. 2018-161, Certificate of Compliance No. 2018-162 and Land Conservation Act Modification No. 2018-163. Project Site is Located at 10488 and 10449 Converse Road, Coulterville CA. APNs 004-100-039 and 004-100-026, Miriam and Merlin Jones, Applicants.

The recommended action is based on the Planning Commission's recommendation.

The project proposes to:

1. Recognize two historic parcels within APN 004-100-039;
2. Adjust boundary between the two parcels - Parcel A (existing 131.24/proposed 16.14 acres) and Parcel B (existing 20.89/proposed 135.79 acres);
3. Amend zoning of adjusted Parcel B from Mountain Home Zone to Agriculture Exclusive Zone; and
4. Modify existing Land Conservation Act (LCA) Contract No. 56 encumbering adjacent APN 004-100-026 to include adjusted Parcel B into contract (modified LCA contract area 353.79 acres).

Please see the attached staff report for additional information.

The Staff Report attached to this item is prepared for two MinuteTraq Items (MT Item 8694 for adoption of a resolution and MT Item 8695 for waiver of the first reading and introduction of an ordinance).

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Board of Supervisors Resolution 2010-150, Mariposa County Rules of Procedure to Implement the California Land Conservation Act of 1965, provide LCA policy and application procedures.

Resolution - Action Requested 2018-550

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternatives: Approve with modifications.

Negative action would result in no LCA contract.

ATTACHMENTS:

Staff Report (DOC)

Attachment A - Vicinity Map (PDF)

Attachment B - LLA Site Map (PDF)

Attachment C - ZA LCA Site Plan (PDF)

Attachment D - PC Res. No. 2018-016 (PDF)

Attachment E - DRAFT NOE (DOC)

Attachment F - Draft BOS Resolution (DOC)

RESULT: ADOPTED [4 TO 0]

MOVER: Marshall Long, District III Supervisor

SECONDER: Miles Menetrey, District V Supervisor

AYES: Rosemarie Smallcombe, Marshall Long, Kevin Cann, Miles Menetrey

RECUSED: Merlin Jones

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS**

Resolution
No. 2018-550

A resolution approving Certificate of Compliance (COC) No. 2018-160, Lot Line Adjustment (LLA) No. 2018-161, Zoning Amendment (ZA) No. 2018-162 and Land Conservation Act Contract Modification No. 2018-163; APN Nos. 004-100-039 and 004-100-026; Miriam and Merlin Jones, applicants.

WHEREAS, applications for Certificates of Compliance, Lot Line Adjustment, Land Conservation (Williamson) Act contract modification and Zoning Amendment were received on July 30, 2018 from Miriam and Merlin Jones for property located at 10488 and 10449 Converse Road, Coulterville Ca, which proposes to: 1. Recognize two historic parcels within APN 004-100-039; 2. Adjust boundary between the two parcels - Parcel A (existing 131.24/proposed 16.14 acres) and Parcel B (existing 20.89/proposed 135.79 acres); 3. Amend zoning of adjusted Parcel B from Mountain Home Zone to Agriculture Exclusive Zone; and 4. Modify existing Land Conservation Act (LCA) Contract No. 56 encumbering adjacent APN 004-100-026 to include adjusted Parcel B into contract (modified LCA contract area 353.79 acres); and

WHEREAS, the Certificate of Compliance parcels were created prior to the adoption of the Subdivision Map Act regulations for minor subdivisions and made in accordance with the provisions of Section 66412.6. (a) of the Subdivision Map Act. The Certificate of Compliance Application complies with all applicable standards of the Subdivision Map Act, Title 16 of Mariposa County Code (the County Subdivision Ordinance), and current case law; and

WHEREAS, the lot line adjustment involves two (2) parcels and the adjusted configuration of Parcel A (16.14 acres) exceeds the minimum applicable required Mountain Home zone parcel size of 5 acres; and

WHEREAS, the Lot Line Adjustment Parcel B, is proposed to be included in the LCA Contract encumbering adjacent Assessor Parcel Number 004-100-026 and LCA Contract No. 56 must be modified to include the proposed adjusted Parcel B; and

WHEREAS, the existing and proposed LCA contract lands have been used for agricultural purposes for a minimum of three years; and

WHEREAS, the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS, a Staff Report and environmental determination were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act (CEQA), and local administrative procedures; and

WHEREAS, a project review was scheduled for the duly noticed Agricultural Advisory Committee meeting of October 18, 2018; and

WHEREAS, the Agricultural Advisory Committee did not hold their meeting on the noticed date due to lack of quorum and no Agricultural Advisory Committee recommendation was made; and

WHEREAS, a duly noticed Planning Commission public hearing for the project was scheduled for October 19, 2018; and

WHEREAS, the Planning Department determined that the certificates of compliance, lot line adjustment, establishment of a new agricultural preserve and execution of the modified LCA contract on the property are actions that are categorically exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15305, Minor Alterations in Land Use limitations, and 15317, Open Space Contracts or Easements; and

WHEREAS, the Planning Department determined that the Zoning Amendment of the subject parcel from Mountain Home Zone to Agriculture Exclusive Zone is exempt from CEQA pursuant to: CEQA Guidelines Section 15061(b)(3) (there is no possibility the activity in questions may have a significant effect on the environment); and

WHEREAS, staff recommended that the Planning Commission recommend that the Board of Supervisors approval of the applications; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments of the agent for the applicant; and

WHEREAS, the Planning Commission adopted Resolution 2018-016 recommending that the Board of Supervisors approve the applications and find the projects are exempt from environmental review pursuant to the CEQA and file a Notice of Exemption; and

WHEREAS, a duly noticed Board of Supervisors public hearing for the project was scheduled for November 13, 2018; and

WHEREAS, the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the Planning Commission's recommendations.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby: 1) find the projects are exempt from environmental review and 2) direct staff to file a Notice of Exemption.

BE IT THEREFORE FURTHER RESOLVED THAT the Board of Supervisors does hereby approve Certificate Of Compliance No. 2018-162, Lot Line Adjustment No. 2018-161, Land Conservation Act Contract Modification Application No. 2018-163 and Zoning Amendment No. 2018-160.

BE IT THEREFORE FURTHER RESOLVED THAT this action by the Board establishes a modified Agricultural Preserve on the subject property, and authorizes the chair of the Board to execute a modified Land Conservation Act Contract with the applicant.

BE IT THEREFORE FINALLY RESOLVED THAT this action is recommended based upon the findings set forth in Exhibit 1 and the conditions established in Exhibit 2.

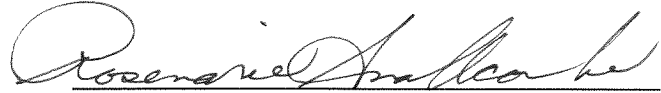
ON MOTION BY Supervisor Long, seconded by Supervisor Menetrey, this resolution is duly passed and adopted November 13, 2018 by the following vote:

AYES: SMALLCOMBE, LONG, CANN, MENETREY

NOES: NONE

ABSENT: NONE

RECUSED: JONES



Rosemarie Smallcombe, Chair
Mariposa County Board of Supervisors

Attest:



René LaRoche
Clerk of the Board of Supervisors

Approved as to Form:



Steven W. Dahlem
County Counsel

EXHIBIT 1
PROJECT FINDINGS

Certificate of Compliance No. 2018-162

1. **FINDING:** The parcels were created prior to the adoption of the Subdivision Map Act regulations for minor subdivisions and in compliance with the County Subdivision Ordinance. This finding is made in accordance with the provisions of Section 66412.6. (a) of the State Subdivision Map Act. The Certificates of Compliance Application complies with all applicable standards of the Subdivision Map Act, Title 16 of Mariposa County Code (the County Subdivision Ordinance), and current case law.

Lot Line Adjustment No. 2018-161

1. **FINDING:** The adjusted Parcel A acreage (16.39 acres) exceeds the minimum required by the applicable Mountain Home Zone which is 5 acres for adjusted Parcel A. The project is being processed with a zone change to the adjusted Parcel B (135.69 acres) from Mountain Home to Agriculture Exclusive Zone (AEZ). The AEZ is required for Parcel B to conform to the proposed Land Conservation Act (LCA) contract modification for inclusion with the adjacent parcel APN 004-100-026 LCA Contract No. 56. (This finding is made in accordance with the provisions of Section 17.108.040 of the Mariposa County Zoning Ordinance and Section 5.3.01 & 02. D. of the Mariposa County General Plan).
2. **FINDING:** The Lot Line Adjustment involves two (2) existing adjacent parcels. The adjustment results in land being taken from one parcel and added to an adjacent parcel, and a greater number of parcels than originally existed is not being created (this finding is made in accordance with the provisions of Section 66412(d) of the State Subdivision Map Act. The subdivision, upon compliance with the required conditions, complies with all standards of the Subdivision Map Act and Title 16 of the County Subdivision Ordinance).
3. **FINDING:** This project is exempt from the California Environmental Quality Act (CEQA) The Lot Line Adjustment is exempt from CEQA pursuant to:

15305. MINOR ALTERATIONS IN LAND USE LIMITATIONS. Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.

Land Conservation Act Modification No. 2018-163
Zoning Amendment No. 2018-160

Land Conservation Act Contract Modification

This project is reviewed in accordance with Mariposa County Resolution No. 10-150 implementing the Land Conservation Act in Mariposa County and California Government Code Section 51257 (Williamson Act Law) . The following findings are made:

1. **FINDING:** The project is found to support, accomplish, or have no effect on the goals, policies, and standards of the General Plan as a whole and will not obstruct the achievement of the Plan's purpose.

The Land Conservation Act promotes the preservation and development of agricultural lands, as encouraged by the Agricultural Element and its emphasis on preserving agricultural lands (Section 10.1.01 of The General Plan), and maintaining the rural character of the county (Section 10.1.04 of The General Plan). The Conservation and Open Space Element confirms the importance of maintaining the open space nature of the county. This project will result in the execution of amended Land Conservation Act contract, which is a 20 year commitment to agriculture and open space uses for the site. The preserve is consistent with the General Plan. The current and past use of the property is for agricultural purposes. This finding is made in accordance with Section 51234 of Government Code.

2. **FINDING:** The contract will continue to meet the minimum size (160 acres) established by the Board of Supervisors for an agricultural preserve because approval of the requested LCA modification the contracted lands would be 353.97 acres. The use of this property is for cattle grazing, or other Agricultural Production Uses or Compatible Uses as specified in the contract.
3. **FINDING:** The modified contract will restrict the adjusted boundaries for the same term as the existing contract on the properties.
4. **FINDING:** There is no net decrease in the total amount of acreage under contract.
5. **FINDING:** The lands under the original contract remain under the new contract and the total land area will increase for the modified LCA contract by 135.79 acres.
6. **FINDING:** After the adjustment, the modified contract will be large enough to sustain a commercial agricultural use (dryland grazing).
7. **FINDING:** The additional land under contract will not compromise the long-term agricultural productivity of the parcels or other agricultural lands subject to contract as the modification is an increase in the total acreage to 353.97 acres. The land will continue to be used for cattle grazing.

8. **FINDING:** The increase in total contracted acreage is not likely to result in the removal of adjacent land from agricultural use. There is no evidence to support a finding that this modification will have any effect on adjacent agricultural uses.
10. **FINDING:** The approval of the Land Conservation Act Contract Modification is based upon review of the project specific and site specific details of this case, as well as the needs of the applicants.
11. **FINDING:** This project is Categorically Exempt based on the following: CEQA Guidelines, Class 17; Section 15317, Open Space Contracts or Easements.

Zoning Amendment Findings:

1. **FINDING:** The amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare.

The proposed zone change of the 135.79 acres is required for zoning conformance per the Mariposa County's Rules of Procedure to Implement the California Land Conservation Act of 1965 (Board of Supervisors Resolution 10-150), Section III Land Conservation Act Contracts, C. 2. "Zoning Restrictions", that requires lands under contract to be in Agriculture Exclusive Zone. The public will benefit by the appropriate zone (Agriculture Exclusive) being applied to the site to support the Land Conservation Act where no physical change is proposed or required, and therefore, no potential adverse effects on the general public health, safety peace and welfare will result.

2. **FINDING:** The amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for county development and a short term basis for day-to-day decision making.

This amendment ensures that the uses and activities and are conforming to the zone. The Agriculture Exclusive zone is listed as being consistent with the applicable Planning Study Area- Residential land use classification.

3. **FINDING:** That amendment conforms to the requirements of state law and county policy.

This project has been processed in accordance with State law. According to State law, General Plans take precedence over zoning ordinances and one of the functions of the zoning ordinance is to implement the General Plan. This amendment conforms to the requirements of State law and county policy by ensuring consistency between Mariposa County's Rules of Procedure to Implement the California Land Conservation Act of 1965 (Board of Supervisors Resolution 10-150), Section III Land Conservation Act Contracts, C. 2. "Zoning Restrictions" and regulatory documents where the site zoning is required to be Agriculture Exclusive. Pursuant to review conducted the property is bona fide commercial agricultural land appropriate for the Agriculture Exclusive Zoning district.

4. **FINDING:** The amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan.

The amendment implements the General Plan by making the uses conforming to zoning and zoning conforming to the Mariposa County's Rules of Procedure to Implement the California Land Conservation Act of 1965 (Board of Supervisors Resolution 10-150), thereby meeting the standards within County Code titles consistent with those contained in the General Plan. The amendment is consistent with the guiding policies, goals, policies, standards and implementation measures of the General Plan.

5. **FINDING:** In the case of an amendment to the zoning classification on an individual parcel or General Plan Land Use Map:
- a. the subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development; and
 - b. the proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public.

The 135.79 acre area proposed for Agriculture Exclusive Zone is physically suitable for the ongoing agricultural use as rangeland (grazing lands) for livestock. The provision of utilities, infrastructure and land use compatibility is established at the site.

The proposed zoning is logical as it reflects the ongoing rangeland livestock grazing uses at the site and brings the subject lands into further conformance through the Agriculture Exclusive zone which provisions support the agricultural activities as a permitted use.

The proposed zoning puts all of the Smith Creek meadow in the area of the project, in the AE zone (to be protected by a LCA contract).

6. **FINDING:** This project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2), (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and CEQA Guidelines Section 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment).

The proposed zone change from the Mountain Home Zone to the Agriculture Exclusive Zone is to conform to requirements of the Mariposa County's Rules of Procedure to Implement the California Land Conservation Act of 1965 (Board of Supervisors Resolution 10-150). No improvements are proposed or approved as a part of the project.

EXHIBIT 2
PROJECT STEPS/CONDITIONS

Lot Line Adjustment No. 2018-161 and Certificate of Compliance No. 2018-162

1. Preparation of Amended Parcel Boundary Descriptions (APPLICANT'S RESPONSIBILITY):

A land surveyor or other qualified individual must provide the County Surveyor (Department of Public Works, 4639 Ben Hur Road, Mariposa 95338) with typed, stamped and signed legal descriptions describing the amended parcels (descriptions that include and exclude the transfer pieces). The County Surveyor requests that copies of the lot closure computations (with acreage) be supplied with the descriptions to validate the content of the descriptions.

2. Review of Legal Descriptions (COUNTY SURVEYOR'S RESPONSIBILITY):

When the descriptions are provided to the County Surveyor, they must be reviewed by him for accuracy. When the County Surveyor approves the legal description, he will provide the recordable legal descriptions to the Planning Department.

3. Payment of Taxes (APPLICANT'S RESPONSIBILITY):

As required by the County Tax Collector and the Assessor/Recorder, a Verification of Taxes Paid Form allowing recordation of a Certificate of Compliance must be submitted to Mariposa Planning for all parcels involved in the Lot Line Adjustment. In general, taxes on the subject parcels must be paid in advance for the current tax year before the Assessor/Recorder can map the change and assign new Assessor Parcel Numbers. The Tax Collectors Office should be contacted directly [(209) 966-2621] for more information and the amount which will need to be paid. The Tax Collector's Office should provide a Verification of Taxes Paid Form allowing Recordation of Certificates of Compliance for each parcel to Mariposa Planning. The Assessor/Recorder will not allow the recordation of the Certificates of Compliance without this form.

4. Payment of Recording Fees (APPLICANT'S RESPONSIBILITY):

Prior to recordation of the Certificates of Compliance, the applicant shall submit a check (made payable to the Mariposa County Recorder) based upon the recording fees as determined by Mariposa Planning.

5. Recordation of Certificates of Compliance (MARIPOSA PLANNING RESPONSIBILITY):

Mariposa Planning will record the Certificates of Compliance for both parcels involved in the lot line adjustment. This step completes the Lot Line Adjustment. The Certificate of Compliance confirms that the parcel was created legally and is eligible for development permits. A copy of the final recorded certificate of compliance will be mailed to the applicant(s) a few weeks following the recordation

CONDITION

1. **Certificates of Compliance:** The following shall be written on the Certificate of Compliance for adjusted Parcel B, if the LCA Contract is filed prior to or concurrently with the completion of the LLA:

“This parcel is enforceably restricted by a Land Conservation Act (LCA) Contract. This Contract limits use of the parcel to agricultural and compatible uses. Occupancy of residences on this parcel is restricted to persons directly engaged in the agricultural operations on site. All contract and Land Conservation Act Contract rules of procedure in effect pursuant to Resolution No. 10-150 must be complied with.”

Land Conservation Act Modification No. 2018-163
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1. **Preparation of Legal Description (APPLICANT’S RESPONSIBILITY):** Prior to recordation of the modified Land Conservation Act Contract, a typed, stamped, and signed copy of an approved amended legal description for all land to be placed under the modified contract must be provided by the applicant to Mariposa Planning.
2. **Preparation of Modified Land Conservation Act Contract (MARIPOSA PLANNING RESPONSIBILITY):** In order to complete this project, the amended Land Conservation Act Contract will be prepared by Mariposa Planning. Mariposa Planning will coordinate obtaining the signature of the representative authorized by the Board of Supervisors to sign the modified contract. Mariposa Planning will send the original contract to the property owner(s) involved in the application.
3. **Signing and Notarizing the Modified Land Conservation Act Contracts (APPLICANT’S RESPONSIBILITY):** The modified contract must be signed by the applicant(s), and the signature(s) must be notarized.
4. **Recordation of Modified Contract (MARIPOSA PLANNING RESPONSIBILITY):** When the amended contract is signed and notarized, Mariposa Planning will record the contract. This step completes the Land Conservation Act Contract Modification Process.
5. **Multiple Parcels** –The modified LCA contract shall include an express provision that prohibits the sale of the parcels individually during the term of the LCA Contract. A provision prohibiting the sale of parcels individually during the term of the contract will be included in the contract which encumber the parcels.