

STAFF REPORT

PROJECT INFORMATION

Application: PLN200001 Zone Change and Vesting Tentative Parcel Map
Date of Hearing: November 18, 2020 Planning Commission
Applicant/Owner: Johnson Family & Weiler Family Trusts
Location: Northwest corner SR 129 and Searle Road, San Juan Bautista
Assessor's Parcel No: APN 012-010-021
General Plan Designation: Rural/Commercial Regional
Zoning District: Existing: Rural (R) and Regional Commercial (C-3); Request to rescind C-3, revert to Rural and add Commercial Thoroughfare (C-1) Combining on approximately 21.1-acres
CEQA: Addendum to 2035 General Plan Final Environmental Impact Report, Resolution No. 2015-58
Project Planner: Darryl Boyd, Principal Planner

PROJECT DESCRIPTION

The project as requested by the property owners for the Planning Commission's consideration includes the following:

1. Change the County Zoning Map by ordinance to:
 - a. Rescind Ordinance No. 993 in its entirety to remove the Regional Commercial (C-3) Zoning District for the subject property, and
 - b. Revert to the previously existing Rural (R) Zoning District, and
 - c. Add the Commercial Thoroughfare (C-1) Combining Zoning District to approximately 21.1-acres of the property with specific site and property boundaries as depicted.
2. Approve a Vesting Tentative Parcel Map to subdivide the approximately 197-acre property into two (2) lots and a designated remainder.

The project does not include any specific new development proposal (use permit or site plan) or any other ground disturbing activities, such as a grading permit.

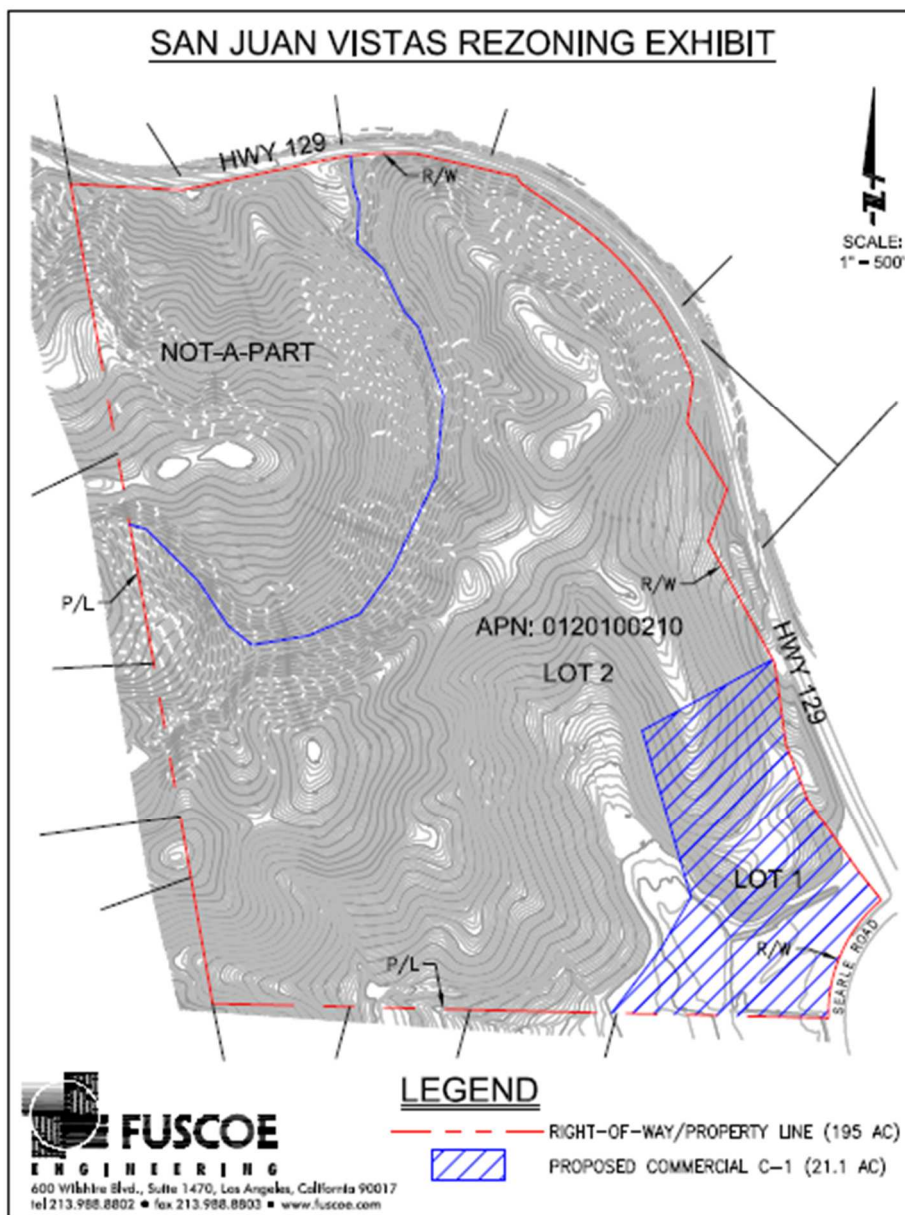
BACKGROUND

The San Benito County 2035 General Plan Figure 3-2 "Land Use Diagram (North County Detail)" and Figure 3-5 "Commercial and Industrial Nodes" identify a Commercial Regional "node" at State Route 129 and Searle Road. On September 24, 2019 Ordinance 991 added Article IV "Regional Commercial (C-3) District to the San Benito County Code to correspond with and implement the Commercial Regional land use designation of the General Plan. Additionally, by Ordinance 993, the zoning map was amended to designate 33 acres as Regional Commercial (C-3) at State Route 129 and Searle Road, including the subject property. Ordinance 991 has since been repealed by a referendum petition and defeat of Measure K in the March 3, 2020 election. However, Ordinance 993 remains in effect and the C-3 zoning classification of the site remains valid. Due to the repeal of the C-3 zoning regulations, there are no corresponding Commercial Regional zoning regulations that can currently implement the C-3 zoning classification or Commercial Regional land use designation at State Route 129.

SITE DESCRIPTION

The entire project site is outlined in red in the exhibit below and consists of approximately 197-acres located on the west side of U.S. 101 at the northwest corner of State Route 129 and Searle Road near the southbound on-ramp to U.S. 101. The site is primarily agricultural and vacant land. Surrounding uses include crop and grazing rangeland and an existing RV Park. The proposed vesting tentative parcel map (VTPM) is outlined in blue, showing Lots 1 and 2 and a designated “remainder”. The proposed C-1 zoning would be on the land area included in proposed Lot 1.

The site does include areas with slopes of 30% or greater. Those areas are shown as “non-buildable” on the VTPM. Access to the site is limited to those locations with less than a 20% slope also shown on the VTPM.



Surrounding land uses include agriculture in every direction around the proposed State Route 129 C-1 overlay area, Anzar High School to the southeast, residences to the southwest and industrial uses to the north. The San Benito River is located north of the site and runs northwest to southeast and the San Juan Canyon Creek flows from the northwest to the south and through the intersection of U.S. Highway 101 and State Route 129.

The following aerial photograph shows all the property previously included in the Regional Commercial C-3 rezoning outlined in red. The other properties are not included in this proposed project. The proposed C-1 District boundary is outlined in green.

Proposed SR 129/Searle Road C-1 District



GENERAL PLAN

The General Plan Land Use Diagram designation for the project site is Rural (R) and Commercial Regional (CR). The purpose of the Rural designation is to allow very low-density residential development in areas that are not primarily suited for agricultural uses, but due to the lack of public infrastructure (e.g., water, sewer, drainage) or for geographical reasons are unsuited for higher density residential designations. The maximum residential density is one dwelling unit per five acres. (1 DU/5 AC)

The County's 2035 General Plan includes the Land Use designation of Commercial Regional (CR). CR nodes are generally located as shown on General Plan Figure 3-2 "*Land Use Diagram (North County Detail)*" and Figure 3-5 "*Commercial and Industrial Nodes*. The purpose of the Commercial Regional designation is to provide areas that function as destinations for commercial activity serving the regional population. This designation intends to accommodate the location of such commercial uses at key intersections along U.S. Highway 101 and major State Routes, including Betabel Road. Uses could include shopping centers, truck and automobile stations, tourist-serving commercial uses, and hotels/motels.

The General Plan Land Use Diagram in Appendix 'A' of the General Plan defines a "commercial node" as:

"a strategically-located concentration of development (e.g., commercial, office, industrial, residential and/or a combination thereof) at, or within a reasonable distance from, the existing and future intersections of highways, state routes and major collectors or arterials, intended to prevent the typical linear or "strip" development in order to maintain or improve community character and to create easy access and high visibility for commercial businesses."

The County clarified the intent of this general geographic application of the Commercial Regional designation in its response to comment letter #12 included in the Final EIR dated June 19, 2015.

The General Plan includes several land use policies that are specific for the implementation of the new commercial regional nodes. General Plan Land Use Policy **LU-5.3 New Commercial Regional Nodes** states; "*The County shall encourage new Commercial Regional (CR) nodes to be located at or near existing or future highway interchanges, major intersections, and along existing or future transit facilities. Facilities should be located consistent with Figure 3-5 (and exclude the intersection of U.S. Highway 101 and State Route 156). In order to respect the scenic character of the county, new development at these commercial nodes shall be subject to design review before the County Planning Commission. Further, development within these commercial nodes is encouraged to contribute to the preservation of scenic areas along the designated scenic corridors within the County. The County shall also encourage additional access to new regional commercial centers through bicycle and pedestrian connections from residential uses as appropriate to the context.*"

General Plan Land Use Policy **LU-5.4 New Commercial Nodes Vision** states: "*The County shall encourage developers to reflect a cohesive vision for node development in site plans submitted as a part of applications for discretionary approval that recognizes the importance of the County's scenic resources and local character and quality of life attributes.*"

General Plan Land Use Policy **LU-5.5 Strip Commercial** states: *“The County shall discourage the creation of new strip commercial developments (e.g., non-cohesive commercial fronting a major arterial or state highway) in favor of centralized commercial node development that is located in the commercial nodes identified on the Land Use Diagram, and in Policies LU-5.1 to LU-5.3.”*

General Plan Land Use Policy **LU-5.6 Visitor-Oriented Commercial Uses** states: *“The County shall encourage visitor-oriented commercial uses that promote the local history, local economy (e.g., agriculture, wineries, recreation), and market locally-produced agricultural products.”*

General Plan Administration Element Policy **AD-3.5 Ordinance Consistency** states: *“The County shall maintain all applicable County ordinances and regulations to ensure their consistency with the adopted 2035 General Plan.”*

ZONING

The existing zoning for the property is Rural (R) and Regional Commercial (C-3). The project proposes to revert the zoning for the entire site back to the previous Rural District. C-1 would be added to the Rural base district for approximately 21-acres.

Government Code section 65850 mandates that county zoning ordinances be consistent with the general plan. When a zoning ordinance becomes inconsistent with a general plan by reason of an amendment to the general plan, the zoning ordinance must be amended within a reasonable time so that it is consistent with the general plan as amended.

The stated intent of the Rural District is to provide for areas within the county that are not primarily suited for agricultural uses, and lack services needed for higher density development. The R zone is intended to provide areas for mixtures of housing and small-scale agricultural uses. The R zone regulations may be modified by a combining or overlay district.

According to section 25.16.020 of the San Benito County Code, “the (Commercial Thoroughfare) C-1 district is specifically intended to provide establishments offering accommodations, supplies or services especially to motorists, and for certain uses such as commercial amusement and specialized automotive and related sales and service establishments which serve persons coming to them from large trading areas by automobile. The C-1 district will be located along major thoroughfares. Special development standards are incorporated in the district regulations to provide for orderly development and to minimize traffic hazards”.

In order to approve the C-1 zoning map amendment for the property, the Board of Supervisors must find that it is consistent with the 2035 San Benito County General Plan, including the policies cited above.

ENVIRONMENTAL EVALUATION

The Commission’s discretionary action on the rezoning and VTPM is subject to the California Environmental Quality Act (CEQA). The County has prepared an Addendum to the 2035 General Plan Final Environmental Impact Report (EIR), passed on July 21, 2015 by Resolution

No. 2015-58. CEQA Guidelines Section 15164 (d) states the decision-making body is only required to “consider the addendum with the 2035 General Plan Final EIR prior to making a decision on the project”.

Consistent with CEQA Guidelines Section 15164 an addendum is appropriate to provide environmental clearance for the proposed zoning action in that none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or Negative Declaration have occurred. Those conditions are:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Furthermore, the proposed rezoning is not subject to further environmental review in accordance with CEQA Guidelines Section 15126 in that rezoning to implement the General Plan Regional Commercial designation was considered in the preparation of the 2035 General Plan Update Final EIR. The decision-making body’s consideration and approval of the rezoning does not approve any development projects and will not result in any physical changes to the existing environment. The physical effects of potential future development cannot be determined until a specific development plan is submitted pursuant to the C-1 zoning regulations.

The County assessed the potential for any substantial effect on the environment by the VTPM consistent with the requirements of the CEQA and determined it can be found Exempt under CEQA Guidelines Section 15061(b)(3) because the project does not include any physical changes or change the allowed use of the property. The proposed parcel map is covered by the commonsense exemption that CEQA applies only to projects which have the potential for

causing a significant effect on the environment. It can be seen with certainty that there is no possibility that the parcel map may have a significant effect on the environment in that the project is a minor subdivision of property that does not include any proposed development or disturbance to the existing physical environment and it does result in any environmental impacts. Therefore, the VTPM is not subject to CEQA. Any proposed future development of the property or ground disturbing activity will require subsequent environmental review in accordance with CEQA requirements.

STAFF ANALYSIS

Zone Change

The purpose of this rezoning action is to implement the County’s 2035 General Plan Land Use Designations of Rural (R) and Commercial Regional (CR). Without C-3 zoning district regulations to implement the General Plan Land Use designation, reverting to the R District and adding the C-1 zone is the best alternative existing zoning district to implement the intent of the General Plan land use designation and associated General Plan policies.

County Code Chapter 25.45 authorizes changing the provisions of Title 25 “Zoning Code” whenever the public necessity, convenience and general welfare require such amendments. This chapter also establishes the procedures to be followed for such proposed changes. A zoning classification of a specific property must also be found to be consistent with the general plan land use designation and general plan policies. Following the presentation of a staff report and recommendation at a duly noticed public hearing, the Planning Commission can recommend and the Board of Supervisors can approve the proposed rezoning action if it finds it is consistent with the general plan and will serve the public necessity, convenience and general welfare, and is good zoning practice.

The proposed zoning map changes are an appropriate means to implement the General Plan Commercial Regional Land Use designation. A fundamental task of this General Plan implementation effort is to delineate the land area for inclusion in an individual regional node. Site mapping work for the SR 129/Searle Road property was completed and reviewed with the property owners and Planning Commission during the Regional Commercial (C-3) Zoning District approval process to establish commercial node boundaries.

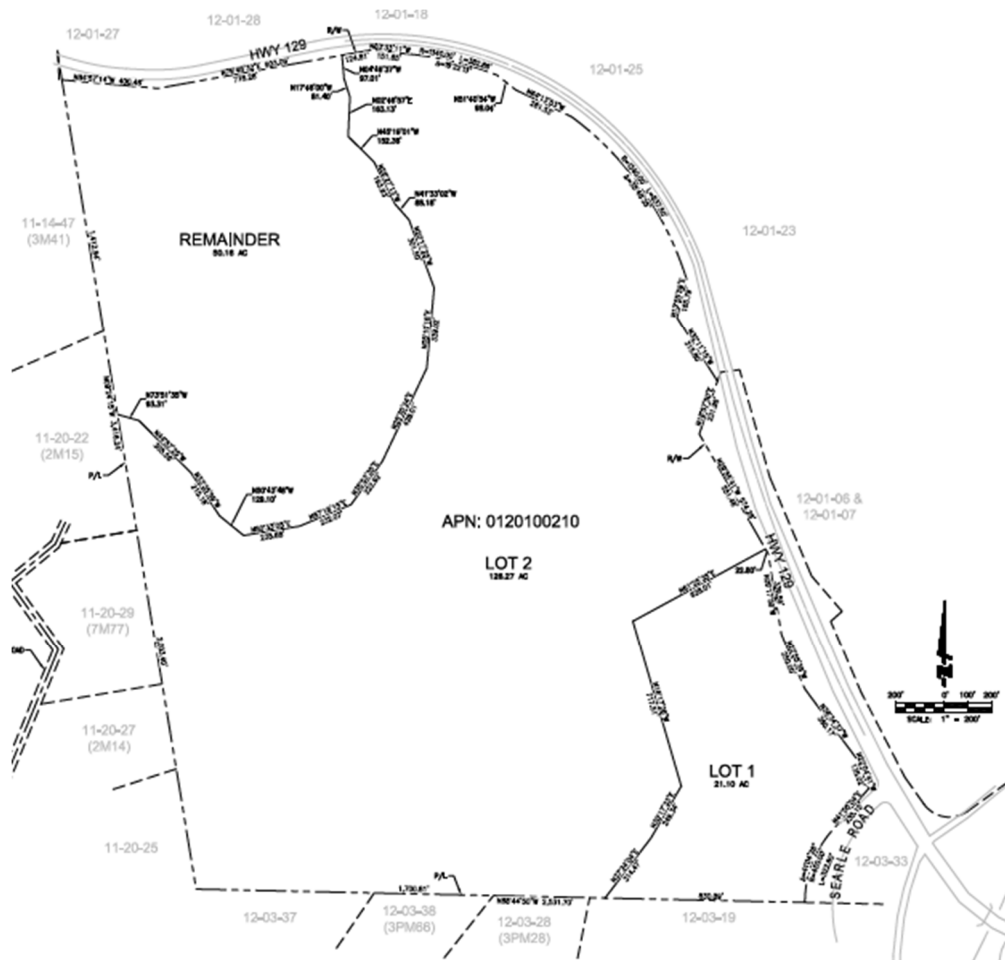
Vesting Tentative Parcel Map

The project consists of the division of a 197.53-gross acre property zoned for rural residential use into three parcels. The project site is currently vacant undeveloped grazing land. As shown on the Vesting Tentative Parcel Map the site includes areas with slopes of 30% or greater. The site has frontage along SR 129 and Searle Road. As shown in the exhibit below, the project is to subdivide the existing parcel into 3 lots;

Lot 1 -	21.10-acres
Lot 2 -	126.27-acres
Remainder Lot –	50.16-acres

The minor land division is in conformance with the 2035 General Plan and zoning. The proposed lot sizes meet the minimum lot size requirements and no variances or exceptions are required. All services and access to the proposed parcels are available to local standards since no development is proposed at this time.

Proposed Parcel Map



The existing parcel was not involved in a division of a larger parcel within the previous 2 years. The project will not result in any physical environmental disturbance and no development is proposed at this time. Any subsequent development proposal will be required to undergo project specific environmental review. The parcel does have areas with an average slope greater than 30 percent, however General Plan policies and County Code regulations limit the ability to develop or grade in areas with slopes of 15% or greater. Development and grading in areas with 30% or greater slope is generally prohibited and considered non-buildable by County policies and regulations.

Conclusion

In summary, staff’s opinion is that approval of the proposed zoning action will serve the public necessity, convenience and general welfare in that the rezone will implement the County’s

adopted 2035 General Plan goals and policies. The proposed rezone fulfills the direction and vision of the General Plan and includes the components necessary for good zoning practice. No specific development is proposed with this rezoning action. Subsequent development projects and permits will require consistency with the County 2035 General Plan and C-1 Zoning District requirements.

The zone change petition will serve the public necessity, convenience and general welfare in that it is consistent with General Plan Land Use Diagram and commercial node definition, as well as implementing the applicable General Plan goals and policies. The zone change is good zoning practice in that it establishes a district boundary consistent with the General Plan for the subject property and avoids riparian habitat and hillsides, minimizes the loss of agricultural land, and establishes specific regulations for development.

RECOMMENDATION

Staff recommends the Planning Commission:

1. Open and close the public hearing,
2. Consider the Addendum to the 2035 General Plan FEIR prior to deciding on the proposed zoning map amendment,
3. Adopt a Resolution recommending the Board of Supervisors adopt the draft Ordinance to amend the County Zoning Map to rescind Ordinance 993 to remove the C-3 District, revert to the Rural (R) District and add the Commercial Thoroughfare (C-1) Combining District to a 21.1-acre portion of the SR 129/Searle Road property as defined on the Zone Change Map, and
4. Find the Vesting Tentative Parcel Map exempt from CEQA and approve it with standard and special conditions.

ATTACHMENTS

1. Addendum, last revised November 10, 2020
2. Resolution to Consider the Addendum
3. Resolution to recommend BOS adoption of the zone change ordinance and map
4. Draft Zone Change Ordinance
5. Resolution approving VTPM
6. VTPM

C: Applicants/Property Owners:

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Property Owners' Representative

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