

STAFF REPORT

PROJECT INFORMATION

Application: PLN190060 Rezone Betabel Road to add Commercial Thoroughfare (C-1) to Implement 2035 General Plan Commercial Regional Land Use Designation

Date of Hearing: November 20, 2019 Planning Commission

Applicant/Owner: McDowell Charitable Trust

Location: 9664 and 9644 Betabel Road, San Juan Bautista

Assessor's Parcel No: APNs: 013-150-017, -018, -024 & -025 (totaling ~114 acres) portions of which to be rezoned, totaling 29 acres

General Plan Designation: Rangeland/ Commercial Regional (CR)

Zoning District: Request change from Regional Commercial (C-3) to Regional Commercial (C-3) and Commercial Thoroughfare (C-1) on approximately 29-acres

CEQA: Addendum to 2035 General Plan Final Environmental Impact Report, Resolution No. 2015-58; Resolution 2019-____ for consideration of the Addendum

Project Planner: County Planner: Taven Kinison Brown, Principal Planner Consultant Planners: Michael Groves, President Rachel Hawkins, Associate Planner, EMC Planning Group

BACKGROUND

The project includes the rezone of the Betabel Road C-3 District to add Commercial Thoroughfare (C-1), a combining district, as an alternative means to implement the Betabel Road's County 2035 General Plan land use designation of Commercial Regional (CR). The County's 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 Betabel Road. On September 24, 2019 Ordinance 991 added Article IV "Regional Commercial (C-3) District" to the San Benito Code to correspond with and implement the Commercial Regional land use designation. Additionally, by Ordinance 992, the zoning map was amended to designate 29 acres as Regional Commercial (C-3) at Betabel Road. Ordinance 991 has been suspended due to the submission of a citizens' referendum petition, the outcome of which is pending. Ordinance 992 is not subject to the referendum, and therefore, the C-3 zoning classification of the site went into effect. However, due to the suspension of the C-3 zoning regulations, there are no zoning regulations that can currently implement the C-3 zoning classification or Commercial Regional land use designation at Betabel Road.

Per Section 25.16.001(A) of the San Benito County Code, the Commercial Thoroughfare (C-1) district is a combining district. The C-1 district regulations modify the regulations of the base zone with which the C-1 district is combined. Further, "[e]xcept as modified in this section, or within any adopted specific plan, the base zone regulations apply."

Section 25.16.001 (B) states, “[t]he intent of the C-1 and C-2 districts is to provide for commercial development that is compatible with other land uses and will conveniently and effectively serve the needs of the people. The objective is to encourage limited commercial services to meet the needs of rural citizens as well as the needs of the weekend or recreational uses, but retain major cooperative shopping for the county within urban areas.”

Section 4 of Ordinance No. 991 (which adopts the C-3 zoning regulations) amends Section 25.16.001 to add subsection (C):

“(C) The C-3 Regional Commercial district shall act as an independent standalone (not combining) district. All of the C-3 district regulations, development standards and procedures are set forth in Article IV.”

There are two potential outcomes to the referendum petition: 1) C-3 zoning district regulations are approved by the voters; or, 2) the C-3 zoning district regulations are repealed by the Board of Supervisors, or disapproved by the voters. With the first scenario, the C-1 Zoning District Overlay could go into effect for less than two months, after which time the C-3 regulations would supersede the C-1 zoning regulations for the Betabel rezoned area. Any application in that interim period would still be subject to design review by the Planning Commission pursuant to 2035 San Benito County General Plan Policy LU-5.3, so it is unlikely that any project could be approved in that relatively short window of time. With the second scenario, while the underlying C-3 zoning classification would remain in place, the C-3 zoning district regulations to implement this zoning classification would not. Therefore, proposed future development would default to C-1 zoning district regulations. The outcome of the referendum cannot be known at this time. Therefore, neither scenario can be assumed. Commercial Thoroughfare (C-1), a combining district, could be an alternative means to implement the intent of the Commercial Regional General Plan land use designation regardless of the outcome of the referendum petition.

PROJECT DESCRIPTION

This agenda item implements the intent and purpose of the 2035 General Plan Land Use Policies and Diagrams designating Betabel Road Commercial Regional through the addition of a Commercial Thoroughfare (C-1) Overlay land use designation to the existing 29-acre C-3 zone at Betabel Road. The project does not propose any specific new development.

The project as proposed for the Planning Commission’s consideration includes the following:

1. Change the County Zoning Map by ordinance to rezone the land area within the existing Commercial (C-3) Zoning District at Betabel Road (adopted by Ordinance 992 September 24, 2019) to add a Commercial Thoroughfare (C-1) Zoning District overlay zone.

GENERAL PLAN

The County’s 2035 General Plan Commercial Regional (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*,” including one at Betabel Road. 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, including Betabel Road, and major State Routes. Uses could include shopping centers, truck and automobile stations, tourist-serving commercial uses, and hotels/motels (2035 General Plan, Table 3-1, p. 3-6).

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 specific land use policies 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."*

Betabel Road Node

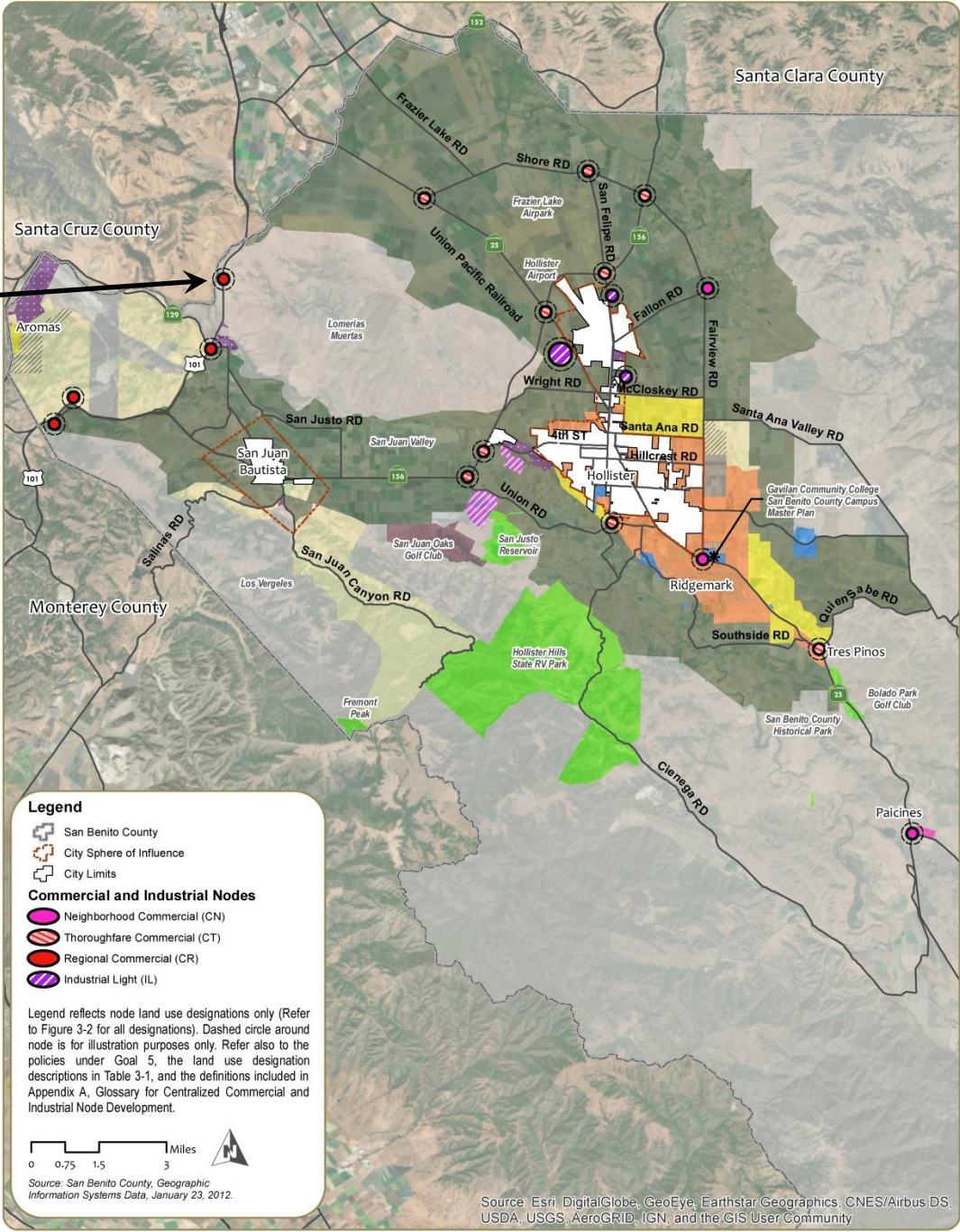


Figure 3-5
Commercial and Industrial Nodes

General Plan Figure 3.5 Commercial and Industrial Nodes

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.”*

ANALYSIS

As stated above in the project description, the purpose of this rezoning action is to provide an alternative means to implement the County’s 2035 General Plan Land Use Designation of Commercial Regional (CR) in the event that the C-3 zoning district regulations adopted with Ordinance No. 991 do not become effective.

Government Code section 65860 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. Suspension of Ordinance No. 991, and the possibility that it may be disapproved by the voters in March 2020, would result in the zoning ordinance not being consistent with the 2035 General Plan provisions for regional commercial nodes, because there would be no means to implement the general plan policies and land use designations.

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

C-1 Zoning District

The C-1 Code implements the relevant and applicable General Plan policies. 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 commercial amusement, accommodations, supplies, or services, especially to motorists, in keeping with the CR General Plan Land Use designation for the Betabel node. It is also intended for specialized automotive and related sales and service establishments serving persons traveling from large trading areas by automobile. This zoning classification meets the intent of the Commercial Regional land use designation to serve tourist traffic by allowing for establishments offering accommodations, supplies, or services geared to travelers and visitors. Additionally, the classification provides for select uses such as commercial amusement or recreation, and would allow for sales and promotion of regionally sourced goods.

The Betabel Road C-1 Overlay area is located along Betabel Road and Highway 101 about a quarter mile south of the overpass of the Betabel Road interchange. Per policy LU-5.4, development within the C-1 Overlay at Betabel Road will be required 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, local character, and quality of life attributes. Consistent with Policy LU-5.5, the C-1 Overlay District at Betabel Road serves to

prevent typical linear or strip development by restricting commercial development at Betabel Road to a 29-acre area at the general location identified in Figure 3-5 of the General Plan. Consistent with General Plan policy LU-5.6, the C-1 District allows for visitor-oriented commercial uses that promote the local history, local economy, and market locally-produced agricultural products. This is because the C-1 District allows commercial establishments as conditional uses such as souvenir and curio shops, and roadside stands that could promote these products (SBCC § 25.16.023 (G)).

Future development within the C-1 Overlay will require design review. The C-1 Overlay District has three levels of development approval: (1) site plan review, (2) administrative permit, and (3) conditional use permit. Many uses require a duly noticed public hearing before the Planning Commission, i.e., the conditional use permit process (see Section 25.16.023). This will provide for a higher level of project review and opportunity for appeal to the Board of Supervisors for many uses. However, per General Plan Policy LU-5.3, in order to respect the scenic character of the County, any new development at a regional commercial node, including Betabel Road, shall be subject to design review before the County Planning Commission. Design review is a discretionary approval that triggers CEQA review for any project applications.

The C-1 code includes development standards. The C-1 District has specific development standards and allows up to 40 percent lot coverage and development up to 35 feet in height, lot setbacks, parking requirements, and access way requirements. The Commercial Regional land use designation additionally limits development of the Betabel Road C-1 Overlay area to a Floor Area Ratio (FAR) of 0.8. Therefore, future development at Betabel Road could not exceed 1,010,592 square feet (29 acres at a FAR of 0.8) of commercial development consistent with the General Plan land use designation (2035 General Plan, Table 3-1, p. 3-6). C-1 District regulations further restrict development to 40 percent lot coverage (505,296 sq. ft., or about 11.6 acres) and 35 feet in height of buildings (SBCC § 25.16.025).

Zoning District Boundaries

The proposed C-1 Overlay District boundary is shown on the map attached to the staff report. The C-1 boundary would overlay the existing C-3 boundary established by Ordinance 992. The Betabel Road node is approximately 29-acres. The site is located on the west side of U.S. 101 and east side of the San Benito River at the Betabel Road off-ramp. Primary existing uses at the site include agricultural and vacant land due to the removal of previously existing industrial buildings. The site excludes the existing land area within the riparian corridor and some of the floodplain. Surrounding uses include crop and grazing rangeland on all sides. The rezoning will change the site zoning from Regional Commercial (C-3) to Regional Commercial/Commercial Thoroughfare (C-3/C-1).

ENVIRONMENTAL EVALUATION

The County's action on the rezoning of a portion of the Betabel Road property is subject to 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.

The Planning Commission and Board of Supervisors must find that none of the above conditions will occur as a result of the project. Additionally, the project requires that future development projects pursuant to the rezone must implement a number of additional mitigation measures to further ensure development and site specific impacts will be adequately mitigated to comply with the Mitigation Monitoring and Reporting Plan adopted by the Board of Supervisors in conjunction with the adoption of the 2035 General Plan.

The proposed rezoning is not subject to further environmental review in accordance with CEQA Guidelines Section 15126 because rezoning to implement the General Plan Regional Commercial designation was considered in the preparation of the 2035 General Plan Update Final EIR as a programmatic EIR, which contemplates staged environmental review. The

decision-making body's consideration and approval of the rezoning does not approve any specific development projects and will not result in any physical changes to the existing environment. Future consideration of any specific development projects will be subject to discretionary review – at a minimum, design review in accordance with General Plan Policy LU-5.3 – when the specific physical impacts on the environment can be determined, and will be subject to CEQA review.

STAFF ANALYSIS

Zone Changes

The proposed zoning map changes are an alternative means to implement the General Plan Commercial Regional Land Use designation. San Benito County Code Chapter 25.45 authorizes changing the boundaries of a zoning district wherever the public necessity, convenience and general welfare require amendments. This chapter also establishes procedures for changing zoning district boundaries. The Planning Commission may recommend and the Board of Supervisors may approve the proposed change if it finds it will serve the public necessity, convenience and general welfare, is good zoning practice, and is consistent with the General Plan. Government Code section

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 rezoning to add the C-1 Overlay District 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 necessary components 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 Overlay 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 Diagrams and commercial node definition, and implements applicable General Plan goals and policies. The zone change is good zoning practice because it establishes a district boundary consistent with the General Plan for the Betabel Road 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) Consider the Addendum to the 2035 General Plan FEIR prior to making a decision on the proposed zoning map amendment.
- 2) Recommend the Board of Supervisors adopt an Ordinance to amend the County Zoning Map for the 29-acre Betabel Road Regional Commercial (C-3) zone to add a Commercial Thoroughfare (C-1) Overlay.

ATTACHMENTS

1. Addendum/Initial Study revised
November 13, 2019
2. Planning Commission Resolution to
Consider the Addendum
3. Resolution to recommend adoption of the
zone change ordinance and map

Applicants/Property Owners:

“Betabel”
McDowell Charitable Remainder Trust
P.O. Box 485
Pebble Beach, CA 93953

Property Owners’ Representative

Daniel J. DeVries
P.O. Box 996
San Juan Bautista, CA 95045

San Benito County Staff Represented by:

EMC Planning Group, Michael Groves

“BETABEL” PROJECT INFORMATION

Application: PLN 180024-ZC1 “Betabel” (Zone Change)
Applicants/Owners: Thomas and Victoria McDowell Charitable Remainder Trust
Location: 9664 and 9644 Betabel Road, San Juan Bautista
Assessor’s Parcel No.: 013-150-017, -018, , -024 & -025
General Plan Designation: Rangeland/Commercial Regional
Zoning District: Request to change Regional Commercial (C-3) to Regional Commercial/Commercial Thoroughfare (C-3/C-1) on approximately 29-acres
CEQA: Addendum to 2035 General Plan Final Environmental Impact Report, Resolution No. 2015-58; Resolution to consider Addendum, Resolution 2019-____

SITE DESCRIPTION

The project site is outlined in red in the exhibit below, and consists of approximately 29 acres located on the west side of U.S. 101 and east side of the San Benito River at the Betabel Road off-ramp. The site is primarily agricultural and vacant land due to the removal of previously existing industrial buildings. The site excludes the existing land area within the floodplain/riparian corridor. Surrounding uses include crop and grazing rangeland and an existing RV Park.

Proposed Betabel C-3/C-1 District

