



County of Sonoma

State of California

Date: May 9, 2023

Item Number: _____

Resolution Number: _____

PLP20-0009 Chris Wendt



Majority Vote Required

Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Finding The Project Exempt From The California Environmental Quality Act (CEQA) And Approving Amendments To The Official Zoning Database To Immediately Rezone To Timberland Production Zone, And Approving The Cancellation Of An Existing Land Conservation Contract Conditional On The Rezone To Timberland Production Zone, And Approving A Phased Conditional Use Permit To Legalize Existing Resort Use For Property Located At 20111 Old Cazadero Road, Guerneville; APN 106-230-007 And 008, Supervisorial District No. 5.

Whereas, the applicant, The Wildwood Conservation Foundation, filed an application with the Sonoma County Permit and Resource Management Department to rezone 210 acres of land from RRD (Resources and Rural Development), B6 160-acre density, RC 50/50 (Riparian corridor with 50-foot setbacks to the TP (Timberland Production) B6 160-acre density, RC 50/50 (Riparian Corridor 50-foot setbacks district on property located at 20111 Old Cazadero Road, Guerneville; APN 106-230-007 and 008; Supervisorial District No. 5.

Whereas, the applicant has also petitioned to cancel the Land Conservation Contract recorded on February 16, 1971 at Book 2516, Page 582, of the Official Records of Sonoma County, and restricting property located at 20111 Old Cazadero Road, Guerneville; APN 106-230-007 and 008, (subject property) pursuant to Government Code Section 51282.5, permitting the immediate cancellation of a Land Conservation contract when the land it restricts is rezoned into Timberland Production Zone pursuant to the California Timberland Production Act, Government Code section 51100 et seq.

Whereas, the applicant has also applied for a conditional use permit to legalize the existing unpermitted structures on and resort use of the subject property.

Whereas, among other things, legalizing the resort use requires, in order: first rezoning the subject property to Timberland Production Zone, second, cancelling the Land Conservation contract restricting the subject property, and third obtaining a conditional use permit for the resort use; this is because resort use is not a compatible use for land

restricted by a Land Conservation Contract, but is a compatible use for land restricted by Timberland Production Zoning.

Whereas, the whole of the action is categorically exempt from the California Environmental Quality Act under the existing facilities exemption, Title 14, California Code of Regulations, CEQA Guideline 15301, as there is no proposed change to existing land use which has existed for the last forty years, and is a combination of timberland, conservation, and resort use; and under the common sense exemption, Title 14, California Code of Regulations CEQA Guideline § 15061(b)(3), because the project has no potential for causing a significant effect on the environment because it involves converting the restriction on the property from Land Conservation contract to Timberland Production Zone, where such change is statutorily exempt from CEQA, pursuant to California Government Code Section § 51119 and Title 14 California Code of Regulations CEQA Guideline § 15264, and issuing a conditional use permit to legalize long standing existing resort use of the property without any proposed expansion, negligible or otherwise, to that use, and maintaining the existing timberland and conservation uses of the property;

Whereas, in accordance with the provisions of law, and consistent with Government Code 65855, the Planning Commission held a public hearing on February 16, 2023, and February 23, 2023, at which time all interested persons were given an opportunity to be heard.

Whereas, the Planning Commission rendered a written recommend to the Board of Supervisors, Planning Commission Resolution No. ----, finding the project exempt from CEQA and approve the rezone to Timberland Production Zone.

Whereas, on March 14, 2023, the Board of Supervisors approved taking original jurisdiction over the proposed conditional use permit to allow all elements necessary to legalizing the current use of the property to be consolidated and heard as one item before the Board of Supervisors.

Whereas, all persons wishing to speak on this matter have had an opportunity to be heard by and submit oral and written comments to the Board of Supervisors pursuant to a noticed public hearing.

Now, Therefore, Be It Resolved, that the Board of Supervisors, finds the forgoing recitals are true and correct, and having considered all information in the record before it, including but not limited to the written recommendation from the Planning Commission, report from staff, and all public comments written and oral, and makes the following additional findings:

1. The state Timberland Productivity Act (Government Code §§ 51100 et seq.) (“TPA”) provides the criteria and mechanism for rezoning to the TP District. The TPA required applicable counties and cities to adopt an ordinance designating uses compatible with the primary use of land in TP zones, timber production and

harvest. In 1976 the Sonoma County Board of Supervisors adopted Ordinance 2119, creating the TP District in Sonoma County Code Chapter 26 (Zoning Code) and designating compatible uses in the TP District that were compatible with the primary use of timberland for production and harvest of trees. Ordinance 2119 provided that the permitted and conditionally permitted uses set forth for the TP District were designated as the compatible uses in the TP District. As enacted, “permanently located and improved private and public campgrounds, resorts and organized camps” are designated compatible use in the TP District that is allowed with a use permit; and

2. Immediately rezoning of the subject land, currently identified by APNs 106-230-007 and 106-230-008, from its current Resources and Rural Development (RRD) zone to the TP District would enable the applicant to continue to manage the project site as forest land and maintain existing compatible uses.
3. Under the Timberland Production Zone Act, timberland production zoning is a 10-year zoning term that automatically renews annually unless a notice of rezoning out of TP is recorded pursuant to state law.
4. The rezoning of the parcels to TP District is subject to the normal process for zone changes in that the proposed rezone first requires consideration by and recommendation from the Planning Commission before the Board of Supervisors may consider it, and here the Planning Commission has considered and recommended the proposed rezone.
5. The applicant property has concurrently petitioned the Board of Supervisors for immediate cancellation of the Land Conservation contract restricting the legal parcel, currently identified by APNs 106-230-007 and 106-230-008, conditioned on first obtaining and recording of a rezone of the property to Timberland Production in accordance with the TPA.
6. The applicant has also concurrently applied for a proposed use permit, the approval of which is conditioned on, among other things, the recordation of a Notice of Immediate Rezone to Timberland Production Zone, and subsequent recordation of a Certificate of Cancellation of Land Conservation Contract, for the parcels.
7. The Board of Supervisors approved taking original jurisdiction over the application for proposed use permit on March 14, 2023, which allows it to consolidate the proposed rezone, contract cancellation, and conditional use permit to be heard at one hearing.
8. All of the following state law criteria for rezoning to Timberland Production Zone have been met:

- a. A map has been prepared and submitted showing the legal description or the assessor's parcel number of the property desired to be rezoned;
 - b. A plan for forest management was prepared by registered professional forester (RPF) Matt Greene Forestry & Biological Consulting, dated April 2020 and on file with Permit Sonoma, which finds that the subject land is timberland as defined under state law; that timber on the site is growing between 24 and 33 cubic feet of timber per acre annually, exceeding state and local minimum stocking standards; and that timber may be harvested in the future as part of a variety of activities specified in the plan, including for commercial forest products; and
 - c. The project site was consistent with compatible uses at the time of application and, as recommended and considered by the Planning Commission, the rezone application would not be approved unless the Board of Supervisors adopts an ordinance to reinstate "resort" as a compatible use that is conditionally permitted in the TP District.
 - d. Placing the project site's approximately 210 acres of land into Timberland Production zoning meets the criteria of Government Code Section 51104(f) and (g) because the land contains the soils and climate capable of producing timber and is contiguous to timberland already zoned as timberland production and therefore is consistent with Government Code Sections 51113.5 and 51141.
 - e. Resort use is a compatible use in the TP District and the existing resort facility is compatible with the primary purpose of the TP District. The resort facility occupies less than three percent of the approximately 210-acre project site and would not conflict with forestland management on the remainder of the project site.
9. The proposed zone change to Timberland Production zoning district is consistent and compatible with the project site's Resources and Rural Development land use designation (RRD) in the Sonoma County General Plan. The change to Timberland Production zoning is consistent with the General Plan's RRD policy "to protect lands needed for commercial timber production under the California Timberland Productivity Act."
 10. Pursuant to Government Code § 51282.5, the Board of Supervisors is required to approve the cancellation of a Land Conservation Contract when any owner of land petitions for such cancellation for land which is zoned timberland production pursuant to Government Code 51112 or 51113 and which has a

recorded notice of such zoning.

11. The applicant has petitioned for cancellation of a Land Conservation Contract originally recorded on February 16, 1971 at Book 2516, Page 582, of the Official Records of Sonoma County, and restricting property located at 20111 Old Cazadero Road, Guerneville; APN 106-230-007 and 008, consistent with Government Code Section 51282.5, and California Timberland Production Act, Government Code section 51100 et seq., which is conditional on the recordation of a Notice of Rezone to Timberland Production zoning as required by Government Code § 51282.5.
12. The applicant has applied for a use permit to legalize existing resort use of the subject property, which meets the requirements of the General Plan and Zoning Code as follows:

- a. General Plan Consistency findings:

The proposed Use Permit is consistent and compatible the Sonoma County with the project site's Resources and Rural Development land use designation (RRD) in the Sonoma County General Plan. The proposed resort/retreat use is consistent with the General Plan's RRD policy of permitting "Lodging, campgrounds, and similar recreational and visitor serving uses".

- b. Compliance with Zoning Code findings:

The proposed Use Permit is consistent and compatible the Sonoma County Zoning Code as Resort Use is an allowed land use in the Timberland Production Zoning District with the approval of a use permit per Section 26-22-30.1.

13. Fire Safe Standards Compliance.

- a. The County of Sonoma, like many other counties, in 2017 had a local fire safety ordinance that had been certified by the Board of Forestry. All local fire safety ordinances throughout the State expired on January 1, 2020.
- b. The Board of Forestry took action to stop certifying all local ordinances in the State, and focus edits efforts on updating its regulations as directed by the Legislature, including its requirements for existing roads outside of parcel boundaries.
- c. The Board of Forestry's process of updating its regulations is ongoing and involves input from the public and stakeholders statewide regarding potential requirements for existing roads outside of parcel boundaries,

and minimum road width standards for existing roads throughout California.

- d. The Board of Forestry's draft regulations have not been adopted and do not apply to the Project. Board of Forestry fire safe standards regulations in effect since July 2020 apply to the Project.
- e. CAL FIRE has delegated Inspection Authority to the Sonoma County Fire Prevention Division to inspect projects for compliance with fire safety laws. 14 CCR §1270.05(a)(3).
- f. The current Board of Forestry regulations authorize an applicant to request an exception to Standards. Exceptions to Standards are authorized by the Board of Forestry regulations as an alternative to a specific standard due to health, safety, environmental conditions, physical site limitations or other limiting conditions that provides mitigation of the problem. 14 CCR§1271.00. Upon request by the applicant, the Inspection Authority may grant an Exception to Standards where the exceptions provide the same practical effect as the Board of Forestry regulations towards providing defensible space. 14 CCR §1270.06. Same practical effect means an exception or alternative with the capability of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety, including: (a) access for emergency wildland fire equipment; (b) safe civilian evacuation; (c) signing that avoids delays in emergency equipment response; (d) available and accessible water to effectively attack a wildfire or defend a structure from wildfire; and (e) fuel modification sufficient for civilian and fire fighter safety.14 CCR §1271.00.
- g. Here, the Project applicant requested an exception to the Board of Forestry standards for the road width and dead-end road standards (14 CCR §1273.01 and §1273.08). The applicant included material facts and mitigation alternatives, documented with site maps.
- h. The Sonoma County Fire Marshal considered the applicant's request, including the following:
 - i. If the applicant were required to pay for the widening and upgrades to the existing Old Cazadero Road, or replacement of the bridge over Austin Creek or seasonal crossing to reconnect Cazadero and Guerneville, it would constitute a physical site limitation and result in environmental conditions from the significant amount of grading, paving, and roadwork to improve

the road outside of parcel boundaries as well as a significant financial burden to improve existing County Right-of-Way.

- ii. To allow for emergency wildfire equipment access concurrently with civilian evacuation, the application includes proposed signage to alert drivers along Old Cazadero Road to yield to emergency vehicle traffic in the event of emergencies to allow for safe emergency wildfire equipment access concurrently with civilian evacuation and to avoid delays in emergency response.
- iii. Wildwood acknowledges and appreciates the recent work done by Sonoma County TPW at its own direction and expense, to maintain and increase fire equipment accessibility along Old Cazadero Road for the safety of all residents and guests along the road, including those accessing Wildwood.
- iv. The project includes available and accessible water storage tanks and an existing swimming pool to effectively attack or defend a structure from wildfire.
- v. In close coordination with Wildwood's Conservation Easement partner, Golden State Land Conservancy, Wildwood has undertaken extensive understory management, removal of non-native fire hazardous vegetation, and laddering of preserved trees according to standards. Wildwood will continue to manage ongoing defensible space in the vicinity of inhabited buildings. The area around all buildings has been cleared of underbrush and defensible space and hard surfaces exist around all the buildings.
- vi. To retain the ability to communicate during power outages, especially fires, Wildwood is currently hosting the prototype GMSR radio repeater that is being used by the Department of Transportation and Public Works (DTPW) for their next-generation GMSR CONEX self-contained, fire-hardened repeaters. The prototype has been installed by DTPW and will be improved and maintained at the county's expense.
- vii. Wildwood has coordinated fire safe and vegetation management workshops with CAL FIRE and Sonoma County Fire Prevention staff that included participation by neighbors of the site.
- viii. The Fire Marshal also required conditions of approval related to a Fire Prevention Plan prepared by the applicant, employee training in the use of regulated materials to meet Fire Code requirements, and vegetation management to ensure defensible space.

- i. On February 7, 2023, Wildwood submitted an Emergency Action Plan that was reviewed by Monte Rio Fire Chief Steve Baxman and which identifies conditions under which an evacuation would be necessary, designates a clear chain of command, and determines appropriate evacuation procedures including the cancelling of event and the evacuation of guests from the property if a Voluntary Evacuation Order is issued.
- j. The County' Fire Marshal, acting as the Inspection Authority as officially designated by CAL FIRE, has determined those conditions of approval have the same practical effect as defined in the current regulations, thereby ensuring that the Project meets state law requirements.
- k. The Board of Forestry regulations, 14 CCR §1270.05(b)-(c) allow members of the public to report alleged violations to CAL FIRE to conduct an independent review and ensure compliance with state law.
- l. On September 9, 2021, the Sonoma County Fire Marshal submitted the approved Exception to Standard for this Project. CAL FIRE has not objected to the Fire Marshal's determination of same practical effect for this Project.

14. General Use Permit Finding.

- m. The establishment, maintenance, or operation of the use for which application is made, will not, under the circumstances of this case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the area of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area.

Be It Therefore Resolved, that the Board of Supervisor hereby:

- A. Approves and adopts Ordinance No. (_____)

"An Ordinance of the Board of Supervisors of the County of Sonoma, State of California, Amending the Official Zoning Database of the county of Sonoma, adopted by reference by Section 26-02-110 of the Sonoma County Code, by reclassifying certain real property from RRD (Resources and Rural Development), B6 160-acre density, RC 50/50 (Riparian Corridor with 50-foot setbacks) to TP (Timberland Production), B6 160-Acre Density, RC 50/50 (Riparian Corridor with 50-foot setbacks) zoning district for 210

acres of land located at 20111 Old Cazadero Road; APN 106-230-007 and 008.”

- B. Delegates to the Chair of the Board authority to execute documents necessary to effectuate the rezoning and recordation of a Notice of Immediate Rezoning to Timberland Production Zone; and
- C. Directs the Permit and Resource Management Department to record the Notice of Immediate Rezoning to Timberland Production Zone in a form approved by County Counsel, and to provide a copy of the recorded Notice to the Assessor’s Office.

Be It Further Resolved, that the Board of Supervisors:

- A. Approves the Petition for Cancellation of Land Conservation Contract for the Contract identified at Official Records of the Sonoma County Recorder at Book 2516, Page 582, which was recorded on February 16, 1971, as to the approximately 210 acres of land located at 20111 Old Cazadero Road and currently described by APN 106-230-007 and 008, and makes this approval conditional on the recordation of a Notice of Immediate Rezoning to Timberland Production Zone for the subject property such that the cancellation is not effective until after the Notice of Rezone to Timberland Production Zone is recorded.
- B. Delegates to the Chair of the Board authority to execute documents necessary to effectuate the Cancellation of Land Conservation contract and the recordation of a Certificate of Cancellation, in a form approved by County Counsel.
- D. Directs the Permit and Resource Management Department to record the Certificate of Cancellation for the Land Conservation Contract after, and in no case before, the Notice of Rezone to Timberland Production Zone is recorded, and to provide a copy of the recorded Certificate to the Assessor’s Office.

Be It Further Resolved, that the Board of Supervisors approves the requested conditional use permit, which shall not be effective unless and until a (1) Notice of Immediate Rezone to Timberland Production Zoning and (2) Certificate of Cancellation for Land Conservation Contract are recorded in that order, and all other conditions of approval are satisfied.

Be It Further Resolved, that the Board of Supervisors finds and determines that the whole of the action is categorically exempt from the California Environmental Quality Act under the existing facilities exemption, Title 14, California Code of Regulations, CEQA Guideline 15301, as there is no proposed change to existing land use which has existed for over forty years, and is a combination of timberland, conservation, and resort use, where no exceptions listed under Section 15300.2 apply; and under the common sense exemption, Title 14, California Code of Regulations CEQA Guideline § 15061(b)(3), because the project has no potential for causing a significant effect on the environment because it involves converting the restriction on the property from Land

Conservation contract to Timberland Production Zone, where such change is statutorily exempt from CEQA, pursuant to California Government Code Section § 51119 and Title 14 California Code of Regulations CEQA Guideline § 15264, and issuing a conditional use permit to legalize long standing existing resort use of the property without any proposed expansion, negligible or otherwise, to that use, and maintaining the existing timberland and conservation uses of the property;

Be It Further Resolved, that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based, including the original executed Contract and Land Conservation Plan. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Supervisors:

Gorin:

Rabbitt:

Gore:

Hopkins:

Coursey:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.