



Sonoma County Planning Commission STAFF REPORT

FILE: ZCE18-0021
DATE: May 2, 2019
TIME: At or after 2:20 pm
STAFF: Nina Bellucci, Project Planner

**Board of Supervisors Hearing
will be held at a later date and
will be noticed at that time.**

SUMMARY

Applicant:	Miguel and Monika Pelayo
Property Owner:	Enrique Pelayo and Josefina Pelayo, Miguel Pelayo and Monika Pelayo
Location:	5565 Bodega Avenue, Petaluma
Supervisory District No.:	2
APN:	113-010-003
Subject:	Zone Change
Proposal:	Request for a Zoning Change to remove the Z Accessory Dwelling Unit Exclusion Combining District from a parcel zoned LEA B6 60 Z, RC 50/50 SR
Environmental Determination:	CEQA Exempt (Pub. Resources Code section 21080.17, ordinances implementing Government Code section 65852.2 re accessory dwelling units; CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations)
General Plan Land Use:	LEA 60 (Land Extensive Agriculture, 60 acres per dwelling unit density)
Specific/Area Plan Land Use:	Petaluma Dairy Belt Area Plan, Land Extensive Agriculture
Ordinance Reference:	Article 6 – LEA Land Extensive Agriculture District Article 76 – Z Accessory Dwelling Unit Exclusion Combining District Article 88, Sec. 26-88-060 – Accessory Dwelling Units
Zoning:	LEA (Land Extensive Agriculture District) B6 60 (60 acres per dwelling unit density) Z (Accessory Dwelling Unit Exclusion Combining District), RC 50/50 (Riparian Corridor Combining District, 50-foot setbacks) SR (Scenic Resources Combining District)
Recommendation:	Adopt a resolution recommending that the Board of Supervisors find the project exempt from CEQA and that it approve the requested zone change.



EXECUTIVE SUMMARY

The property owners request approval of a zoning change to remove the Z (Accessory Dwelling Unit Exclusion) Combining District on a 2.9-acre parcel. The property owners wish to build an accessory dwelling unit (ADU). The Z combining district was applied to the parcel and the surrounding area in order to protect agricultural lands from overdevelopment and conversion to nonagricultural uses. General Plan Housing Element Policy HE-3c allows for removal of the Z combining district from agricultural parcels of less than ten acres in size, "where appropriate." The parcel is located in the Petaluma Nitrate Waiver Prohibition Area, which was established to protect groundwater from further contamination resulting in part from wastewater generated through residential uses.

BACKGROUND

The Z combining district was applied to the subject parcel as part of the implementation of the 1989 General Plan. The parcel had a General Plan Land Use designation of Agriculture Exclusive (AE) prior to the 1989 General Plan; lands with that land use designation were designated Land Extensive Agriculture (LEA) in the 1989 General Plan. The Board of Supervisors adopted Ordinance No. 4643 rezoning agricultural and resource lands to match the new General Plan designations. All lands that were previously designated as AE (including the subject parcel) and those that were subject to an active Land Conservation Act Contract were rezoned to add the Z (Accessory Dwelling Unit Exclusion) Combining District. The rationale for the application of the Z combining district to agricultural parcels was that many of those parcels were already allowed to accommodate a variety of housing units which do not count towards density and are directly related to agriculture (i.e., agricultural worker units and farm family dwellings), when the land has capacity for agricultural production. At the time, enabling accessory dwelling units on properties that were already eligible for several types of ancillary agricultural housing units was a policy concern, due to the potential for overdevelopment on agricultural lands, and because of potential conflicts between agricultural operations and residential uses on site.

However, many substandard parcels (parcels smaller than the minimum parcel size set forth in the General Plan or zoning) that received the Z combining district do not qualify for agricultural housing because they do not meet the threshold criteria for those housing types (the lot is too small, or there is insufficient acreage in agricultural production, etc.).

The subject parcel is located in the Petaluma Nitrate Waiver Prohibition Area, one of several areas in Sonoma County designated as waiver prohibition areas, where variances or waivers to septic development standards (per Section 17 of the Sonoma County Onsite Wastewater Treatment Systems Manual) are not allowed, or where there are special standards for construction of wells or septic systems. Special standards required in the Petaluma Nitrate Waiver Prohibition Area were established by ordinances 2607 (1980) and 3019 (1982), following the discovery of serious nitrate contamination in groundwater in the area. Those standards include wet weather groundwater determination and percolation testing for all septic systems, and minimum annular seals of at least 100 feet for water wells.

While the Z combining district was sometimes applied to parcels because they are located in waiver prohibition areas, that is not the case here. As discussed above, the subject parcel was zoned AE (Agriculture Exclusive) prior to the 1989 General Plan, and as part of the 1989 General Plan implementation, the Z combining district was applied to all parcels formerly designated AE.

Permit Sonoma, with Board of Supervisors direction, is currently developing a proposed ordinance that refines where the Z combining district is applied, that effectively addresses the concern of residential over-crowding on

agricultural parcels, while allowing ADUs on agricultural properties that do not qualify for accessory agricultural housing. This refinement proposes removal of the Z combining district from over 1,000 parcels countywide that meet defined criteria. The subject property here meets several of the site criteria identified by Permit Sonoma as bases for removal of the Z combining district under the countywide initiative. However, parcels in waiver prohibition areas are not included in the countywide legislative proposal due to the differing site-specific environmental and regulatory constraints in the various waiver prohibition areas. Parcels in waiver prohibition areas would continue to be considered on a case-by-case basis. Most waiver prohibition areas are characterized by clusters of small parcels without the ability to provide adequate setbacks for septic systems to neighboring wells. That is not the case for the subject parcel, which is a 2.9-acre parcel surrounded by parcels of 16 acres to more than 100 acres.

ANALYSIS

PROJECT DESCRIPTION

The applicant is requesting removal of the Z (Accessory Dwelling Unit Exclusion) Combining District from a 2.9-acre parcel to allow for an accessory dwelling unit. The parcel is served by an on-site septic system and well.

SITE CHARACTERISTICS

The parcel is located on the south side of Bodega Avenue, approximately four miles west of the Petaluma city limits. The parcel is 2.9 acres, and is currently developed with a single-family dwelling and a barn. The parcel is located in a Class 1 Groundwater Availability Area (Major Groundwater Basin), and in the Petaluma Nitrate Waiver Prohibition Area.

Ordinances No. 2607 and No. 3019 established standards for well and septic permits in the Petaluma Nitrate Waiver Prohibition Area. Those standards would need to be met in order to obtain a building permit for an accessory dwelling unit on this parcel.

SURROUNDING LAND USES AND ZONING

The parcel is surrounded by agricultural and residential land uses. All adjacent parcels south of Bodega Avenue are zoned LEA (Land Extensive Agriculture) B6 60 (60 acres per dwelling unit density), Z (Accessory Unit Exclusion Combining District). Parcels across Bodega Avenue are zoned LEA B7 (frozen lot size) Z.

Several parcels of similar size, also in the Petaluma Nitrate Waiver Prohibition Area, along Bodega Avenue to the west of the subject parcel are zoned LEA B6 60, and do not have the Z combining district applied. Those parcels were zoned A1 prior to the implementation of the 1989 General Plan, and so they were not given the Z designation during the implementation.

DISCUSSION OF ISSUES

GENERAL PLAN CONSISTENCY

Land Use Element. The General Plan land use designation for the subject parcel is LEA 60 (Land Extensive Agriculture, 60 acres per dwelling unit). Residential uses in conformance with permitted densities are permitted uses on LEA-designated parcels. Accessory dwelling units do not count toward a parcel's allowed density; therefore the addition of an accessory dwelling unit on this parcel would be consistent with its allowed density.



Per the General Plan Land Use Element, the LEA land use designation is meant “to enhance and protect lands capable of and generally used for animal husbandry and the production of food, fiber, and plant materials.” However, the Land Use Element also notes that “soil and climate conditions typically result in relatively low production per acre of land” and the stated objective in land extensive agricultural areas is to “establish and maintain densities and parcel sizes that are conducive to continued agricultural production.” The LEA designation criteria requires lot sizes of 60 acres or more. At 2.9 acres, the parcel is not large enough to support significant agricultural activity of the type normally seen in LEA areas.

Agricultural Resources Element. The General Plan Agricultural Resources Element contains the following objectives:

Objective AR-2.4: *Reduce economic pressure for conversion of agricultural land to nonagricultural use.*

Objective AR-3.1: *Avoid the conversion of agricultural lands to residential or nonagricultural commercial uses.*

Objective AR-4.1: *Apply agricultural land use categories only to areas or parcels capable of the commercial production of food, fiber and plant material, or the raising and maintaining of farm animals including horses, donkeys, mules, and similar livestock. Establish agricultural production as the highest priority use in these areas or parcels.*

These objectives are intended to protect existing agricultural uses and prevent the conversion of agricultural lands to non-agricultural uses. Considering the proposal in light of these objectives, the subject parcel is not currently in agricultural use and is considerably smaller than surrounding parcels. Given its size, the property would likely not support the “commercial production of food, fiber, and plant material or the raising and maintaining of farm animals” as stated in Objective AR-4.1. Due to its small size and lack of agricultural production, the property is not eligible for any of the accessory agricultural housing types available on larger agricultural lots in active agricultural use. As a result, adding the possibility of an accessory dwelling unit on this property would not create concerns related to residential over-development on agricultural lands.

Housing Element. General Plan Housing Element Policy HE-3c allows consideration of removing the Z combining district on agricultural parcels:

Review “Z” (Second Dwelling Unit Exclusion) Combining District restrictions on agricultural parcels of less than 10 acres county-wide, and consider removing the restrictions where appropriate.

The Board of Supervisors adopted this policy, and directed staff to implement it on a case-by-case basis. The subject parcel is zoned for agriculture and is 2.98 acres in size. Removing the Z combining district is consistent with Policy HE-3c.

Petaluma Dairy Belt Area Plan Consistency. The subject parcel is in the area governed by the Petaluma Dairy Belt Area Plan, which designates the parcel as Land Extensive Agriculture—a land use category dominated by agricultural uses and residential uses related to the agricultural economy.

The Area Plan has a policy to “discourage residential use in agricultural areas unless the residential use can be shown not to conflict with agriculture.” There is no evidence that removal of the Z combining district on the subject property would not conflict with the surrounding agriculture uses: the subject property is not currently in agricultural use. The subject parcel is surrounded by parcels that are between 16 and 135 acres. The County’s Right to Farm Ordinance ensures the right of farmers to conduct agricultural activity, subject to appropriate

health and safety standards, and applies to all areas designated with agricultural land use categories, including the subject parcel.

Additionally, Area Plan housing policies guide residential development so that “people of low or moderate income are not excluded from rural living.” Accessory dwelling units in Sonoma County are rented on average to households of moderate income levels (per the County of Sonoma 2018 Housing Element Annual Progress Report submitted to the California Housing and Community Development Department). An accessory dwelling unit on this parcel would serve the Area Plan’s affordable rural housing objective and would not conflict with agricultural production capacity on surrounding parcels.

ZONING CONSISTENCY

Accessory dwelling units are allowed by the base zoning, Land Extensive Agriculture (LEA). An accessory dwelling unit on a parcel this size, served by a septic system and a well, is permitted with a zoning permit.

Applications to remove the Z combining district must be consistent with Article 76 of the Sonoma County Zoning Ordinance, Accessory Dwelling Unit Exclusion Combining District. Section 26-76-005 states the following reasons for applying the Z combining district:

The purpose of this district is to provide for the exclusion of accessory dwelling units in the following areas:

- a) Areas where there is an inadequate supply of water for drinking or firefighting purposes,*
- b) Areas where there are inadequate sewer services or danger of groundwater contamination,*
- c) Areas where the addition of second units would contribute to existing traffic hazards or increase the burden on heavily impacted streets, roads, or highways, and*
- d) Areas where, because of topography, access, or vegetation, there is a significant fire hazard.*

Only the wastewater disposal condition applies to the subject parcel, as discussed below.

Water Supply. The Z combining district was not originally applied to the subject parcel for reasons related to water supply. The parcel is located in a Class 1 Groundwater Availability Area and has adequate water supply for a primary and accessory dwelling unit through an existing on-site well. Prior to issuance of a building permit to construct an accessory dwelling unit, a new well on this site would need to meet the standards for well and septic permits in the Petaluma Nitrate Waiver Prohibition Area.

Wastewater Disposal. The Z combining district was not applied to the subject parcel for reasons related to inadequate wastewater disposal; however, the subject parcel is located in the Petaluma Nitrate Waiver Prohibition Area which has historically had groundwater contamination. An accessory dwelling unit would be served by a new or expanded septic system on site that would have to meet the standards applicable to water wells and septic systems in the Petaluma Nitrate Waiver Prohibition Area in order to receive a building permit.

Traffic Hazards. The Z combining district was not originally applied to the subject parcel for reasons related to traffic hazards, and the addition of an accessory dwelling unit would not contribute to existing traffic hazards or increase the burden on heavily impacted streets, roads, or highways in the area.

Fire Hazards. The Z combining district was not originally applied to the subject parcel for reasons related to fire hazard, and it is not located in a high fire hazard area as established by the General Plan Safety Element (Figure PS-1g).



Spot Zoning. The County of Sonoma has attempted to implement a comprehensive land use plan through its Zoning Ordinance. Spot zoning, while generally considered undesirable, refers to the base zone, rather than to combining zones. Each of the surrounding parcels with the Z combining district has the same opportunity to apply for removal of the Z combining district pursuant to Article 76 of the Zoning Ordinance and would be evaluated using the same generally applicable zoning code standards. Therefore, approval of the proposed rezoning would not grant the subject property zoning that is either more restrictive or less restrictive than zoning which is available to the surrounding properties. Thus rezoning the subject parcel to remove the Z combining district would not constitute spot zoning. The Z removal is also consistent with the Board of Supervisors' direction to process such requests on a case-by-case basis.

CONSISTENCY WITH WAIVER PROHIBITION ORDINANCE

Ordinances 2607 and 3019 established special standards for construction of water wells and septic systems in the Petaluma Nitrate Waiver Prohibition Area. Those standards include wet weather percolation testing for all septic systems, and annular seals of at least 100 feet for water wells. Any proposed development, including an accessory dwelling unit, would need to meet those standards in order to receive a building permit.

In some cases, the Z combining district may have applied to parcels because of their location in a waiver prohibition area. However, the Z combining district was not applied to parcels in the Petaluma Nitrate Waiver Prohibition Area for that reason or for reasons related to septic capacity. The subject parcel was zoned AE (Agriculture Exclusive), and as part of the implementation of the 1989 General Plan, the Z combining district was applied to all parcels formerly designated AE.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached resolution finding the project exempt from CEQA and recommending approval of the requested zone change to remove the Z combining district.

FINDINGS FOR RECOMMENDED ACTION

1. The project is consistent with the General Plan. The subject parcel is designated LEA 60 (Land Extensive Agriculture, 60 acres per dwelling unit). Removal of the Z (Accessory Unit Exclusion) Combining District is consistent with the Land Extensive Agriculture land use designation and will not significantly alter any of the potential uses that are currently allowed on this site.
2. Removal of the Z combining district is consistent with the Zoning Ordinance for the following reasons:
 - a. Removal of the Z combining district would allow for an accessory dwelling unit on the parcel. The parcel otherwise meets the Zoning Ordinance requirements for an accessory dwelling unit. For example, Section 26-88-060(j)(2) of the Zoning Ordinance allows an accessory dwelling unit on parcels over two acres or more when served by a well and a septic system. The subject parcel is 2.9 acres and therefore meets this standard.
 - b. Establishment of an accessory dwelling unit on the subject parcel is otherwise permitted under the parcel's base zoning, LEA Land Extensive Agriculture District (Article 6 of the Zoning Ordinance).

- c. This parcel is located in a Class 1 Groundwater Availability Area (major groundwater basin) meaning that there is likely to be adequate water supply to serve the proposed use.
 - d. The parcel has an existing septic system that may be upgraded, or a new system may be installed so that adequate wastewater disposal is available. Prior to issuance of a permit to construct an accessory dwelling unit, the new or expanded septic system would have to meet the standards applicable to water wells and septic systems in the Petaluma Nitrate Waiver Prohibition Area.
 - e. The parcel is not located in an area with existing traffic hazards, and the addition of an accessory dwelling unit to this site would not increase the burden on streets, roads, or highways in the area as they are all operating acceptably and are not projected to become impacted in the foreseeable future.
 - f. The parcel is not located within a designated fire hazard area. Removal of the Z combining district would not decrease public safety.
3. Removal of the Z combining district does not conflict with the requirements of waiver prohibition area. The Z combining district was not applied to the subject parcel because of its location in the Petaluma Nitrate Waiver Prohibition Area. Prior to issuance of a permit to construct an accessory dwelling unit, any new water wells and new or expanded septic systems would have to meet the special standards for well and septic system construction in the Petaluma Nitrate Waiver Prohibition Area, established by Ordinances 2607 and 3019 and as provided in Sonoma County Code Chapter 25B and other applicable regulations.
4. The project is exempt from CEQA pursuant to:
- a. CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations, because the proposed zone change would not result in any changes in land use or density and is proposed on a site with an average slope of less than 20 percent; and
 - b. Public Resources Code section 21080.17, adoption of an ordinance by a city or county to implement the provisions of Government Code section 65852.2, regarding permitting of accessory dwelling units. The proposed rezoning would provide for the creation of an accessory dwelling unit in an area zoned to allow residential development.

LIST OF ATTACHMENTS

- Attachment A: Draft Resolution
Attachment B: Draft Ordinance and Sectional District Map
Attachment C: Proposal Statement
Attachment D: Vicinity Map
Attachment E: Site Plan
Attachment F: General Plan Land Use Map
Attachment G: Assessor's Parcel Map



Resolution Number 19-005

County of Sonoma
Santa Rosa, California

May 2, 2019

ZCE18-0021 Nina Bellucci

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF SONOMA, STATE OF CALIFORNIA, FINDING THE PROJECT EXEMPT FROM CEQA AND RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE A ZONE CHANGE TO REMOVE THE Z COMBINING DISTRICT FROM THE PROPERTY LOCATED AT 5565 BODEGA AVENUE, PETALUMA, APN 113-010-003

WHEREAS, the applicant, Miguel and Monika Pelayo, filed an application with the Sonoma County Permit and Resource Management Department to rezone 2.93 acres from the LEA B6 60, Z, RC 50/50, SR zoning district to the LEA B6 60, RC 50/50, SR zoning district, or other appropriate district on property located at 5565 Bodega Avenue, Petaluma; APN 113-010-003; Supervisorial District No. 2; and

WHEREAS, in accordance with the provisions of law, the Planning Commission held a public hearing on April 18, 2019, at which time all interested persons were given an opportunity to be heard; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission makes the following findings:

1. The subject parcel is designated LEA 60 (Land Extensive Agriculture, 60 acres per dwelling unit). Removal of the Z (Accessory Unit Exclusion) Combining District is consistent with the Land Extensive Agriculture land use designation and will not significantly alter any of the potential uses that are currently allowed on this site.
2. Removal of the Z combining district is consistent with the Zoning Ordinance for the following reasons:
 - a. Removal of the Z combining district would allow for an accessory dwelling unit on the parcel. The parcel otherwise meets the Zoning Ordinance requirements for an accessory dwelling unit. Section 26-88-060(j)(2) of the Zoning Ordinance allows an accessory dwelling unit on parcels over two acres or more when served by a well and a septic system. The subject parcel is 2.9 acres and meets this standard.
 - b. Establishment of an accessory dwelling unit on the subject parcel is a permitted use under the parcel's base LEA Land Extensive Agriculture District (Article 6 of the Zoning Ordinance).
 - c. This parcel is located in a Class 1 Groundwater Availability Area (major groundwater basin) meaning that there is likely to be adequate water supply to serve the proposed use.
 - d. The parcel has an existing septic system that may be upgraded, or a new system may be installed so that adequate wastewater disposal is available.
 - e. The parcel is not located in an area with existing traffic hazards, and the addition of an accessory dwelling unit to this site would not increase the burden on streets, roads, or highways in the area as they are all operating acceptably and are not projected to become impacted in the foreseeable future.

- f. The parcel is not located within a designated fire hazard area. Removal of the Z combining district would not decrease public safety.
3. Removal of the Z combining district does not conflict with the requirements of waiver prohibition area. The Z combining district was not applied to the subject parcel because of its location in the Petaluma Nitrate Waiver Prohibition Area. Prior to issuance of a permit to construct an accessory dwelling unit, any new water wells and new or expanded septic systems would have to meet the special standards for well and septic system construction in the Petaluma Nitrate Waiver Prohibition Area, established by Ordinances 2607 and 3019 and as provided in Sonoma County Code Chapter 25B and other applicable regulations.
4. The project is exempt from CEQA pursuant to:
 - a. CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations, because the proposed zone change would not result in any changes in land use or density and is proposed on a site with an average slope of less than 20 percent; and
 - b. Public Resources Code section 21080.17, adoption of an ordinance by a city or county to implement the provisions of Government Code section 65852.2, regarding permitting of accessory dwelling units. The proposed rezoning would provide for the creation of an accessory dwelling unit in an area zoned to allow residential development.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors find the requested rezoning exempt from CEQA, and that it approve the requested Zone Change.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary of the Planning Commission as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

THE FOREGOING RESOLUTION was introduced by Commissioner Tamura, who moved its adoption, seconded by Commissioner Shahhosseini, and adopted on roll call by the following vote:

Commissioner Fogg	Aye
Commissioner Tamura	Aye
Commissioner Shahhosseini	Aye
Commissioner Mauritson	Aye
Commissioner Lowry	Aye

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

WHEREUPON, the Chair declared the above and foregoing Resolution duly adopted; and
SO ORDERED.