



**AGENDA SUMMARY
EUREKA CITY COUNCIL**

TITLE: Appeal of Carrington Company Lot Line Adjustment Coastal Development Permit (CDP-23-0003)

DEPARTMENT: Development Services - Planning

PREPARED BY: Caitlin Castellano, Senior Planner

PRESENTED FOR: Action Information only Discussion

RECOMMENDATION

Hold a public hearing; and
Adopt a resolution finding the project is exempt from CEQA, and sustaining the Planning Commission's conditional approval of the Coastal Development Permit for a lot line adjustment at 4775 Broadway.

FISCAL IMPACT

No Fiscal Impact Included in Budget Additional Appropriation

COUNCIL GOALS/STRATEGIC VISION

General Plan Policy AG-1.1 Agricultural Lands within Coastal Zone. Protect and conserve designated agricultural lands within Eureka's Coastal Zone consistent with the California Coastal Act and the Local Coastal Program.

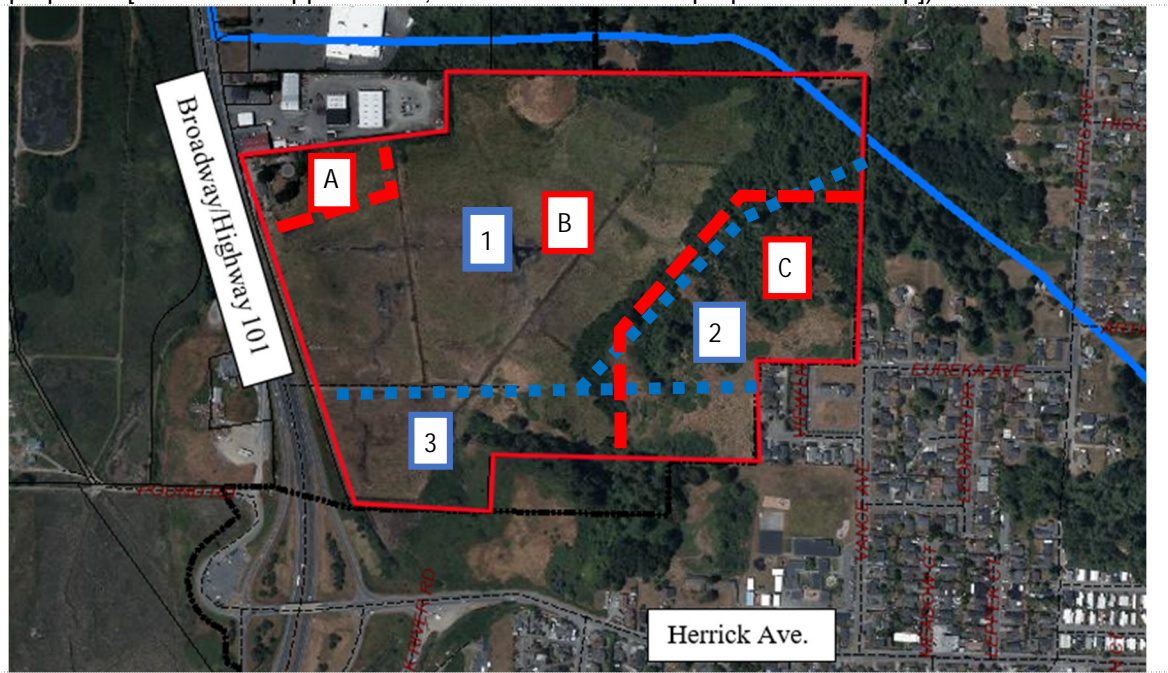
DISCUSSION

Project Summary

A Lot Line Adjustment (LLA) is proposed to adjust the lot lines between three parcels (identified as one Assessor's Parcel Number), resulting in three parcels, all under the same ownership (Figure 1).

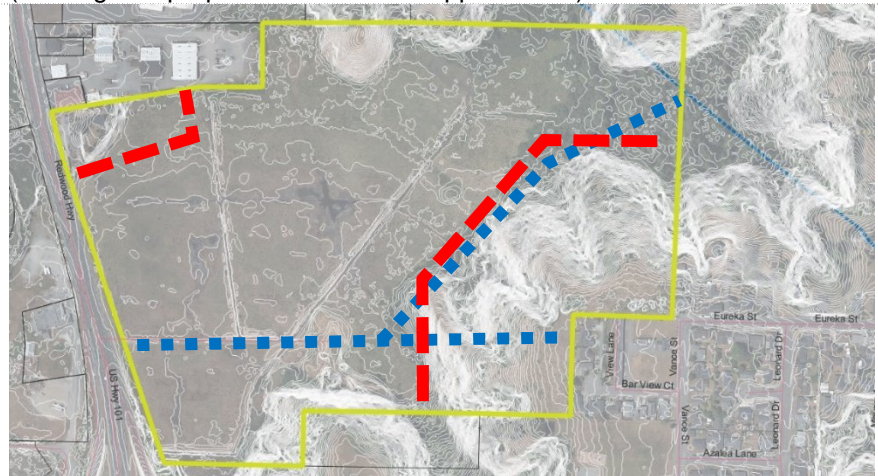
Parcel	Acres	
	Before LLA	After LLA
1/A	54.7 (1)	3 (A)
2/B	14.0 (2)	61.3 (B)
3/C	15.83 (3)	20.23 (C)

Figure 1: Aerial site plan (blue broken lines represent the current lot lines and red broken lines are proposed [all lines are approximate; see Attachment 2 for proposed LLA map])



The property is approximately (~) 85 acres and can be seen as having three distinct areas: (a) the small raised terrace at the northwestern corner of the property where farm-related structures are clustered which is used by Butler Valley, Inc. as a farm and day care for individuals with disabilities; (b) a large lowland area of agricultural wetlands leased for a commercial grazing operation; and (c) a large upper terrace area along the eastern side of the property. The LLA would move existing lot lines to roughly separate these three areas.

Figure 2: Topography site map with 1-foot contour intervals from LiDAR (existing and proposed lot lines are approximate)



Existing Parcel 1 is 54.7 acres in size and includes both the existing farm-related structures used by Butler Valley and the majority of the lowland area. Existing Parcel 2 is 14 acres in size and contains most of the upper terrace area along the eastern side of the property, and existing Parcel 3 is 15.83 acres in size and

contains both a portion of the eastern upper terrace and a portion of the grazed lowland.

The LLA would result in the Butler Valley operation being located on its own 3-acre parcel (proposed resultant Parcel A); the lowland grazing operation being located on its own 61.3-acre parcel (proposed resultant Parcel B); and the large upper terrace area along the eastern side of the property being located on its own 20.22-acre parcel (proposed resultant Parcel C). According to the applicant, the purpose of the LLA is to convey proposed resultant Parcel A to Butler Valley, Inc., retain resultant Parcel B and continue leasing it for grazing, and potentially sell resultant Parcel C in the future. No physical development or new uses are proposed on any of the resultant parcels at this time.

The three parcels are located in the Coastal Zone (except for a small portion at the northeast corner of existing Parcel 1/resultant Parcel B), and the proposed LLA is considered development as defined by the Coastal Act and Eureka Municipal Code (EMC) §10-5.2906.2(u); therefore, a Coastal Development Permit (CDP) is required pursuant to EMC §10-5.29302. The standard of review for a CDP is conformance with the policies of the City's certified Local Coastal Program (LCP). The LCP is divided into two components: the Land Use Plan (LUP) (i.e. the coastal general plan) and Implementation Plan (IP) (i.e. the coastal zoning code). The LLA also requires separate approval under the City's subdivision ordinance (EMC Chapter 154) which implements the Subdivision Map Act. Typically, the Director acts on the LLA, but EMC Chapter 154 allows the Director discretion to require a public hearing be held by the Planning Commission when the proposed development arouses extraordinary public concern.

Summary of CDP Approvals and Appeals

The Director of Development Services conditionally approved a CDP for the project on November 13, 2023, and as outlined in the Planning Commission staff report (Attachment 4, page 3), 18 community members (not including City staff) attended the Director's hearing held via Zoom only, nine spoke, and then the Director conditionally approved the CDP. The basis for the November 13, 2023 Director-level decision include findings of consistency with the Agriculture (A) land use designation, the applicable goals and policies of the adopted and certified LUP, and the applicable Coastal Agriculture (AC) development standards of the IP. The Director's Report can be found on page 44 of Attachment 4, and see pages 48-56 for the required findings analysis.

The Director's approval was subject to three Conditions of Approval. By separating the upland cluster of buildings at the northwestern corner of the property as resultant Parcel A, resultant Parcel B (the lowland parcel) is left without any clear uplands; the first condition imposes a deed restriction on resultant Parcel B to ensure the LLA does not create a new need or right to fill wetlands as a result of creating a parcel without a developable upland footprint. The second condition ensures resultant Parcel B maintains legal access over resultant Parcel A since resultant Parcel B would not have its own access to a public road after the LLA. The third condition indicates the need for the LLA to be approved prior to the CDP becoming effective, and prevents the LLA from being recorded until the CDP is approved and effective. The Director's staff report also described how future development on any of the resultant parcels must be consistent with the agriculture zoning designation development standards and would require new CDPs and environmental review under CEQA; and, if residential development, rather than agriculture development, is proposed on resultant Parcel C, an LCP Amendment to

change the land use and zoning designations as well as move the urban limit line, would be required in addition to a CDP and environmental review.

The Director-level approval received nine appeals. Concerns expressed include the City's noticing procedure, use of Zoom to conduct the Director's Hearing, and a belief the LLA CDP facilitates and/or authorizes future development on resultant Parcel C. City staff addressed the appellant's concerns in the December 13, 2023 Planning Commission staff report (Attachment 4, pages 3-6). And, as a result of the Director-level decision appeals, the Director elevated the decision on the associated LLA to the Planning Commission.

The Planning Commission sustained the Director's decision on the CDP by a two-one vote (with one recusal and one absent) and approved the LLA at a noticed public hearing on December 13, 2023. Six community members spoke at the hearing, including the applicant's agent. Concerns expressed at the Planning Commission hearing were similar to the concerns expressed at the Director's hearing and in the Director-level appeals, and new concerns were expressed related to City staff's use of a Class 3 Categorical Exemption from CEQA rather than requiring full environmental review due to the presence of sensitive habitat on the property and the LLA proposing to move lot lines within it, as well as potential impacts future development of resultant Parcel C could have on traffic and safety near Pine Hill Elementary. Subsequently, the Planning Commission-level decision received four appeals to the City Council. Concerns expressed were similar to what was verbally expressed at the meeting as described above, and the full text of the appeals is included as Attachment 3.

City Council Review of CDP

The City Council is charged with reviewing the action taken by the Planning Commission; which, in this case, was sustaining the Development Services Director's conditional approval of the LLA CDP to reconfigure three parcels resulting in three parcels. The approved LLA (which can't be recorded until the CDP is approved and effective) was not appealed. Upon conclusion of a public hearing on the CDP appeal, the City Council may sustain, modify, or overrule the Planning Commission-level decision. As described above, the standard of review for the proposed LLA CDP is consistency with the certified policies of the LCP (EMC §10-5.29310.1) and the analysis to make the required findings and conditionally approve the project is included in the Director's staff report, which can be found in Attachment 4, page 44. If the City Council sustains the Planning Commission's decision and approves the project, that decision would be appealable to the California Coastal Commission.

Analysis of Appellant's Contentions

One of the four appellants filed the same appeal letter as the Director-level decision appeal, and those contentions are addressed in the Planning Commission report (Attachment #), but they also indicated on the appeal form that the CDP does not consider watershed concerns, tribal cultural concerns and traffic concerns if resultant Parcel C is developed. The other three appellants filed almost-identical appeals, contending the project is not in accordance with planning principles included in the June 2023 Draft Coastal Land Use Plan and the LLA should have required additional review under CEQA,

as opposed to the Class 5 Categorical Exemption (§15305, Minor Alterations in Land Use Limitation) because the property includes wetland and other ESHA with important habitat values (as defined by the City's certified LCP and the Coastal Act) and approval of the LLA facilitates future development which changes the "habitat use" (i.e. how species use/live/interact with the habitat) and therefore triggers additional environmental review. One of those three appeals also contended the proposed LLA fails to address the obstructed bay views and decrease of property values if resultant Parcel C is developed. Private views are not protected by the LCP.

As described in the Project Summary section above, existing Parcel 1 encompasses the small raised-terrace in the northwestern corner of the property where Butler Valley operates as well as a majority of the large lowland area, and existing Parcels 2 and 3 each cover a portion of the large upper terrace area along the eastern side of the property, with Parcel 2 containing a majority of the upper terrace. As a result, existing Parcels 2 and 3 could each be sold separately now and developed with new uses allowed in the Coastal Agriculture land use/zoning designation (with permitting and environmental review). However, the proposed LLA would consolidate the upper terrace area into one parcel resulting in the potential of the upland terrace area being sold to one entity (as opposed to two), decreasing its development potential.

As outlined in the previous reports and above, the LLA does not approve an increase in the number of parcels on the property or any physical development and therefore will not affect existing bay views, traffic or safety for the residents located adjacent to the upper terrace area (resultant Parcel C). Also, the LLA does not change the Agriculture land use/zoning designation which limits allowed uses and structures on the property. There could be any number of uses or developments a future purchaser may desire, including purchasing for open space conservation. However, under the site's current Agriculture land use/zoning designation, the only uses allowed are agriculture-related uses (e.g., livestock raising, orchards, farmhouses, agricultural accessory structures, etc.), incidental public service purposes (e.g., buried utility pipelines), and wetland restoration/enhancement projects; the extension of urban services to the site and land divisions, other than for agricultural leases, are prohibited. Furthermore, to develop resultant Parcel C (and/or resultant Parcel A or B) with any of the limited uses allowed in the Agricultural land use/zoning designation, a CDP would be required triggering environmental review under CEQA, and the development would have to be found consistent with the City's certified LCP, including the ESHA protection policies, in order for the City to approve the CDP.

The City of Eureka, as Lead Agency, has determined the proposed project is categorically exempt from the provisions of the California Environmental Quality Act, in accordance with §15305, Minor Alterations in Land Use Limitation, Class 5 of the CEQA Guidelines. Class 5 exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including minor LLAs not resulting in the creation of any new parcel. The overall property has an average slope of less than 20% (at approximately 11%), and the proposed LLA will not

result in the creation of any new parcel, just the reconfiguration of three existing parcels resulting in three parcels.

The proposed LLA is located on a property that contains ESHA and future development on any of the resultant parcels could cause a significant effect on the environment, but the LLA does not create more parcels than what exists, does not propose new development (other than moving existing lot lines), and any future development requires extensive permitting and environmental review and must be consistent with the ESHA protection policies of the LCP. Therefore, no exceptions to the exemptions in CEQA apply to the proposed project (a LLA only) because no new uses or development are proposed as part of the LLA which could cause a significant effect on the environment. Additionally, the LLA could be seen as decreasing the current development potential (and subsequent environmental impacts) of the upper terrace by consolidating it into one parcel, giving the owner/applicant the ability to sell as one parcel instead of selling as two separate parcels.

The remainder of the appeal contentions are addressed in the Planning Commission staff report (Attachment 4, pages 3-6), and the full findings of consistency with the LCP are included in the original Director's staff report (Attachment 4, pages 48-57).

Staff Recommendation on Appeal

City staff believes the proposed project, as conditioned by the Director's approval, and then sustained by the Planning Commission, is consistent with the City's certified Local Coastal Program.

As a result, City staff recommends the City Council adopt a resolution finding the project is exempt from CEQA, and sustaining the Planning Commission's conditional approval of the Coastal Development Permit for a lot line adjustment at 4775 Broadway.

ATTACHMENTS

- Attachment 1: City Council Resolution
- Attachment 2: Proposed LLA Map by Applicant
- Attachment 3: Appeals of the Planning Commission's decision filed by appellants
- Attachment 4: Planning Commission staff report and attachments (including Director's CDP staff report with attachments, previous appeals filed on Director's CDP, and public comments received prior to Director decision).