



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

PLANNING DEPARTMENT HEARING

Promoting the wise use of land

MEETING DATE December 18, 2015	CONTACT/PHONE Jo Manson (805) 781-4660 jmanson@co.slo.ca.us	APPLICANT Kenneth R. Nelson and Maria T. Nelson	FILE NO. COAL 15-0079 SUB2015-00028
SUBJECT A request by KENNETH R. NELSON AND MARIA T. NELSON for a Lot Line Adjustment (COAL 15-0079) to adjust the lot lines between two parcels of approximately 80.4 and 5.0 acres each. The adjustment will result in one parcel of approximately 85.4 acres. The project will not result in the creation of any additional parcels. The proposed project is located within the Agriculture and Rural Lands land use categories and is located at 575 Upper Los Berros Road, approximately 2.4 miles north of the intersection of Upper Los Berros Road and North Dana Foothill Road, east of the City of Arroyo Grande. The site is in the South County Sub-Area of the South County planning area.			
RECOMMENDED ACTION Approve Lot Line Adjustment COAL 15-0079 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION This project is covered by the general rule 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 this project may have a significant effect on the environment; therefore, the activity is exempt from and not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption] A General Rule Exemption (ED15-120) was issued on November 3, 2015.			
LAND USE CATEGORY Agriculture, Rural Lands	COMBINING DESIGNATION None	ASSESSOR PARCEL NUMBER 047-071-028	SUPERVISOR DISTRICT(S): 4
PLANNING AREA STANDARDS: None applicable.			
LAND USE ORDINANCE STANDARDS: 22.22.040 – Subdivision design standards for the Agriculture land use category, Section 22.22.050 – Subdivision design standards for the Rural Lands land use category, Section 22.04.040 Requirements for Sites Divided by a Land Use Category Boundary			
EXISTING USES: Single family home, well, barn, residential accessory structures, grazing			
SURROUNDING LAND USE CATEGORIES AND USES: North: Rural Lands / undeveloped, grazing East: Rural Lands / single family residences, agriculture South: Agriculture / multiple cell sites, agriculture West: Agriculture / undeveloped, grazing			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Agricultural Commissioner and South County Advisory Council			
TOPOGRAPHY: Level to steeply sloping		VEGETATION: California annual grassland, shrubs, oaks	
PROPOSED SERVICES: Water supply: On site well Sewage Disposal: Individual septic system Fire Protection: CAL FIRE		ACCEPTANCE DATE: November 3, 2015	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

DISCUSSION

Government Code Section 66412(d) – Lot Line Adjustments

As of January 1, 2002, lot line adjustments are limited to four or fewer existing adjoining parcels (*Senate Bill 497*). In addition, the new parcels must comply not only with zoning and building regulations, but also with the general plan and any applicable coastal plan polices and requirements.

Title 21 / Real Property Division Ordinance

Section 21.02.030 of the Real Property Division Ordinance states that a lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the adjustment will maintain a position which is better than, or equal to, the existing situation relative to the county's zoning and building ordinances.

Proposed Adjustment

The applicant is proposing to adjust the lot lines between one legal parcel, and one illegal parcel that has an issued and recorded conditional certificate of compliance as follows:

EXISTING LOT SIZES (ACRES)	ADJUSTED PARCEL SIZES (ACRES)
80.4 acres	85.4 acres
5 acres	

Existing Parcel 1 (80.4 acres) is developed with a barn, a portion of a residence, and a portion of a shop building. Existing Parcel 1 is in the Rural Lands land use category. It is not under a Williamson Act land conservation contract and is a legal parcel based on planning staff's review of the patent and deed history. Existing Parcel 2 (5 acres) is developed with a portion of a residence, a portion of a shop building, an out building and a well. Parcel legality for existing Parcel 2 is discussed below. Existing Parcel 2 is in the Agriculture land use category. Existing Parcel 2 is in a Williamson Act land conservation contract. However, the applicant applied for a notice of non-renewal under AGP2014-00015 for the 5.0 acre property, and served notice on the county to remove this portion of the contracted land from the Williamson Act program prior to finaling the lot line adjustment (Document No. 2015-049307). The purpose of the adjustment is to combine the 80.4 acre and 5.0 acre parcels into one (1) parcel so that all existing development is on one (1) parcel.

The minimum parcel size as required in Section 22.22.040 for the Agriculture land use category is based on Subsections B (Size based upon existing use) and C (Size based upon land capability), unless a larger minimum parcel size is specified in the terms of the existing Williamson Act agricultural preserve and contracts. The subject 5.0 acre property does not meet any of the methods for subdividing land in the Agriculture land use category under Section 22.22.040 of the Land Use Ordinance and is already well below the smallest parcel size allowed in this category which is 20 acres.

The minimum parcel size as required in Section 22.22.050 for the Rural Lands land use category is based on the remoteness from an urban or village reserve line, fire hazard/response time, access and slope. The 80.4 acre parcel meets all of the test's minimum parcel size.

The adjustment will result in the reconfiguration of the two (2) parcels into one (1) parcel to reflect the existing uses on the site and will maintain a position which is "better than or equal to" the existing situation relative to the county's zoning and building ordinances. The proposed adjustment allows for the existing residence, barn, shop building, out building and well to be entirely located on one (1) proposed parcel. The proposed lot line adjustment does not create more development potential than what exists today.

Section 22.04.040 specifies the requirements for sites divided by a land use category boundary. The 80.4 acre parcel has a Rural Lands land use category designation and the 5.0 acre parcel has an Agriculture designation. The resulting 85.4 acre parcel would have two land use categories. Where a site is divided by one or more land use category boundaries, the site shall be developed in compliance with the requirements of each category, as applicable. The subject parcel is already developed in accordance with applicable standards. Any future development of the subject adjusted parcel would adhere to standards in both the Agriculture and Rural Lands land use categories.

Ordinance Compliance

Staff has concluded that the proposed adjustment is equal to or better than the existing situation and is also consistent with both state and local law because the lot line adjustment (resulting in a single parcel) is a remedy for the creation of Parcel 2 and will correct the building setback encroachment that currently exists.

STAFF COMMENTS

The results of a boundary survey completed in 1998 disclosed that the main residence and shop building thought to be fully built on the 80.4 acre property were in fact partially built on the 5.0 acre property which, at that time, was owned by a different property owner that owned the entire Southwest quarter of Section 30. A Default Judgment by Court action was completed by the applicant, Kenneth Nelson, in 2004 per Stipulated Judgment (Document No. 2006-023296) and Default Judgment by Court (Document No. 2006-023297). The court action stipulated that the 5.0 acre property was then owned by Mr. Nelson. The 80.4 acre property was already owned by Mr. Nelson in 2004. However, since courts cannot adjust boundary lines of property between property owners, but only settle disputes, it is then up to the property owners to apply to the County for a lot line adjustment to carry out any decision of the Court. Planning staff concluded that the 5.0 acre existing parcel was an illegal parcel that was created by a court action at a time when a lot line adjustment would be required to carry out any decision of the Court. No lot line adjustment was approved. Therefore, the parcel was not legally created.

The applicant applied for a conditional certificate of compliance, C15-0030, which was issued and recorded on August 19, 2015 (Document No. 2015-042331). A condition of approval of the conditional certificate of compliance stated: "A Lot Line Adjustment shall be submitted for county review and approval. The adjustment shall include the eighty (80) acre parcel and the approximate six (6) acre parcel within APN: 047-071-028 to reconfigure the property into one (1)

parcel to result in one eighty six acre parcel. The Lot Line Adjustment shall be finalized with a new consolidated legal description and a single certificate of compliance effectuating the Lot Line Adjustment.” This condition is being met with this proposed lot line adjustment.

In addition, the 5.0 acre parcel is part of a Land Conservation Contract per Volume 1724 of Official Records, Pages 782-800 recorded May 17, 1973 – San Luis Obispo County Board of Supervisors Resolution No. 73-245. The Land Conservation Contract consists of properties to the south as well as the 5.0 acre property. The applicant applied for a notice of non-renewal under AGP2014-00015 for the 5.0 acre property, and served notice on the county to remove this portion of the contracted land from the Williamson Act program prior to finaling the lot line adjustment (Document No. 2015-049307).

AGENCY REVIEW

Public Works – Concurs with proposed adjustment. No concerns.

Agricultural Commissioner – Concurs with proposed adjustment and considers the proposal to be equal to the existing parcel configuration in terms of agricultural resources.

South County Advisory Council – No comments.

LEGAL LOT STATUS

One of the two existing parcels was legally created by patent and deed at a time when that was a legal method of creating parcels. The 80 acre parcel is a separate legal parcel per Book F of Patents, Page 543 minus Book 46 of Deeds, Pages 380-381. The parcel was created as a legal remainder from the original government patent in 1900.

One of the two existing parcels consists of a portion of the North half of the Southwest quarter of Section 30, Township 32 South, Range 14 East, and was illegally created by a Default Judgment by Court action completed in 2006. Conditional Certificate of Compliance C15-0030 has been issued and recorded (Document No. 2015-012373).

ATTACHMENTS

Attachment 1 - Findings

Attachment 2 - Conditions of Approval

Attachment 3 - Project Graphics

Attachment 4 - Project Referral Responses

Staff report prepared by Jo Manson and reviewed by Terry Wahler, Senior Planner.