



PLANNING COMMISSION

Wednesday, June 14, 2023

Regular Meeting - 7:00 PM

City Hall – City Council Chambers

425 Webster Street, Colusa, CA 95932

AGENDA

The public may address the Commission on any agenda item during the Commission's discussion of that item, not to exceed three (3) minutes. We ask that the speaker kindly be recognized by the Planning Commission Chair before speaking and be limited to one comment, per item.

Chair – John Martin

Vice Chair – Jean-Pierre Cativiela

Commissioner – Glen Duncan

Commissioner - Thomas Roach

Commissioner - Vicky Willoh

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF THE AGENDA

CONSENT CALENDAR - *Items on the Consent Calendar may be removed and discussed at the request of a Commission member.*

Approve - None.

PUBLIC COMMENTS *The Planning Commission may read / address comments on any item concerning subject matter that is within the Planning Commission's jurisdiction. No action may be taken on items not posted on the agenda, other than to briefly respond, refer to staff, or to direct that an item be placed on a future agenda.*

PUBLIC HEARING

1. Tentative Parcel Map – 4 Lots

Recommendation: Open the Public Hearing and;

Commission to adopt a Resolution to approve a 4-lot tentative parcel map on APN No. 017-130-105 and 114 for Colusa Industrial Properties

2. Citizen Appeal of Schmidt Lot Line Adjustment

Recommendation: Commission to consider appeal letter and advise staff on whether to deny or approve the appeal

PUBLIC COMMISSION MATTERS *Discussion of current Planning Department projects.*

FUTURE AGENDA ITEMS

ADJOURNMENT

A handwritten signature in blue ink, appearing to read "Shelly Kittle", is positioned above a horizontal line.

SHELLY KITTLE, CITY CLERK

Americans with Disabilities Act

In compliance with the Americans with Disabilities Act, persons requiring accommodations for a disability at a public meeting should notify the City Clerk at least 48 hours prior to the meeting at 530-458-4941 in order to allow the City sufficient time to make reasonable arrangements to accommodate participation in this meeting.

"This institution is an equal opportunity employer and provider"



City of Colusa California

STAFF REPORT

DATE: June 14th, 2023
TO: Planning Commission – Public Hearing
FROM: David Swartz, City Engineer, Planning Dept. Support

AGENDA ITEM: Tentative Parcel Map – 4 Lots

Recommendation: Commission to approve a 4-lot parcel map along Davison Drive within the Colusa Industrial Park (see attached).

BACKGROUND ANALYSIS: The original parcels consists of two lots, for which one is approximately 33.28 Acres and the other is approximately 2.0 acres. These lots are part of the Colusa Industrial Park lands. All properties are owned in fee title by the applicant. All lots shown herein meet the land requirements for the zoning. There is no “new” proposed development associated nor any type of entitlement requested by the applicant related to this tentative map. This is purely a land division, Although the existing structures will become occupied by a new business. The proposed project is consistent with the Cities general plan and zoning requirements. Since there is no specific entitlement and no proposed project associated with this map, there are no conditions of approval nor need for any CEQA review as there is no change in land use created by this map.

BUDGET IMPACT: None

ATTACHMENT: See Attachments for additional information.



PLANNING DEPARTMENT APPLICATION FOR A 4 LOT PARCEL MAP

TO: County of Colusa, Public Works, Planning
City of Colusa, Public Works, Fire, Police
County of Colusa Airport Land Use Commission
Yoche Dehe Wintun Nation
Colusa County Superintendent of Schools

FROM: David Swartz, Interim Planning Support

DATE: June 4th 2023

SUBJECT: Davison Drive Parcel Map

The Planning Department has received the following submittal:

Application for a 4 lot Parcel Map

Applicant: Colusa Industrial Properties

Owners: Colusa Industrial Properties and Wescott Ranch LLC

Location: Davison Drive, City of Colusa

APN: 017-130-105 and 114

Zoning: O-S & C-G

The applicant submitted an application to subdivide approximately 3.6 acres consisting of two parcels (1 parcel = 33.25 ac, 1 parcel = 2.0 ac) into four parcels as follows:

Parcel 1 = 0.42 ac

Parcel 2 = 0.42 ac

Parcel 3 = 0.62 ac

Parcel 3 = 2.06 ac

Remainder 30.610 ac

This current proposal contemplates no infrastructure improvements and proposes no development to be requested at this time, thus no impacts are anticipated to be evaluated.

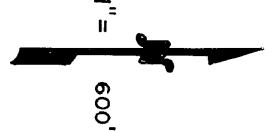
Please review this parcel map and provide your comments by email to David Swartz at swartz@cecusa.net no later than June 13th. This Parcel map will be heard by the Planning Commission on June 14th, 2023. If you have questions regarding this application, contact David at 530-682-9832. The map is attached to this notice via email.

Thank you.

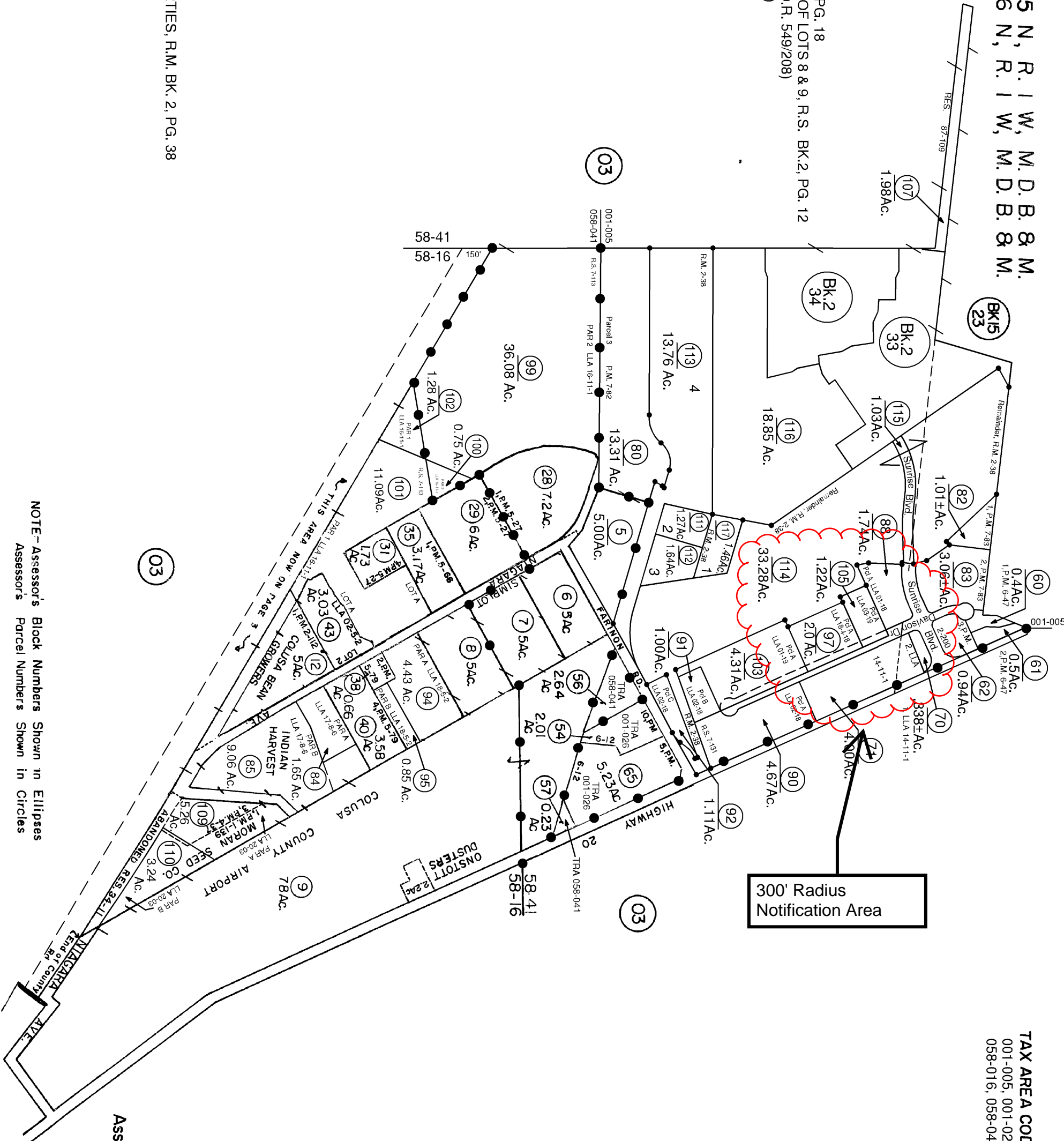
T. 15 N., R. 1 W., M. D. B. & M.
T. 16 N., R. 1 W., M. D. B. & M.

TAX AREA CODE
001-005, 001-026
058-016, 058-041

17-13



JIMENO RANCHO, R.M. BK. 1, PG. 18
JOHN C. MOGK SUBDN NO. 2 OF LOTS 8 & 9, R.S. BK.2, PG. 12
ABANDONMENT RES. 84-11 (O.R. 549/208)
RES. 87-109 (LLA O.R. 601/307)
LLA 02-5-2 (2002-2816)
LLA 03-4-3 (2003-2741)
LLA 07-5-1 (2007-5575)
LLA 07-12-3 (2011-2536)
LLA 14-11-1 (2014-3751)
P.M. BK. 1, PG. 139
P.M. BK. 2, PG. 60
P.M. BK. 2, PG. 112
P.M. BK. 2, PG. 160
P.M. BK. 2, PG. 200
P.M. BK. 3, PG. 99
P.M. BK. 4, PG. 20
P.M. BK. 4, PG. 37
P.M. BK. 5, PG. 27
P.M. BK. 5, PG. 66
P.M. BK. 5, PG. 79
P.M. BK. 6, PG. 12
P.M. BK. 7, PG. 82
LLA 15-3-4 (2015-1653)
LLA 15-2-4 (2015-2704)
LLA 2006-002 (2016-2908)
P.M. BK. 7 Pg. 82
P.M. BK. 7 Pg. 83
LLA 17-8-6 (2017-3944)
LLA 01-18 (2018-1607)
LLA 02-18 (2018-2176)
LLA 18-5-2 (2018-2284)
LLA 03-18 (2018-2676)
LLA 04-18 (2018-2742)
LLA 16-11-1 (2018-3608)
LLA 01-19 (2019-194)
LLA 03-19 (2019-2435)
R.S. BK. 7 Pg 113
R.S. BK. 7 Pg 131
COLUSA INDUSTRIAL PROPERTIES, R.M. BK. 2, PG. 38



NOTE- Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 17 Pg 13
County of Colusa, Calif.

2022

RESOLUTION NO. 2023-____

A RESOLUTION OF THE CITY OF COLUSA PLANNING COMMISSION RECOMMENDING CITY COUNCIL
APPROVAL OF A 4-LOT TENTATIVE PARCEL MAP ON APN NO. 017-130-105 AND 114 FOR COLUSA
INDUSTRIAL PROPERTIES

WHEREAS, the City has received an application for a tentative parcel map on December 5th, 2022 to subdivide the subject parcels into four lots, and

WHEREAS, the City has established City Ordinance under Section 17 which allows for the subdivision of parcels within the city limits, and

WHEREAS, all procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

WHEREAS, the Planning Commission has duly called, advertised, and conducted a Public Hearing required by law concerning proposed, extension request; and

WHEREAS, the City of Colusa Planning Commission has considered public and staff input.

NOW, THEREFORE, BE IT RESOLVED by the City of Colusa Planning Commission, that the Planning Commission recommends that the City Council of the City of Colusa adopt a resolution of the City Council of the City of Colusa approving a tentative 4 lot parcel map subject to the city ordinances and zoning.

THE FOREGOING RESOLUTION was duly introduced and passed at a regular meeting of the City of Colusa Planning Commission held on the 14th day of June 2023, by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

Signed and approved as to form by me on this 14th day of June 2023

ATTEST: _____
Planning Commission Chair, Martin

City Manager, Jesse Cain



City of Colusa California

STAFF REPORT

DATE: June 14th, 2023
TO: Planning Commission – Schmidt Lot Line Adjustment - Appeal
FROM: David Swartz, City Engineer, Planning Dept. Support and Jesse Cain, City Manager/Planning Director

AGENDA ITEM: Citizen Appeal of Schmidt Lot Line Adjustment

Recommendation: Commission to consider appeal letter and advise staff on whether to deny or approve the appeal

BACKGROUND ANALYSIS: Sometime at the end of 2021 and beginning of 2022 there were ongoing discussions between the former City Planner, Bryan Stice and Astaff and William Schmidt regarding their purchase of property known as Assessors Parcel Numbers 001-351-046, 047, 048 and 002-170-006. The Schmidts purchased the property and subsequently submitted a tentative map and application to the City to subdivide the property into 19 single family lots. It's staff understanding from the applicants filing the attached appeal, and from the Schmidts, that following that submittal there were discussions regarding the ultimate street layout and configuration and lot sizes. Staff also understand the former planning director Stice, had encouraged both parties to meet and try and resolve their concerns prior to moving the tentative subdivision map to the next phase of entitlement which would have been to send the project out to other public agencies for comment, and then consider the appropriate environmental review. Subsequently, Mr. Stice left his position at the City, so the project remained unrouted for a short period of time. It's staff understanding, currently, that the two parties have not reached any consensus.

Staff have met with Amy Schmidt and their engineer, on a few occasions, and they (Schmidt's) decided to withdraw their tentative subdivision map application and submit a new project for a lot line adjustment. The appeal before the planning commission is challenging the city engineers approval of the Lot Line Adjustment.

Pursuant to City Ordinance Article VII Sections 17-72 & 73, Lot line adjustments are submitted and approved by the City Engineer administratively and do not come before the planning commission or city council.

Pursuant to City Ordinance Article VII Section 17-75, appeals may be considered by the planning commission.

Property History Brief Description: Between 2013 and 2014 property that both included and adjacent to the parcels which are the subject of this appeal was approved by LAFCO and the City, thereby annexing approximately 322 acres into the City. Note, the parcels under consideration for this LLA all lie within the original city limit boundaries and are adjacent and north of the annexation area. See Exhibit 1.

Exhibit 2 shows the LLA under consideration.

Exhibit 3 shows the zoning map of this area following the annexation which is noted as R-1. The Lot Line Adjustment submitted complies with this zoning designation of R-1. (Please note: This map shows arrows pointing to a zoning designation of R-1B-20 below the former City Limits. These arrows are not shown on the zoning map on the city's web site).

Exhibit 4 is an enlarged area for clarity of reading and understanding.

Based on the appeal submittal that is currently before planning commission, staff assessments are as follows:

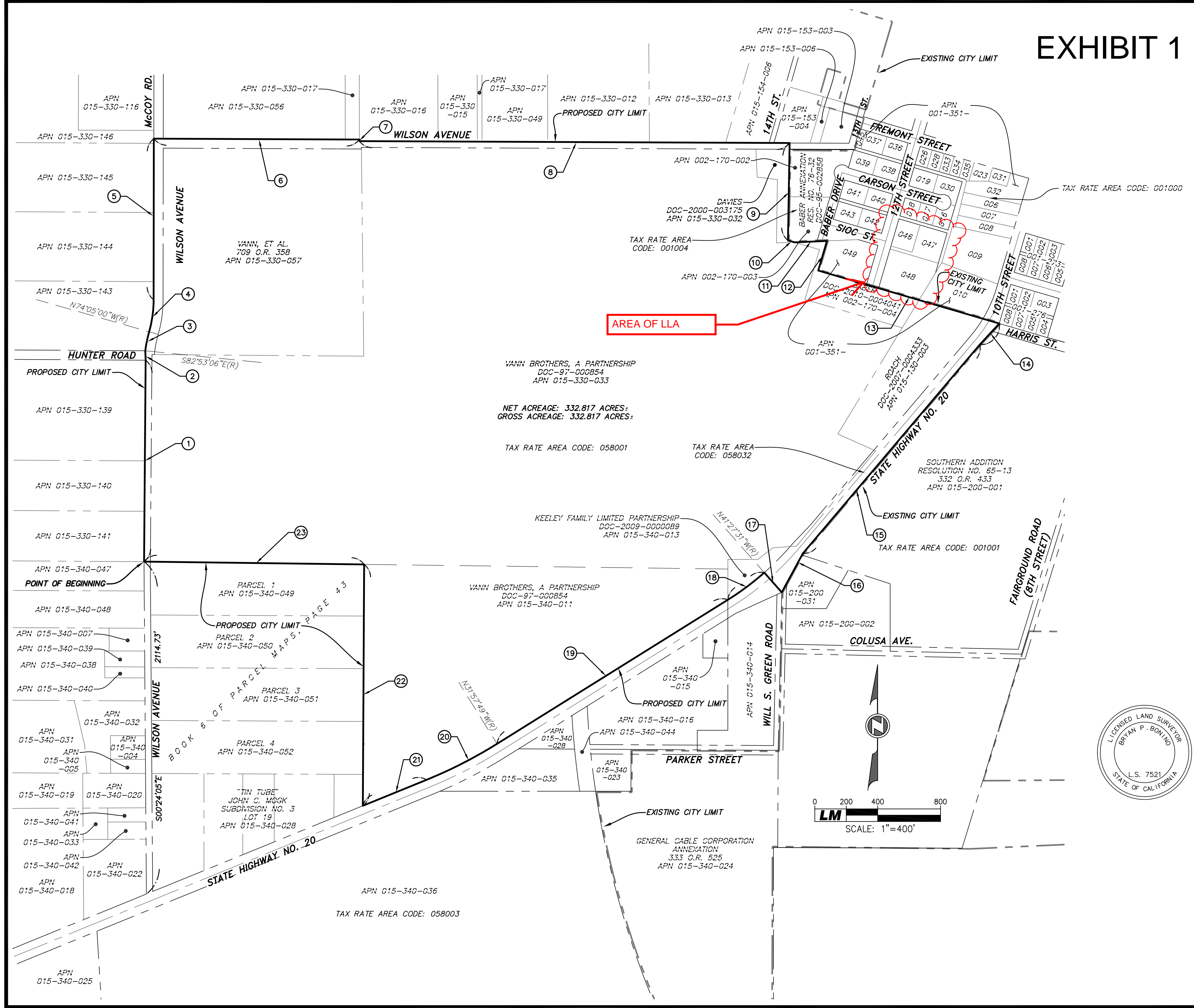
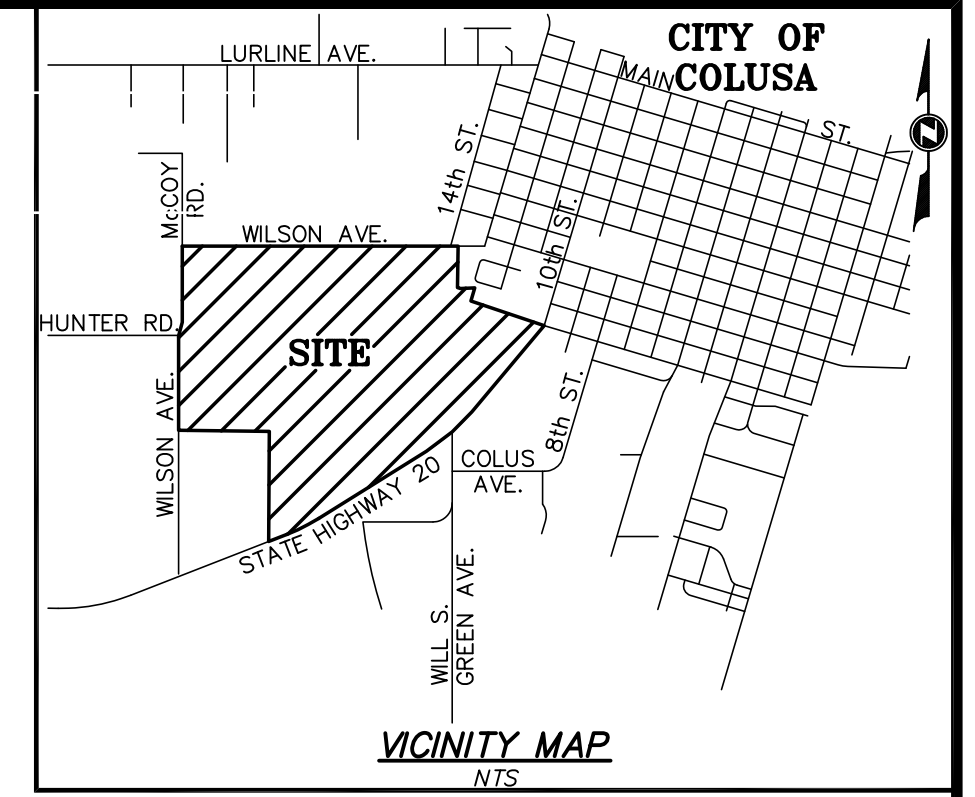
- 1.) The zoning designation both before and after the annexation adjacent and north of the prior city limits was and remains R-1. We do not believe that the annexation "changed" the zoning on existing property already zoned and located in the City Limits.
- 2.) Changing zoning on property within the City Limits, requires a general plan amendment. Staff cannot identify any records where land area north of the prior city limit line ever changing this zoning designation.
- 3.) The LLA submitted meets the city's R-1 zoning designation standards, therefore we do not find any technical nor land use issues that would prohibit the property owners from adjusting their lot lines as submitted.

Staff understand that there "could" be contemplated a future subdivision project. However, that project is not before the City any longer. Staff also understand that the LLA lot configuration sets up the newly configured lots to "match" a prior tentative subdivision map that has since been withdrawn. We also understand the concerns by the concerned citizens group whom is appealing the LLA and have worked closely with all parties to gain knowledge and background. If, and when, a subsequent project is brought before the City, and if that project is by the same ownership, we will then take into consideration all previous and future modifications in this area, inclusive of the current LLA action. Upon some potential future action, staff would conduct an evaluation and consider the appropriate CEQA measures and actions.

BUDGET IMPACT: None

ATTACHMENT: Appeal Letter, and Exhibits 1-4.

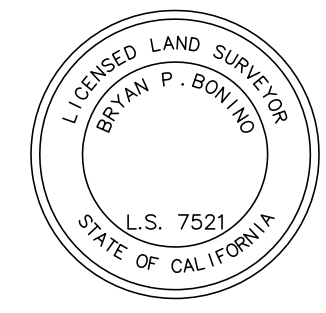
EXHIBIT 1



COURSES: (#)

(1)	N 00°26'35" E	1,281.56'
(2)	N 02°11'12" W	60.06'
(3)	R=802.84'	Δ=08°48'06" L=123.33'
(4)	R=746.20'	Δ=15°51'00" L=206.42'
(5)	N 00°04'00" E	1024.76'
(6)	S 89°45'00" E	1,307.95'
(7)	S 00°07'00" E	10.00'
(8)	S 89°45'00" E	2,736.82'
(9)	S 00°57'27" W	619.63'
(10)	S 73°40'27" E	44.09'
(11)	N 87°30'29" E	205.59'
(12)	S 16°19'08" W	196.27'
(13)	S 73°40'46" E	1,199.68'
(14)	S 42°42'56" W	181.80'
(15)	S 40°16'41" W	1,741.87'
(16)	S 28°30'42" W	281.47'
(17)	N 41°27'31" W	167.30'
(18)	R=1,750.00'	Δ=09°29'43" L=290.01'
(19)	S 58°02'11" W	1,730.20'
(20)	R=2,950.00'	Δ=09°47'00" L=503.72'
(21)	S 67°49'11" W	438.59'
(22)	N 00°19'11" E	1,535.67'
(23)	N 89°16'25" W	1,400.21'

332.817 ACRES



APPROVED BY LAFCO
LAFCO PROCEEDING NO. _____

CHAIRMAN _____ DATE _____

LAFCO FILE 2013-0002 COLUSA CROSSINGS
REORGANIZATION TO THE CITY OF COLUSA AND
DETACHMENT FROM THE SACRAMENTO RIVER
FIRE PROTECTION DISTRICT
LOCATED IN A PORTION OF TOWNSHIP 16 NORTH,
RANGES 1 & 2 WEST, MOUNT DIABLO BASE &
MERIDIAN, COLUSA COUNTY, CALIFORNIA

LM LAUGENOUR AND MEIKLE
CIVIL ENGINEERING · LAND SURVEYING · PLANNING
608 COURT STREET, WOODLAND, CALIFORNIA 95695 · PHONE: (530) 662-1755
P.O. BOX 828, WOODLAND, CALIFORNIA 95776 · FAX: (530) 662-4602

SHEET 1 OF 1 JULY 2, 2014

X:\Land Projects\2013-0002-Colusa Crossings-8.dwg\2013-0002-Colusa Crossings-8.dwg

PROJECT NOTES:

OWNER:

AMY AND WILLIAM SCHMIDT
10 REMINGTON COURT
COLUSA, CA 95932

ENGINEER/SURVEYOR:

NORTH VALLEY ENGINEERING
AND SURVEYING
1547 STARR DRIVE SUITE "J"
YUBA CITY, CALIFORNIA 95993
(530) 713-0417

ASSESSOR'S PARCEL NUMBER:

APN: 001-351-046, 047, 048

LOT ACREAGE:

PARCEL ACREAGE AS SHOWN.

EXISTING USE:

OPEN FIELD

PROPOSED USE

SINGLE FAMILY HOMES

EXISTING ZONING:

R-1 SINGLE FAMILY RESIDENCE DISTRICT

PROPOSED ZONING:

NO CHANGE

BUILDINGS & STRUCTURES:

NONE

WATER, SEWAGE & STORM DRAIN:

CITY OF COLUSA

UNDERGROUND ALERT SERVICES:

1-800-642-2444

ELECTRICAL, GAS:

PG&E

PREPARED BY:

NVES

NORTH VALLEY ENGINEERING AND SURVEYING
1547 STARR DRIVE SUITE "J"
YUBA CITY, CA 95993
(530) 713-0417

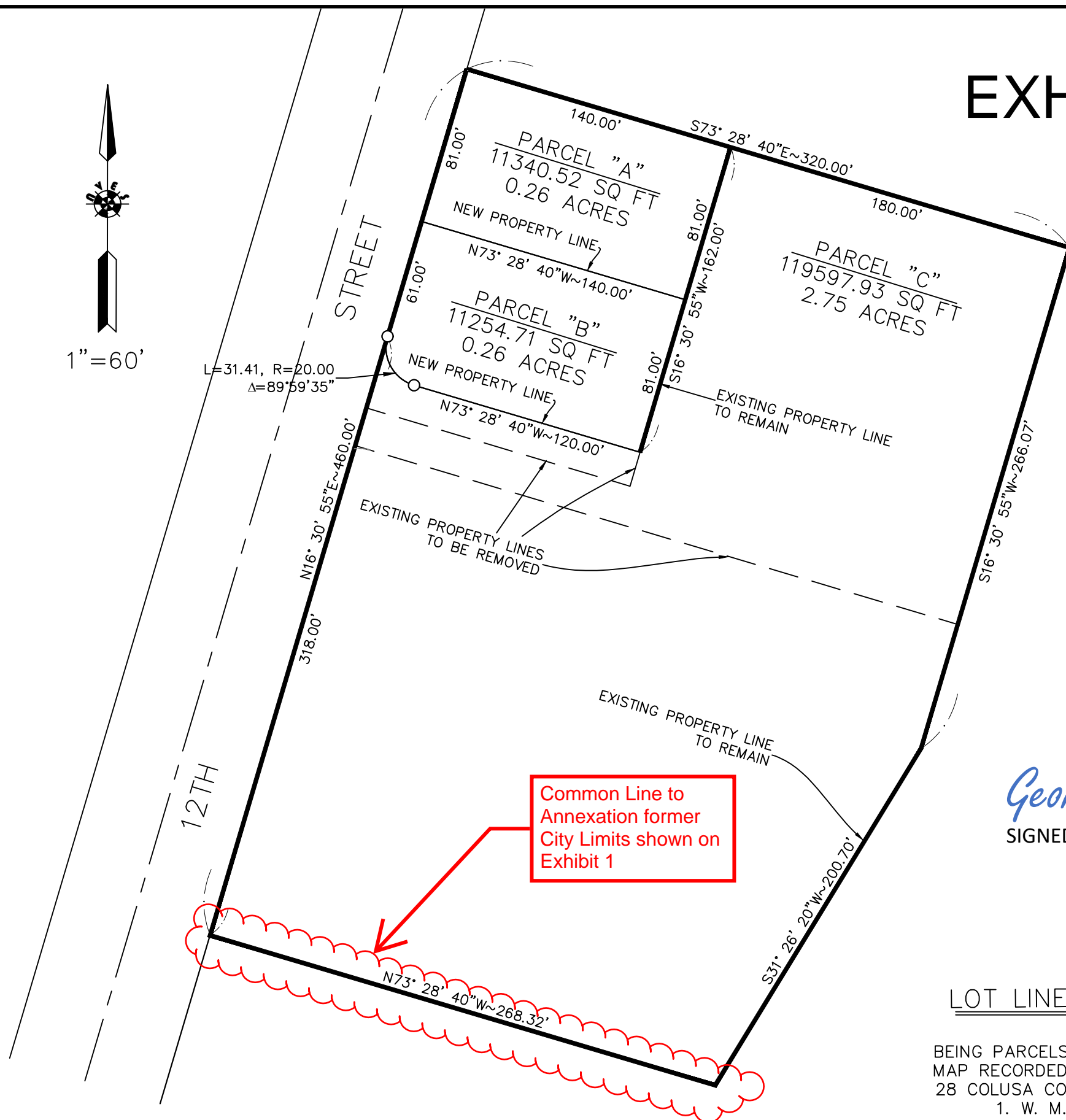
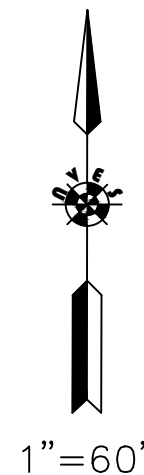
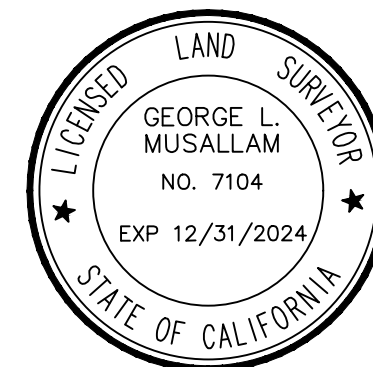


EXHIBIT 2



George L. Musallam

SIGNED ELECTRONICALLY ON 5-3-2023

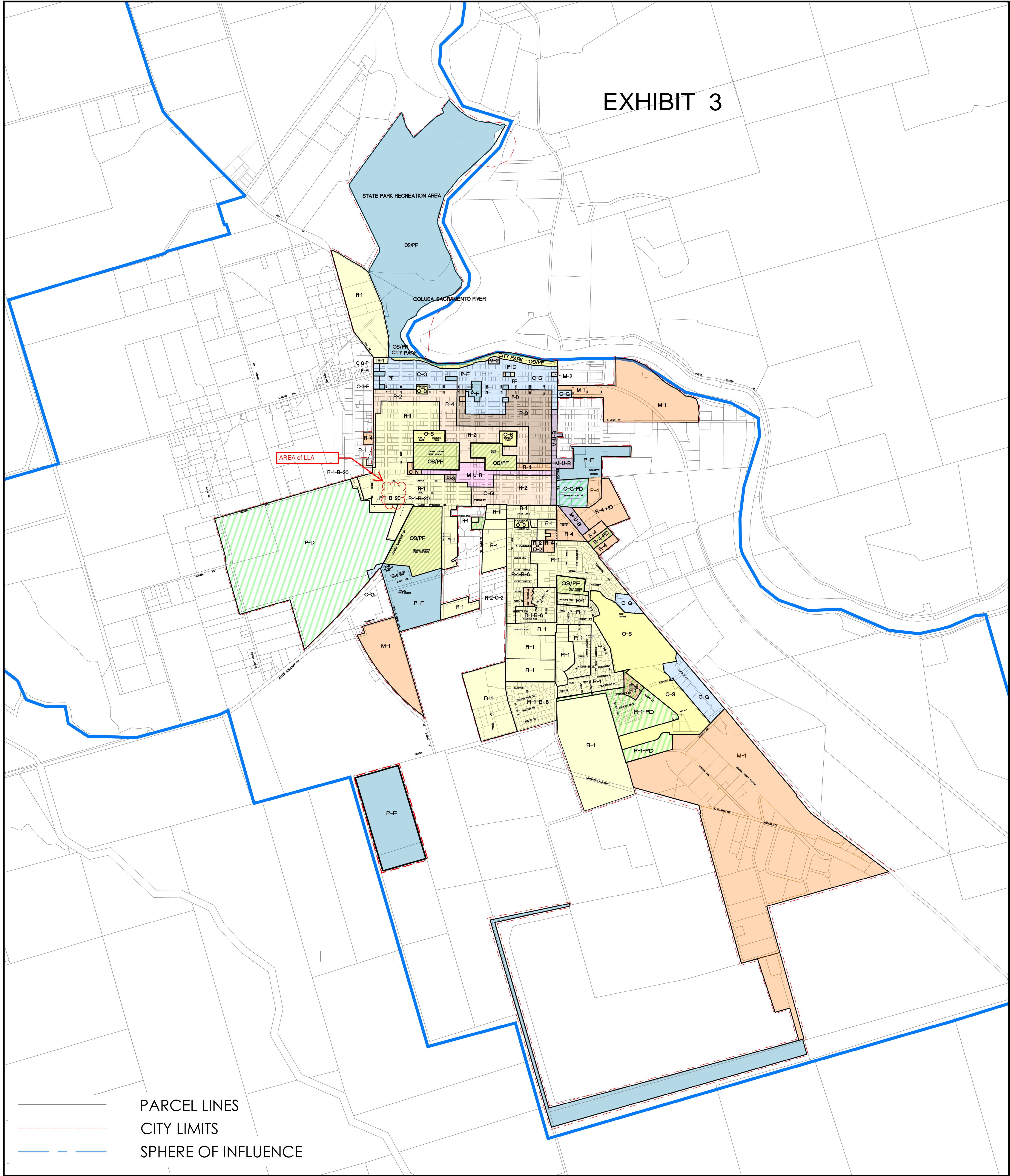
LOT LINE ADJUSTMENT NO.

SCHMIDT

BEING PARCELS 1, 2 AND 3 OF THAT CERTAIN PARCEL
MAP RECORDED IN BOOK 3 OF PARCEL MAPS AT PAGE
28 COLUSA COUNTY RECORDS SITUATED IN T. 16 W. R
1. W. M.D.B. & M. IN THE CITY OF COLUSA

COLUSA COUNTY, CALIFORNIA
SEPTEMBER 2022

EXHIBIT 3



1110 Civic Center Blvd, Suite 404 Yuba City, CA 95993 (530) 751-0952 Office



CIVIL ENGINEERING
LAND SURVEYING
FUNDING PROCUREMENT
CONSTRUCTION ADMINISTRATION
www.cecusa.net

CITY of COLUSA
ZONING MAP

ZONING DISTRICTS	
R-1	SINGLE-FAMILY RESIDENCE DISTRICT
R-2	TWO-FAMILY RESIDENCE DISTRICT
R-3	NEIGHBORHOOD APARTMENT DISTRICT
R-4	GENERAL APARTMENT DISTRICT
C-N	NEIGHBORHOOD BUSINESS DISTRICT
C-G	GENERAL COMMERCIAL DISTRICT
C-H	HIGHWAY SERVICE COMMERCIAL DISTRICT

ZONING DISTRICTS	
M-1	LIGHT INDUSTRIAL DISTRICT
M-2	GENERAL INDUSTRIAL DISTRICT
M-L	LIMITED INDUSTRIAL DISTRICT
P-D	PLANNED DEVELOPMENT DISTRICT
P-F	PUBLIC FACILITIES DISTRICT
O-S	OPEN SPACE DISTRICT
F-W	FLOODWAY DISTRICT

SPECIAL COMBINING DISTRICTS	
A	AGRICULTURAL COMBINING DISTRICT
B	SPECIAL BUILDING SITE COMBINING DISTRICT
CD	SPECIAL CIVIC DISTRICT COMBINING DISTRICT
F	SPECIAL HIGHWAY FRONTAGE COMBINING DISTRICT
FP	FLOOD PLAIN COMBINING DISTRICT
H	SPECIAL HEIGHT COMBINING DISTRICT
P	SPECIAL PARKING COMBINING DISTRICT
O	SPECIAL DIVIDED OWNERSHIP DISTRICT
AO	SPECIAL ADULT-ORIENTED COMBINING DISTRICT

AREA of LLA

R-1-B-20

R-1-B-20

R-1-B-20

Item 2.

13

P-D

OS/PF

COLUSA JUNIOR
HIGH SCHOOL

CARSON

ST.

R-1

SIOC

ST.

HARRIS

ST. HARRIS

ST.

11TH
ST.

ST.

BABER
DR

HIGHWAY 20

MAY 24 2023

SMK
12:55PM

CITY OF COLUSA

APPEAL TO THE CITY OF COLUSA PLANNING COMMISSION
Presented in Accordance with Sections 17.74 and 17.75 of the
City of Colusa Municipal Code

Regarding
CERTIFICATE OF COMPLIANCE – LOT LINE ADJUSTMENT NO. 02-23 LLA

Issued May 9, 2023

By

CITY ENGINEER, David Swartz

In Violation of

Sections 17-71 and 17-74 of the
City of Colusa Municipal Code

Presented on behalf of

COLUSA CITIZENS FOR CAREFUL PLANNING

An Association of Individual Colusa Residents and Homeowners

In Accordance with

Sections 17-74. C., and 17-75 of the
City of Colusa Municipal Code

By

NAGELEY, KIRBY, AND WINBERRY, LLP
ATTORNEYS AT LAW
500 Capitol Mall, Suite 2250
Sacramento, California 95814

By

Lanny T. Winberry, Attorney at Law

APPELLANT

This appeal, (the "Appeal") is presented on behalf of an association of individuals many of whom live in the area west of 10th Street and north of Sioc Street in the City of Colusa, known as the "Colusa Citizens for Careful Planning." The members of the association are referred to in this document collectively as "Appellant." The members of the association and their real property are adversely affected by the City action described below, which is the subject of this appeal. The preparation and filing of the Appeal has been authorized and funded by financial contributions from members of the association.

THE ACTION APPEALED

On May 9, 2023, David Swartz acting as the City Engineer of the City of Colusa signed, and acknowledged before a Notary Public, a document entitled: "CERTIFICATE OF COMPLIANCE – LOT LINE ADJUSTMENT NO. 02-23-LLA," (the "Certificate".) A copy of the Certificate is provided in the Appendix filed as a part of this Appeal, (the "Appendix") as **Exhibit A**.¹ The issuance of the Certificate is the "action of the city engineer" which the Appeal challenges. Implementation of the Certificate would result in the creation of two lots of almost exactly one quarter acre each in the space where there is currently one legal parcel of approximately 0.58 acre in size. The legal descriptions of those two proposed lots (Ex. A, Apdx, pp. 3 & 4) reveal the two lots are actually smaller than the existing parcel they would partially replace, ($0.258 + 0.260 = 0.518$ acres as compared to the current parcel size of 0.58 acres). Those two $\frac{1}{4}$ -acre lots would be within a block of 8 existing and fully developed residential lots of 0.44 acre or more and three more fully developed lots larger than $\frac{1}{4}$ acre and all 11 of which are served by rear alleyways. Under the City's General Plan, lots which exceed $\frac{1}{3}$ of an acre are "Estate Residential Lots" (ER). (Ex. J Apdx, p. 30) In effect, the LLA would create two new "Low Density Residential" (LDR) lots (3 to 8 units per acre) (*id.*) adjacent to existing homes in an Estate Residential neighborhood.

The two lots created by the LLA would be identical to Lots 1 and 2 as shown on a subdivision map presented for discussion last summer depicting a total of 19 lots on the land owned by the applicants for the LLA. (Ex. L, Apdx, p. 46) The LLA is, quite clearly, the first step in an attempt to eventually gain approval of a 19-lot subdivision with significantly smaller lots than those adjoining the site, with no alleys, and with no separation between the streets and sidewalks.

The desirable features of the traditional lot and block grid with rear alleys are expressly described in the General Plan as compared to features of the more modern approach to subdivisions with no alleyways and with the sidewalks which the General plan disfavors. (Ex. D,

¹ All pages of the Appendix are numbered sequentially. Some of the Exhibits have also have page numbers. The citations below are to the sequential page numbers for ease of access, "Apdx, p. ____".

Apdx, pp. 19 & 22. On page 3-33 of the General Plan, (Ex. D, Apdx, p. 22) Policy CCD-10.8 mandates a “shift away from conventional modern residential subdivision design toward a more traditional neighborhood design . . .” As further explained below, the General Plan explicitly protects established traditional neighborhoods from incompatible, nearby development.

The Certificate references Government Code Section 66499.35 of the California Government Code as authority for its issuance. A copy of Government Code Section 66499.35 is provided in the Appendix as **Exhibit B-1**, (Apdx, p. 10) That statute pertains to the issuance of a certificate of compliance for *existing* lots. Not mentioned in the Certificate is **Government Code Section 66412(d)**. That statute includes an exception to the requirements of the Subdivision Map Act, allowing a local agency or an advisory agency, such as a planning commission, to approve lot line adjustments (“LLAs”) which meet the conditions imposed by that statute. A copy of Government Code Section 66412(d) is included in the Appendix as **Exhibit B-2**, (Apdx, p. 11.)

Also not mentioned in the Certificate are Sections 17-71, 17-74, and 17-75 of the City of Colusa Municipal Code delegate the City’s LLA approval authority to the City Engineer, but subjects the City Engineers determinations to appeals to the Planning Commission. Sections 17-71 and 17-74 set forth the conditions under which the City Engineer may issue a Certificate of Compliance for a proposed LLA when he or she determines in writing that a proposed lot line adjustment meets all the requirements of Sections 17-71 and 17-74. Those conditions add to the conditions imposed by Government Code Section 66412(d). A copy of Sections 17-71, 17-74, and 17-75 of the City of Colusa Municipal Code is provided in the Appendix as **Exhibit C**.

STANDING

Municipal Code Section 17-74. C. (Ex. C, Apdx, p. 15) states: “Any interested person may appeal any action of the city engineer pursuant to this section to the planning in commission in accordance with section 17-75.” Under Section 17-74. C. Appellant has standing to file and prosecute this appeal.

THE RELIEF REQUESTED

By the filing of this Appeal, Appellants request the Colusa Planning Commission to conduct a hearing, receive documentary and testimonial evidence, and issue a written decision of the Planning Commission disapproving and invalidating the Certificate, directing that the Certificate be rescinded, and directing that the Certificate, and any similar certificate pertaining to the land described in the Certificate, shall not be recorded in the official records of the County Recorder of Colusa County. In the event the Planning Commission determines it lacks the authority to take the actions requested in the foregoing sentence, Appellants request that, as to each part of the request deemed beyond the Planning Commission’s authority, the

Planning Commission issue a written recommendation to the Colusa City Council that the City Council, conduct a hearing, receive documentary and testimonial evidence, and issue a written decision of the City Council disapproving and invalidating the Certificate, directing that the Certificate be rescinded, and directing that the Certificate, and any similar certificate pertaining to the land described in the Certificate, shall not be recorded in the official records of the County Recorder of Colusa County.

GROUND FOR APPEAL, EVIDENCE, AUTHORITIES, ANALYSIS AND CONCLUSIONS

The Appeal is based on the following grounds and the evidence, authorities, analyses and conclusions set forth below.

Ground 1.

Certification of the proposed Lot Line Adjustment (LLA) by the City Engineer is contrary to law, unsupported by substantial evidence, and arbitrary and capricious because it would create lots which are not consistent or compatible with existing Estate sized lots in the adjacent neighborhood each of which is served by rear alleys. The LLA would, therefore, violate several important Policies and frustrate several Goals stated in the text of the City's Updated General Plan (2007) which requires that areas adjacent to or near enough to impact existing neighborhoods developed in the traditional style, (lot-and-block grid with separated sidewalks service alleys) be planned and developed in that manner so as to be consistent and compatible with the existing neighborhoods.

Evidence, Authorities and Analyses as to Ground 1.

1.

- A. **The Certificate** identified as Exhibit A above and further discussed below.
- B. **Government Code Section 66412(d)**, identified as Exhibit B-2 above and further discussed below.
- C. **Sections 17-71, 17-74, and 17-75 of the City of Colusa Municipal Code** identified as Exhibit C above and as further discussed below.
- D. **The text of City of Colusa Updated General Plan Land Use Element.** An extract of the City's General Plan as Updated in 2007 is included in the Appendix as **Exhibit D**. The selected text presented in Exhibit D contains salient parts of the General Plan, including the Goals and Policies with respect to new development in, and adjacent to, portions of the city developed in the traditional lot-and-block grid with wide streets, separate sidewalks, and alleys along the rear sides of residential lots. (See Exhibit D, (Apdx, p. 19 and 22) describing the City's traditional lot-and-block grid pattern with rear access alleys and eight-foot parkway strips between sidewalks and streets as compared to the more modern approach to residential subdivisions.) The General Plan Policies require that new development adjacent to existing traditional neighborhoods follow the traditional design so as to be compatible with, protect, preserve, and blend in with, the character of those traditional areas of the City. To

that end, "Implementing Action CCD-1.1. b. Design Guidelines" states: **"The City will adopt Community Design Guidelines in which preservation and enhancement of the City's existing neighborhoods will be the overriding design principle."** (Ex. D, Apdx, p 21 (top of page) extracted from page 3-9 of the General Plan.)

To ensure compatibility with existing neighborhoods the City included a Community Character and Design element, (the "CCD") in its General Plan (Ex. D, Apdx, 18 (top of page.) The General Plan further states: "As Colusa looks to the future, a return to the pre-1990's grid is considered a desirable pattern for development." (Ex. D, Apdx, p. 20, under the heading "City Streets") The General Plan explains the purpose and importance of the Design Review process stating:

The purpose of Design Review is to protect the character of Colusa and to ensure that new development or changes to existing development are compatible with surrounding neighborhoods. It will allow the City to look beyond the specifics of a proposed development, and consider its context and how the project will fit and benefit its surroundings.

Design Review will help assure property owners that their investment will be protected. **As traditional zoning prevents incompatible uses from locating within a neighborhood, Design Review can ensure that the character of a neighborhood or community is maintained.** (Ex. D, Apdx, p.20. Emphasis added.)

The City's General Plan was created to comply with State law. California's Planning and Zoning Law provides every city and county must adopt a "comprehensive, long-term general plan for the physical development of the county or city . . . (Gov. Code, § 65300.) **A general plan is essentially the "'constitution for all future developments'"** within a city or county. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570, 276 Cal. Rptr. 410, 801 P.2d 1161. Emphasis added.) Its elements must comprise "an integrated, internally consistent and compatible statement of policies." (Gov. Code, § 65300.5.) **The propriety of local decisions affecting land use and development depends on their consistency with the general plan.** (*Citizens of Goleta Valley v. Board of Supervisors, supra*, 52 Cal.3d at p. 570. Emphasis added.)

- E. **Government Code Section 65301(c), 65302(a) and 65302.4.** Sections 65301(c) and 65302(a) require each General Plan to include a Land Use Element. Section 65302.4 states that the text and diagrams in the Land Use Element of a General Plan may express intentions regarding "urban form and design," may "differentiate neighborhoods, districts and corridors," and may "provide specific measure for regulating relationships . . . between buildings and . . . streets." A copy of Government Code Sections, 65301, 65302 subsection (a) and 65302.4 are included in the Appendix as **Exhibit E**, Apdx, p. 24-25.

As shown in Exhibit D., the City's updated general plan includes prescriptions of urban form and design with respect to compatibility with existing neighborhood as authorized by Section 65302.4 and refers to those provisions as its Community

Character and Design Element (CCD). Therefore, the CCD goals and policies of the General Plan are **binding** upon all subsequent land use decisions.

- F. **The Land Use Diagram (LUD) Included in the City's 2007 update of its General Plan.** The LUD depicts future lots and alleyways in the area affected by the LLA as Estate sized lots, (1 to 3 residential units per acre), which is consistent with the existing lots on both sides of Carson Street near 12th Street and on the north side of Sioc. An extract of the LUD adopted as a part of the 2007 Update of the General Plan, (found just after page 2-14 of the General Plan) enlarged to clearly show the dashed lot lines in the area involved in the proposed LLA, is provided in the Appendix as **Exhibit F.** (Apdx. 26.)
- G. **The City of Colusa Zoning Map Found on the City's website.** The Zoning Map *labels* the area in which the proposed LLA is located as **R-1-B-20**. An enlarged extract of the Zoning Map, centered on the intersection of South 12th Street and Carson Street and showing the area on the east side of 12th Street at Sioc Street, where the parcels involved in the LLA are located, is provided in the Appendix as **Exhibit G.** (Apdx, p. 27) (General Plan consistency with that labeling is further illustrated by Exhibits K-1, K-2 and K-3 discussed below.
- H. **Sections 20.01 and 20.02 of the City Zoning Code.** Those sections state that a Designation R-1-B-20 means a residential lot with a minimum square footage of 20,000 square feet. A copy of Sections 20.01 and 20.02 of the City Zoning Code is provided in the Appendix as **Exhibit H.** (Apdx, p. 28.)
- I. **The County Assessor's Parcel Map Page 1-351.** The County Assessor's Parcel Map shows the sizes of the existing, fully improved lots served by rear access alleys in the neighborhood this appeal is filed to protect, which is adjacent to the proposed LLA. According to the Assessor's records, of the 11 fully developed lots within a distance of one block from the site of the LLA, 8 of those lots equal or exceed 0.44 acres in size and all are served by alleys which allow access and trash pick-up from the rear of each lot. Because of the alleys, the street scape in the well-established adjacent neighborhood is *not* dominated by two car driveways and garage doors, which is the inevitable result of ¼ acre lots with no rear access. (See Appx. at page 39 describing Modern subdivision design.) Existing traditional neighborhoods are protected from such incompatible development by the General plan as shown in Exhibit D. (See, e.g. Ex. D, Appx, at pages 19, 20, last two lines on p. 21, p. 22) Policy CCD 11.2 which appears on page 3-33 of the General plan and which is copied at the top of Ex. D. Apdx, p. 23 states:

New development shall minimize the use of front loaded garages that dominate the street scape in residential neighborhoods. Garages that are alley-oriented or set back from the street view are preferred. (Emphasis added.)

The proposal for two ¼- acre lots which would be created by the proposed LLA is clearly an attempt to *bypass* all the protections, requirements and policies of the General Plan as to Community Character and Design.

A copy of the Assessor's parcel map of the area, (to which the acreages determined by the Assessor's office and posted on the Assessor's website have been added) is provided in the Appendix as **Exhibit I.** (Apdx. p. 29.)

- J. **An Extract of the City's General Plan as Updated in 2007 describing proposed future development projects within the City's sphere of influence.** A portion of the General Plan's Land Use Element sets forth the definitions of the Land Use designations, notes that zoning must be consistent with the general plan and discusses the projects then being proposed for annexation and development. Selected portions of the General Plan regarding those matters are included in the Appendix as **Exhibit J.** (Apdx, pp. 30-32) The future projects summarized include a project for 600 homesites at a density of 4.7 units per acre, 900 homesites at a density of 7.5 units per acre, 130 residential units at a density of 10 units per acre, and 200 residential units at a density of 20 per acre. (Ex. J, Apdx, pp. 31-32) The General Plan states that those opportunities, "will allow new urban development to occur without compromising the quality of life for existing Colusa residents." (Ex J., Apdx, p. 31) In light of the General Plan's provision for more densely developed residential neighborhoods in appropriate locations, there is no *need* to violate the text of the General Plan to allow the creation and development of small lots, without alleys, adjacent to a well-established, large-lot neighborhood with alleys and the streetscape that traditional design fosters, and which the General Plan explicitly prefers.
- K. **The City Council Minutes of February 5 and March 5, 2013 and the annexation Ordinance 487 Adopted March 5, 2013.** A copy of those Minutes and that Ordinance is included in the Appendix as **Exhibits K-1, K-2 and K-3** respectively. Those Exhibits show that the southern portion of one of the parcels involved in the LLA was "pre-zoned" as R-1-B-20 by the City Council, "**in order to preserve the large lot sizes.**" in the area to the north of the annexation area. (Ex. K-1, Apdx, p. 34, Minutes of 2/5/2013, unanimous 5-0 vote) (Emphasis added.) See also Minutes of 3/5/2013, (Ex. K-2, Apdx, p. 38) (adopted as a consent item) and Ordinance 487 (Ex. K-3, Apdx, pp 42-45.) Therefore, the R-1-B-20 zoning shown in Exhibit G is not an anomaly. That zoning was established to preserve the Estate Residential neighborhood to the north of the annexation area following public discussion and by public votes of the Planning Commission and the City Council only 10 years ago. That discussion and those votes confirm that the City Council recognized that the General Plan and LUD protected that traditional Estate Residential area of the City near the south end of 12th Street from adjacent development with higher density and more contemporary (front access only) urban design and the streetscapes such small lot, front loaded development creates. It must be noted that, as shown in Table 2.1, (copy provided on second page of Ex. J, Appx, p. 31) an R-1 Zoning designation can apply to either an Estate Residential Area or a Low Density Residential Area. In other

words, in areas Zoned R-1, owners are free to elect to subdivide and develop Estate sized lots in the traditional layout. That type of development, whether it occurred before the General Plan was adopted or after, can create an Estate Residential neighborhood in that Zone. In the case at hand, an Estate Residential neighborhood was recognized by the Planning Commission and the City Council to exist in the Carson, Sioc and 12th Street area when the annexation matter came before the City Council in 2013. The General Plan provided protection for the investments made by the owners of those large lots. The 2013 City Council rightly took action to make sure the integrity of that neighborhood was preserved and extended to the new City limit. The approval of the LLA would allow the City Engineer to overrule a decision of the City Council. Such an approval cannot stand.

- L. **Government Code Section 65860.** Section 65860 states, in subdivision (a), that, "county or city zoning ordinances shall be consistent with the general plan of the county or city. In *City of Morgan Hill v. Bushey*, 5 Cal. 5th 1068, 1079 (2018) the California Supreme Court held that while a given general plan is in effect, "neither local governments nor the electorate can enact a zoning ordinance inconsistent with it." The City's General Plan at page 2-20 states: "State planning law requires the zoning code to be consistent with the General Plan. Each General Plan land use designation will have one or more corresponding zoning districts." (Ex. J, Apdx, p. 30) The California Supreme Court held in *Citizens of Goleta Valley v. Board of Supervisors*, (1990) 52 Cal.3d 553, 570, "**the propriety of local decisions affecting land use and development depends on their consistency with the general plan.**" (Emphasis added.) In this case, the City Engineer has made a decision which is contrary to the General Plan. That decision must be rescinded or overturned.

Conclusions as To Ground 1

The Exhibit to Ordinance 487 (Ex. K-3, Apdx, p. 45) shows APN: 002-170-004 as being annexed into the City and pre-zoned to R-1-B-20. The eastern portion of that APN is now the southern portion of APN 001-351-048 as depicted in the Assessor's Parcel Map provided as Exhibit I, Apdx, p. 29. APN 001-351-048 is one of the parcels involved in the proposed LLA. Clearly, the "large lot sizes" the 2013 City Council intended to "preserve" by pre-zoning the annexed areas as R-1-B-20 were those fully developed lots on Sioc and Carsons Streets and the large prospective lots depicted in the LUD lying south of Sioc and north of the area to be annexed. **The City's current zoning Map displays "R-1-B-20" on the area lying directly between the 2013 annexation area and the area and the existing 0.44 acre parcels depicted in the LUD and directly on the prospective 0.44 acre lots and alleys also depicted in the LUD.** (Compare Ex. F Apdx, p. 26 with Ex. G., Apdx, p. 27.) The gist of the 2013 decision was that the Estate Residential neighborhood at the south end of 12th Street would be preserved and

extended to the south edge of the annexation area. From that point south, the Planned Unit Development discussed in the Land Use Element under Future Growth, (Ex. J, Apdx, p. 31-32) would provide an appropriate buffer between that neighborhood and the new development to the South.

The City's General Plan LUD, (Ex. F, Apdx, p. 26) its' Zoning Map, (Ex. G, Apdx, p.27) the City' Council's minutes from 2013, (Ex. K-1 & K-2) the map exhibit to Ordinance 487, (Ex. K-3) (Apdx. pp 33-45) the current Assessor's Parcel Map, (Ex. I, Apdx, p. 29) and the proposed LLA plat, (Ex. A, Apdx, p. 9) show that the LLA is adjacent to a well-established Estate Residential neighborhood developed in the traditional lot-and-block grid with alleys. The City officially recognized the neighborhood as meeting the General Plan definition of an Estate Residential neighborhood in 2013 when it pre-zoned the annexation area so to as to preserve the large lot size character of that neighborhood. **It would be the height of sophistry, and directly contrary to the text and LUD of the General Plan and the City's Zoning Map, for the City now to declare that *only* the annexed area is, by its zoning, restricted to lots of 20,000 square feet or more but that the neighborhood the pre-zoning was expressly intended to preserve may be developed at densities up to 8 units per acre.** The decision of the City Engineer must be rescinded and the General Plan upheld.

Ground 2.

Certification of the proposed LLA by the City Engineer is contrary to law, unsupported by substantial evidence and is arbitrary and capricious, because it is in direct conflict with prior interpretation and recommended implementation of the Updated City of Colusa General Plan as stated on the Public Record by a former City Planning Director and a former City Attorney. Their interpretation and recommended implementation was formally adopted as the Planning Commission's recommendation to the City Council, and were adopted by a unanimous decision of the City Council on February 5, 2013 during an annexation process in which the land located within the LLA was determined to be worthy of protection from non-compatible smaller lots by Pre-zoning the annexed area R-1-B-20 so as to make it consistent with the Estate Residential neighborhood to the north.

Evidence, Authority and Analysis as to Ground 2.

The City's General Plan LUD, (Ex. F, Apdx, p. 26) as discussed and analyzed in support of Ground 1 above.

The City's Zoning Map, (Ex. G, Apdx, p.27) as discussed and analyzed in support of Ground 1 above.

City' Council's minutes from February 5 and March 5, 2013,(Ex. K-1 & K-2, Apdx, pp. 41) as discussed and analyzed in support of Ground 1 above.

The Text and Map exhibit to Ordinance 487, (Ex. K-3, Apdx, pp. 42-45) as discussed and analyzed in support of Ground 1 above.

The proposed LLA Plat, (Ex. A, Apdx, p. 9), as discussed and analyzed in support of Ground 1 above.

Conclusions as To Ground 2.

For the same reasons, and based on the same documents and evidence contained in the Appendix and summarized above with respect to Ground 1, the proposed LLA would change the allowed density of development on an existing parcel adjacent to a well-established Estate Residential neighborhood developed in the traditional lot-and-block grid with alleys. The established neighborhood conforms to the General Plan definition of an Estate Residential area. The City officially recognized that status in 2013 when it pre-zoned the annexation area so as to preserve the large lot size and traditional character of that neighborhood. **It would be the height of sophistry, and directly contrary to the text and LUD of the General Plan and the City's Zoning Map, and contrary to the decision of the City Council in 2016 for the City now to declare that *only* the annexed area is, by its zoning, restricted to lots of 20,000 square feet or more but that the neighborhood the pre-zoning was expressly intended to protect may be developed at densities up to 8 units per acre.** The decision of the City Engineer must be rescinded, and the General Plan upheld.

Ground 3

Certification of the proposed LLA by the City Engineer is contrary to law, because the City Engineer failed to determine or certify in writing that the LLA does not violate the General Plan, as specifically required by the exception to the Subdivision Map Act which allows LLAs in lieu of parcel maps and subdivision maps when fewer than five parcels are involved, and as specifically required by Section 17-71.F. of the Colusa City Code an Government Code Section 66412(d).

Evidence, Authority and Analysis as to Ground 3.

City of Colusa Code Sections 17-71.F. and 17-74, Exhibit C, Apdx, pp. 13-16 as discussed and analyzed in support of Ground 1 above.

Government Code Section 66412(d), Exhibit B, p. 10 as discussed and analyzed in support of Ground 1 above.

Conclusions as To Ground 3.

Government Code Section 66412(d) and Section 17-71.F. of the Colusa Municipal Code require that the approving authority determine in writing that the LLA will conform to the local general plan before issuing a certification. Section 17-74. B. of the Municipal Code requires that the City Engineer “certify” that the LLA meets all the requirements of the City Code. In this case, the City Engineer failed to make that determination or certification. It appears the City Engineer did not even consider the specific requirements of the statute or the local ordinance, because the Certificate does not specifically mention the specific authority under which the City Engineer was acting. Regardless of the reason, the Certificate is contrary to law and must be rescinded or set aside on this Ground alone. For all the reasons set forth in support of Ground 1 above, Appellant contends the City Engineer cannot make such a determination in good faith and supported by substantial evidence.

Ground 4.

Certification of the LLA by the City Engineer is contrary to law because it erroneously states “the request will conform to the current City Zoning Code,” a finding directly contrary to the City’s Zoning Map as currently displayed on the Planning Department Page of the City’s website. The Zoning Map explicitly states that the area included in the proposed LLA is Zoned R-1-B-20, which prescribes a minimum lot size of 20,000 square feet in such a zone, whereas the proposed LLA depicts and describes a lot, “Parcel A,” as containing only approximately 11,325 square feet (43,560 * 0.260 acres)) and a lot, “Parcel B,” as containing only approximately 11,238.48 square feet (43560 * 0.258 acres) – each lot being significantly smaller than the minimum of 20,000 square feet prescribed in the Zone.

Evidence, Authority and Analysis as to Ground 4.

- 4 A. City of Colusa Zoning Map, Exhibit G, Apdx, p 27 as discussed and analyzed in support of Ground 1 above.
- 4. B. City of Colusa Code, Article 20, Sections 20.01 and 20.02, Exhibit H, Apdx, p. 28 as discussed and analyzed in support of Ground 1 above.
- 4. C. The County Assessor’s Parcel Map Page 1-351, Exhibit I Apdx, p. 29 as discussed and analyzed in support of Ground 1 above.

4. D. The City Council Minutes of February 5 and March 5, 2013 and the annexation Ordinance 487 Adopted March 5, 2013, Exhibits K-1, K-2 and K-1, Apdx, pp. 33-45 as discussed and analyzed in support of Ground 1 above.

Conclusions as To Ground 4.

Considering APNs listed in the Certificate, Exhibit A, and the Plat Map included in the Certificate, (Apdx, pp. 1 & 9) in light of the Map exhibit to the annexation Ordinance 487, Exhibit K-3, Apdx, p. 45, the Assessor's Parcel Map, Exhibit I, Apdx, p. 29 and the City's Zoning Map, Exhibit G, Apdx, p. 27, it is clear that "R-1-B-20" on the Zoning Map is **printed** directly over the large southerly parcel involved in the LLA and directly below the other two parcels involved. Sections 20.01 and 20.02 of the Colusa Municipal Code make it absolutely clear that R-1-B-20 means that each parcel to be created in that zone must be at least 20,000 square feet or more. Two lots depicted on the proposed LLA contain less than 12,000 square feet – far less than 20,000 square feet, and less than 1/3 of an acre, (14,520) square feet necessary to qualify as an Estate Residential lot. Therefore, two of the lots do not "conform" to the current Zoning Code or the General Plan specifications for Estate Residential Lots. The decision of the City Engineer must be rescinded or overturned on this Appeal.

Ground 5.

Certification of the proposed LLA by the City Engineer is contrary to law because the City Engineer, contrary to City Code Section 17-71. G, failed to Certify that the proposed LLA does not violate, "any other provisions of state or local law," such as the California Planning and Land Use Law which, in Government Code Section 65860 (a) states that a City zoning ordinance must be consistent with the City's General Plan and provides for the correction of instances in which a zoning ordinance is not consistent with the General Plan. Approval of the proposed LLA would, not only violate the General Plan, it would, in effect, be a change in the City's Zoning Map for the two new ¼ acre parcels from R-1-B-20 to R-1 which can be either 1 to 3 units per acre or 3 to 8 units per acre dependent on the neighborhood in which the LLA is proposed. That change would create a Zoning Map inconsistent with Government Code Section 65860(a).

Evidence, Authority and Analysis as to Ground 5.

5. A. City of Colusa Zoning Map, Exhibit G, Apdx, 28 as discussed and analyzed in support of Ground 1 above.

5. B. Government Code Section 65860, which reads as follows.

65860. (a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974. A zoning

ordinance shall be consistent with a city or county general plan only if both of the following conditions are met:

- (1) The city or county has officially adopted such a plan.
- (2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan.

(b) Any resident or property owner within a city or a county, as the case may be, may bring an action or proceeding in the superior court to enforce compliance with subdivision (a). Any such action or proceeding shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. No action or proceeding shall be maintained pursuant to this section by any person unless the action or proceeding is commenced and service is made on the legislative body within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance.

(c) In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.

- 5. C. **Sections 20.01 and 20.02 of the City Zoning Code, Exhibit H, Apdx, p. 28, as discussed and analyzed in support of Ground 1 above.**
- 5. D. **Extract of City General Plan Land Use Element, Exhibit J, Apdx, pp. 30 & 31, as discussed and analyzed in support of Ground 1 above.**
- 5. E. **City of Colusa Municipal Code Sections 17-71 through 17-74, Exhibit B, Apdx, p. 13-16, as discussed and analyzed in support of Ground 1 above.**

Conclusions as To Ground 5.

The Zoning for the area involved in the proposed LLA is Zoned R-1-B-20, which means that the minimum lot size for a new parcel or lot in that Zone is 20,000 square feet. The proposed LLA would create two lots in a smaller, ¼ acre size. Such lots are allowable in a Zone designated R-1, 3 to 8 lots per acre, unless that Zone includes areas which are developed as Estate Residential and the proposed lots are in or near such an Estate Residential neighborhood. In this case, the proposed lots are so near an Estate Residential neighborhood that 10 years ago, the City Council took action to preserve that neighborhood by pre-zoning a nearby annexation area R-1-B-20. Therefore, allowing the creation of lots lower than 1/3 of an acre in size by approval of the proposed LLA would

violate Government Code Section 65860 and fall short of the requirements of Section 17-71.G. of the City of Colusa Municipal Code. On this ground the Certificate must be rescinded or overturned on this Appeal.

Ground 6.

Certification of the proposed LLA by the City Engineer is contrary to law because the City Engineer, contrary to City Code Section 17-71. G, failed to determine or certify that the LLA does not violate, "any other provisions of state or local law," such as the California Environmental Quality Act (CEQA) which, prohibits breaking a "Project" into pieces to escape CEQA review.

Evidence, Authority and Analysis as to Ground 6.

6. A. **Draft Tentative Map of Wild Bird Estates, dated February 2022.** A copy of that Map is included in the Appendix as **Exhibit L, Apdx, p. 46.**

6. B. **Section 15378 of the CEQA Guidelines**, which states, in pertinent part:

(a) "Project" [for purposes of the CEQA process] means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and that is any of the following:

...

(3) An activity involving the issuance to a person of a lease, permit, license, **certificate**, or other entitlement for use by one or more public agencies. (Emphasis added.)

6.C. **Public Resources Code Section 21038** which grants State Office of Planning and Research the power and the duty to develop guidelines for the efficient administration of the CEQA process, and **Public Resources Code Section 21065** which states that CEQA applies to any project which requires approval by a public agency.

6.D. **Colusa General Plan Land Use Goal LU-6**, which reads as follows: "To provide a comprehensive, logical land use planning process rather than an incremental, piecemeal approach."

Conclusions as To Ground 6.

The two lots identified as Parcels A and B in plat of the proposed LLA, Exhibit A, Apdx, 9 are practically identical in location, size, and shape to Lots 1 and 2 shown on a draft Tentative Subdivision Map of "Wild Bird Estates," Exhibit L, Apdx, p.46, which the LLA applicant presented in 2022 to the City administrative officials for discussion. The undersigned brought that draft Tentative Map to the attention of the City Council during the public comment section of a City Council meeting on September 6, 2022. Comparing the proposed LLA plat with the draft Tentative Subdivision Map makes it abundantly clear that the LLA is the first step in a larger

"project" and, therefore violates the "anti-piecemealing" provisions of CEQA and violates the City's General Plan Goal LU 6 quoted above. Even if the size of the of the two ¼ acre lots in the LLA were not violative of the General Plan, CEQA review of the entirety of the contemplated project or development likely to occur would be required before approval. There CEQA evaluation process must consider the changes likely to occur if the LLA is final approved. The LLA applicant and the City officials cannot side-step CEQA by closing their eyes to the evidence before them. Allowing the creation of two ¼ acre lots adjacent to an area in which 8 nearby lots exist and have been recognized to comprise and Estate Residential neighborhood would materially change the "baseline conditions" against which CEQA evaluation of the potential adverse environmental impacts of a "project" is measured. The required CEQA process has not occurred. The certification of the proposed LLA violates CEQA and Goal LU-6 of the City's General Plan. Therefore, the Certificate must be rescinded or overturned on appeal.

Respectfully submitted,

Nageley, Kirby and Winberry, LLP

By: 
Lanny T. Winberry, Attorney at Law,
on behalf of the "Appellant" identified above.

Dated: May 23, 2023

APPENDIX

to the

APPEAL TO THE CITY OF COLUSA PLANNING COMMISSION

Presented in Accordance with Sections 17.74 and 17.75 of the

City of Colusa Municipal Code

Regarding

CERTIFICATE OF COMPLIANCE – LOT LINE ADJUSTMENT NO. 02-23 LLA

Issued May 9, 2023

By

CITY ENGINEER, David Swartz

In Violation of

Section 17-71 of the

City of Colusa Municipal Code

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RE

Exhibit A Apdx p.1

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Colusa

On May 9, 2023 before me, Shelly Kittle, Notary Public
(insert name and title of the officer)

personally appeared David Swartz
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

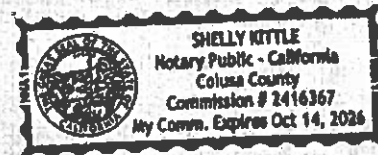
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Shelly Kittle

(Seal)



Apdx p. 2

EXHIBIT "A"
PARCEL "A"

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CONTAINING 0.260 ACRES MORE OR LESS

THIS DESCRIPTION IS BEING PREPARED FOR CITY OF COLUSA LOT LINE ADJUSTMENT NO. 02-23 LLA.



George L. Musallam

SIGNED ELECTRONICALLY ON 5-3-2023

Apdx p. 3

EXHIBIT "A"
PARCEL "B"

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Apdx p. 4

EXHIBIT "A"
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CONTAINING 2.746 ACRES MORE OR LESS

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George L. Musallam

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22

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Apdx p. 6

23

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Apdx p. 7
246

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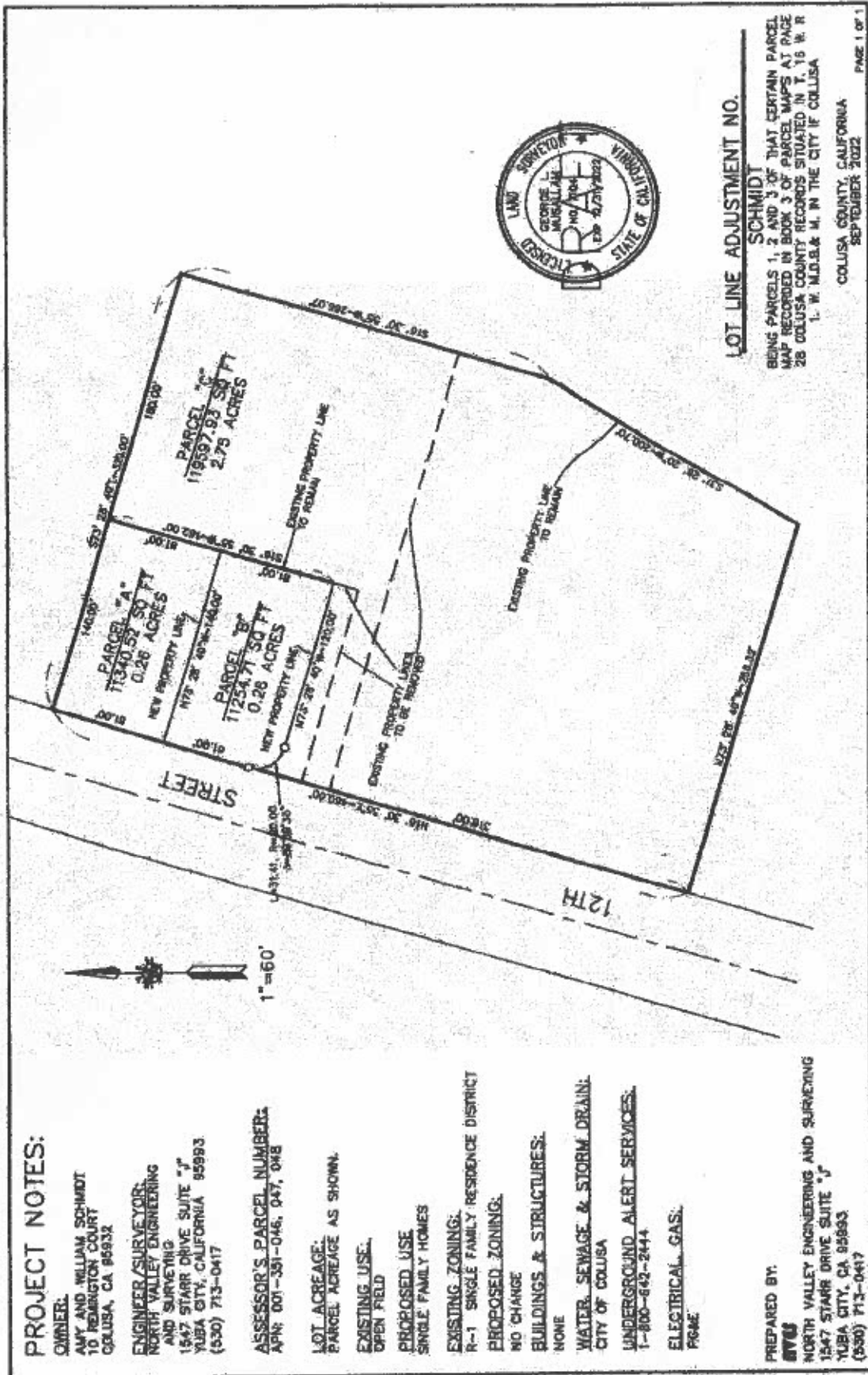


George L. Musallam

SIGNED ELECTRONICALLY ON 5-3-2023

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Government Code Section 66499.35.

(a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant to this division. If a local agency determines that the real property complies, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with applicable provisions of this division and of local ordinances enacted pursuant to this division. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

(b) If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it shall issue a conditional certificate of compliance. A local agency may, as a condition to granting a conditional certificate of compliance, impose any conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and that had been established at that time by this division or local ordinance enacted pursuant to this division, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of the local ordinances who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant to this division, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of this division or those local ordinances, then the local agency may impose any conditions that would be applicable to a current division of the property. Upon making the determination and establishing the conditions, the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of these conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. Compliance with these conditions shall not be required until the time that a permit or other grant of approval for development of the property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property that has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property

EXHIBIT B-1

Apdx p. 10

described therein and may be filed for record, whether or not the parcels are

contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

(f) (1) Each certificate of compliance or conditional certificate of compliance shall include information the local agency deems necessary, including, but not limited to, all of the following:

(A) Name or names of owners of the parcel.

(B) Assessor parcel number or numbers of the parcel.

(C) The number of parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(D) Legal description of the parcel or parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(E) A notice stating as follows:

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.

(F) Any conditions to be fulfilled and implemented prior to subsequent issuance of a permit or other grant of approval for development of the property, as specified in the conditional certificate of compliance.

(2) Local agencies may process applications for certificates of compliance or conditional certificates of compliance concurrently and may record a single certificate of compliance or a single conditional certificate of compliance for multiple parcels. Where a single certificate of compliance or conditional certificate of compliance is certifying multiple parcels, each as to compliance with the provisions of this division and with local ordinances enacted pursuant thereto, the single certificate of compliance or conditional certificate of compliance shall clearly identify, and distinguish between, the descriptions of each parcel.

(Amended by Stats. 2002, Ch. 1109, Sec. 8. Effective January 1, 2003.)

Government Code Section 66412 (sub-sections (a) through (d) re Lot Line Adjustments.

This division shall be inapplicable to any of the following:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code. A local agency shall approve or disapprove a lot line adjustment pursuant to the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1).

Exhibit B-2

Apdx p.12

Article VII. - Lot Line Adjustments.

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

- **Sec. 17-70. - Purpose.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

The purpose of this section is to provide a simplified procedure for adjustment of property boundaries or the consolidation of adjacent lots or parcels where no additional lots or parcels will result.

(Ord. No. 449, § 1, 7-21-2009)

- **Sec. 17-71. - Applicability.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

Notwithstanding any other provisions of this chapter to the contrary, the procedure set forth in this section shall govern the processing of and requirements for lot line adjustments. A lot line adjustment may be filed in accordance with the provisions of this section to adjust the boundaries between four or fewer adjoining parcels, provided the city engineer determines in writing that the boundary adjustment does not:

- A. Create any additional lots;
- B. Involve adjustments between five or more existing adjoining parcels;
- C. Include a lot or parcel created illegally;
- D. Impair any existing access or create a need for a new access to any adjacent lot or parcel;
- E. Impair any existing easements or create a need for a new easement;
- F. Violate the general plan or the applicable specific plan;
- G. Violate the city building regulations, the city zoning code, or any other provisions of state or local law;
- H. Alter the city limit boundary;

- I. Require substantial alterations of existing public improvements or create a need for a new public improvement;
- J. Adjust the boundary between lots or parcels which are subject to an agreement for public improvements unless the city engineer finds that the proposed adjustment plat will not materially affect such agreement or the security therefore.

(Ord. No. 449, § 1, 7-21-2009)

- **Sec. 17-72. - Application.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

An application for approval of a lot line adjustment shall be filed with the city engineer accompanied by such information as the city engineer may require and by a fee established by city council resolution. The application shall also be accompanied by a lot line adjustment plat of a size and form prescribed by the city engineer which shall bear the signature of the owners of the property involved and by a title report for the property. The city engineer may refer copies of such lot line adjustment to other public agencies for review and comment.

(Ord. No. 449, § 1, 7-21-2009)

- **Sec. 17-73. - Approval.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

After an application for approval of a lot line adjustment has been filed in accord with this section, the city engineer may approve, conditionally approve or disapprove such lot line adjustment. The applicant shall be notified in writing of the city engineer's action.

(Ord. No. 449, § 1, 7-21-2009)

- **Sec. 17-74. - Revised lot line adjustment plat.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

A revised lot line adjustment plat shall be submitted for approval when the City Engineer finds that the number or nature of any changes necessary for approval are such that they cannot be shown clearly or simply on the original lot line adjustment plat. When required, the failure to file a revised lot line adjustment plat within six

months from the date of the conditional approval of the original plat shall terminate all proceedings.

A. Conditions of approval. The city engineer may impose conditions or exactions on the approval of an adjustment plat between four or fewer existing adjoining parcels to the extent that the conditions or exactions are necessary to ensure compliance with the general plan, the applicable specific plan and applicable provisions of the city's zoning code and building laws pertaining to lots, including lot frontage, depth and area, access, and requirements such as setbacks, lot coverage and parking, or to facilitate the relocation of existing utilities, infrastructure or easements. The conditions imposed by the city engineer shall be satisfied prior to the recordation of the lot line adjustment plat or such other document authorized by law to effectuate the lot line adjustment. Lot line adjustments between five or more existing adjoining parcels shall be subject to the provisions of the Subdivision Map Act, including the requirement for the filing of a tentative and final map.

B. Certification. If the city engineer determines that the lot line adjustment plat meets all the requirements of the City Code and that any conditions imposed have been satisfied, he or she shall certify on the lot line adjustment plat that it has been approved pursuant to this section, notify the city planner, file it in the public works department and cause to be filed with the county recorder a certificate of compliance, having as an attachment a copy of the approved lot line adjustment plat. In addition to the procedures established by this section, a lot line adjustment may be effectuated by the recordation of the deed or record of survey; provided, however, that such deed or record of survey shall not be recorded unless it contains a certification by the city engineer that all the requirements of this section and any condition imposed pursuant to this section have been satisfied and further provided that a copy of the lot line adjustment plat shall be attached to the deed or record of survey.

C. Appeal. Any interested person may appeal any action of the city engineer pursuant to this section to the planning commission in accordance with [Section 17-75](#) of this chapter.

(Ord. No. 449, § 1, 7-21-2009)

- **Sec. 17-75. - Appeals.**

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)

Appeal from an action by the committee or by the city engineer may be made to the planning commission within fifteen days from such action. An appeal shall be submitted in written form to the secretary of the planning commission, and shall be placed on the agenda of a regular meeting of the planning commission within forty-

five days. The planning commission shall take action thereon within forty days from first hearing the matter.

(Ord. No. 449, § 1, 7-21-2009)

Sec. 16B-20. - Violation—Penalty.

Apdx p. 16

Extract of City of Colusa General Plan as posted on the City's website as of September 2022

(Overview passages)

Vestiges of Colusa's 19th century traditional life continue to the present day. Stately Italianate and Queen Anne dwellings, intermingled with Craftsman bungalows and clusters of Tudor Revival homes, provide residences for a new generation of Colusans.

Unique features of the Colusa community include its location next to the Sacramento River and historic character in the downtown core.

Few small communities located within the influence of a major metropolitan region have managed to retain the same basic physical and community character that was present several decades ago through the beginning of the 21st century. Colusa represents what was once the "typical" small town across California and the nation. Some of the most striking features of present-day Colusa are the things one does not find here – characteristics all too common elsewhere in the Sacramento region. Missing from Colusa are large chain "superstores" on the edge of town, a struggling or downtrodden downtown core, and an unending series of housing developments with little to distinguish one from the other.

Unlike many other cities of equal distance from Sacramento, it has not become a "bedroom" community where most working residents face hours of daily commute to work.

Traditional settlement patterns of the community have not significantly changed over the past several decades. Unlike the neighboring counties of Yolo and Sutter, growth in Colusa has developed slowly. For the most part, new neighborhoods have been located contiguous to the existing built areas and in a relatively compact form, with new residential subdivisions within the community located primarily to the south between Highway 20/45 and Wescott Road. The Downtown area is still active and healthy despite the presence of various franchise and service commercial uses along Highways 20 and 45. For all of these reasons, Colusa has generated a level of interest in growth and development that it hasn't seen in the past. As a result, Colusa is at a crossroads, and recent trends now point to the potential for dramatic change over the next two decades. It is the intent of this Plan to assist the City in making the choices that may be presented to the City in the coming years.

COMMUNITY IDENTITY

The City of Colusa strives to enhance its identity as a rural community with small-town character and a pleasant quality of life. In addition, the City recognizes its historical identity and considers the Downtown and Riverfront areas as the focal point of the community.

COMMUNITY-BUILDING

Implementation of the General Plan will help to ensure physical connectivity between existing and new development areas and enhance the "livability" of the community. Key elements of community livability include an attractive pedestrian- and bicycle-oriented public realm; affordable, well-designed, and appropriately located housing; convenient public transit, services, and shops; effective and efficient community services; accessible parks and open space; a clean and safe natural environment; an abundance of historical and natural features; and friendly, community-oriented social environments.

Community Character and Design Element

Community character and design are critical to the decisions that determine the shape and form of growth and development. The element is not one of the seven "mandatory" elements under California law governing general plans. However, many general plans statewide contain design elements and policies. Aesthetics and design have long been recognized by California law and upheld by the courts as legitimate public policy issues within the regulatory authority of municipalities.

Exhibit D

1
3 4

"Community character" refers to the physical characteristics that lend shape, form, and identity to a community. Concepts such as "small town," "quality of life," "living environment," "neighborhood," and "community" are, to a large extent, expressions of familiar physical characteristics – landmarks, streets, buildings, parks, and natural features that create a unique identity in every community. "Community design" or "urban design" refers to the architectural and engineering design principles that create the shape, form, and appearance of both new development and the redevelopment of existing districts and neighborhoods.

3.2 COMMUNITY VISION

Past and recent community outreach efforts involving residents, business owners, and City officials have concluded that there are certain facets to development that can substantially contribute to or detract from the shape, form, and identity of Colusa. The vision statements below convey some long-range expectations of the City with regard to its community character. The "road map" for achieving these visions is in the policy framework that follows.

VISION 1: PRESERVE COLUSA'S SENSE OF COMMUNITY AND SMALL TOWN CHARACTER

- X Colusa will still be recognizable to today's residents decades from now. New development will be expected to reinforce the desirable characteristics that make Colusa an attractive community for both residents and visitors.
- X New development will build upon the City's attractive and distinctive neighborhoods rather than create isolated subdivisions that bear no relationship to the existing community's environment.
- X Colusa will welcome visitors and reinforce municipal pride with its distinctive gateways and City

HISTORIC DOWNTOWN AND EXISTING NEIGHBORHOODS

- X The City's vibrant downtown maintains its historic character with tree-shaded, walkable residential areas located south of Market Street. Colusa conveys the feel of a community that is not highly suburbanized or modernized and celebrates long-established community activities such as Colusa Days, the Fireman's Crab Feed, and the County Fair. A collection of landmark features, including the City water tower, City Hall, and historic downtown buildings all contribute to Colusa's distinct character.

Incorporated in 1868, the City of Colusa remains an attractive and picturesque community with many of its original buildings still intact. The community boasts fine examples of 19th Century architecture and has unique residential neighborhoods built on a traditional street grid pattern. The City offers quaint shops and small businesses in the historic downtown, as well as visitor- and residential-serving uses along the SR 20 and SR 20/45 corridors.

In the central core, Colusa retains its original urban structure—a strong orientation toward the edge of the Sacramento River with residential neighborhoods in close proximity to the commercial businesses along Main and Market Streets. Consistent with Colusa's traditional visual context, many of the City's older neighborhoods contain a mix of housing types and architectural styles, which have evolved over the last 140 years. No single type or style dominates; single-family homes are intermingled with multi-family dwellings, and setbacks are varied with detached garages often rear-facing along alleys or set back from the street. The City has 244 buildings that are considered historically significant. The City of Colusa Heritage Preservation Committee (HPC) maintains the City of Colusa Historic Resources Inventory which includes structures representative of architectural building styles from Colusa's early years. Examples of numerous period styles can be found in the City, including Classical Revival, Late Gothic, Late 19th and 20th Century Revival, Tudor Revival, Queen Anne, and Craftsman.

In recent years, more modern residential neighborhoods have been established south of the downtown core. These subdivision designs trend toward ranch-style detached, single-family homes with an emphasis on attached garages fronting the streets.

The incorporation of neighborhood serving commercial businesses in Colusa's residential areas is consistent with traditional urban design principles. This historic development pattern emerged out of convenience to residents who did not use the automobile to the extent that it is used

today. The strategic location of small markets, salons, and services encouraged pedestrian and bicycle mobility for residents to meet their daily needs.

CITY STREETS

The City's grid-based street system is comprised of 300-foot long blocks and 20-foot-wide alleys bisecting the blocks. The original road and alley structure provides an accessible and pedestrian-friendly urban environment that presents the opportunity to change direction every half-block. This grid system offers the shortest trip lengths and the largest number of route choices (and therefore the most convenient pedestrian travel) of any street layout, due to the multitude of interconnections available within each block. A typical historic residential street section in Colusa contains an eight-foot "parkway strip" or "tree lawn" between the sidewalk and the street. Typically, large canopied street trees have been planted in these parkways, providing shade and definition to the street edge and separating pedestrian from vehicle traffic. Like most American communities, Colusa began to deviate from the traditional grid street system after World War II. More recently, conventional neighborhood streets have changed in character and shape, with subdivisions to the south developing on curvilinear streets and cul-de-sacs. These streets are at least 36 feet wide at the curbs, with a "monolithic" sidewalk that is adjacent to the curb and without a parkway. If street trees are planted, they occur in public utility easements or front yards. Newer Colusa neighborhoods do not produce the street tree canopy that is commonplace in historic residential neighborhoods.

3.0 COMMUNITY CHARACTER & DESIGN

Colusa's historic urban structure serves as a point of reference as the City grows and develops with new streets and neighborhoods. This element is intended to identify what works best about the City and how that can be applied to new development. New residential subdivisions are expected to bear some relationship to the character of traditional downtown neighborhoods and avoid isolated, largely self-contained neighborhoods.

The City will complete an update of its Landmark and Historic Preservation Ordinance to implement the General Plan's heritage preservation goals and policies. While restoration and preservation of period architecture in the City will remain a priority, as future development projects are undertaken, the City will also seek to encourage new and innovative designs compatible with existing historic resources in the City. The development of new design guidelines will help integrate the design of new structures in proximity to existing historic properties in the City. The City will also seek to take advantage of federal and state incentives for heritage preservation activity by citizens and funding of planning and education efforts.

Integration of new development into the historic downtown will help revitalize the City by encouraging adaptive reuse of historic districts and buildings, conserving resources, using existing infrastructure, increasing property values, fostering heritage tourism, supporting existing businesses and new small business development, and generating new jobs.

As the City grows, achieving a balance between new development and preservation of Colusa's desirable small-town character will be critical. A key component in the successful planning and buildout of these areas will be the application of the community character and design principles provided in this element.

CITY STREETS

As Colusa looks to the future, a return to the pre-1900s grid is considered a desirable pattern for development. However, opportunities exist for a hybrid of street designs that balance the need

for connectivity with current development strategies and consumer interests. This includes the integration of modern and traditional street standards—both oriented toward safe, efficient automobile travel and easy emergency vehicle access. **However, there will be a renewed emphasis on narrower roadways, raised curbs, and separated sidewalks.**

Because city streets occupy the majority of the public domain, their design should extend beyond that of servicing the automobile. Pedestrian and bicycle movement through neighborhoods to the central business district, the riverfront, or parkways in street design.

parks, and schools is key to maintaining the small-town quality of life in Colusa. This will be accomplished with **the integration of trails and pathways into new development areas**, consistent with the Circulation Element and the Open Space, Recreation & Conservation Element.

Finally, street landscaping will play an important part in street design. The renewed practice of establishing tree canopies along city streets will help to ensure that the community's aesthetic appeal is preserved while providing shade during hot summers and abundant habitat for birds and wildlife

Design Review Process

Colusa's Design Review process is part of the zoning permit process that is intended to protect the city's unique qualities and strong sense of place by carrying out citywide development and design objectives. **The purpose of Design Review is to protect the character of Colusa and to ensure that new development or changes to existing development are compatible with surrounding neighborhoods. It will allow the City to look beyond the specifics of a proposed development, and consider its context and how the project will fit and benefit its surroundings.**

Design Review will help assure property owners that their investment will be protected. As traditional zoning prevents incompatible uses from locating within a neighborhood, Design Review can ensure that the character of a neighborhood or community is maintained.

3.0 COMMUNITY CHARACTER & DESIGN Improvements in the quality of design stabilize and, in some cases, enhance the value of private property, which will benefit the overall attractiveness of the city.

Design Review is an especially important tool for the city's commercial district where increased private investment and maintenance of an image of vitality is the goal. Places like Historic Downtown and the Riverfront will rely heavily on Design Review to protect and enhance public and private investments, and to support and encourage new development.

A range of design issues will be addressed during the Design Review process. While each issue considered individually may appear small, in combination they can make the difference between an incompatible project that enhances the area and an incompatible project that does not.

Goal CCD-1:

To ensure the preservation and enhancement of Colusa's unique community character and vitality within its neighborhoods and business districts.

Implementing Action CCD-1.1.b: Design Guidelines: The City will adopt Community Design Guidelines in which preservation and enhancement of the City's existing character will be the overriding design principle. These Guidelines, to be used in conjunction with the City's zoning ordinance, will include specific design criteria for each of the following development types:

□ **Community Design Criteria:** General criteria and overriding design principles to enhance and preserve Colusa's unique character. Defines basic principles of high-quality urban design, environmental sustainability, architecture, and landscape architecture. Considerations include, but are not limited to human-scaled development, pedestrian-oriented design, inter-connectivity of street layout, siting of corner buildings, entryways, focal points, and landmarks.

- **New Single-Family Residential Design Criteria:** Criteria to consider relationship to the streets and neighborhood through building orientation and site layout. They may include, but not be limited to, varied setbacks, a range of architectural designs, rear alley-loaded and detached street-loaded garages, and fencing requirements.

Policy CCD-2.3:

New development shall identify and preserve significant viewsheds and vistas.

3.0 COMMUNITY CHARACTER & DESIGN

Initial review of public and private development proposals will determine whether a visual impact analysis will be required. This analysis will aid in the project's site design to ensure protection of viewsheds and vistas to natural areas from streets, parks, trails, and community facilities.

Streets, Blocks, and Circulation

The guiding principle of the City's circulation system is the preservation and development of a variety of transportation systems that link residential, commercial and public areas of the community. The street system is intended to safely and efficiently link neighborhoods to public facilities and commercial business districts within the planning area in a manner that will serve the entire community. The application of streets and blocks design criteria will help unify areas targeted for new development with the existing urban center.

Older neighborhoods of Colusa are good models for street design. Traditional grid patterns, including narrow streets, alleys to the rear of residences, and garages set back from streets and adjacent to alleys promote a pedestrian-friendly environment while allowing efficient movement of motorized vehicles throughout a neighborhood.

Deciduous street trees create shade in summer keeping the pavement cool and allowing solar warming during cold winter months. Trees also soften the streetscape and define corridors of use. Street trees are essential in making neighborhoods attractive and livable.

To the extent practicable, the City intends to preserve and promote the traditional circulation concept throughout the existing neighborhoods and in new areas of development.

Policy CCD-3.6:

Pedestrian and bicycle routes/corridors shall be incorporated into all new major development projects.

Policy CCD-3.9:

On-street parking shall be provided in all neighborhoods, and where street widths are too narrow to allow for emergency vehicles, accommodation shall be made for parking turnouts.

Policy CCD-3.15:

The City shall include landscaping and use street trees in street right-of-ways to create a shaded environment in summer and to define the clear separation of uses

Policy CCD-8.4:

Every neighborhood shall have at least one focal point that is incorporated into a park, school, plaza, clubhouse, recreation center, retail use, open space, or any combination of these, and is accessible to all citizens.

Residential

The community character of Colusa's historic residential neighborhoods presents a model for the desired character of the new growth areas. The siting and orientation of residential units on a lot and their relationship to the public realm are crucial to achieving the City's desired community character.

Modern subdivision design often includes placement of the garage in front of the house toward the street, with the rest of the structure behind or to the side of the garage. The garage may account for more than half the visible house frontage or lot width, thus becoming the primary visual element of the streetscape, with the living areas becoming secondary. This garage placement reduces the driveway length, forcing cars to be parked closer to the street, adding to further dominance of the automobile to the streetscape. This creates an environment that discourages interaction with neighbors and limits family living and recreation to back yards, away from the street.

The Community Character and Design Element offers a more traditional approach to the design of new residential areas. On blocks with relatively small lots, garages would be recessed or pushed back behind the front living area or porch so that cars parked in the driveway do not dominate the streetscape. With this approach, the continuity of street edges and the public landscape are enhanced. Pulling the house forward on the site and recessing the garage improves street character and increases the private rear yard area.

The City anticipates that new development and redevelopment proposals will also contain attached housing, such as multiple family apartments or condominiums. This medium- to high-density housing is intended to achieve the City's goals and objectives for housing, land use, and circulation and mobility. The City envisions that attached housing will be integrated attractively into neighborhoods throughout the community, and that traditional design concepts will be applied to this housing type, as well.

A shift away from conventional modern residential subdivision design toward more traditional neighborhood design and integration of medium- and high-density housing into neighborhoods will help to promote community interaction, increase efficiency in

movement throughout the community, and retain the City's small-town qualities. The General Plan's policies provide for residential design guidelines that are intended to guide development in this direction.

Goal CCD-11:

To encourage new development that reflects the design and character of Colusa's traditional residential neighborhoods

Policy CCD-11.2:

New development shall minimize the use of front-loaded garages that dominate the streetscape in residential neighborhoods. Garages that are alley-loaded or set back from street view are preferred.

Policy CCD-11.3:

Residential developments shall be designed in a manner that incorporate community-friendly features such as front porches and garages oriented away from the street.

Policy CCD-11.4:

Architectural design of new residential development, including large additions, shall complement the scale and character of surrounding neighborhoods.

Policy CCD-11.5:

New development shall incorporate a variety of architectural styles in each neighborhood and within each block of a neighborhood.

Policy CCD-11.6:

Landscaped and bermed setbacks shall be the preferred sound attenuation methods for residential developments.

Policy CCD-11.9:

The design of attractive front yards that face residential streets shall be encouraged. Walled subdivisions and backyards oriented to city streets shall be discouraged.

Government Code Section 65301.

(a) The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and any other territory outside its boundaries that in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the legislative body, including the combining of elements. The legislative body may adopt all or part of a plan of another public agency in satisfaction of all or part of the requirements of Section 65302 if the plan of the other public agency is sufficiently detailed and its contents are appropriate, as determined by the legislative body, for the adopting city or county.

(b) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

(c) The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each element shall reflect local conditions and circumstances. However, this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development to review housing elements pursuant to Section 65585 of this code or Section 50459 of the Health and Safety Code.

The requirements of this section shall apply to charter cities.

Government Code Section 65302 (in pertinent part)

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, greenways, as defined in Section 816.52 of the Civil Code, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. . . .

Government Code Section 65302.4.

The text and diagrams in the land use element that address the location and extent of land uses, and the zoning ordinances that implement these provisions, may also express community intentions regarding urban form and design. These expressions may differentiate neighborhoods, districts, and corridors, provide for a mixture of

Exhibit E

Apdx p. 24

land uses and housing types within each, and provide specific measures for regulating relationships between buildings, and between buildings and outdoor public areas, including streets.

(Added by Stats. 2004, Ch. 179, Sec. 1. Effective January 1, 2005.)

Apdx p. 25



Enlarged Extract of Colusa General Plan's Land Use Diagram (LUD) Adopted in 2007 Update

EXHIBIT F

Apdx, p. 26

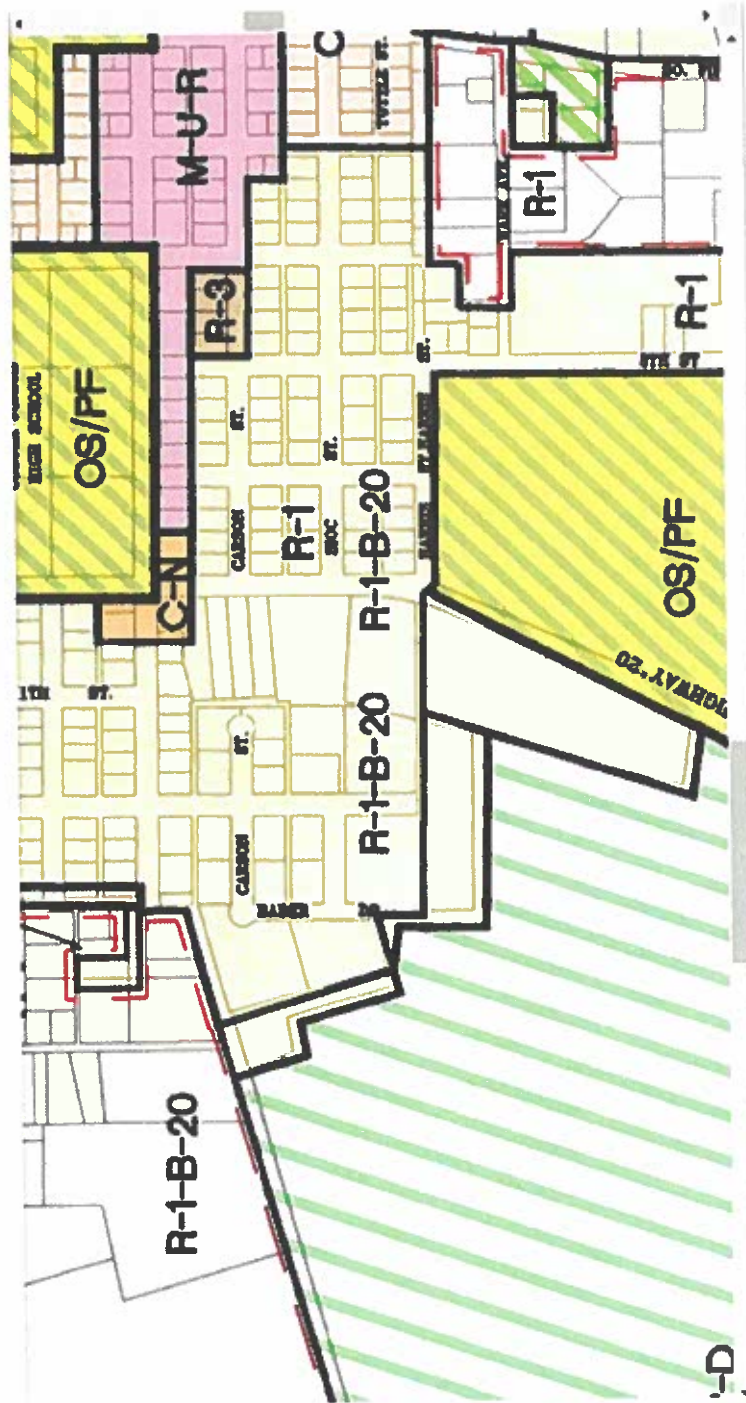


Exhibit G. Apdx, p. 27

Appendix to City Code – Zoning Code

- **Article 20. - "B" Special Building Site Combining District—Regulations.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

- **Sec. 20.01. - Regulations generally.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

In any district with which is a combined "B" district, the following regulations shall apply as to building site areas, depths of front yards, and widths of side yards; provided, however, that such application shall not be made in any case in which any of the following regulations are less than corresponding regulations hereinbefore specified for any district with which is a combined "B" district.

- **Sec. 20.02. - Special regulations.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONSEMAIL SECTION](#)

(a)

Building Site Area Requirement: Shall be indicated by a number following the letter "B" in the district designation, which number shall represent the required area in ~~thousands~~ of square feet.

(b)

Side Yard Set-back Required: Ten percent of lot width on each side to a maximum requirement of fifteen feet, but in no case less than five feet for interior side yards or ten feet for side yards adjacent to streets on corner lots.

Exhibit H
Apdx, p. 28



FREMONT
CINEMA

Exhibit I Apdx, p. 29

Barber Subdivision (Bk. 1 Subd. P. 19)
VACATED ALLEYS & POR SIOC ST. (O.P. 536/85). P.M.BK.3, P.G. 28
P.M.BK.1 P.G. 175

P.M. BK I PG.175

[illegible]

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Estate Residential (ER)

The Estate Residential (ER) land use district accommodates very low density residential development—lands generally to northwest, south, and southeast of the City core area. Very low to low-density housing developments are intended for these areas. The ER designation can provide for large-lot residential development that permits small-scale agricultural uses. Development within these areas is limited to single-family homes, including second residential units, and related accessory uses that have rural residential characteristics. The density range is established as 1-3 dwelling units per acre, although a lower density would be acceptable.

Low Density Residential (LDR)

The Low Density Residential (LDR) land use district is generally distributed throughout the City and most unincorporated areas within the SOI. LDR development is intended to allow for single-family homes and accessory residential uses, including second residential units. The density is intended to fall within the range of 3-8 dwelling units per acre, although a lower density would be allowed. Additionally, schools, day-care centers, places of religious assembly, and nursing homes may be considered as permitted by the Zoning Ordinance.

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GENERAL PLAN AND ZONING CONSISTENCY

The zoning code serves as the primary tool for implementing the City's General Plan land use policies. State planning law requires the zoning code to be consistent with the General Plan. Each General Plan land use designation will have one or more corresponding zoning districts. While the General Plan is intended to be broad in its discussion of permitted land uses and development intensities, zoning provisions must identify specific regulations so that property

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2-20

Exhibit J
Apdx, p. 30

Colusa General Plan Page 2-21

owners and developers can determine how particular properties can be used and developed. Table 2.1 identifies the relationships between the land use categories and zoning districts currently established in the City of Colusa Zoning Ordinance.

TABLE 2.1 GENERAL PLAN / ZONING CONSISTENCY General Plan Land Use Designation	Zoning Districts
Estate Residential (ER)	R-1
Low Density Residential (LDR)	R-1
Medium Density Residential (MDR)	R-2, R-3
High Density Residential (HDR)	R-1, R-2, R-3, R-4
Urban Reserve (UR)	NA
Commercial Professional (CP)	R-14, R-24, R-34, R-44, C-N, C-G, C-H, P-D4
Mixed Use (MU)	R-11, R-21, R-31,2, R-42,3, C-N, P-D4, C-G
Office Professional/Light Industrial	C-G, M-1, M-L, P-D4
Industrial	M-1, M-2, M-L, P-D4
Public Facilities	P-F, O-S, F-W

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Colusa General Plan Page 2-22

New Growth Areas

Adjacent to the city limits and within the Planning Area are significant acreages of vacant land that present new growth opportunities for the City. Each of these areas is being actively planned for urban development, consistent with the Land Use Map (Figure 2.3), and is considered appropriate for annexation into the City. Concurrent with this comprehensive General Plan update, work has been ongoing with property owners and developers of SPAs 2-5 (described below) to create development proposals that will be consistent with the General Plan. The results of these efforts have been incorporated into the SPA descriptions for their respective areas. While the General Plan designates a range of land uses and assumes development to occur at the mid-range of allowable densities, project-specific information was submitted for use by the City and incorporated into this General Plan. This process has aided in the formulation of policies and implementing actions that will allow new urban development to occur without compromising the quality of life for existing Colusa residents. New growth SPAs include:

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TABLE 2.2

BROOKINS RANCH AS PROPOSED Proposed Land Use	Acres
600 Single-family Detached Homes	127.5
Public Parking (joint use for onsite parks & high school)	2.4
Parks	11.6

Apex, p. 31

Park/Detention	3.6
Greenways (pedestrian and bicycle pathways)	5.0
Open Space	5.5
Fire Station	1.5
Existing Brookins Residence	4.3
TOTAL	161.4

TABLE 2.3

GOLUSA CROSSINGS AS PROPOSED Proposed Land Use	Acres
900 (1,050) Low Density Residential, 5 du/ac	180 (210)
130 Medium Density Residential units, 10 du/ac.	13
200 High Density Residential, 20 du/ac.	10
Commercial	25
Parks (would be developed as either a 51-acre community park or	51 / 21

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425 Webster Street
Colusa, CA 95932

Last Ordinance #483

Last Resolution #13-01

CITY COUNCIL MINUTES

CITY COUNCIL CHAMBERS
February 5, 2013 -- 7:00 pm

Mayor -- Thomas Reische
Mayor Pro Tem -- Greg Ponciano
Council Member -- Donna Critchfield
Council Member- Kirk Kelleher
Council Member -- Marilyn Acree

CALL TO ORDER -- Mayor Reische called meeting to order at 7:15 pm.

ROLL CALL -- All Council Members were present.

PLEDGE OF ALLEGIANCE & INVOCATION -- Pledge led by Council Member Acree.
Invocation led by City Clerk Kittle.

APPROVAL OF AGENDA Council Member Critchfield made a motion, seconded by Council Member Ponciano to approve the Agenda. Motion passed 5-0.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Carl Peters, Operations Manager of Recology Butte Colusa Counties introduced Amy Jernigan, their Community Relations Representative. He stated Recology will plan on having Compost Give Away Days. Council Member Critchfield and Acree thanked Recology for some of the things they have done for the community in the past year.

CONSENT CALENDAR:

RECOMMENDED ACTION

- | | |
|---|-----------------------------|
| 1. Draft Minutes of December 18 th Special Session Meeting | <i>Received & Filed</i> |
| 2. Draft Minutes of December 18 th City Council Meeting | <i>Received & Filed</i> |
| 3. Draft Minutes of January 15 th Special Session Meeting | <i>Received & Filed</i> |
| 4. Draft Minutes of January 15 th City Council Meeting | <i>Received & Filed</i> |
| 5. Quarterly Report for Housing Rehabilitation & First Time Homebuyer Activities and CDBG November Monthly Report | <i>Received & Filed</i> |
| 6. Recology Annual Report for 2012 | <i>Received & Filed</i> |
| 7. Quarterly Commission Report -- Heritage Preservation Commission | <i>Received & Filed</i> |

Council Member Acree made a motion, seconded by Council Member Kelleher to approve the Consent Calendar. Motion passed 5-0.

COUNCIL MEMBER AND STAFF REPORTS/COMMENTS

Acree provided updates on meetings and events she attended.
Ponciano provided updates on meetings and events he attended.
Critchfield provided updates on meetings and events she attended.
Kelleher provided updates on meetings and events he attended.
Mayor Reische provided updates on meetings and events he attended. He stated Council Member Critchfield will be the alternate for the Transit & Transportation Meeting. He informed the County Board Clerk he would like Council Member Acree as the alternate for the Board of Supervisors Meeting.

Exhibit K-1 Apdx, p.33

PUBLIC HEARINGS

8. **Subject:** Annexation, Pre-Zoning, CEQA Environmental Determination and approval of a Development Agreement for the Colusa Crossings, LLC Project.

Recommendation: Staff recommends the following:

- Council to open the Public Hearing.
- Council to adopt Resolution 13-____ - Resolution of Application (requesting the Colusa LAFCO to initiate proceedings for the reorganization of territory (including annexation of the unincorporated Project territory; and detachment from the Sacramento River Fire Protection District of territory annexed to the City of Colusa) involving approximately 325.5 acres of property, being Assessor's Parcel Numbers 015-340-011, 015-330-033 & 015-330-057, 002-170-004, 015-330-032, 015-130-003, 015-340-013 and adjacent rights-of-way totaling approx. 4.29 acres.
- Council to introduce, read by title only, and waive first full reading of Ordinance No 487 - Pre-zoning the approximately 325.5-acre Project site to Planned Development (P-D) District, Single-Family Residence (R-1) District, and General Commercial (C-G) District; and.....
- Council to introduce, read by title only, and waive first full reading of Ordinance No 488 - to APPROVE a Tier Development Agreement between the City of Colusa and Colusa Crossings, LLC

DISCUSSION: Senior Planner Stice provided a design plan and explained the proposed annexation. The request would only be limited to pre-zoning of the site and annexation. Any future development of the property would need to follow a specific plan or the General Development Plan. The Planning Commission voted 5-0 recommending approval of the Ordinance for pre-zoning and a Tier 1 Development Agreement. City Attorney Hicks recommended opening the *continued* Public Hearing and for the record, stated there was no public hearing testimony at the last two meetings.

PUBLIC HEARING OPENED and CLOSED at 7:33 pm with no public comments.

Council Member Acree stated for the record, she received an email from Mr. Toft in December 2012 that provided an overview. Acree asked questions pertaining to Wastewater Improvements to Senior Planner Stice.

ACTION: Council Member Critchfield made a motion, seconded by Council Member Kelleher to adopt Resolution 13-02 - Resolution of Application (requesting the Colusa LAFCO to initiate proceedings for the reorganization of territory (including annexation of the unincorporated Project territory; and detachment from the Sacramento River Fire Protection District of territory annexed to the City of Colusa) involving approximately 325.5 acres of property, being Assessor's Parcel Numbers 015-340-011, 015-330-033 & 015-330-057, 002-170-004, 015-330-032, 015-130-003, 015-340-013 and adjacent rights-of-way totaling approx. 4.29 acres. Motion passed 5-0.

DISCUSSION: Stice made a clarification to Ordinance 487, stating that the Planning Commission recommended the Davies, the Babers and Toni Ann Roach properties be pre-zoned to R1/B20 in order to preserve the large lot sizes. Stice stated he agreed with the Planning Commission's recommendation. City Attorney Hicks explained the pre-zoning would be frozen for two years, once it was annexed. Hicks stated the Ordinance could be changed to clarify R1 B-20 and brought back for adoption at the next meeting.

PUBLIC HEARING REOPENED at 7:41 pm: Citizen Joe Tauscher stated he was in agreement with the size of the lots.

PUBLIC HEARING CLOSED at 7:43 pm with no further comments.

ACTION: Council Member Critchfield recommended amending the Ordinance to include R-1-B20, then made a motion, seconded by Council Member Acree to introduce, read by title only, and waive first full reading of Ordinance No 487 - Pre-zoning the approximately 325.5-acre Project site to Planned Development (P-D) District, Single-Family Residence (R-1) District, and General Commercial (C-G) District; and.....Motion passed 5-0.

ACTION: Council Member Kelleher made a motion, seconded by Council Member Critchfield to introduce, read by title only, and waive first full reading of Ordinance No 488 - to approve a Tier Development Agreement between the City of Colusa and Colusa Crossings, LLC. Motion passed 5-0.

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9. Subject: Ordinance repealing and replacing 30 "Landmark and Historic Preservation" of Appendix A "Zoning" of the City of Colusa City Code.

Recommendation: Staff recommends the following:

- Council to open the Public Hearing.
- Council to adopt Ordinance 484 – repealing and replacing Article 30 of Appendix A of the Code of the City of Colusa pertaining to Landmark and Historic Preservation

DISCUSSION: Senior Planner Stice pointed out the changes made to the Ordinance based on the last City Council Meeting. City Attorney Hicks pointed out the Staff Report was incorrect in that Ordinance 484 would be introduced and read by title only and waive the first full reading and would not be adopted tonight.

PUBLIC HEARING OPENED at 7:46 pm: Planning Commissioner White requested City Council adopt the Ordinance.

PUBLIC HEARING CLOSED at 7:47 pm with no further comments.

ACTION: Council Member Critchfield made a motion, seconded Council Member Acree to introduce and read by title only and waive the first full reading of Ordinance 484 repealing and replacing Article 30 of Appendix A of the Code of the City of Colusa pertaining to Landmark and Historic Preservation. Motion passed 5-0.

10. Subject: Approval of Design for Boat Ramp and Consideration of a Mitigated Negative Declaration for a new boat launching facility at the Colusa - Sacramento River State Recreation Area (SRA).

Recommendation: Staff recommends the following:

- Council to open the Public Hearing.
- Council to adopt of Resolution No.13-_____ adopting a Mitigated Negative Declaration and approving Initial Design Plans for the Colusa Boat Launching Facility.

DISCUSSION: Senior Planner Stice provided an overview of his Staff Report and background information on the Boat Launch. He stated the initial study was circulated for a 30 day period, pursuant to CEQA guidelines. Stice received additional comments from Elizabeth Yerxa by phone and by the Roberts Ditch Group. The Planning Commission voted 5-0 in support of the project.

Stice provided Council a copy of the "Mitigation Monitoring Plan". He stated the Plan summarizes the mitigation measure and assigns who would be responsible and the timing of each mitigation measure. The Planning Commission recommended a modification to one of the mitigation measure which the Mitigation Monitoring Program reflects the change.

PUBLIC HEARING OPENED at 7:56 pm: Citizen Charles Yerxa commented on the Project Outline and requested all efforts be made not to block the entry into Roberts Ditch. He also requested to keep Roberts Ditch dredged rather than adding a lot of cement for parking spaces. He stated, for the record, Roberts Ditch has been in existence for about 120 years and they do have access rights to the river. He thanked City Council for the support they had given Roberts Ditch in the past for their mitigation projects.

Citizen and Owner of Kittles Outdoor & Sport Company, Patrick Kittle stated he is pleased with the continued motion to get the Boat Ramp in place and recommended having a Boat Ramp sign on Highway 5.

Citizen Ashley Indrieri on behalf of Family Water Alliance commented on the necessary 404 certification from the Army Corp of Engineers. She stated the Environmental Agencies would not want them to dredge the River. She stated the Water Reliance will help the City with environmental permitting.

PUBLIC HEARING CLOSED at 8:07 pm with no further comments.

ACTION: Council Member Critchfield made a motion, seconded by Council Member Ponciano to adopt Resolution 13-03 adopting a Mitigated Negative Declaration and approving Initial Design Plans for the Colusa Boat Launching Facility. Motion passed 5-0.

11. Subject: Introduction of an Ordinance banning Medical Marijuana Collectives, Cooperatives and Dispensaries in the City.

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Recommendation: Staff recommends the following:

- Council to open the Public Hearing.
- Council to introduce, read by title only, and waive first full reading of Ordinance No. 485 – adding Section 32.11 “Medical Marijuana Dispensaries” to Appendix A and amending Article 4 “Definitions” of Appendix A relating to Medical Marijuana Dispensaries.
- Council to introduce, read by title only, and waive first full reading of Ordinance No. 486 – adding Chapter 12D “Medical Marijuana Dispensaries” to the City Code.

DISCUSSION: City Attorney Hicks explained both Ordinances. She stated the Ordinances would not interfere with an individual's right to cultivate marijuana on his/her premise or to interfere with their right to use marijuana if they were a qualified patient or a qualified caregiver.

PUBLIC HEARING OPENED at 8:10 pm and CLOSED at 8:10 pm with no public comments.

ACTION: Council Member Ponciano made a motion, seconded by Council Member Critchfield to introduce, read by title only and waive first full reading of Ordinance No. 485 and Ordinance 486. Motion passed 5-0.

**MAYOR REISCHE CALLED A RECESS AT 8:05 PM
MEETING RECONVENED AT 8:18 PM**

COUNCIL CONSIDERATION

12. Subject: Consideration of adoption of the City of Colusa 2012 Bikeway Master Plan

Recommendation: Staff recommends the following:

- Council to adopt Resolution 13-___ - approving the City of Colusa 2012 Bikeway Master Plan.

DISCUSSION: Senior Planner Stice explained the resolution.

ACTION: With no public comments, Council Member Critchfield made a motion, seconded by Council Member Acree to adopt Resolution 13-04 - approving the City of Colusa 2012 Bikeway Master Plan. Motion passed 5-0.

13. Subject: Update on the tree removals on 10th and Market Street.

Recommendation: Staff recommends the following:

- No requested action – informational only.

DISCUSSION: Utilities Superintendent, Jesse Cain stated Cal Trans will out on February 19th to remove the trees in question.

PUBLIC COMMENTS: Citizen Cynthia White stated Warren Roberts who was the head of the Davis Arboretum will be speaking on the trees in Colusa at their Garden Club Meeting and invited anyone interested to attend.

14. Subject: Authorization of Public Works to go out to bid for the purchase of a Vac-Con, model V350LHA-0/850 - combination sewer and storm drain cleaner truck.

Recommendation: Staff recommends the following:

- Council to provide staff direction.

DISCUSSION: Utilities Superintendent Cain stated the equipment they have now is not working to keep up with basic maintenance. He explained the new sanitary sewer overflow regulations.

Finance Analyst Benson explained the reserves from various funds and how to fund the equipment. Council Members asked questions and provided their concerns to Utilities Superintendent Cain.

ACTION: Council Member Acree made a motion, seconded by Council Member Ponciano to authorize staff to go out to bid for the purchase of a Vac-Con, model V350LHA-0/850 - combination sewer and storm drain cleaner truck. Motion passed 5-0.

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15. Subject: Discussion on the continuance of the Utility Committee.

Recommendation: Staff recommends the following:

- Council to listen to the Utilities Committee Members
- Council to decide to continue the Utilities Committee or disband it.

DISCUSSION: City Attorney Hicks asked Council if they wanted to make any changes to the Utilities Committee.

PUBLIC COMMENTS: Chairman of the Utility Committee Nancy Newlin explained what the committee has done and would like to continue serving on the committee. Citizen Jim White stated the committee has been a valuable tool for the City Council in decision-making and recommended making the Utility Committee a Commission. Council Member Acree stated the Utility Committee had great support from Toni Benson and Jesse Cain. She recommended monthly meetings and to find two other members to fill the vacancies.

ACTION: The consensus of Council was to continue the Utility Committee. It will be brought back to Council after the Committee members discuss with Council Member Acree and Utilities Superintendent Cain their recommendations on what they would like to see within their scope and authority.

16. Subject: Consideration using CDBG Housing and Economic Consultants to prepare the 2013/14 CDBG NOFA Grant application at an estimate cost of \$3,500.

Recommendation: Staff recommends the following:

- Council to authorize staff to work with current consultants in the preparation of the 2013/14 CDBG NOFA grant application.

DISCUSSION: Finance Analyst Benson provided information on the grant application. She explained how the City would apply for the money. The cost to prepare the grant from both consultants would be a total of \$3,500.

ACTION: Council Member Critchfield made a motion, seconded by Council Member Kelleher to authorize staff to work with current consultants in the preparation of the 2013/14 CDBG NOFA grant application. Motion passed 5-0.

FUTURE AGENDA ITEMS Acting City Manager Dunn asked Council on a date they would all be available for their retreat. Date selected was Tuesday, February 26th.

ADJOURNED at 9:00 pm.


THOMAS REISCHE, MAYOR


SHELLY KITTLE, CITY CLERK

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425 Webster Street
Colusa, CA 95932

Last Ordinance #483

Last Resolution #13-05

CITY COUNCIL MINUTES

CITY COUNCIL CHAMBERS
March 5, 2013 -- 7:00 pm

Mayor -- Thomas Reische
Mayor Pro Tem -- Greg Ponciano
Council Member -- Donna Critchfield
Council Member -- Kirk Kelleher
Council Member -- Marilyn Acree

CALL TO ORDER by Mayor Reische at 7:00 pm

ROLL CALL -- All Council Members were present.

PLEDGE OF ALLEGIANCE & INVOCATION -- Pledge led by Council Member Ponciano.
Invocation given by City Clerk.

APPROVAL OF AGENDA - skipped.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Citizen John Stuck explained why he was opposed to the 40 mph speed limit within the city limits.

CONSENT CALENDAR: *All items listed on the Consent Calendar are considered by the Council to be routine in nature and will be enacted by one motion unless an audience member or Council member requests otherwise, in which case, the item will be removed for separate consideration.*

RECOMMENDED ACTION

- | | |
|---|-----------------|
| 1. Application - Colusa Western Days street closures on April 5, 2013 | <i>Approved</i> |
| 2. Extension of water supply to Walnut Ranch subdivision for next quarter | <i>Approved</i> |
| 3. Ordinance 484 -- Repealing and replacing Article 30 of Appendix A of the Code pertaining to landmark and historic preservation | <i>Adopted</i> |
| 4. Ordinance 485 -- Adding Section 32.11 "Medical Marijuana Dispensaries" to Appendix A & amending Article 4 "Definitions" of Appendix A relating to Medical Marijuana Dispensaries | <i>Adopted</i> |
| 5. Ordinance 486 -- Adding Chapter 12D "Medical Marijuana Dispensaries" to the City Code | <i>Adopted</i> |
| 6. Ordinance 487 -- Rezoning approx. 310 acres of property, assessor's parcel numbers 015-340-011, 015-330-033 & 015-330-057, as planned development district; approx. 14.25 acres of property, assessor's parcel numbers 002-170-004, 015-330-032, 015-130-003, as single family residence special building site combining (R-1B-20) district & approx. 1.25 acres of property, assessor's parcel numbers 015-340-013 as general commercial district | <i>Adopted</i> |
| 7. Ordinance 488 -- Approving Tier 1 Development Agreement between City of Colusa and Colusa Crossings, LLC | <i>Adopted</i> |

City Attorney Hicks provided clarification for Items 4 and Items 5: the word "pot" would be changed to "marijuana" in the final Ordinances. Council Member Critchfield made a motion, seconded by Council Member Kelleher to approve the Consent Calendar. Motion passed 5-0.

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COUNCIL MEMBER AND STAFF REPORTS/COMMENTS

Item 2.

Council Members, Mayor and Staff provided updates on meetings they each attended. Police Chief Stark commented on the vandalism problem at Semple Park located on 3rd and Carson Street, the suspicious man outside the school and the fatal collision.

COUNCIL CONSIDERATION

8. Subject: Consideration of Appointment of City Manager or Interim City Manager

Recommendation: If the City Council wishes, move to adopt one of the following two Resolutions:

- Resolution 13-___ - A Resolution of the City Council of the City of Colusa appointing a City Manager or
- Resolution 13-___ - A Resolution of the City Council of the City of Colusa appointing an Interim City Manager

DISCUSSION: Acting City Manager Dunn excused himself due to his conflict under the Political Reform Act as his role as Acting City Manager.

City Attorney Hicks stated Randy Dunn has been acting City Manager since July 19, 2012. The City has been in the process of recruitment. She explained Consultant Patrick Clark was available for any questions. She explained the two resolutions.

PUBLIC COMMENTS: Citizen Fred Leonard and Citizen Dick Armocido both commented that the City has been running smoother with Acting City Manager Dunn and don't see an urgency to appoint a City Manager.

Council Member Critchfield suggested reviewing the current duties of the City Manager and establish priorities to seek a permanent City Manager. Council Member Kelleher recommended appointing Randy Dunn as Interim City Manager for a year. Council Member Acree recommended a three month period or until the end of the Fiscal Year. Council Member Ponciano agreed with Council Member Kelleher. Consultant Patrick Clark clarified the difference between Acting City Manager and Interim City Manager.

Council Member Acree stated one year was too long and should continue recruiting. Council Member Critchfield would support the motion, if the resolution was amended stating "up to one year", so if they found someone within that time, Council could hire that person permanently.

ACTION: Council Member Kelleher made a motion, seconded by Council Member Ponciano to adopt Resolution 13-06 -- A Resolution of the City Council of the City of Colusa appointing Randy Dunn as Interim City Manager for one year. Motion passed 3-2 with Council Members Acree and Critchfield voting no.

Mayor stated to notify applicants that they would be suspending recruitment for one year. Consultant Patrick Clark recommended cancellation rather than suspension of recruitment due to the 1-year appointment.

ACTION: Council Member Ponciano made a motion, seconded by Council Member Kelleher to cancel recruitment of City Manager until such time Council agrees to reopen. Motion passed 3-2 with Council Members Acree and Critchfield voting no.

9. Subject: Consideration of potential amendments to Ordinance governing responsibilities of City Manager

Recommendation:

- Council to deliberate on the City's current Ordinance setting forth the responsibilities of the City Manager and direct staff what, if any changes, the City Council would like to make to the Ordinance.
- No Action is necessary at this time.

DISCUSSION: The consensus of Council was to have a Special Meeting to discuss this item. City Attorney Hicks recommended April 2nd at 6:00 pm. Council agreed with the date and time.

10. Subject: Position Evaluation -- Mechanic/Maintenance Worker

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Recommendation: Staff recommends the following:

- Council to approve Classification Specification for Mechanic/ Maintenance Worker
- Council to approve Salary Schedule for Mechanic/ Maintenance Worker
- Council to approve appointment of incumbent, Jeremy Cain

DISCUSSION: Consultant Patrick Clark stated Jeremy Cain was appointed as Maintenance Worker but has been doing the duties of Maintenance Mechanic since appointment. The new classification includes the duties being done by the incumbent.

ACTION: Council Member Kelleher made a motion, seconded by Council Member Acree to approve the Classification Specification for Mechanic/Maintenance Worker, approve the salary schedule and appoint Jeremy Cain to the position. Motion passed 5-0.

11. Subject: Position Evaluation – Administrative Office Manager**Recommendation:** Staff recommends the following:

- Council to approve Classification Specification for Administrative Office Manager
- Council to approve Salary Schedule for Administrative Office Manager
- Council to approve appointment of incumbent, Toni Benson

DISCUSSION: Finance Analyst excused herself due to her conflict under the Political Reform Act. Acting City Manager Dunn stated back in July, he asked Toni to help him out as Office Manager. He stated Benson has been serving the Finance Department very well, with the additional responsibilities.

Consultant Clark stated since the departure of the last Finance Director, the City hasn't had a Department Head on a daily basis. Finance Analyst Benson has been working over 400 hours beyond a 40 hour workweek per year and has taken over duties beyond her current classification. Clark provided Council options to either elevate her classification based on the duties she is performing or hire a Finance Director. City Attorney Hicks recommended removing "Serves on the Successor Agency Board" from the job description.

Council Member Critchfield inquired if Benson possessed a bachelor's degree. Council Members Critchfield and Acree requested training to help her succeed in the supervisory role and asked Acting City Manager Dunn to put something together. All Council Members agreed that Benson has been doing an exceptional job.

ACTION: With no public comments, Council Member Ponciano made a motion, seconded by Council Member Acree to approve the Classification Specification for Administrative Office Manager, the salary schedule and appointment of incumbent Toni Benson. Motion passed 5-0.

12. Subject: Consideration adopting Resolution 13-___ - approving the contract for Elevated Tank Rehabilitation and Extended Maintenance Agreement between Superior Tank Solutions and the City of Colusa**Recommendation:** Staff recommends the following:

- Council to approve the contract with Superior Tank Solutions for the rehabilitation of the City's two elevated water tanks and for the ten year service plan/maintenance agreement with said company.

DISCUSSION: Public Works Superintendent Cain stated item was budgeted last year. Superior Tank Solutions was the lowest bid and their scope of work provided everything the City requested. City Attorney Hicks explained the changes made in the revised Staff Report which was provided to Council. The resolution and contract would be subject to City Attorney's final approval.

ACTION: Council Member Acree made a motion, seconded by Council Member Kelleher to adopt Resolution 13-07 – A Resolution of the City Council of the City of Colusa approving the contract for Elevated Tank Rehabilitation and Extended Maintenance Agreement between Superior Tank Solutions and the City of Colusa. Motion passed 5-0.

13. Subject: The County of Colusa's request to utilize the outreach program provided by Recology Butte and Colusa Counties to paint the City of Colusa's Scout Cabin.**Recommendation:** Staff recommends the following:

- Council to approve the County of Colusa's request to paint the City of Colusa's Scout Cabin.

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DISCUSSION: Finance Analyst Benson explained Recology's outreach program to paint the Scout Cabin using recycled paint. Recology would be working with the County. Council Member Critchfield asked for a Certificate of Liability Insurance from the County prior to the starting the work.

ACTION: Council Member Kelleher made a motion, seconded by Council Member Ponciano to approve the County of Colusa's request to paint the City of Colusa's Scout Cabin. Motion passed 5-0.

FUTURE AGENDA ITEMS Council Member Ponciano brought a handout on National Night Out. There was a consensus by Council to add this on the next agenda for Council Consideration.


COUNCIL CONVENE TO CLOSED SESSION at 8:10 pm

1. Conference with Labor Negotiator (pursuant to Government Code 54957):
Agency designated representative: City Attorney
Unrepresented employee: City Manager

COUNCIL RE-CONVENE TO OPEN SESSION

- A. REPORT ON CLOSED SESSION - Mayor Reische stated there was no reportable action.

ADJOURNED at 8:30 pm


THOMAS REISCHE, MAYOR


SHELLY K. TYLER, CITY CLERK

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ORDINANCE NO. 487

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUSA PRE-ZONING APPROXIMATELY 310 ACRES OF PROPERTY, ASSESSOR'S PARCEL NUMBERS 015-340-011, 015-330-033, & 015-330-057, AS PLANNED DEVELOPMENT (P-D) DISTRICT; APPROXIMATELY 14.25 ACRES OF PROPERTY, ASSESSOR'S PARCEL NUMBERS 002-170-004, 015-330-032, 015-130-003, AS SINGLE-FAMILY RESIDENCE SPECIAL BUILDING SITE COMBINING (R1-B-20) DISTRICT; AND APPROXIMATELY 1.25 ACRES OF PROPERTY, ASSESSOR'S PARCEL NUMBERS 015-340-013, AS GENERAL COMMERCIAL (C-G) DISTRICT.

The City Council of the City of Colusa does ordain as follows:

SECTION 1. Recitals

A. Colusa Crossings, LLC initiated Annexation Application # 02-10 (A) and Pre-zoning Application # 02-10 (Z) to detach territory from the County of Colusa, add it to the City of Colusa, and adopt a Zoning Map Amendment to pre-zone the following collective properties ("Subject Property"):

1. Approximately 310 acres of property, commonly known as the Vann Property, and known as Assessor's Parcel numbers 015-330-033, 015-330-057, and 015-340-011, along with adjacent public rights-of-way;
2. Approximately 14.25 acres of combined properties, commonly known as the Baber Property, Davies Property, and Roach Property, and known as Assessor's Parcel numbers 002-170-004, 015-330-032, and 015-130-003, respectively, along with adjacent public rights-of-way; and
3. Approximately 1.25 acres of property, commonly known as the Keeley Property, and known as Assessor's Parcel number 015-340-013, along with adjacent public rights-of-way.

B. WHEREAS the Subject Property totals approximately 325.5 acres of land, along with approximately 4.29 of adjacent, public rights-of-way, all located west of the City of Colusa's boundaries in Colusa County, and within the City of Colusa's Sphere of Influence boundaries, and including two existing residences, one agricultural equipment business, and agricultural lands; and

C. WHEREAS the Subject Property is included within the City of Colusa's General Plan, and is designated as "Special Planning Area # 3," and this property has been planned for annexation into the City; and

D. WHEREAS the Annexation and Pre-zoning of the Subject Property is located within the City of Colusa General Plan area and was previously contemplated and analyzed as "Other Anticipated Projects and Actions" within the *City of Colusa General Plan Master Environmental Impact Report* (MEIR) in accordance with the California Environmental Quality Act (CEQA). The MEIR was certified in 2007 and it is sufficient to support Annexation and Pre-zoning of the Collective Properties in compliance with CEQA; and

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E. WHEREAS the *City of Colusa General Plan MEIR* applied numerous mitigation measures to the Colusa Crossing Project, incorporated a statement of overriding considerations, and was certified in 2007. Environmental and physical conditions of the Project site and greater City of Colusa General Plan area have not changed significantly since MEIR certification; and

F. WHEREAS an Initial Study for the Colusa Crossings Project was prepared by staff and determined that the proposed project would have NO ADDITIONAL SIGNIFICANT EFFECT on the environment, that NO NEW ADDITIONAL MITIGATION MEASURES OR ALTERNATIVES may be required, and that the Project IS WITHIN THE SCOPE of the City of Colusa General Plan MEIR; and

G. WHEREAS, on November 28, 2012, the Planning Commission held a public hearing and recommended that the City Council pre-zone the Subject Property; and

H. Notice of the City Council public hearing on this project was duly noticed; and

I. On December 18, 2012, the City Council opened the public hearing and continued the public hearing to January 15, 2013; and

J. On January 15, 2013, the City Council reopened the public hearing and continued the public hearing to February 5, 2013;

K. On February 5, 2013, the City Council reopened the public hearing and took public testimony for Pre-zoning Application # 02-12 (Z), at which time a Planning Department staff report, the *Colusa Crossings Initial Study*, the *Colusa Crossings Plan for Services*, and oral and/or written testimony were considered; and

L. The proposed Pre-zoning conforms with the policies and guidelines of the *City of Colusa General Plan* and the *Colusa Municipal Code*; and

SECTION 2. Findings

Now, THEREFORE, the City Council hereby finds that based on all the staff reports and information contained in the Planning Department files on this Project, hereby incorporated herein by reference and available for review in the City's Planning Department located at 425 Webster Street, Colusa, CA, and based on all written and oral testimony presented at the public hearing for the project that:

A. The recitals set forth above are true and correct statements.

B. The environmental analysis was conducted in compliance with CEQA, State and City Guidelines, and the Council has reviewed and considered the information presented to it and the Planning Commission.

C. The Pre-zoning is consistent with the objectives, general land uses and programs specified in the General Plan in that the General Plan identifies this area as "Special Planning Area #3." More specifically, this property has been conceptually planned for its future infrastructure through the City of Colusa master infrastructure planning reports as well as the *Colusa Crossings Plan for Services*, and is a candidate for annexation.

SECTION 3. Approvals

Based on the findings set forth above, the Council hereby approves Pre-zoning Application # 02-12 (Z) to pre-zone the Collective Properties as follows:

- A. Assessor's Parcel numbers 015-330-033, 015-330-057, and 015-340-011, along with adjacent public rights-of-way, to Planned Development (P-D) District as shown in Exhibit A of this ordinance, attached hereto and incorporated herein by reference
- B. Assessor's Parcel numbers 002-170-004, 015-330-032, and 015-130-003, along with adjacent public rights-of-way, to Single-Family Residence Special Building Site Combining (R-1-B-20) District as shown in Exhibit A of this ordinance, attached hereto and incorporated herein by reference, and
- C. Assessor's Parcel number 015-340-013, along with adjacent public rights-of-way, to General Commercial (C-G) District as shown in Exhibit A of this ordinance, attached hereto and incorporated herein by reference.

SECTION 4. Severability

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION 5. Effective Date

This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and/or posted as required by law.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Colusa, California, held on February 5, 2013, and was passed and adopted at a regular meeting of the City Council held on March 5, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THOMAS REISCHE, MAYOR

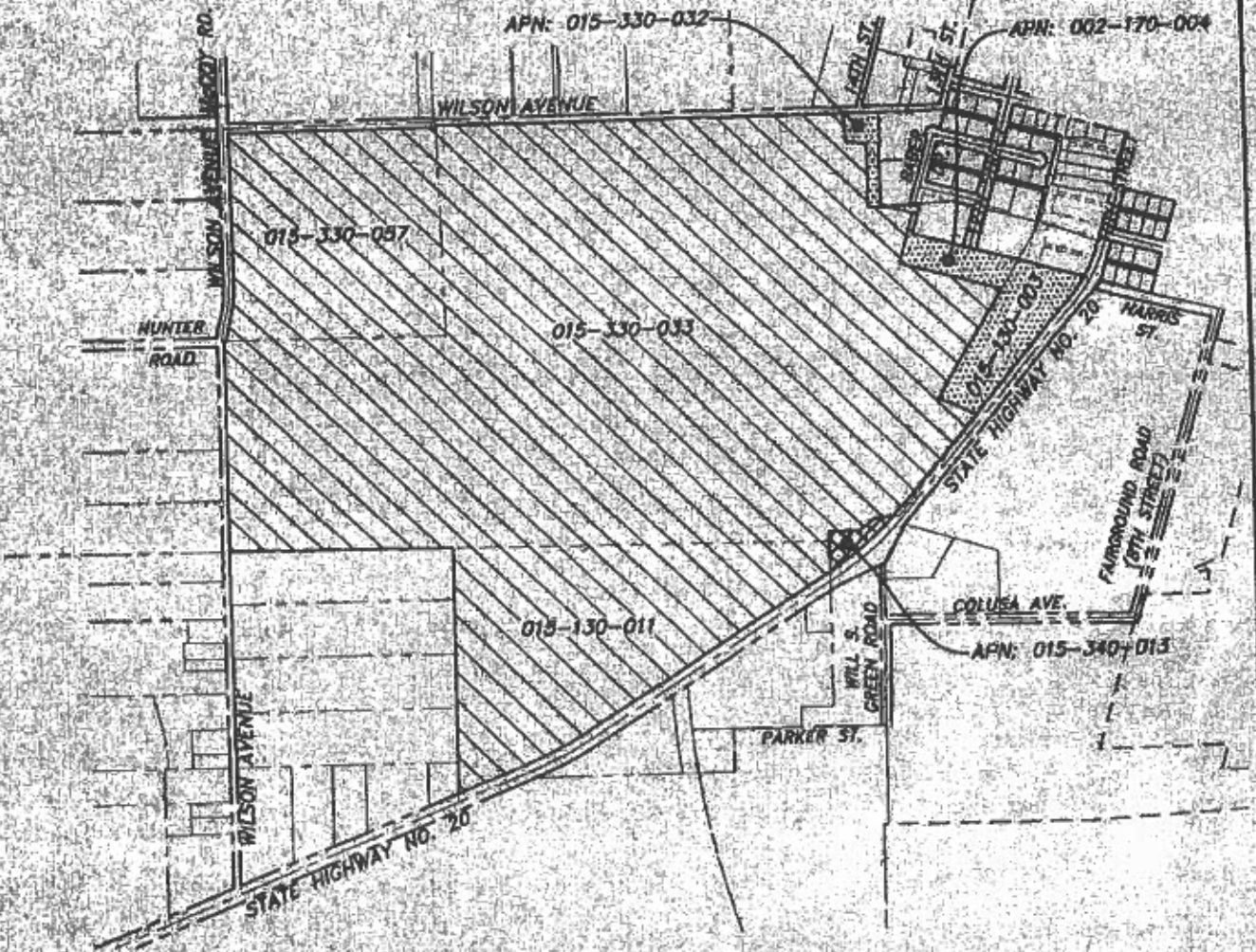
ATTEST:

Shelly Kittle, City Clerk




EXHIBITS:

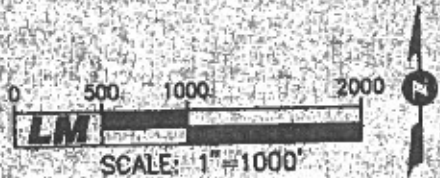
A: PRE-ZONING EXHIBIT

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PROPOSED ZONING LEGEND

-  PLANNED DEVELOPMENT (P-D) DISTRICT
-  GENERAL COMMERCIAL (C-G) DISTRICT
-  SINGLE-FAMILY RESIDENCE SPECIAL BUILDING SITE COMBINING (R-1-B-20) DISTRICT



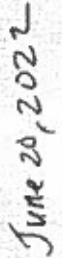
LM LAUGENOUR AND MEIKLE
 CIVIL ENGINEERING - LAND SURVEYING - PLANNING
 808 COURT STREET, WOODLAND, CALIFORNIA 95665 - PHONE: (530) 662-1783
 P.O. BOX 828, WOODLAND, CALIFORNIA 95778 - FAX: (530) 662-4802

PRE-ZONING EXHIBIT
 FOR
COLUSA CROSSINGS, LLC
 LOCATED IN A PORTION OF TOWNSHIP
 16 NORTH, RANGES 1 & 2 WEST,
 MOUNT DIABLO BASE & MERIDIAN,
 COLUSA COUNTY, CALIFORNIA

SHEET 1 OF 1 FEBRUARY 27, 2013

X: Land Projects 2013-8-8.dwg 2378-8 Exhibit Pre-Zoning

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