



County of Lassen

Department of Planning and Building Services

• Planning

• Building Permits

• Code Enforcement

• Surveyor

• Surface Mining

July 2, 2020

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TO: Technical Advisory Committee
Agenda Date: July 2, 2020

Zoning & Building

Inspection Requests

Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

*MMA
for:*

RE: **Parcel Map #2019-001, Aboussleman, Stringer.** Proposal to divide a 111-acre parcel into four parcels: Proposed Parcel 1 would be 20.22 acres in size, Proposed Parcel 2 would be 21.11 acres in size, Proposed Parcel 3 would be 21.37 acres in size and Proposed Parcel 4 would be 48.08 acres in size. The subject parcel is zoned A-2-B-20 (Agricultural Residential District, 20-Acre Building Site Combining District) and has a "Rural Residential" land use designation in the *Pittville Area Plan, 1986*. The subject parcel is located approximately 3.5 miles south of the intersection of Highway 299 and Old Highway Road at 545-100 Kaufenberg Road, McArthur, CA 96056. APN: 013-070-41. Staff Contact: Stefano Richichi, Senior Planner

The Planning Division of Lassen County Planning and Building finds as follows:

1. The subject parcel is zoned A-2-B-20 (Agricultural Residential District, 20-Acre Building Site Combining District).
2. The subject parcel's land use designation is "Rural Residential" in the *Pittville Area Plan, 1986*.
3. The applicants are proposing to divide a 111-acre parcel into four parcels: Proposed Parcel 1 would be 20.22 acres in size, Proposed Parcel 2 would be 21.11 acres in size, Proposed Parcel 3 would be 21.37 acres in size and Proposed Parcel 4 would be 48.08 acres in size.
4. Lassen County Code Section 18.84.020 requires that parcels meet the minimum acreage attached with the B combining district designation, and Section 18.84.060 allows for the average acreage of subdivided parcels to meet this minimum parcel size requirement. Therefore, an A-2-B-20 zoning district requires either a minimum or average 20-acre parcel size.
5. Existing improvements on site include a single-family residence, accessory structures, a septic system, and a well, on Proposed Parcel 2. Proposed Parcel 1 includes a structure, whereas Proposed Parcels 3 and 4 are undeveloped.
6. The subject parcel is not within the 100-year flood zone as described by the Federal Emergency Management Agency (FEMA).
7. A parcel map meets the definition of a "subdivision" pursuant to Lassen County Code Section 16.08.180.

8. Lassen County Code Section 16.32.050 states:

Certain areas of the county have been identified by the county zoning title (Title 18 of this code) as being appropriate for residential and agricultural-residential development, which are not presently served by paved county-maintained access routes.

In an effort to increase safe and adequate access opportunities for residents of the county who reside in established or designated residential or agricultural-residential areas, the board of supervisors has established the following policies:

- (1) Existing and future paved county-maintained roads will be maintained in a reasonable manner by the county.*
- (2) The subdivider shall be required to participate in the paving of unpaved county-maintained roads when such roads are to be used for access to the subdivision, regardless of the required road standard for circulation within the proposed subdivision. (Ord. 475A § 2, 1991).*

9. Kaufenberg Road is an unpaved county-maintained road (County Road 219).

10. However, Lassen County Code Section 16.32.070(2) states that the Planning Commission may grant a variance from the road construction standards required in Chapter 16.32 either by:

- (A) Conducting a public hearing and determining that the weight of the evidence contained in the record indicates that the granting of such a variance would not be detrimental to the health, safety, or general welfare of the citizens of Lassen County and that the approval of the requested variance would not be inconsistent with the county general plan; or*
- (B) By a four-fifths majority vote upon the recommendations of the Technical Advisory Committee for the particular project.*

11. The Board of Supervisors may also grant a variance from the road standards set forth in Chapter 16.32 on appeal if it makes the above findings.

12. Relevant policies from the Circulation Element of the *Lassen County General Plan, 2000*, include:

- CE-7 POLICY: In order to promote higher standards of access and road maintenance to residential areas, the County will encourage that access roads serving residential development be built to County standards and offered for acceptance into the County maintained system. Unless the County accepts the roads into its maintained system, new residential development projects shall be required to provide for the future maintenance of their roads through assessment districts or other practical and effective methods.*

- *CE-8 POLICY: No new roads should be accepted into the County road system unless those roads have been constructed to a paved standard appropriate for the classification of the road being offered for dedication for public use.*
13. However, the Director of Public Works has determined that to require the subdivider to participate in the paving of Kaufenberg Road would not be appropriate.
14. In addition, other goals, policies, and implementation measures from the Circulation Element of the *Lassen County General Plan, 2000*, inform the project as well:
- *GOAL C-1: A comprehensive, efficient and safe transportation system to serve the needs of County residents and to stimulate the economic progress of Lassen County.*
 - *CE-9 POLICY: The County should encourage and assist homeowner associations and other non-public entities to develop funding mechanisms (e.g., assessment district, etc.) to insure that private roads within their organizational responsibility will be adequately maintained.*
 - *Implementation Measure CE-B: Subdivision and planned unit development ordinances and project approvals will, when applicable, contain provisions to insure the success of proposed homeowner and other associations to adequately maintain private roads serving residential areas.*
 - *CE 12 POLICY: No public highway or roadway should be allowed to fall or exist for a substantial amount of time at or below a Level of Service rating of 'E' (i.e., road at or near capacity; reduced speeds; extremely difficult to maneuver; some stoppages).*
 - *Implementation Measure CE-E: The County shall consider the acquisition of needed right-of-way dedications with the approval of subdivisions, use permits, and other discretionary actions.*
15. In spite of the above policies from the general plan, a road maintenance agreement is not warranted for this project because three of the four proposed parcels have access from Kaufenberg Road, a County-maintained road. Parcel 4 will have access from Sunset Road (unless an easement is secured); it does not make any sense for the (eventual) property owner of said parcel to enter into a road maintenance agreement with him or herself.
16. Lassen County Code Section 16.32.060(6) states that public electric and telephone facilities shall be available to each unit or lot within the subdivision. Said section further stipulates that if a proposed subdivision is located in an area where such utilities are not available, the project may be approved if it is conditioned that a statement of ineligibility for construction of any residential, commercial, or industrial structure or building (except for agricultural buildings), on any such parcel which sets forth remedial action required to rectify such deficiency, shall

appear upon the map or map waiver document, and deed or other instrument transferring ownership of any such parcel.

17. The above section also states that if a subdivision is located within the service area of one or more cable television services, the design of the subdivision shall provide an opportunity for one or more cable television systems to construct, install, and maintain, on land identified on the map as dedicated or to be dedicated to public utility use, any equipment necessary to extend cable television services to each residential parcel in the subdivision.
18. Section 16.32.060(7) requires in part that all utilities within a subdivision designated by the general plan for rural residential land use shall be placed underground, and that undergrounding may be required along peripheral streets.
19. The developer may request that the undergrounding requirement above be waived by the Planning Commission for parcels larger than three acres in size if the utility company that is responsible for providing electrical or telephone service to the project certifies to the Planning Commission at the public hearing held to consider approval of the project that, due to technical or physical limitations relating to the site or the utility system, the undergrounding of on-site utilities would be impractical. The Planning Commission may accept a fee in lieu of undergrounding such utilities or require other appropriate action.
20. Lassen County Code Chapter 16.20 et seq. establishes the regulations regarding approval of tentative parcel maps.
21. According to Lassen County Code Section 16.20.070, the Planning Commission may approve the tentative map if it finds that the parcel map, together with its provision for its design and improvements, is consistent with the applicable general or specific plans adopted by Lassen County
22. Said section also states that the Planning Commission may modify or delete any of the conditions of approval recommended in the technical advisory committee report, *except conditions required by county ordinance*. The Planning Commission may add additional requirements as a condition of its approval.
23. According to Lassen County Code Section 16.20.080, the Planning Commission may deny the tentative map on any of the grounds provided by county ordinances or the Subdivision Map Act. The Planning Commission shall deny approval of the tentative map if it makes any of the following findings:
 1. *That the proposed map is not consistent with applicable general and specific plans;*
 2. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans;*

3. *That the site is not physically suitable for the type of development;*
 4. *That the site is not physically suitable for the proposed density of development;*
 5. *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;*
 6. *That the design of the subdivision or the type of improvements is likely to cause serious public health problems;*
 7. *That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.*
24. The *Lassen County General Plan, 2000* relates the following goals and policy that inform the proposed project:
- *GOAL L-4: Compatibility between land use types by providing for complementary mixtures and patterns of land uses.*
 - *LU-6 POLICY: The County recognizes general plan land use designations and consistent zoning as the appropriate and primary tools for attempting to achieve and maintain compatibility of land uses within the context of the County's land use authority and local control.*

In addition, the *Pittville Area Plan, 1986* states as follows:

The term "Rural Residential" shall mean that the land is suitable for residential use, but that consideration of the area's rural character, environment, and resource constraints and other suitability factors suggest that residential density should generally not exceed one dwelling unit per 5 acres (i.e., no less than 5 acres minimum parcel size)

- Residential Policy 1: Residential development of all types should be directed to areas of highest availability of support factors (access, water, soils for seepage disposal) and lowest sensitivity to environmental impact.

- Residential Policy 2: Development of housing shall be consistent with the policies and provisions in the Housing Element of Lassen County's General Plan.
- Residential Policy 3: Within areas designated for residential or rural residential use, encourage location of housing in the least environmentally sensitive areas (see Figures 2 through 11 in the Planning Alternatives Study)
- Residential Policy 8: Residential development shall be designed in a manner to minimize impacts on wildlife and natural habitats.
- Residential Implementation Measure 3: For all new residential development, ensure fiscal balance with respect to providing County and other public services for new population by complying with the measures required in this Chapter under Section H, "Public Services/Fiscal Impacts."
- Residential Implementation Measure 4: Require all new development to provide for multiple access and options for safe, reliable access to major public roads to ensure ease of circulation for emergency conditions.
- Agriculture/Rangeland Policy 2: Where livestock grazing or agricultural production occurs on smaller (10-160) acre parcels in conjunction with commercial, industrial, or residential uses, promote coexistence of the different issues by minimizing conflicts.

25. The proposed parcel map and rezone are consistent with the densities "Rural Residential" land use designation. See below for more information and analysis regarding land use compatibility.

26. The *Lassen County General Plan, 2000* also states the following:

LU10 POLICY: Subdivision map applications proposing to create parcels primarily for residential development shall not be approved in areas outside of fire protection districts (with limited exceptions, supported with special findings, through processes such as Segregation of Homesites, etc.).

27. The subject parcel is within the McArthur Fire Protection District.

28. The following goal and policies in the *Lassen County General Plan, 2000* relate to protection of the rural character of the County:

- *GOAL L-9: Protection of the open, rural character of the county.*
- *LU22 POLICY: The County shall encourage expansion of existing residential areas and discourage sprawl and scattered development.*

- *AG-4 POLICY: In order to support the existing and future economic value and viability of agricultural lands, including grazing lands, such lands should remain in relatively large units. Except in limited circumstances pursuant to the County's zoning ordinance (e.g. segregation of homesites, use permits, etc.), County zoning and subdivision regulations shall protect agricultural lands by not allowing isolated subdivisions intended primarily for residential use to be developed in areas which are not specifically designated in the General Plan or area plan for a community development land use (e.g., rural residential) and zoned accordingly.*

- **ISSUE: Growth and Development**

[T]he term "rural residential development" describes the act of developing rural land into residential parcels. There is a long tradition of this type of development in many areas of Lassen County. However, many of these areas contain agricultural lands. Some areas have the soil qualities and water resources which could have been developed for agriculture in the past but were not. Other areas have wildlife habitat resources which will be eliminated or reduced in habitat value by clearing and development for rural residential use.

As in many rural areas across the country, maintaining the "rural character" of Lassen County is a strong and constantly expressed desire of local residents.

29. The "Rural Residential" land use designation is a residential land use pursuant to the *Lassen County General Plan, 2000*, and not an agricultural land use. The proposed parcel map would be an expansion of an existing residential area.

30. The following policy in the *Lassen County General Plan, 2000* relates to the protection of agricultural lands as well as buffers for lands adjoining agricultural lands:

- *GOAL A-7: Protection of agricultural lands and lands having substantial potential for productive agricultural use from the intrusion of incompatible neighboring uses and factors which threaten to constrain or reduce agricultural productivity.*
- *AG16 POLICY: Where proposed residential, commercial, or industrial development abuts lands devoted to agriculture production, the non-agricultural uses shall be required to incorporate buffer areas to mitigate potential land use conflicts as conditions of approval for subdivisions or use permits. The type and width of buffer areas shall be determined based on the character, intensity and sensitivity of the abutting land uses.*
- *Implementation Measure AG-N: The County shall apply careful discretion in approving uses and zoning in areas adjacent to agricultural areas which may conflict with agricultural operations or future agricultural development in the area.*

- *Implementation Measure AG-P: The County supports the continuation of reasonable fencing and cattle guard requirements for subdivisions adjacent to agricultural zones.*
- ***Incompatible Land Uses***
The width of... buffer areas may vary with the nature of the agricultural operations. For example, development next to a pasture with grazing livestock would not be expected to need as much of a buffer area, if any, as would development next to a feed lot or an intensively managed crop field.

31. Although purely agricultural zoning districts exist to the south, southeast, and east, (U-C-2, A-3-B-80; as opposed to other agricultural residential A-2-zoned parcels) they are smaller in size (40 acres) and the proposed parcel map will still maintain minimum 20-acre parcels, which will have plenty of space for to act as open space between parcels, should the owners choose to have. Furthermore, the surrounding parcels are forested and neither cattle grazing nor crop production in the vicinity appears to occur. As such, the intrusion of cattle (and corresponding issues related to such intrusions) onto the proposed parcels are unlikely. Therefore, an agricultural buffer is not necessary for the proposed parcel map.
32. Additionally, Lassen County Code Section 18.102.080 (which relates to fencing requirements in certain agricultural zones for applications to rezone from agricultural zones to residential zones for parcels less than 20 acres in size) does not apply to the proposed parcel map. The intent of the fencing requirement is to minimize land use conflicts that may arise on account of sensitive land uses that are incompatible with agricultural land uses.
33. Given the above, the proposed project will not result in conflicts with agricultural lands to the south and east of the subject parcel.
34. The Environmental Review is currently preparing an initial study for the proposed project.
35. The project does not propose any construction other than residential construction at this time, which is allowed by right in the A-2 zoning district. Future construction must comply with Title 18 of the Lassen County Code.

The Planning Division of Lassen County Planning and Building Services Department recommends the following conditions be placed on the project if approved. Additional conditions may be implemented on account of the environmental review process.

1. The applicant will submit (a) will-serve letter(s) to demonstrate the availability of telephone and electric utilities, as well as cable services, from the appropriate utility and/or service provider(s) unless otherwise approved by the Planning Commission or Board of Supervisors.
2. All utility connections must be placed underground unless otherwise approved by the Planning Commission or Board of Supervisors.

3. The property owner, surveyor, applicant and/or agent shall provide documentation demonstrating that the County Fire Warden's Office has approved the access to Proposed Parcel 4 (Sunset Road), a private road.

MLA:smr