

ORDINANCE NUMBER 4455

AN ORDINANCE CHANGING THE ZONING OF REAL PROPERTY WITHIN MENDOCINO COUNTY

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1. Findings. Based on the information provided in the agenda packet accompanying this ordinance and evidence in the record, the Board of Supervisors makes the following findings:

- (a) General Plan Consistency: The proposed project is consistent with the Potter Valley Community Planning Area and will help further the achievement of the goals in the Plan. The proposed Upland Residential zoning designation is typically applied on parcels attended to create and enhance farming and low-density agricultural and residential uses. The site for the proposed project is located within an agriculturally intensive and low density neighborhood within Potter Valley and the proposed zoning district would be appropriate for the site with inclusion of the protections provided in the proposed Contract Rezone.
- (b) The rezoning of the subject property meets the stated intent and minimum lot size requirements of the Upland Residential zoning district, as stated in Section 20.056.005 and 20.056.025 of the Mendocino County Code.
- (c) A Contract Rezone is necessary so as not to create problems inimical to the public health, safety or welfare of the County, in that the conditions imposed by the Contract will ensure that resources located within the parcel and nearby areas are protected from potential environmental impacts resulting from the change in zoning district.

Section 2. Rezone. Pursuant to Division I of Title 20, Chapter 20.212 of the Mendocino County Code, the zoning of the following real property within Mendocino County is hereby changed as follows:

The property described by Assessor's Parcel Numbers 174-100-02 (the "subject property") is rezoned from Suburban Residential with a 40,000 Square Foot minimum parcel size to Upland Residential 20 acre minimum parcel size – with a Contract Rezone combining district (UR 20[CR]) as shown on Exhibit A, attached hereto and incorporated herein by this reference, subject to the requirements of Section 3 of this Ordinance.

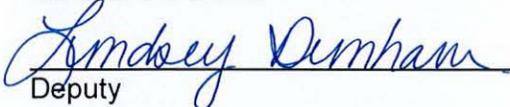
Section 3. Contract Rezone. Said zoning change made by Section 2 of this Ordinance shall be subject to the conditions set forth in the Contract for Compliance with Rezoning Conditions, attached hereto as Exhibit B and incorporated herein by this reference, to be recorded against the subject property and in Exhibit B pursuant to Government Code Section 27281.5 and Mendocino County Code Section 20.212.010.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this 16th day of December, 2019, by the following roll call vote:

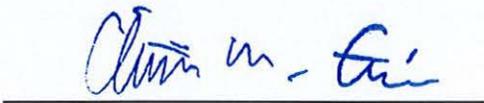
AYES: Supervisors Brown, McCowen, Haschak, Gjerde and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board


Deputy

APPROVED AS TO FORM:
CHRISTIAN M CURTIS, County Counsel

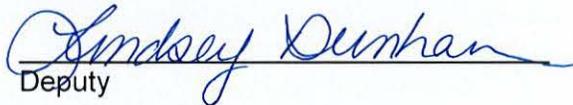




CARRE BROWN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board


Deputy

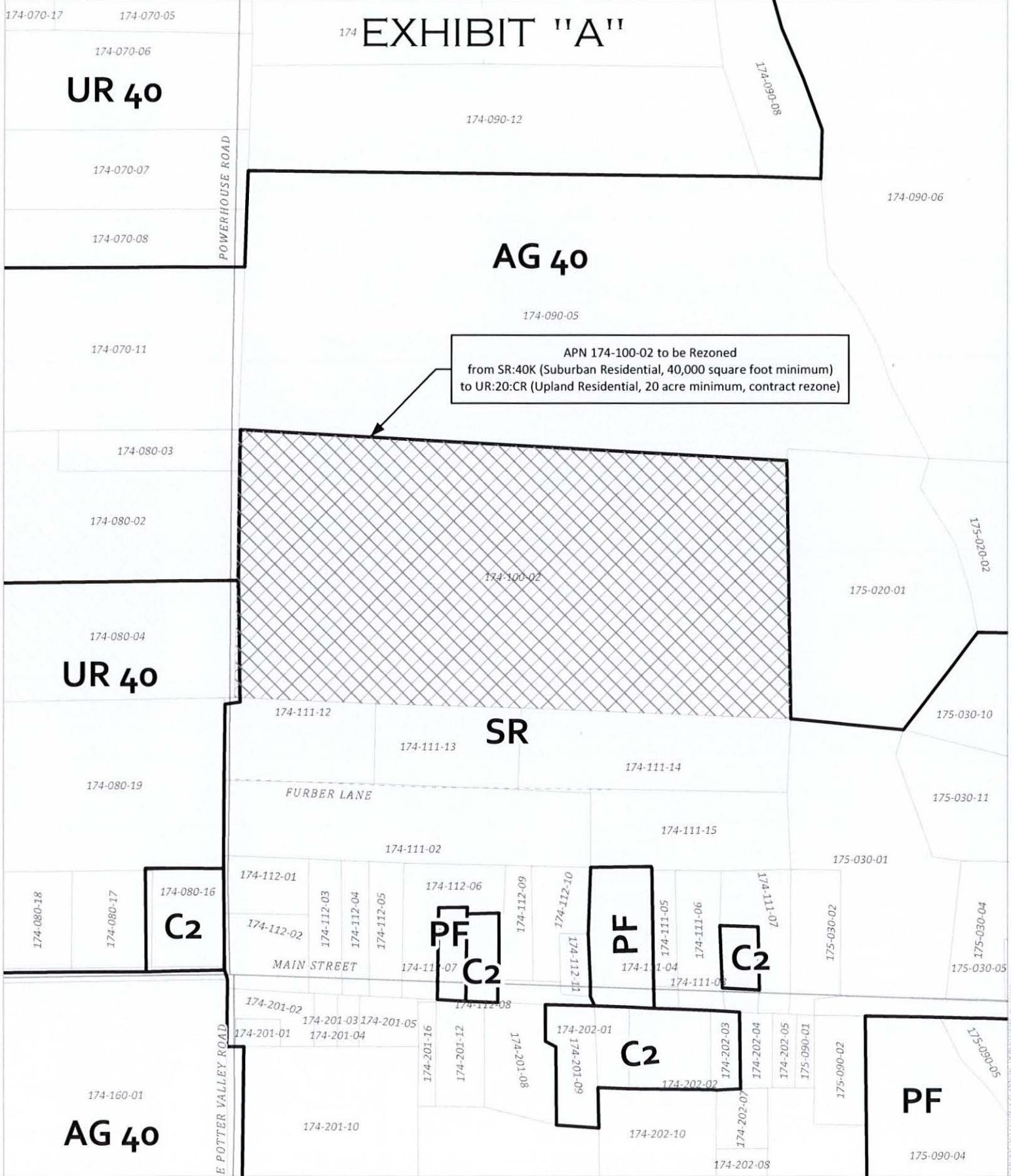


EXHIBIT "A"

APN 174-100-02 to be Rezoned
 from SR:40K (Suburban Residential, 40,000 square foot minimum)
 to UR:20:CR (Upland Residential, 20 acre minimum, contract rezone)

CASE: GP 2019-0001 / R 2019-0002
 OWNER: SAVAGE, Christopher, ET AL
 APN: 174-100-02
 APLCT: Christopher Savage
 AGENT: Jim Ronco
 ADDRESS: 12201 Powerhouse Road, Potter Valley

-  REZONE FROM: S-R 40K (Suburban Residential, 40,000 sq.ft.minimum)
 TO: U-R 20:CR (Upland Residential, 20 acre minimum, contract rezone)
-  Zoning Districts
-  Public Roads

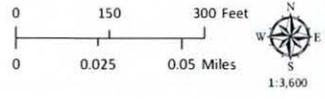


EXHIBIT B

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

County of Mendocino
Board of Supervisors
501 Low Gap Road
Ukiah, CA 95482

CONTRACT FOR COMPLIANCE WITH REZONING CONDITIONS
(Section 27281.5 of the Government Code)
REZONE R_2019-0002

IN CONSIDERATION OF the adoption by the Board of Supervisors of Ordinance Number _____ and thereby rezone Assessor's Parcel Number 174-100-02, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"), from Suburban Residential with a 40,000 square foot minimum parcel size (SR 40K) to Upland Residential with a 20 acre minimum parcel size and a Contract Rezone combining district (UR 20[CR]), as shown in Exhibit B attached hereto and incorporated herein by this reference, the owner of the above-referenced property, Christopher Savage ("Owner"), hereby warrants that he is the owner of the foregoing property, and Agree and Promise to comply with the following conditions pursuant to Section 27281.5 of the California Government Code.

CONDITIONS

The following conditions are hereby imposed upon the Property, certain of which must be fulfilled prior to or in conjunction with the issuance of an approved building permit to construct any structure for a permitted use or the establishment and construction of accessory structure(s) associated with a permitted use, or the approval of any discretionary action (including a subdivision), hereinafter referred to as "Project", within the boundaries of the Property shown in Exhibit B:

- 1) No accessory structures, including an Accessory Dwelling Unit, shall be allowed within the Agricultural Buffer to the irrigation ditch, which is no less than 50 feet wide and parallel to the site's northerly and southerly boundary, or within the 100-foot wide buffer to the site's northerly and easterly boundary's seasonal wet depression area, as shown on Exhibit C attached hereto and incorporated herein by this reference.
- 2) No trimming of any blackberry hedge on the property shall take place from March 1 through August 31 due to the effects on the species of special concern (the Oak titmouse), which is a registered native resident species on the parcel.
- 3) Future development of an Accessory Dwelling Unit shall require an Archaeological Survey be submitted and accepted by the Archaeological Commission prior to issuance of any building permit.

IT IS AGREED that the forgoing agreement and promise shall constitute a deed restriction and shall run with the land and constitute an equitable servitude and restrictive covenant on the use and enjoyment of the Property. Any act, contract, or authorization by Owner whether written or oral which uses or would cause to be used or would permit use of the Property contrary to the terms of this Contract

will be deemed a violation and a breach hereof. The County may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of this Contract. In the event of a breach, any forbearance on the part of a party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

In the event of non-compliance with the aforesaid conditions, consent is hereby given that the aforesaid property may be rezoned in compliance with Government Code Sections 65853, et seq., and shall be subject to other action authorized by the Mendocino County Code.

IT IS FURTHER AGREED that this contract shall be binding upon the successors and assigns of the owners of land known as Assessor Parcel Number 174-100-02, more particularly described in the attached Exhibit A and shown in the attached Exhibit B, and shall be effective only after it is signed by the owners and verified by the County of Mendocino.

Christopher Savage
Owner

DATE

ACKNOWLEDGEMENT

STATE OF CALIFORNIA
County of Mendocino

On the _____ day of _____, 2019, before me, the undersigned a Notary Public, in and for said State, personally appeared _____ personally known to me (or 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 acknowledge 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 which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

EXHIBIT "A"

All that certain real property situated in the County of Mendocino, State of California, more particularly described as follows:

TRACT ONE:

Commencing at a stake in the center of the County Road at the Northwest corner of land of Cecil L. Zortman, which said stake is North 4.76 chains from the corner common to Sections 17, 18, 19 and 20, Township 17 North, Range 11 West, Mount Diablo Base and Meridian; thence North (variation 17° 35' East) a distance of 15.18 chains to the Southwest corner of lands of Charles E. Hardisty; thence North 89° 30' East along the South line of said lands of Charles E. Hardisty, a distance of 20.20 chains to the legal subdivision line running North and South through the center of the Southwest 1/4 of said Section 17; thence South along said subdivision line 9.50 chains to the Northeast corner of lands of Esther H. Holman; thence South 89° West along the North line of said land of Esther H. Holman 7.20 chains to the Northwest corner thereof; thence South along the West line of said last mentioned land 5.56 chains to the property line on the North side of lands of E.V. Jones et al; thence South 88° West along said property line to the place of commencement, being a portion of the Southwest 1/4 of Southwest 1/4 of said Section 17.

EXCEPTING therefrom all that portion described in the deed executed by John J. Furber et ux, recorded July 5, 1962., in Book 601, Page 16, Mendocino County Records.

ALSO EXCEPTING THEREFROM all that portion described in the deed, executed by Herbert W. Green et ux, recorded September 21, 1978, in Book 1171 Official Records, Page 671, Mendocino County Records.

ALSO EXCEPTING therefrom all that portion described in the deeds executed by Herbert W. Green et ux, recorded June 15, 1983, in Book 1405 Official Records; Page 357 Mendocino County Records, and June 29, 1983, in Book 1408 Official Records, Page 2, Mendocino County Records.

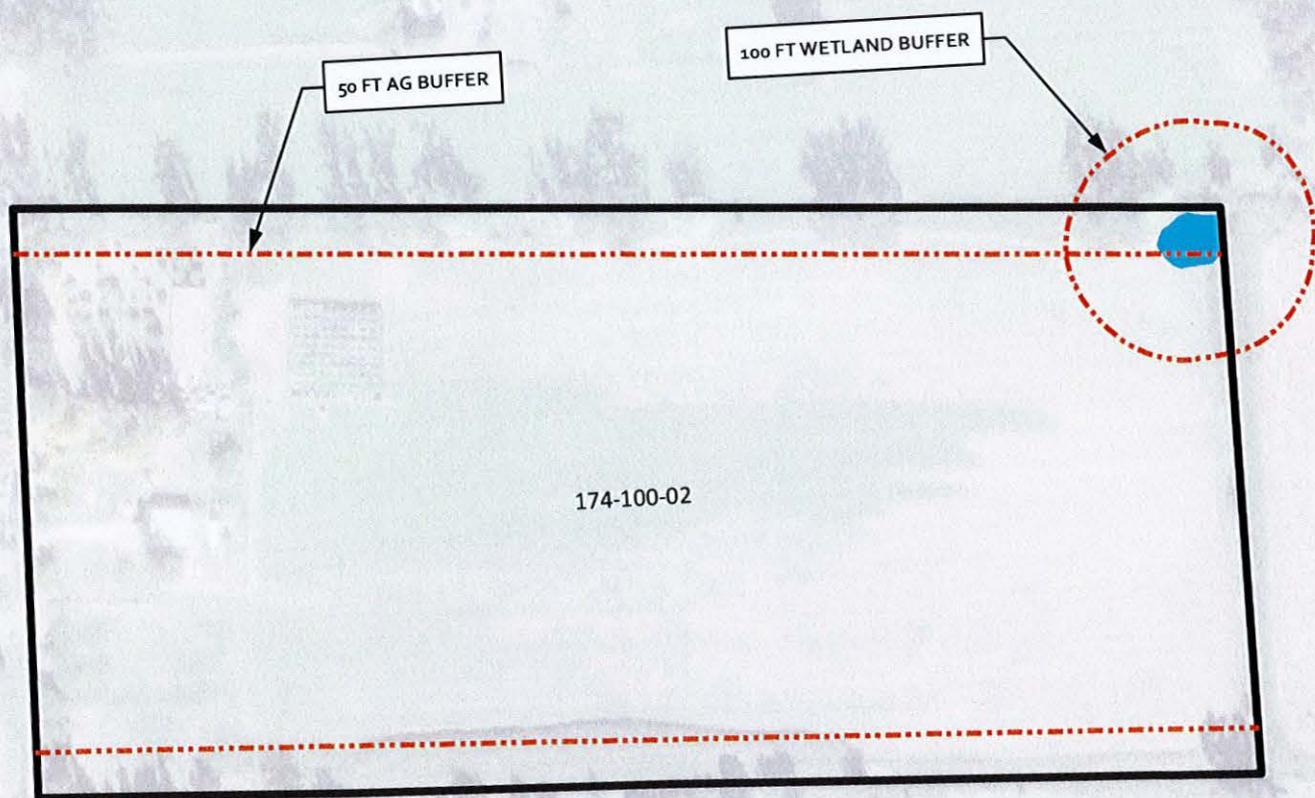
TRACT TWO:

All that portion of the Southwest quarter of the Southwest quarter of Section 17, Township 17 North, Range 11 West, Mount Diablo Meridian, Mendocino County, State of California, lying Southerly of the Southerly line of Parcel One described above and Northerly of the following described:

Beginning in the center of an irrigation ditch, from which the corner common to Sections 17, 18, 19 and 20, Township 17 North, Range 11 West, Mount Diablo Meridian, bears South 26° 58' 43" West, 736.60 feet; thence South 88° 52' 00" East along the center of the said irrigation ditch, 1001.15 feet more or less to the legal subdivision line running North and South through the center of the Southwest quarter of the said Section 17.

APN: 174-100-02

EXHIBIT "C"



Map produced by the Mendocino County Planning & Building Svcs. Dept., September, 2019
Coordinate System: NAD 83, Calif. State Plane Zone II
Projection: Lambert Conformal Conic
Parcel Data: Mendocino County Information Services, October, 2018
Aerial Imagery: US Dept. of Agriculture/ArcGIS Online mosaic
Topographic Data: USGS 7.5 minute quad series Mount Diablo Base & Meridian
Parcel numbers are for tax purposes only and do not represent legal or salable parcels.
All spatial data is approximate. This map is not a substitute for a proper land survey.

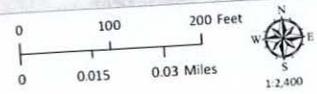


EXHIBIT C - AG BUFFER

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.
DO NOT USE THIS MAP TO DETERMINE LEGAL PROPERTY BOUNDARIES