

ORDINANCE NO. 917

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA REZONING A PORTION OF ASSESSOR PARCEL NUMBERS 056-570-059 FROM OPEN SPACE (OS) TO GENERAL COMMERCIAL (CG)

WHEREAS, the City of Sonora owns and controls the area of right-of-way near the intersection of Sanguinetti Road and Old Wards Ferry Road, divided by the Sierra Railroad, described as a portion of APN 056-570-059; and

WHEREAS, the property is composed of two parcels, Parcel 1 of approximately 13,418 square feet south of the Sierra Railroad, and Parcel 2 of approximately 5,868 square feet north of the Sierra Railroad. This subject property is at the northwest corner of the Walmart shopping center area; and

WHEREAS, the property is not used for roadway purposes and is currently developed with landscaping and for drainage purposes; and

WHEREAS, a portion of the Property is excess right-of-way which is within the right-of-way of Old Wards Ferry Road. This intersection was realigned at the time of development of Walmart shopping center; and

WHEREAS, the property subject to this Ordinance is approximately 13,418 square feet south of the Sierra Railroad (~0.31 acres) ("Property"); and

WHEREAS, the landowner of the neighboring shopping center has expressed interest in acquiring the Property for future development consistent with the authorized uses of the General Commercial zoning district and the neighboring shopping center; and

WHEREAS, the Property is proposed to be rezoned from its current Open Space designation to the General Commercial designation, as described and depicted in **Exhibit A** attached hereto; and

WHEREAS, the existing General Plan designation for the Property is "Heavy Commercial" (HC), which is determined to authorize and be consistent with the City's General Commercial zoning district; and

WHEREAS, at the time of the original development of the Walmart shopping center around 2004-2005, the City, Cal Gold Development Corporation, Ray Sanguinetti Land Co. LP, Sonora Developers LLC, Lowe's HIW Inc., and the Tuolumne County Citizens for Responsible Growth Inc. entered into a Settlement Agreement pertaining to development of the shopping center and the environmental review conducted under the California Environmental Quality Act (signed as of August 28,

2009, August 21, 2009, and September 4, 2009) (the "Settlement Agreement"); and

WHEREAS, under the Settlement Agreement, the City of Sonora agreed to amend the General Plan and Zoning designations for the right-of-way area to Park/Recreation/Open Space for purposes of a monument, landscape beautification, and highlighting certain heritage of the right-of-way area; and

WHEREAS, based on City staff's review of planning records, the City's General Plan was never amended to reflect the Park/Recreation/Open Space designation identified in the Settlement Agreement. As a result of the rezoning described herein and to maintain the required consistency, the existing General Plan designation of Heavy Commercial will remain as the applicable General Plan designation for the subject parcel; and

WHEREAS, the City has determined that based on the plans under the associated agreement with the Applicant for conveyance the right-of-way area, the landscaping and open space character of the right-of-way area will remain compliant with and advance the intent of the Settlement Agreement. In addition, the area has become a maintenance burden on the City which will be transferred to the Applicant for superior upkeep. The provisions of the associated agreement with the Applicant also provide for further development and beautification of the vacated area, and the agreement contains a non-exclusive easement for the City to preserve the historic character and similar monumentation regarding the rural heritage of the area; and

WHEREAS, the City Attorney further has determined that the General Plan and Zoning provisions contained in the Settlement Agreement likely constitute an invalid surrender of the City's constitutional police power, which cannot forever divest or bind a City Council from exercising its land use and zoning powers in perpetuity. (*Discovery Builders, Inc. v. City of Oakland* (2023) 92 Cal.App.5th 799, 812.); and

WHEREAS, the General Plan provides many goals, policies, and programs, which support the formal vacation of the right-of-way area, the associated agreement with the Applicant, and the rezoning of the Property from Open Space to General Commercial. The applicable goals, policies, and programs are contained in **Exhibit B** attached hereto, in support of the proposed rezoning's consistency with the City of Sonora General Plan 2020.

WHEREAS, City staff recommends that the City Council make the following findings, that the proposed rezoning:

- A. Is consistent with the objectives, policies, general land uses and programs specified in the General Plan;

- B. Is compatible with, and physically suited for, the uses authorized in, and the regulations prescribed for, the proposed zoning district in which the real property is located;
- C. Is in conformity with public convenience, general welfare and good land use practice;
- D. Will not be detrimental to the health, safety and general welfare;
- E. Will not adversely affect the orderly development of property or the preservation of property values; and

WHEREAS, the rezoning is a component of the overall project approved by the City Council, which involves vacation of excess right-of-way, transfer of the Property to the adjacent landowner pursuant to the Agreement, and rezoning of Parcel 1 from Open Space to General Commercial, and a corresponding General Plan Amendment for vertical consistency and the existing use. No physical development of the Property has been formally proposed at this time, and any such future site plan or design review would be subject to CEQA at that time. Accordingly, the proposed actions have been determined to be exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines § 15061(b)(3) (Commonsense Exemption), CEQA Guidelines § 15312 (Surplus Government Property Sales), CEQA Guidelines § 15304 (Minor Alterations to Land), and CEQA Guidelines § 15301 (Existing Facilities).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SONORA DOES ORDAIN AS FOLLOWS:

Section One: The City Council hereby finds and determines, upon its review of all documents and testimony contained in the record, that the foregoing recitals, which are incorporated herein by reference, are true and correct.

Section Two: The zoning district for the Property subject to this Resolution is hereby amended from Open Space (OS) to General Commercial (CG), as described and illustrated in **Exhibit A** attached hereto. The zoning map for the City of Sonora, as provided by Section 17.10.010 of the Sonora Municipal Code, is hereby amended through the rezoning of the parcel described herein.

Section Three: This Ordinance shall take effect thirty (30) days after its passage and shall be published or a summary thereof within (15) days after its final passage as required by law.

Said Ordinance was introduced at a regular meeting of the City Council of the City of Sonora held on _____, 20____, and subsequently passed and adopted at a regular meeting of the City Council held on _____, 20____ by the following vote:

AYES: _____

NOES: _____

ABSENT OR ABSTAIN: _____

Ann Segerstrom
Mayor of the City of Sonora

ATTEST:

Nicole McCutchen
City Clerk of the City of Sonora

Approved as to Form:

Douglas L. White, City Attorney

EXHIBIT A

Amendment to City of Sonora Zoning Map

EXHIBIT B

General Plan Consistency for Vacation of Right-of-Way and Rezoning of Parcel 1 from Open Space to General Commercial

The City Council hereby finds that the proposed vacation of right-of-way, transfer of right-of-way area to the neighboring landowner and associated agreement, and the rezoning of Parcel 1 to “Commercial” support and are consistent with the following goals, programs, and policies contained in the City of Sonora General Plan 2020:

Goal 1.A:

Provide a well-organized and orderly development pattern that maintains and enhances the City of Sonora’s social, economic, cultural, environmental, and aesthetic resources while managing growth so that adequate facilities and services can be provided in pace with development.

Policy 1.A.3

Ensure that the extent of development shall be related to the property’s environmental constraints.

Policy 1.A.d

Establish Criteria for General Plan Amendments In reviewing an application to amend the Sonora General Plan 2020 Land Use Map, the Sonora Planning Commission and Sonora City Council shall consider the overall consistency of the proposal with the goals, objectives and policies of Sonora General Plan 2020 including, but not limited to: i. ii. iii. iv. What physical, social, or economic factors exist that were not considered at the time of Sonora General Plan 2020 adoption and the evaluation of the proposal based on new information Existing reasonable alternative sites in the vicinity that are planned for the use and can accommodate the proposal The potential for the proposal to encourage undesirable impacts The effect of the proposal on the fiscal health of the city

Policy 1.B.2

Encourage development which complements and blends in with its surroundings.

Policy 1.B.4

Conserve the city’s natural, scenic and cultural resources along designated scenic transportation routes through and adjacent to the city.

Policy 1.C.1

Encourage the retention, rehabilitation and restoration of historic structures.

Policy 1.C.2

Preserve the contextual setting of the city's historic neighborhoods and historic districts.

Goal 1.E

Maintain and enhance the present and future needs of city and county residents and visitors while maintaining and enhancing the city's economic base and conserving the city's social, economic, cultural, environmental, and aesthetic resources.

Policy 1.E.7

Maintain and enhance the present and future needs of city and county residents and visitors while maintaining and enhancing the city's economic base and conserving the city's social, economic, cultural, environmental, and aesthetic resources.

Goal 4.C

Sustain and enhance the natural, scenic and cultural resources and rural character of Sonora to preserve and enhance the city's quality of life and tourism economy.

Policy 4.C.1

Sustain the city's natural scenic resources along designated scenic transportation routes through and adjacent to the city.

Policy 4.C.2

Sustain and enhance the city's natural scenic resources at designated gateways to Sonora.

Policy 4.C.4

Encourage new development to blend with the existing landforms and vegetation.