



Mendocino County

Legislation Details (With Text)

File #: 24-0439 **Version:** 1 **Name:**
Type: Approval **Status:** Agenda Ready
File created: 4/8/2024 **In control:** Planning and Building Services
On agenda: 4/23/2024 **Final action:**
Title: Noticed Public Hearing - Discussion and Possible Action to Consider an Appeal of the Coastal Permit Administrator's Decision to Revoke Boundary Line Adjustments B_2018-0068 and B_2019-0054, Located Near the Community of Irish Beach and Currently Known as APNs: 132-210-61, 132-210-62, 132-210-63 and 132-210-64; and Further Finding that the Boundary Line Adjustments Were Void Ab Initio
(Sponsor: Planning and Building Services)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Resolution 24-065, 2. Resolution, 3. Moores Appeal Notice FINAL, 4. B_2018-0068.B_2019-0054 Appeal Memo FINAL, 5. Att. A - Moores Planning Appeal Form, 6. Att. B - Nov. 9, 2023 CPA Packet, 7. Att. C - Sept. 14, 2023 CPA Packet, 8. Att. D - AA 2-2001 BOS Action, 9. Att. E - AA 2-2001 PC Minutes and Staff Memo

Date	Ver.	Action By	Action	Result
4/23/2024	1	Board of Supervisors		

To: BOARD OF SUPERVISORS

From: Planning and Building Services

Meeting Date: April 23, 2024

Department Contact: Julia Krog

Phone: 707-234-6650

Item Type: Noticed Public Hearing

Time Allocated for Item: 1.5 Hours

Agenda Title:

Noticed Public Hearing - Discussion and Possible Action to Consider an Appeal of the Coastal Permit Administrator's Decision to Revoke Boundary Line Adjustments B_2018-0068 and B_2019-0054, Located Near the Community of Irish Beach and Currently Known as APNs: 132-210-61, 132-210-62, 132-210-63 and 132-210-64; and Further Finding that the Boundary Line Adjustments Were Void Ab Initio
(Sponsor: Planning and Building Services)

Recommended Action/Motion:

Adopt resolution denying the appeal and upholding the Coastal Permit Administrator's decision to revoke Boundary Line Adjustments B_2018-0068 and B_2019-0054, located near the community of Irish Beach and currently known as APNs: 132-210-61, 132-210-62, 132-210-63 and 132-210-64; further finding that the Boundary Line Adjustments were void ab initio; and authorize Chair to sign same.

Previous Board/Board Committee Actions:

On February 26, 2002, the Mendocino County Board of Supervisors upheld the action of the Planning

Commission and denied Administrative Appeal No. AA 2-2001, finding that County Counsel and the Department of Planning and Building Services were correct in determining that Mr. Moores' property meets the criteria to be subject to merger.

Moores v. Board of Supervisors of Mendocino County (2004) 122 Cal. App. 4th 883. The case affirmed the determination of the County and confirmed that the referenced APNs in AA 2-2001 had been merged by operation of law as of 1981.

Summary of Request:

The Coastal Permit Administrator approved Boundary Line Adjustment B_2018-0068 on June 13, 2019 reconfiguring two (2) assessor parcel numbers (APNs), at that time known as APNs 132-210-40 and 132-210-41. The Boundary Line Adjustment was finalized on November 21, 2019.

The Coastal Permit Administrator approved Boundary Line Adjustment B_2019-0054 on June 11, 2020 reconfiguring the boundaries between three (3) assessor parcel numbers and merging a fourth assessor parcel number (then APNs 132-210-37, 132-210-38, 132-210-39, and 132-210-61). Note that APN 132-210-61 is a renumbered APN that was involved in B_2018-0068; following a boundary line adjustment in Mendocino County, APNs are typically renumbered. The Boundary Line Adjustment was finalized on August 28, 2020.

The applications for both above noted Boundary Line Adjustments were signed under the attestation that the Applicant and Owner signature on the form certifies "that the information submitted with this application is true and accurate". Both application forms for the above noted Boundary Line Adjustments were signed by William Moores. William and Tona Moores are the owners of all of the APNs listed above.

Subsequent to the finalization of the two above referenced Boundary Line Adjustments, staff conducted research on the parcel history of the above referenced assessor parcel numbers as part of the processing of a General Plan Amendment and Rezoning request for these sites (GP_2019-0006/R_2019-0008). This research located documents referencing both a previous Administrative Appeal (AA 2-2001) and a court case between the property owner, William Moores, and Mendocino County that explicitly dealt with several of the parcels at issue in the General Plan Amendment and Rezoning request.

Moores v. Board of Supervisors of Mendocino County (2004) 122 Cal. App. 4th 883 (*Moores*), involved an action by William Moores seeking to set aside the determination of the County that property then-identified as Assessor's Parcel Numbers (APNs) 132-210-37, -38, -39, -40, and -41 had been merged by operation of law into a single legal parcel pursuant to the County's merger ordinance. The case affirmed the determination of the County and confirmed that the referenced APNs had been merged by operation of law as of 1981. As such, the listed APNs are not separate legal parcels.

The effect of the *Moores* case calls into question the approval of Boundary Line Adjustments B_2018-0068 and B_2019-0054. These boundary line adjustments both involved adjusting the boundaries of several of the above-referenced APNs. As a result of the Court's determination in *Moores*, there were no boundaries to adjust, since these APNs were not separate legal parcels but a single legal parcel that had been merged by operation of law.

The applications for these boundary line adjustments asserted that these separate APNs were actually separate parcels and thus had boundaries that could be adjusted. However, given that Mr. Moores had full and complete awareness of the *Moores* case in which he was a petitioner, submitting applications that represented there were multiple legal parcels instead of a single parcel was a misrepresentation. Further, the approvals of these boundary line adjustments were contrary to law as there were no separate legal boundaries to adjust.

Pursuant to Mendocino County Code section 20.536.035, the Coastal Permit Administrator revoked Boundary Line Adjustments B_2018-0068 and B_2019-0054 on November 9, 2023. The Coastal Permit Administrator

determined that Boundary Line Adjustments B_2018-0068 and B_2019-0054 were obtained by fraud. In addition, because *Moore's* conclusively determined that there were no separate parcel boundaries to adjust, the Boundary Line Adjustments were also void ab initio, or void from the very beginning.

On November 17, 2023, Colin W. Morrow, on behalf of clients William and Tona Moore's, filed an appeal of the Coastal Permit Administrator's revocation of Boundary Line Adjustments B_2018-0068 and B_2019-0054.

Please see the attached memorandum for further details. The associated staff report, action sheet, appeal document, and additional materials are attached for review.

Alternative Action/Motion:

Provide direction to staff

Strategic Plan Priority Designation: A Safe and Healthy County

Supervisory District: District 5

Vote Requirement: Majority

Supplemental Information Available Online At:

<https://www.mendocinocounty.org/government/planning-building-services/public-notices>

Fiscal Details:

source of funding: N/A

current f/y cost: N/A

budget clarification: N/A

annual recurring cost: N/A

budgeted in current f/y (if no, please describe): N/A

revenue agreement: N/A

AGREEMENT/RESOLUTION/ORDINANCE APPROVED BY COUNTY COUNSEL: Yes

CEO Liaison: Steve Dunicliff, Deputy CEO

CEO Review: Yes

CEO Comments:

FOR COB USE ONLY

Executed By: Atlas Pearson, Senior Deputy Clerk

Date: April 24, 2024

Final Status: **Adopted**

Executed Item Type: Resolution

Number: 24-065

