



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Planning Department · Building Department · Code Enforcement

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Item # 1
9:05 AM
July 14, 2022

STAFF REPORT

TO: Planning Commission

FROM: Mary Darby, Community Development Director
Prepared by: Eric Porter, Associate Planner

DATE: July 14, 2022

SUBJECT: Daniel Sosa, Rezone (RZ 22-02) and Initial Study (IS 22-19)

Supervisor District 3

ATTACHMENTS:

1. Vicinity Map
2. Proposed Rezone Map
3. Agency Comments
4. Conditions of Approval
5. Initial Study
6. Public Comments
7. Rezone Ordinance (Draft)

I. EXECUTIVE SUMMARY

The applicant is requesting approval to rezone two contiguous lots from CH-DR (Highway Commercial – Design Review) to C2-DR (Service Commercial – Design Review). The properties are located at 3774 & 3794 E. Highway 20, Nice, California and are APNs: 032-181-02, 032-181-03. The applicant has submitted no development proposals for this project. No site development is intended. The purpose of the rezone is to sell retail cannabis, which is not a permitted land use in the CH zoning district.

The applicant applied for a Categorical Exemption to CEQA. However the County determined that a Rezone required a more in-depth evaluation of potential impacts, and the Planning Department's Initial Study (IS 22-19) and review resulted in a Negative Declaration.

PROJECT DESCRIPTION

Applicant/Owner: Daniel Sosa
Location: 3774 & 3794 E. Highway 20, Nice, CA
A.P.N.: 032-181-02, 032-181-03
General Plan: Community Commercial
Zoning - Existing: "CH-DR" Highway Commercial – Design Review
Zoning – Proposed: "C2-DR" Service Commercial – Design Review
Flood Zone: X
School District: Upper Lake - Nice Unified School District

II. PROJECT SETTING

Existing Uses and Improvements: The site is presently developed with a market and a small cafe. See aerial photo on Page 4.

Surrounding Uses and Zoning:

- North: Vacant lot zoned C2-DR.
- South: "R1" Single-Family Residential containing two vacant lots.
- East: "R1" Single-Family Residential containing single family dwellings.
- West: "CH-DR" Highway Commercial – Design Review; smaller lots with one containing a dwelling.

Topography: Flat

Fire Protection: Northshore Fire Protection District

III. PROJECT ANALYSIS

General Plan Conformance

Community Commercial District

The purpose of this land use category is to provide a full range commercial retail and service commercial establishments serving multiple neighborhoods or the entire community. These districts should include or enable a variety of convenience and shopping opportunities. Typical uses that would be permitted include gasoline service stations, hardware stores, eating and drinking establishments, food and beverage sales, public buildings, general merchandise stores, professional offices, and finance offices. Multi-family residential uses are permitted as secondary uses on upper floors of multi-story buildings. This designation is located primarily within Community Growth Boundaries, and may be allowed outside of the boundaries for purposes of expanding existing commercial developments that are located outside of said boundaries.

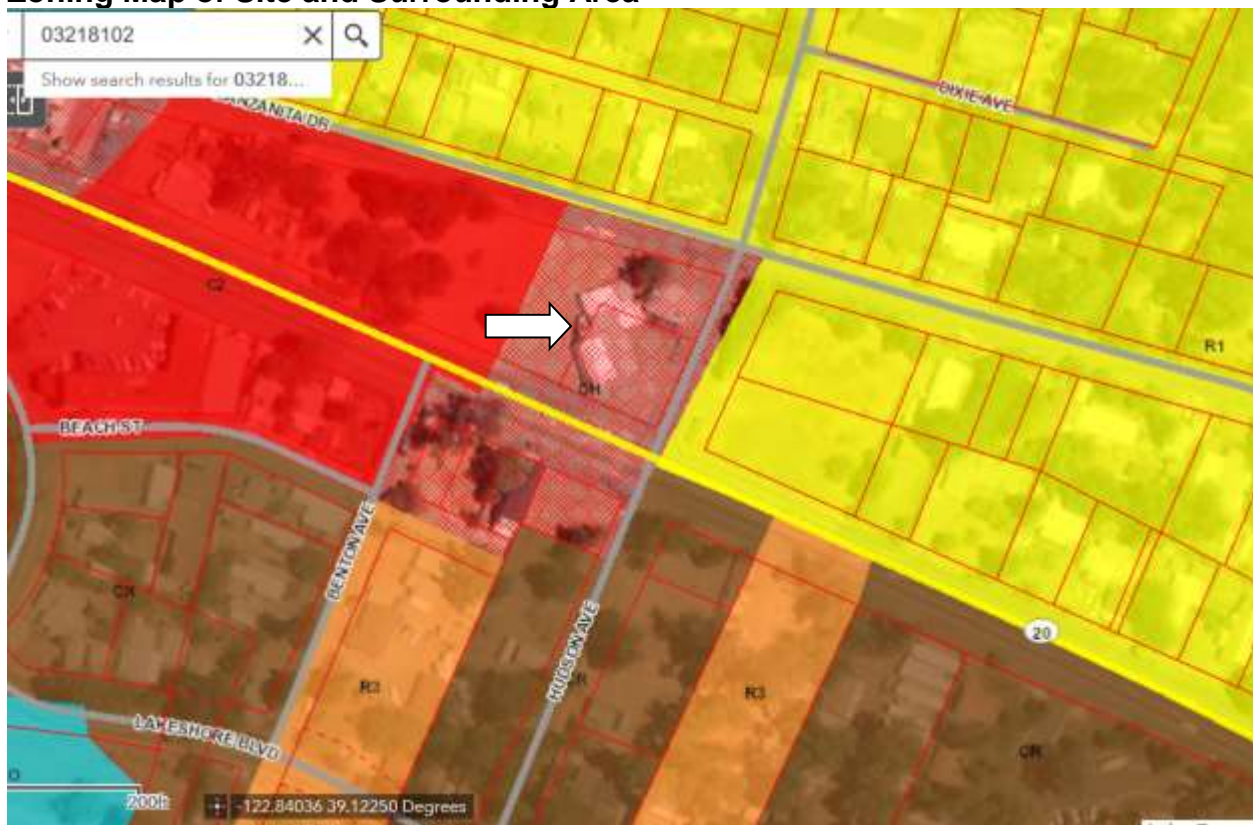
The subject site is located adjacent to State Highway 20, a designated State scenic highway, and is within the Community Commercial designation according to the County of Lake General Plan. Retail uses are permitted uses in this designated area. Commercially zoned properties are exempt from the height restrictions noted under the Scenic Combining District.

The following County of Lake General Plan policies relate to use changes in the context of this proposal:

- **Policy LU-6.1 Diverse Economic Base** The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services, and commerce...

Response: *This proposal will have up to six employees who will spend money locally. This in turn will help the local economy by having employees purchase commodities, gas, food and other items from local vendors.*

Zoning Map of Site and Surrounding Area



Source: Lake County GIS Mapping

- **Policy LU-7.4 Contextual and Compatible Design** The County shall ensure that new development respects Lake County's heritage by requiring that development respond to its context, be compatible with the traditions and

character of each community, and develop in an orderly fashion which is compatible with the scale of surrounding structures.

Response: *The immediate area is characterized by small retail uses to the north and west, and single family dwellings to the south and south-east.*

Aerial Photo of Site and Surrounding Area



Source: Google Earth Pro

Upper Lake - Nice Area Plan Conformance

The subject site is within the Upper Lake - Nice Area Plan's boundary. The Plan is silent on rezoning and General Plan amendments.

Zoning Ordinance Conformance

Article 19 – C2 Service Commercial Zoning District purpose is to provide a full range of commercial retail and service establishments to communities. The following regulations shall apply in all “C2” districts and all uses shall be subject to development review as set forth in Article 56.

19.3 Uses permitted: The following community commercial uses are permitted: When conducted within a completely enclosed building; when open to the public between the hours of 6:00 a.m. and 12:00 a.m.; when without drive-thru facilities; and when not exceeding a maximum of five thousand (5,000) square feet of gross floor area per use or ten thousand (10,000) square feet of total gross floor area:

(o) Retail sales of Cannabis. **(Ord. No. 3084, 05/21/2019)**

Response: *The applicant has verbally stated that the reason for the requested rezone is to sell commercial cannabis at the former Nice Market. Retail cannabis sales are not permitted in the CR zoning district, but are an outright permitted use in the C2 zoning district.*

- Article 53 - DESIGN REVIEW OR “DR” COMBINING DISTRICT Purpose is to insure aesthetic compatibility between uses, protect and enhance property values, protect scenic qualities, and promote community character through use of community design manuals. This district is intended to be established at the request of an original developer or a substantial segment of the population of an area. Within the “DR” Design Review combining district, all uses of land shall comply with the regulations of the base zoning district and with the additional regulations of “DR” combining district.

Response: *Since no site improvements are proposed or needed (this request is limited to the rezone only), no Design Review is required.*

- Article 47 – Ordinance Text Amendment and Rezoning Amendment is intended to provide the community welfare, public necessity, or changes in state law and the General Plan.

The applicant’s request of the zone change is permitted with the appropriate application procedures pursuant to Article 47, Section 47.22 County of Lake Zoning Ordinance. On August 5, 2019, the applicant submitted an application for a Rezone, RZ 19-03, General Plan Amendment, GPAP 19-03. The applicant later paid for the Initial Study. The project meets all development standards for Rezoning.

IV. ENVIRONMENTAL REVIEW

The project request is to rezone the parcels from “CH-DR” Highway Commercial – Design Review to “C2-DR” Service Commercial – Design Review. No development on this project site is proposed or intended. An Initial Study (IS 22-19) was prepared by the County of Lake Planning Department for this project. The review of the IS resulted in a Negative Declaration with no proposed mitigation measures since no site disturbance would result from the project proposal.

V. PUBLIC COMMENT. The County has received several letters and emails regarding this proposal. Please see Attachment 6.

VI. RECOMMENDATIONS

Staff recommends that the Planning Commission provide the following recommendations to the County of Lake Board of Supervisors:

A. That the Board adopts Negative Declaration (IS 22-19) for General Plan Amendment, Rezone, RZ 22-02 with the following findings:

1. That no new development proposals were submitted for this rezone, nor are any intended by the applicant.
2. This project is consistent with the County of Lake General Plan, Upper Lake - Nice Area Plan and County of Lake Zoning Ordinance.
3. The project is consistent with land uses in the vicinity.
4. This project will not result in any significant adverse environmental impacts, and no mitigation measures are required.

B. That the Board Approves Rezone (RZ 22-02) with the following findings:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of the future development proposed.
3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. This project is consistent with the Lake County General Plan, Upper Lake - Nice Area Plan, and Lake County Zoning Ordinance.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation.

Sample Motions:

Negative Declaration (IS 22-19)

I move that the Planning Commission find the **Rezone (RZ 22-02)** applied for by **Daniel Sosa** on property located at **3774 and 3794 E. Highway 20, Nice, CA** further described as **APNs: 032-181-02 and 03** recommend the adoption of the Negative Declaration (IS 22-19) by the Board of Supervisors based on the findings set forth in the staff report dated **July 14, 2022**.

Rezone (RZ 22-02)

I move that the Planning Commission find that the **Rezone (RZ 22-02)** applied for by **Daniel Sosa** on property located at **3774 and 3794 E. Highway 20, Nice, CA** further described as **APNs: 032-181-02 and 03** does meet the requirements of Section 47.22 and Article 19 of the Lake County Zoning Ordinance, and that a recommendation of approval be provided to the Board of Supervisors for the Rezone subject to the findings listed in the staff report dated **July 14, 2022**.

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission's recommendation, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.