



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 # 4
9:20 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: **Dennis De La Montanya General Plan Amendment (GPAP 19-03),
Rezone (RZ 19-03) and Initial Study (IS 19-43)**

Supervisor District 5

ATTACHMENTS:

1. Vicinity Map
2. Proposed Rezone and General Plan Map
3. Supplemental Data
4. Agency Comments
5. Public Comments
6. De La Montanya Grant Deed

I. EXECUTIVE SUMMARY

The applicant is requesting approval rezoning a ± 18 acre property from "R1 – B3" Low Density Residential – Frozen, to "RR" Rural Residential. The property is located at 8255 Point Drive, Kelseyville, and is APN: 044-331-24. In addition, the applicant is requesting approval of a General Plan Amendment of the property from Low Density Residential to Rural Residential. The applicant has submitted no development proposals for this project.

Since no development is planned the applicant's surveyor has consequently submitted a request for a Categorical Exemption to CEQA. However, the County Staff determined that a rezone / General Plan Amendment required a more in-depth evaluation of potential impacts, and the Planning Department's Initial Study resulted in a Negative Declaration primarily because no development plans were submitted with the rezone / General Plan Amendment.

Of note – the applicant's deed restricts further division of this lot, and prohibits development with the exception of one (1) house up to 5,000 sq. ft. in size, that cannot be a manufactured or modular home. This restriction also allows one granny unit limited in

size to 1,200 sq. ft. per State regulations. The property owner is unclear whether he can put a new, more lenient deed restriction on his property to replace the existing restriction that so limits his ability to use the land as the R1 zoning district envisioned.

Opposition to the Project. As of June 6, 2022 the County Staff had received fourteen (14) letters and emails of concern regarding this proposal. The primary concern has to do with potentially incompatible uses resulting from the Rural Residential zoning designation proposed, which allows ranching and farming as 'outright permitted uses' which have minimal County oversight.

For reasons stated in this Staff Report, the Community Development Department is recommending **denial** of rezone RZ 19-03 and GPAP 19-03.

REZONE REQUEST:

Parcel Number	Current Zoning Designation	Proposed Zoning Designation
044-331-24	"R1-B3" <i>[Single-Family Residential-Special Lot Size (Minimum 20,000 square feet)]</i>	"RR" <i>(Rural Residential)</i>

GENERAL PLAN AMENDMENT REQUEST:

Parcel Number	Current General Plan Designation	Proposed General Plan Designation
044-331-24	"LDR" <i>(Low Density Residential)</i>	"RR" <i>(Rural Residential)</i>

PROJECT DESCRIPTION

Applicant/Owner: Dennis De La Montanya
Location: 8255 Point Drive, Kelseyville
A.P.N.: 044-331-24
General Plan: Low Density Residential
Zoning - Existing: "R1 – B3" Low Density Residential – Frozen
Zoning – Proposed: "RR" Rural Residential
Flood Zone: X
School District: Kelseyville Unified School District

II. PROJECT SETTING

Existing Uses and Improvements: The site is presently vacant. See aerial photo, next page

Surrounding Uses and Zoning:

- **North:** “R1” – Low Density Residential, mostly developed with high-end dwellings.
- **East:** PDC and C1-zoned properties developed with retail uses.
- **South:** “R1” – Low Density Residential. The parcels sizes range from approximately 1 to 3.5 acres. The lake-fronting lots are mostly developed with dwellings. The lots immediately south of the subject parcel are partially developed with dwellings.
- **West:** “R1” – Low Density Residential. The parcels sizes range from approximately 1 to 2 acres and are developed with dwellings.

Aerial Photo of Site and Surrounding Area



Source: Google Earth Pro

Topography: The site ranges from 0% to about 20% slope, with the average being around 10%.

Soils: According to the soil survey of Lake County, prepared by the U.S.D.A., the soil in the project area is Type 221, Soda Bay loam. This soil unit is

on almost all of the entire parcel, and is characterized as being stable and not prone to landslides or liquefaction.

Fire Protection: Cal Fire

III. PROJECT ANALYSIS

General Plan Conformance

The County of Lake's General Plan designation for the subject site is Low Density Residential. The applicant's request to change the General Plan designation to Rural Residential, which has a five acre lot minimum size, and which would prevent the creation of more than three lots. The current zoning would allow 40 lots if the land could be served by public water and sewer based on the 18 acre size of the property. This number assumes 20% of the land would be used for roads, and lot sizes of 15,000 sq. ft per the current R1 zoning. The rezoning would allow agricultural uses on the site, which are outright uses in the RR zoning district.

Zoning Map of Site and Surrounding Area



Source: Lake County GIS Mapping

Rural Residential

This land use category is designed to provide single-family residential development in a semi-rural setting. Large lot residential development with small-scale agricultural activities is appropriate. Rural residentially zoned areas are intended to act as a buffer area between the urban residential development and the agricultural areas of the County. Building intensity should be greater where public services such as major roads,

community water systems, or public sewerage systems are available. However, most of the lands designated for the Rural Residential land use category use wells and septic systems. Also, Rural Residential lands provide important ground water recharge functions, and provide important filtering of rain water to improve water quality. They are generally supportive to the management of the natural infrastructure of the watersheds.

Response: *Neighbors have raised concerns about potential agricultural uses on this land if the rezone is approved. The lot is surrounded by R1 lots with dwellings.*

- Goal LU-3: is to provide adequate land in a range of residential densities to accommodate the housing needs to all income groups expected to reside in the County, and ensure a high quality of development.

Response: *The area primarily contains R1 zoned land, and most of the nearby lake-fronting lots contain single family dwellings. There is a C1-zoned lot to the southeast of the subject site, and a lot zoned PDC, both of which contain retail uses. If the rezone / General Plan Amendment are completed, the subject lot could be divided into three lots at some point in the future. However the applicant has not submitted any application to divide this land. The lot could also contain agricultural uses, such as vineyards and/or farm animals, which may not be compatible with its surrounding development of single family dwellings.*

Rivieras Area Plan Conformance

The subject site is within the Rivieras Area Plan's boundary. The Plan contains no policies that relate to rezoning and General Plan Amendments.

Zoning Ordinance Conformance

Article 10 – Single-Family Residential, “R1” District is intended to develop areas for single residential dwelling units at relatively low densities where the conventional community character of single-family units prevail.

Article 8 – Rural Residential “RR” District is intended to provide for single-family residential development in a semi-rural setting along with limited agriculture. The following regulations shall apply in all “RR” districts.

8.3 Uses permitted:

- (a) One (1) single-family dwelling or mobile home which shall be constructed according to the residential construction standards of Section 10.20.
- (b) Agricultural uses, including crop and tree farming, livestock grazing, animal husbandry, apiaries, aviaries, except the uses indicated in Section 8.4 and Section 8.5.

Response: *Agricultural uses are outright uses in the RR Rural Residential zoning district. The proposed project has the potential to create a conflict between land uses with adjacent lands that are zoned R1. The lots to the west contain Buckingham Estates, which is an upscale single family dwelling development.*

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 can be permitted with the appropriate application procedures pursuant to Article 47, Section 47.22 County of Lake Zoning Ordinance, provided that compliance with all applicable plans can be determined. On August 5, 2019, the applicant submitted an application for a Rezone, RZ 19-03, General Plan Amendment, GPAP 19-03, and an Initial Study (IS 19-43) for the property located at 8255 Point Drive, Kelseyville.

IV. ENVIRONMENTAL REVIEW

The project request is to amend the County of Lake General Plan and to rezone the parcels from "R1-B3" Low Density Residential to "RR" Rural Residential and for a General Plan land use change from Low Density Residential to Rural Residential. No development on this project site is proposed or intended. However agricultural uses are 'outright uses' in the Rural Residential zoning district. Since no site disturbance was proposed an Initial Study (IS 19-43) was prepared for this project and resulted in a Negative Declaration with no mitigation measures.

V. PUBLIC COMMENTS. The County has received a number of letters and emails of opposition to this proposal. Those comments are provided as Attachment 5.

VI. RECOMMENDATIONS

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

- A. That the Board does not adopt Negative Declaration (IS 19-43) for General Plan Amendment, GPAP 19-03 and Rezone, RZ 19-03 with the following findings:**
1. That uses allowed in the Rural Residential Zoning District are not all compatible with R1 Low Density Residential District land uses.
 2. That this project is not consistent with the County of Lake General Plan and the Riveras Area Plan.
 3. The project has the potential to be inconsistent with land uses in the vicinity.

4. It is unknown whether this project will result in any significant adverse environmental impacts because no development proposals were submitted with this rezone and General Plan Amendment application.

B. That the Board Does Not Approve General Plan Amendment (GPAP 19-03) and Rezone (RZ 19-03) and recommends the following findings:

1. That the establishment, maintenance, or operation of the use applied for may be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use based on uses permitted in the RR Rural Residential zoning district.
2. That potential agricultural uses permitted in the RR Rural Residential zoning district may not be compatible with adjacent uses.

Sample Motions:

Negative Declaration (IS 19-43)

I move that the Planning Commission find the **General Plan Amendment (GPAP 19-03) and Rezone (RZ 19-03)** applied for by **Dennis De La Montanya** on property located at **8255 Point Drive, Kelseyville** further described as **APN: 044-331-24** does not recommend the adoption of the Negative Declaration (IS 19-43) by the Board of Supervisors based on the findings set forth in the staff report dated **July 14, 2022**.

General Plan Amendment (GPAP 19-03)

I move that the Planning Commission find that the **General Plan Amendment (GPAP 19-03)** applied for by **Dennis De La Montanya** on property located at **8255 Point Drive, Kelseyville** further described as **APN: 044-331-24** does not meet the requirements of the General Plan or the Rivas Area Plan, and that a recommendation of **denial** be provided to the Board of Supervisors for the subject to the findings listed in the staff report dated **July 14, 2022**.

Rezone (RZ 19-03)

I move that the Planning Commission find that the **Rezone (RZ 19-03)** applied for by **Dennis De La Montanya** on property located at **8255 Point Drive, Kelseyville** further described as **APN: 044-331-24** does not meet the requirements of the Lake County General Plan or the Rivas Area Plan, and that a recommendation of **denial** 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.