



## COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Planning Department · Building Department · Code Enforcement

707/263-2221 · FAX 707/263-2225

Item # 5

9:20 AM

August 11, 2022

### STAFF REPORT

**TO:** Planning Commission

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

**DATE:** August 11, 2022

**SUBJECT:** Valerie Peng; General Plan Amendment (GPAP 22-01), Rezone (RZ 22-01) and Initial Study (IS 22-20); Request to rezone a property from “C3” to “C2” to allow commercial cannabis sales. Location: 11377 Highway 29, Lower Lake. APN: 049-300-02

Supervisor District 1

**ATTACHMENTS:**

1. Vicinity Map
2. Proposed Rezone and General Plan Map
3. Supplemental Data
4. Agency Comments
5. Public Comments
6. Initial Study IS 22-20

### **I. EXECUTIVE SUMMARY**

The applicant requests approval of a Rezone of a 0.14± acre property from “C3” Service Commercial to “C2” Community Commercial for the purpose of selling retail cannabis, which is not a permitted use in the “C3” zoning district. The property is located at 11377 Highway 29, Lower Lake (APN: 049-300-02). In addition, the applicant requests approval of a General Plan Amendment of the property from Service Commercial to Community Commercial. The applicant has indicated that no site improvements are proposed. The site contains a two-story, 2000 sq. ft. building and six (6) marked parking spaces.

CEQA - since a denial recommendation is being presented, CEQA does not apply.

Approval of this project would result in ‘spot zoning’, the creation of a single-parcel zoning district, surrounded by other zoning districts. While not prohibited by State or County regulations, this is not a Best Practice for Planning because it could create an

incompatibility with the surrounding parcels. The Department is unable to support the application and recommends denial.

## **II. PROJECT DESCRIPTION**

Applicant: Valerie Peng  
Owner: Clayton Creek Storage  
Location: 11377 Highway 29, Lower Lake  
A.P.N.: 049-300-02  
General Plan: Service Commercial (existing); Community Commercial (proposed)  
Zoning: "C3" Service Commercial (existing); "C2" Community Commercial (proposed)  
Flood Zone: D, Undetermined

## **III. PROJECT SETTING**

Existing Uses and Improvements: The site is presently developed with a 2,000 sq. ft. building and a parking lot. The site is not located within the Lower Lake Community Growth Boundary.

### Surrounding Uses and Zoning:

- North, East and South: "C3" Service Commercial; developed with Service Commercial uses including a trucking yard, a mini-storage and auto repair businesses.
- West: "A" Agriculture; partially developed with crops.

Topography: Flat  
Soils: Type 150, Kilaga Variant loam, 0 to 5% slope. 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: South Lake Fire Protection District/Cal Fire

### Zoning of Site and Vicinity



*Source: Lake County GIS Mapping*

### Aerial Photo of Site and Surrounding Area



*Source: Google Earth Pro*

## View of Front of Site from Highway 29, Lower Lake



**Source: Google Earth Pro Mapping**

## IV. PROJECT ANALYSIS

### ***General Plan Conformance***

#### *Service Commercial (Existing)*

The purpose of this land use category is to provide areas suitable for heavier commercial uses within developed areas. Typical uses that would be permitted with appropriate buffer distances include automotive-related or heavy equipment sales and services, building maintenance services, construction sales and services, and warehousing. This designation is located both inside and outside of Community Growth Boundaries.

#### *Community Commercial (Proposed)*

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

- ***Policy LU-1.3 Prevent Incompatible Uses***

The County shall prevent the intrusion of new incompatible land uses into existing community areas.

**Response:** *The building on the site is not directly accessible from Highway 29; the applicant's clients would have to drive in from behind the building using Clayton Creek Road. The primary difference between the "C3" zoning district and the "C2" zoning district are the intensity and nature of the uses that are allowed in each zone. The "C3" zone encourages uses that are in between retail and light industrial, and anticipates less traffic. A list of permitted uses in each of these two zoning districts is as follows;*

**Article 20 – "C3" Zoning District – Uses Allowed:**

- (a) Retail sales of large and bulky household items such as appliances, carpet and floor covering, furniture, fireplaces, or woodstoves.
- (b) Installation of auto parts and accessories such as tire or battery stores, muffler shops and tune-up shops, including incidental retail sales of auto parts and accessories.
- (c) Commercial trade services with or without incidental retail sales such as cleaning and dyeing agencies and plants, bottling works, funeral homes, cabinet and carpentry shops; blacksmith, welding and machine shops; furniture repair and upholstery shops.
- (d) Construction related sales and services such as building supply stores with incidental lumber storage yards; general and specialty contractors offices; electrical, plumbing, and heating shops; and light equipment rental shops.
- (e) Warehouses and mini-storage.
- (f) Sales and services to the agricultural sector such as farm supply stores, farm implement sales and service shops, agricultural supply cooperatives and commercial irrigation services.
- (g) Professional construction support services such as blueprinting, duplicating, printing, drafting, engineering, surveying, planning, or architecture services.
- (h) Laundry, janitorial or facility maintenance services.
- (i) Entertainment and recreational facilities such as, but not limited to, indoor theaters, bowling alleys, pool halls, game rooms and amusement enterprises, health clubs, spas, saunas and hot-tub establishments.
- (j) Other service commercial uses when of similar character to those uses listed above.
- (k) Commercial and residential accessory uses and accessory structures.
- (l) Those uses permitted in the "C3" district with a zoning permit in Table A, Article 27.

## **Article 19 – C2 Zoning District – Uses Allowed:**

**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:

- (a) Retail sales of food, appliances, paint, hardware, auto parts, drugs, liquor, new and used clothing, furniture, carpet, flowers, books, art and antiques; used appliance stores, second hand stores and thrift stores.
- (b) Personal services such as barber and beauty shops, tailors, laundromats and cleaners, dance and art studios, photocopying centers, photography studios, and dog grooming.
- (c) Repair services such as appliance, radio, television, shoe and jewelry repair shops.
- (d) Food services such as restaurants, cafes, and delicatessens, with on- and off-sale beer, wine and liquor including outdoor dining areas.
- (e) Banking, finance, loans, law, real estate, or general administrative services, including drive-thru services.
- (f) Professional offices and services such as dispatching, blueprinting, duplicating, printing, drafting, engineering, surveying, planning, and architectural services.
- (g) Health care services such as doctor or dental offices, medical clinics, and small animal veterinary clinics.
- (h) Entertainment such as indoor theaters, bowling alleys, pool halls, game rooms and amusement enterprises; and recreational facilities such as health clubs, spas, saunas and hot-tub establishments.
- (i) Funeral homes.
- (j) Retail plant nurseries, including outdoor storage, sales, and display.
- (k) Hotels and motels when not exceeding a maximum of fifteen (15) dwelling units.
- (l) Other community commercial uses when of similar character to those uses listed above.

(m) Commercial and residential accessory uses and accessory structures including six (6) or less games/amusement devices and two (2) or less pool tables occupying less than twenty-five (25) percent of the net floor area.

(n) Those uses permitted in the “C2” district with a zoning permit in Table A, Article 27.

(o) Retail sales of Cannabis.

*The intensity of uses allowed in the “C2” zoning district is far less than what is allowed in the “C3” zoning district. Traffic intensity is greater in the “C2” zoning district based on the types of uses that are open to the public. “C3” uses are not as publicly-oriented as “C2” uses. A finding of compatibility of uses cannot be made.*

- **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:** *This application represents a change of zoning, and subsequently a change of uses that are allowed. The applicant wants to change the zoning to enable sales of commercial cannabis, which is not permitted in the “C3” zoning district. While the design of the building would not change, the traffic characteristics of a retail outlet at this location would cause vehicles to use Clayton Creek Drive; turn onto a shared driveway, drive past other “C3” (established) uses, and end at the subject site. Please see photo, page 3. A finding of use compatibility cannot be made.*

### **Lower Lake Area Plan Conformance**

#### **Chapter 5 – Land Use**

- **Circulation**

Planning for circulation and transportation facilities must be correlated with land use patterns and the general plan, including the Lower Lake Area Plan. This consistency is required so that a rational relationship between proposed land use patterns and the capacity and location of streets and roads, as well as other circulation facilities, is assured as an area develops over time.

**Response:** *The area consists of high intensity commercial uses such as mini storage and truck yards. The site takes direct access Clayton Creek Drive and has no direct access to Highway 29. Access to the site is awkward and requires vehicles to pass near other established C3 uses after turning off Clayton Creek Drive. Please see aerial photo, page 3. A finding of compatibility cannot be made.*



## **Zoning Ordinance Conformance**

Article 19 – “C2” Community 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 stated that the reason for the requested rezone is to sell commercial cannabis at the site. Retail cannabis sales are not permitted in the “C3” zoning district, but are an allowed use by right in the “C2” zoning district. This project represents ‘spot zoning’, which is discouraged. Staff also has concerns about compatibility of uses; the established “C3” zoning and uses do not share the same traffic generation characteristics or public use as uses found in the “C2” zoning district.*

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 Lake County Zoning Ordinance, provided that compliance with all applicable plans can be determined. On May 3, 2022, the applicant submitted an application for a Rezone, RZ 22-01, General Plan Amendment, GPAP 22-01, and an Initial Study (IS 22-20) for the property located at 11377 Highway 29, Lower Lake, and being APN 049-300-02.

This project would create an isolated island of Community Commercial; the land to the north, south and east is all zoned “C3”. The applicant proposes “C2” zoning on a small lot. Spot zoning not supported by the Department due to its creation of incompatibility with the surrounding parcels.

## **V. ENVIRONMENTAL REVIEW – CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The recommendation for this application is for denial. Since a denial recommendation does not require a CEQA evaluation, no CEQA analysis is submitted.

**VI. PUBLIC COMMENT.** To date, the County has received one letter regarding this proposed zone change / General Plan Amendment (Attachment 5). The objections raised by the neighboring property owner pertained to increased traffic, trespassing, fire



danger from cannabis being burned on or near the site; increased littering; increase in crime; increase in homeless people; retail cannabis in the middle of the Lower Lake community; problems with a neighboring illegal cultivator (not this applicant).

## **VII. 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 22-20) for General Plan Amendment, GPAP 22-01 and Rezone, RZ 22-01 with the following findings:
  - 1. That uses allowed in the “C2” Community Commercial Zoning District are not compatible with the existing “C3” zoned lots and uses in the vicinity.
  - 2. This project could result in any adverse impacts related to traffic given the site’s access is through other “C3” zoned lots that are developed with established uses.
- B. That the Board does not approve General Plan Amendment (GPAP 22-01) and Rezone (RZ 22-01) with 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 “C2” Community Commercial zoning district.
  - 2. That potential retail cannabis sales are not compatible with the “C3” zoning district and established land uses.
  - 3. That the road serving this site is not adequate to accommodate vehicular trips to the facility due to site traffic having to pass through other established C3 lots.
  - 4. That the project is not consistent with the General Plan, the Lower Lake Area Plan, and certain applicable portions of the Zoning Ordinance.

### **Sample Motions:**

#### **Negative Declaration (IS 22-20)**

I move that the Planning Commission recommend that the Board of Supervisors **not adopt** of the Negative Declaration (IS 22-20) based on the findings set forth in the staff report dated **August 11, 2022**.

#### **General Plan Amendment (GPAP 22-01)**

I move that the Planning Commission find that the **General Plan Amendment (GPAP 22-01)** applied for by **Valerie Peng** on property located at **11377 Highway 29, Lower Lake**, further described as **APN: 049-300-02** does not meet the requirements of the General Plan, the Lower Lake Area Plan, and certain applicable portions of the Lake County

Zoning Ordinance, 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 **August 11, 2022**.

**Rezone (RZ 22-01)**

I move that the Planning Commission find that the **Rezone (RZ 22-01)** applied for by **Valerie Peng** on property located at **11377 Highway 29, Lower Lake**, further described as **APN: 049-300-02** does not meet the requirements of the Lake County General Plan, the Lower Lake Area Plan, and certain portions of the Lake County Zoning Ordinance, 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 **August 11, 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.*