



**COUNTY OF LAKE**  
COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Division  
Courthouse - 255 N. Forbes Street  
Lakeport, California 95453  
Telephone 707/263-2221 FAX 707/263-2225

ITEM 3  
9:15 A.M.  
August 28, 2014

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Richard Coel, Community Development Director  
Prepared by: Kevin M. Ingram, Principal Planner

**DATE:** August 13, 2014

**SUBJECT:** Browning General Plan Amendment (GPAP 12-02) and Rezone (RZ 12-02)  
Supervisory District 1

**ATTACHMENTS:** 1. ~~Vicinity Map~~ **BOS EXHIBIT A**  
2. Agency Comments  
3. Existing & Proposed General Plan & Zoning Maps  
4. ~~Exhibit "A" Zoning District Map~~ **BOS EXHIBIT D**  
5. ~~Exhibit "A" Land Use Designation Map~~ **BOS EXHIBIT G**  
6. Proposed Planning Commission Resolution 14-01

### I. SUMMARY

The project consists of a General Plan Amendment and Rezone of all or a portion of four (4) properties from Agriculture to Rural Residential. The primary purpose of this proposal is to provide the Rural Residential general plan designation and corresponding base zoning district to 25 acres of land located at 20444 State Highway 175 (APN 014-440-05). In order to avoid spot zoning this application also includes the re-designation of all that property located at 20616 Dry Creek Cutoff (APN 014-002-40) and 20646 State Highway 175 (APN 014-002-39) together with the southern approximately 14 acres of 20684 State Highway 175 (APN 014-002-48) from Agriculture to Rural Residential, in order to connect with an existing block of land to the east and south currently designated as Rural Residential. All existing combining districts will remain unchanged. Staff recommends that the Planning Commission recommend approval of the project to the Board of Supervisors.

### II. PROJECT DESCRIPTION

Applicant: Michael Browning, P.O. Box 458, Middletown, CA 95461

Owners: 20444 State Hwy 175—Michael Browning, P.O. Box 458, Middletown, CA 95461  
20612 Dry Creek Cutoff—Randy Soucek, P.O. Box 853, Cobb, CA 95426

20646 State Hwy 175—Kenneth Ray, 20646 State Hwy 175, Middletown, CA 95461  
20684 State Hwy 175—Michael Browning, P.O. Box 458, Middletown, CA 95461

Location: 20444, 20646 & 20684 State Highway 175 and 20612 Dry Creek Cutoff,  
Middletown, CA

A.P.Ns.: 014-002-39, 40 & 48 and 014-440-05

General Plan: Existing: Agriculture; Industrial  
Proposed: Rural Residential; Industrial

Zoning: Existing: “A-FF-FW-SC-WW” Agriculture—Floodway Fringe—Floodway—  
Scenic—Waterway; “M2-DR” Heavy Industrial—Design Review  
Proposed: “RR-FF-FW-SC-WW” Rural Residential—Floodway Fringe—  
Floodway—Scenic—Waterway; “M2-DR” Heavy Industrial—Design Review

### **III. ENVIRONMENTAL SETTING**

<u>Existing uses and improvements:</u>	20444 State Hwy 175:	Vacant, grazing land
	20612 Dry Creek Cutoff:	Single family residence
	20646 State Hwy 175:	Single family residence
	20684 State Hwy 175:	Vacant, grazing land

<u>Parcel Sizes:</u>	20444 State Hwy 175:	approximately 76 acres
	20612 Dry Creek Cutoff:	approximately 0.87 acres
	20646 State Hwy 175:	approximately 0.43 acres
	20684 State Hwy 175:	approximately 60 acres

#### Surrounding Zoning and Land Use:

The project area is located along the State Highway 175 corridor less than a mile west of the community of Middletown. Lands to the north lie across Putah Creek are vacant and designated Rural Lands. Land to the east are designated Rural Residential and include a vineyard and small acreage residential parcels. Lands to the south lie across State Highway include Middletown Trailside Park and lands designated Rural Residential and Rural Lands175 and are designated Rural Residential and Rural Lands which include larger rural acreage residential parcels. The Middletown Wastewater Treatment Plan lies directly west of the project area.

Topography: Flat, less than 5% average cross slope

#### Soil Classes:

According to the Soil Survey of Lake County prepared by the USDA, there are three soil types on these properties, from north to south: (1) Xerofluvents-Riverwash complex, 0 to 2 percent slopes (soil unit 249). This soil unit is associated with the active stream channel and lands directly adjacent to Putah Creek. (2) Kelsey fine sandy loam, 0 to 2 percent slopes (soil unit 147). Very deep well drained soil classified as Class II irrigated and Class III non-irrigated. (3) Jaffa loam, 0 to

5 percent slopes (soil unit 144). Very deep well drained soil classified as Class II irrigated and Class III non-irrigated.

Natural Hazards: Wildland Fire and Flood

Water Supply: Onsite wells

Sewage Disposal: Onsite sewage disposal systems

Fire Protection: Southlake Fire Protection District

Previous projects on this site: none

#### IV. DISCUSSION

##### ***Land Use Compatibility:***

As part of the update to the Middletown Area Plan in 2010, the appointed Citizen's Advisory Committee recognized the need for the designation of additional Industrial lands suitable for the development of a heavy commercial/industrial park within the Middletown Planning Area. An approximately 50 acre portion of the 75 acre property located at 20444 State Highway 175 was recognized as an ideal location for the potential development of an industrial/heavy commercial business park for several reasons: 1) access to major transit corridors, Highway 175 & 29; 2) proximity to the community of Middletown without being located directly within the downtown core where industrial uses may not be compatible with other community commercial type uses; and, 3) the presence of the Middletown Wastewater Treatment Plant to the west would provide needed access to sewer service for any future industrial uses while at the same time providing a buffer between other land uses, primarily residential that are not well suited to being located directly next to a wastewater treatment facility. The remaining 25 acres of the property remained designated Agriculture consistent with the 1985 Middletown Area Plan.

In addition to the Industrial designation, the Citizens Advisory Committee for the Middletown Area Plan envisioned this property as being able to take advantage of other incentives within the Lake County General Plan, specifically Policy LU-6.13, *Density Bonus Incentive for Business/Industrial Parks*:

*"Mixed use residential development proposals located outside of Community Growth Boundaries proposing to include an employment inducing industrial or business park development component shall be considered for a residential density bonus of up to one (1) dwelling unit for each acre of land designated and developed as a business and/or industrial park, provided the application is processed through the planned development process."*

The general thought was that the Industrial designation together with the above mentioned policy would provide needed incentives for the development of business/industrial parks that otherwise would not be economically viable on their own. The applicant argues that the current Agricultural designation for the eastern 25 acres of the split designated property makes it

difficult to take advantage of the development incentives intended through General Plan Policy LU-6.13. Therefore the applicant is seeking to re-designate the approximately 25 acre portion of the property currently designated as Agriculture to Rural Residential.

The Lake County General Plan states that the Rural Residential 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. These areas are intended to act as a buffer area between the urban residential development and the agricultural areas of the County.*” The permitted density within the Rural Residential land use designation is one dwelling unit per 5-20. The applicant argues that the Rural Residential land use designation is the most ideal designation for this site as it allows existing agricultural uses to continue while providing greater economic incentives for the potential development of an industrial business park at this site. Any future industrial park development would be subject to the Planned Development process as outlined in the General Plan and would require additional environmental analysis consistent with CEQA.

In order to avoid spot zoning this application also includes the re-designation of all that property located at 20616 Dry Creek Cutoff (APN 014-002-40) and 20646 State Highway 175 (APN 014-002-39) together with the southern approximately 14 acres of 20684 State Highway 175 (APN 014-002-48) from Agriculture to Rural Residential, in order to connect with an existing block of land to the east and south currently designated as Rural Residential.

The granting of this General Plan Amendment and Rezone request would allow for a net increase of four (4) additional residences as the Rural Residential zoning district allows for the development of granny unit or second residence (depending upon parcel size) which is not currently permitted in the Agriculture zoning district. Additionally, the granting of this proposal would increase the permitted density from one dwelling per every 40 acres to one dwelling unit to 5-20 acres. This would qualify both the properties located at 20444 and 20684 State Highway 175 for further subdivision through the approval of a parcel map or subdivision.

***Impacts to Agricultural Resources:***

This general plan amendment and rezone consists of approximately 40 acres and includes all or a portion of four (4) properties. These lands are currently zoned “A” Agriculture and are proposed to be rezoned to “RR” Rural Residential. The individual impact to each of the four properties is summarized below:

- 20444 State Highway 175 consists of approximately 75 acres. 50 acres “M2” Heavy Industrial and 25 acres “A”. The 25 acre portion of the property currently zoned “A”, although certainly of adequate functional size for allowed agricultural uses, is less than the 40 acre minimum parcel size stated in the “A” zoning district. This proposal would not affect that portion of the property currently zoned “M2”. The entire property is currently utilized for grazing of cattle and would continue to be permitted to continue such uses in the “RR” zoning district.
- 20616 Dry Creek Cutoff consists of property less than one (1) acre in size and is currently developed with a single family residence and is not conducive to commercial agricultural uses. This proposal would rezone the entire property from “A” to “RR”.

- 20646 State Highway 175 consists of property less than one (1) acre in size and is currently developed with a single family residence and is not conducive to commercial agricultural uses. This proposal would rezone the entire property from “A” to “RR”.
- 20684 State Highway 175 consists of approximately 60 acres. At current the entire property is zoned “A”. The proposal would rezone the southern 14 acres of the property from “A” to “RR” for the purpose of linking this rezone proposal with lands currently zoned “RR” to the East so as to avoid a situation of spot zoning. The remaining approximately 46 acres of the property will remain zoned “A” and still meet the minimum 40 acre requirement of the Zoning Ordinance. The entire property is currently utilized for grazing of cattle and would continue to be permitted to continue such uses in the “RR” zoning district.

The Lake County General Plan contains several policies within both the Land Use and Agricultural Resource Elements that are aimed at protecting agricultural lands and resources. Policy AR-1.1 specifically states:

*“The County shall utilize the areas designated as Agriculture on the General Plan Land Use Diagram as representing the Primary Agricultural Areas in the County (Prime Farmland, Unique Farmland, Unique Farmland, Farmland of Statewide Importance and Farmland of Local Importance). These areas are considered to be viable for a variety of agricultural uses based on factors such as soil characteristics, topography, and location. The County shall utilize this information when making land use or resource decisions. Areas designated Agriculture inside of Community Growth Boundaries are considered locations for potential urban development, and are not to be defined as Primary Agricultural Areas.”*

The ‘Primary Agricultural Areas’ as designated by the above policy utilizes the classifications established through the *Farmland of Statewide Importance* mapping provided by the California Department of Conservation, and updated every two years. The properties included within this General Plan Amendment and Rezone proposal consists of lands that are currently classified as ‘farmland of local importance’ and ‘grazing lands’. Additional information on the agricultural capabilities of land can be found in the United States Department of Agriculture’s published *Soil Survey of Lake County* which designates this area as having a soil capability classification of Class II irrigated and Class III non-irrigated. The Lake County General Plan describes Capability Class II as having some limitations that reduce the choice of plants or require moderate conservation practices, whereas Capability Class III is similar but requires more specialized conservation practices. The applicant has also indicated to Planning Staff that soils analysis conducted for this specific area show that the soil is unsuitable for commercial agricultural production beyond the use of grazing and pasture. Overall, the lands seem to be marginally considered as ‘Primary Agricultural Areas’ as defined by the Lake County General Plan.

The proposed Rural Residential land use and zoning designations allow agriculture as a primary use. Thus, the approval of this general plan amendment and rezone will not result in any direct prohibition of agricultural use for these properties. However, as mentioned above, two of the subject properties would qualify to be further subdivided thus reducing the likely agricultural viability of the area. However, this particular property was identified by the Middletown Area Plan

Advisory Committee and County staff as a strategic location for development of a business or industrial park for the Middletown Area. To the extent that this rezone and general plan amendment request will help facilitate future development of an economically strategic commercial development for the area that is consistent with the adopted area plan, staff supports the request and believes that it will not set a precedent for conversion of other agriculturally designated and zoned lands in the County.

**V. RECOMMENDATION**

Staff recommends that the Planning Commission take the following actions:

A. Recommend that the Board of Supervisors adopt a negative declaration for GPAP 12-02 and RZ 12-02 with the following findings:

1. This rezoning is consistent with the Lake County General Plan, Middletown Area Plan and Zoning Ordinance.
2. The uses permitted in the “RR-FF-FW-SC-WW” district are compatible with the surrounding land uses.
3. This project will not result in the conversion of agricultural lands into a land use designation that preclude agricultural uses.
4. This project will not result in the need for increased public services.
5. This rezoning will not result in any significant adverse environmental impact and a negative declaration has been recommended.

B. Recommend that the Board of Supervisors approve GPAP 12-02 for the following reasons:

1. This amendment is consistent with the Lake County General Plan, Middletown Area Plan and Zoning Ordinance.
2. The uses allowed in the Rural Residential designation are compatible with existing land uses in the vicinity.
3. This project will not result in the conversion of agricultural lands into a land use designation that preclude agricultural uses.
4. This project will not result in any significant adverse environmental impact, and a negative declaration has been recommended.

C. Recommend that the Board of Supervisors approve RZ 12-02 for the following reasons:

1. This rezoning is consistent with the Lake County General Plan, Middletown Area Plan and Zoning Ordinance.

2. The uses allowed in the “RR” are compatible with existing land uses in the vicinity.
3. This project will not result in the conversion of agricultural lands into a land use designation that preclude agricultural uses.
4. All existing combining districts will remain unchanged.
5. This project will not result in any significant adverse environmental impact, and a negative declaration has been recommended.

**Sample Motions:**

**Negative Declaration for General Plan Amendment and Rezone**

I move that the Planning Commission find that on the basis of the Initial Study No. 12-16 prepared by the Planning Division that the General Plan Amendment and Rezone as applied for by Michael Browning will not have a significant effect on the environment and, therefore, recommend to the Board of Supervisors that it approve a negative declaration for the proposed General Plan Amendment and Rezone with the findings listed in the staff report dated August 13, 2014.

**General Plan Amendment Approval**

I offer the resolution.

**Rezone Approval**

I move that the Planning Commission has reviewed and considered the environmental effects of this rezoning as set forth in the proposed negative declaration which has been prepared for this project, and that the Planning Commission recommends approval of the proposed rezoning applied for by Michael Browning, on property located at 2044, 20646 and 20684 State Highway 175 and 20612 Dry Creek Cutoff, Middletown, for reasons listed in the staff report dated August 13, 2014.

Reviewed by: \_\_\_\_\_

## ATTACHMENT 2

### AGENCY COMMENTS

#### **Browning General Plan Amendment & Rezone (GPAP 12-02 & RZ 12-02)**

Lake County Agricultural Commissioner: "I oppose the proposal because it would be a loss of ag zoned property. According to soils map provided by the NRCS, its prime ag land (ClassII). There is a County policy not to contribute to the loss of prime ag soils unless there is no other area to accommodate area growth. This area is not experiencing expansive growth at this time. Therefore, there isn't a need to do this at this time. In addition, 5 acre lot sizes (RR) does not usually accommodate viable agricultural operations and can lead to further subdivisions." (September 12, 2012)

Lake County Special Districts: See attached comments. (September 21, 2012)

*A 'Tribal Consultation' request, consistent with the provisions of SB 18 was sent to all Lake County Tribes on September 11, 2012. No requests for tribal consultation or general project comments were received.*

ATTACHMENT 2

08/13/14



**COUNTY OF LAKE**  
**SPECIAL DISTRICTS ADMINISTRATION**  
230 N Main Street  
Lakeport, California 95453  
Telephone 707-263-0119  
Fax 707-263-3836

**Mark Dellinger**  
Special Districts Administrator

Request for Review Comments

TO: Rick Coel, Community Development Director

REQUEST: GPAP 12-02, RZ 12-02, IS 12-16

APPLICANT: Michael Browning

OWNER: Michael Browning, Kenneth Ray, Earnest Soucek

APN: 014-002-39, 40 & 48; 014-440-05

LOCATION: 20684 State Hwy 175, Middletown

ZONING: Existing: "A", Agriculture Proposed: "RR" Rural Residential

GENERAL PLAN Existing: Agriculture Proposed: Rural Residential

The proposed General Plan Amendment and Rezone will not impact the District. However, the Middletown sewage treatment facility is nearing its designed capacity. The District cannot assure the availability of sewer connections at the time of application. Additionally, the subject parcels were not included in the assessment district proceedings and hold no entitlements for service.

Connections to LACOSAN will be made in accordance with the rules, regulations, policies, procedures, and ordinances in effect at the time of application.

By: Trill Shaul Date: 9/21/12

Existing General Plan  
Land Use Designations

RL

PF

RC

A

RR

SRe

STATE HWY 176

DRY CREEK CUTOFF

SANTA BARBARA AVE

PF

A

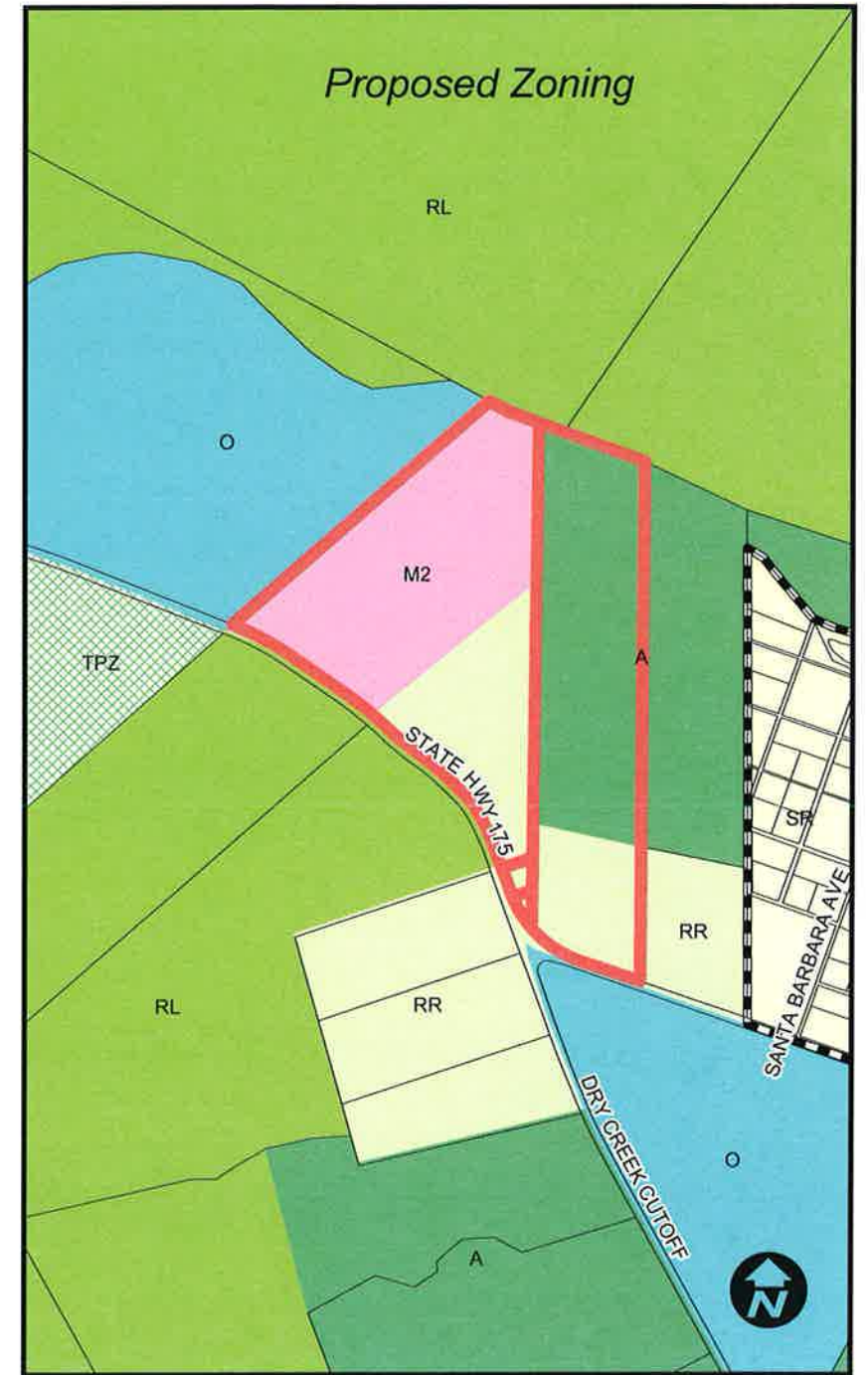
RL

RR

A

North Arrow

## A map titled "Proposed General Plan Land Use Designations" showing various land use zones. The zones are color-coded: green for RL (Residential Low Density), light blue for PF (Public Facilities), yellow for RR (Regional Rail), light green for A (Agriculture), and dark green for RC (Community Center). A red outline highlights a specific area containing a pink zone (I) and a yellow zone (RR). The map includes labels for "STATE HWY 179", "DRY CREEK CUTOFF", and "SANTA BARBARA AVE". A north arrow is located in the bottom right corner.



1        **PLANNING COMMISSION, COUNTY OF LAKE, STATE OF CALIFORNIA**

2                                **RESOLUTION NO. 14-01**

3                **RESOLUTION APPROVING AN AMENDMENT TO THE**  
4        **LAKE COUNTY GENERAL PLAN (GPAP 12-02), FOR FOUR PARCELS**  
5        **LOCATED ON STATE HIGHWAY 175 AND DRY CREEK CUTOFF IN**  
6                                **MIDDLETOWN**  
7                                **BROWNING, RAY AND SOUCEK**  
8

9                **WHEREAS, the Planning Commission of the County of Lake has**  
10        **conducted a public hearing on an amendment to the Lake County General**  
11        **Plan designated GPAP 12-02 for four parcels located on State Highway 175**  
12        **and Dry Creek Cutoff in Middletown; and**

13                **WHEREAS, the Planning Commission has reviewed, considered**  
14        **Initial Study IS 12-16 and has recommended to the Board of Supervisors a**  
15        **negative declaration for this proposed amendment;**

16                **NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING**  
17        **COMMISSION OF THE COUNTY OF LAKE THAT IT HEREBY FINDS,**  
18        **ORDERS, DETERMINES AND DECLARES AS FOLLOWS:**

- 19                1.     **The Planning Commission hereby recommends the Board of**  
20                        **Supervisors approve the General Plan Amendment proposal of**  
21                        **the County of Lake (GPAP 12-02), as set forth in Exhibit "A".**  
22                2.     **The Planning Commission finds that the adoption of the**  
23                        **proposal listed in Section 1 above is in the public interest, and**  
24                        **is necessary for the promotion of the general health, safety,**  
25                        **convenience and welfare of the citizens of Lake County.**  
26                3.     **The Secretary of the Planning Commission is hereby directed**  
27                        **to endorse this General Plan Amendment to show that it has**  
28                        **been recommended to be approved by the Planning**  
29                        **Commission.**

30                **THIS RESOLUTION WAS PASSED by the Planning Commission of**  
31        **the County of Lake, State of California, at a regular meeting thereof on the**  
32        **28th day of August 2014, by the following vote:**  
33

34                        **AYES:**

35  
36                        **NO:**  
37

38                                **SO ORDERED!**

39  
40                                **LAKE COUNTY PLANNING COMMISSION**  
41                                **Joeseeph Sullivan, Chair**  
42                                **Danae Bowen, Office Assistant III**