



Legislation Text

File #: 21-636, Version: 2

Memorandum

Date: July 20, 2021

To: The Honorable Bruno Sabatier, Chair, Lake County Board of Supervisors

From: Carol J. Huchingson, Interim Community Development Director
Eric Porter, Associate Planner

Subject: Consideration of Rezone for Richard and Beverly Siri; General Plan Amendment (GPAP 19-02) and Rezone (RZ 19-02) and Initial Study (IS 19-41)

Exhibits:

1. Vicinity Map
2. Proposed Rezone & General Plan Amendment Map
3. Rezone Ordinance
4. General Plan Amendment Resolution
5. Proposed Conditions of Approval
6. Agency Comments
7. Initial Study (IS 19-41)
8. Planning Commission Staff Report (April 22, 2021)
9. Planning Commission Hearing Minutes (April 22, 2021)

Executive Summary: (include fiscal and staffing impact narrative):

The applicant is requesting a Rezone and General Plan Amendment to change the zoning of APN 029-141-22 from R3 (High Density Residential) to R1 (Low Density Residential), and to change the General Plan designation from High Density to Low Density. The Planning Commission recommended that the Board of Supervisors approve this request during a public hearing that took place on April 22, 2021 by a 5-0 vote.

Applicant/owner: Richard & Beverly Siri.

Location: 4436 Lakeshore Blvd., Lakeport

A.P.N.: 029-141-22

General Plan - Existing: Resource Conservation - High Density Residential

General Plan - Proposed: Resource Conservation - Low Density Residential

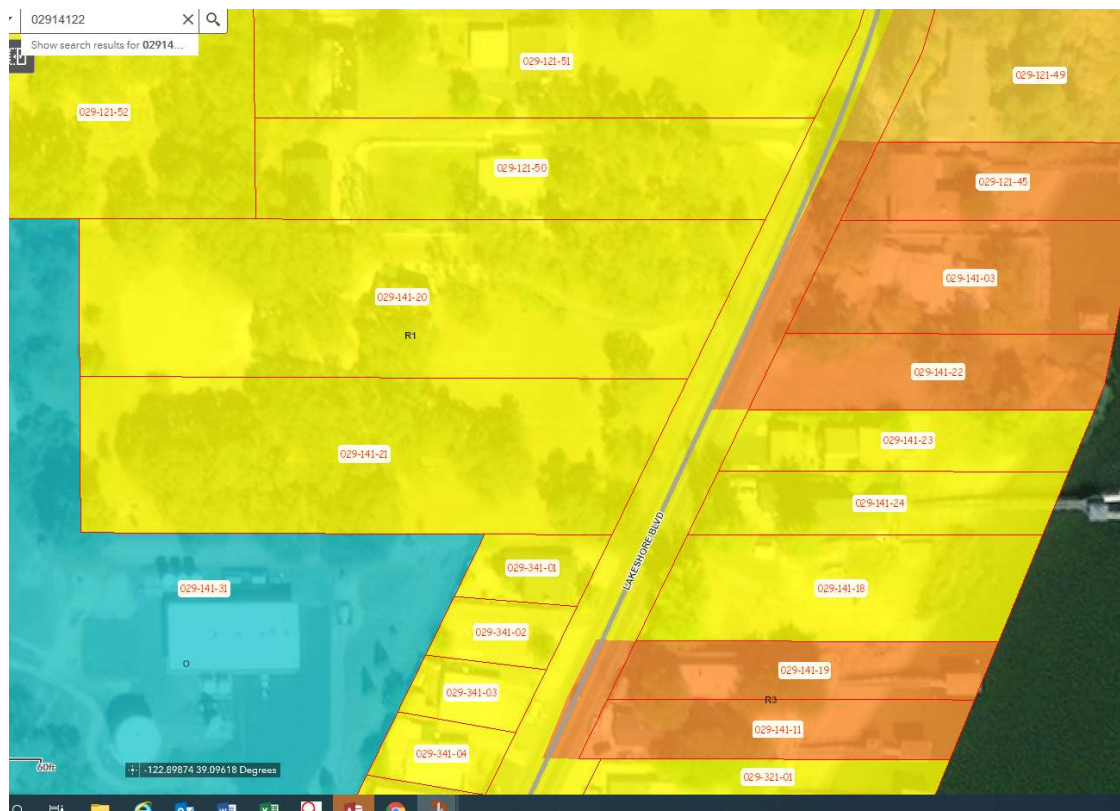
Zoning - Existing: "R3 - SC - FF - WW" Multi-Family Residential - Scenic Combining - Floodway Fringe - Waterway Combining District

Zoning - Proposed: “R1 - SC - FF - WW” Single-Family Residential - Scenic Combining - Floodway Fringe - Waterway Combining District

Flood Zone: AE

School District: Lakeport Unified School District

Fire Protection: Lakeport Fire District



EXISTING ZONING

Project Setting

Existing Uses and Improvements: The site is presently vacant and fronts the shoreline of Clear Lake.

Water Supply: Public water system

Sewage Disposal: Public sewer System.

Vegetation: Several native oak trees, grasses

Surrounding Uses and Zoning:

- **North:** “R3” - Multi-Family Residential; “SC” - Scenic Combining District; “FF” - Floodway Fringe; “WW” - Waterway Combining District. The parcels sizes range from approximately 0.398 to 0.635 acres in size.
- **East:** Clear Lake.

- **South:** “R1” - Single-Family Residential; “SC” - Scenic Combining District; “FF” - Floodway Fringe; “WW” - Waterway Combining District. The parcels sizes range from approximately 0.383 to 0.682 acres in size.
- **West:** “R1” - Single-Family Residential; “SC” - Scenic Combining District; “FF” - Floodway Fringe Combining District. The parcels sizes range from approximately 0.139 to 1.588 acres in size.

On April 22, 2021, the Planning Commission recommended approval with conditions of the proposed General Plan Amendment (GPAP 19-02); Rezone (RZ 19-02) and adoption of the Initial Study (IS 19-41).

II. PROJECT ANALYSIS

GENERAL PLAN CONFORMANCE

The General Plan designations for the subject site are currently Resource Conservation and High Density Residential which does not allow for the development of single family residences. The applicant’s request to change the land use designation to Low Density Residential would allow the applicant to propose a single family residential development. Additionally, the adjacent parcels to the south and west are also designated as Low Density Residential. Therefore, the proposed General Plan Amendment request to change the Land Use Designation from High Density Residential to Low Density Residential would be complement the resonant community development and applicable to the following General Plan goals and policies.

- **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 contains a mixture of R1 and R3 zoned land, and most of the nearby lots contain single family dwellings. Many of the lots that front the lake are too small to contain multi-family dwelling units if the front yard setbacks are taken into consideration (30 feet front yard setbacks adjacent to Lakeshore Boulevard, a scenic road with greater setbacks than non-scenic roads). The Siri lot has a total buildable area of 5350 sq. ft. including the front yard setback area, however by removing the unbuildable front yard setback area (73 feet width by 30 feet depth), the remaining buildable area is 3164 sq. ft. The R3 zone requires a minimum of one duplex, and new single family dwellings are not permitted in this zone. The 3164 sq. ft. of buildable area is adequate for a single family dwelling, but siting a larger multi-family dwelling on this lot presents physical placement challenges considering the spatial requirements for multi-family dwellings including open space and parking.

Policy LU 8.2 General Plan Amendments. The County shall not amend the General Plan more than four times per year except as allowed by State law. Each amendment, however, may include multiple changes. Any amendment requires Planning Commission and Board of Supervisors public hearings.

Response: The project is consistent with the above applicable General Plan policies, as the proposed General Plan Amendment meets the densities allowed (as further discussed below). In addition, to date, the County has processed no General Plan Amendments in the 2021 calendar year, making this General Plan Amendment the first to be processed in year 2021 if approved.

Resource Conservation. The purpose of this land use category is to assure the maintenance or sustained generation of

natural resources within the County. The highest priority for these lands is to provide for the management of the County's natural infrastructure. This management should include, but is not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. This category would include public and private areas of: significant plant or animal habitats; forest lands in Timberland Preserve Zones; agricultural lands within the Williamson Act; grazing; watersheds including waterways and wetlands; outdoor parks and recreation; retreats; mineral deposits and mining areas which require special attention because of hazardous or special conditions; publicly owned land (e.g., U.S. Forest Service, BLM land, State, and County); and open space activities. Uses allowed in this designation are those related to resource utilization and resource conservation activities. -

Response: *The applicant intends on building a single family dwelling on the lot once the rezone / General Plan amendment is completed, however no development plans have been submitted in conjunction with this rezone / General Plan amendment; the current project does not include development near the lake and the Initial Study contains mitigation measures to avoid any potential impacts that may occur from future development of a dwelling on this lot.*

Lakeport Area Plan Conformance

The subject site is within the Lakeport Area Plan's boundary. The Plan contains some goals and policies for affordable housing programs, but is silent on increases to the supply of single family dwelling housing lots other than to encourage a diversity of housing types.

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 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.

Response: *The applicant's request of the zone change is permitted with appropriate application procedures pursuant to Article 47, Section 47.22 Lake County Zoning Ordinance. On July 10, 2019, the applicant submitted an application for a Rezone, RZ 19-02, General Plan Amendment, GPAP 19-02, and Initial Study, IS 19-41 for the future residential development at 4436 Lakeshore Blvd. The project meets all development standards for Rezoning and General Plan Amendment.*

Article 47, section 21-47.20, Ordinance Text Amendment and Rezoning Amendment.

Article 47 of the Lake County Zoning Ordinance identifies procedures for both ordinance and rezone amendments. Section 21-47.21 and 21-47.22 identify the information required to apply for a Rezone (zoning maps identifying areas to be rezoned, as well as property owners of interest).

Response: *The site and surrounding area contains lots that are generally developed with single family dwellings. The lots that front Clear Lake, including the subject lot, are small and will be difficult to develop with any dwelling larger than a single family dwelling given the setbacks from Lakeshore Boulevard and the setback from Clear Lake (30 feet if there is no sea wall).*

The proposed Rezone would require a General Plan Amendment, in compliance with the Lake County Zoning Ordinance; the applicant has provided all information required in Article 47 to process the Rezone. The applicant has submitted all required information for the Rezone application. With approval of the requested entitlements, the project would not conflict with the General Plan, the Lakeport Area Plan or Zoning Ordinance. In addition, all future development will have to adhere to

requirements within the aforementioned plans and codes, including standards contained within the WW, FF and SC Combining Districts.

III. ENVIRONMENTAL EVALUATION

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 19-41; **Exhibit 7**) was prepared and circulated for public review in compliance with CEQA from October 6, 2020 to November 12, 2020. No comments objecting the project were received.

The Initial Study found that the Rezone and General Plan Amendment would not have any impact of the environment, as no development is proposed at this time. However, CEQA requires analysis of all reasonably foreseeable development or project components that may occur on-site in the future.

Therefore, potential development of the parcels was analyzed at a general level and it was determined that future development of the parcels has the potential to result in significant impacts to Air Quality, Biological Resources and Cultural/Tribal Cultural Resources. However, the below Mitigation Measures would reduce all potential impacts to Less than Significant.

Air Quality

The proposed Rezone and General Plan Amendment will not conflict with and/or obstruct implementation of the applicable air quality plan. However the primary reason of the application to have a viable parcel for a single family dwelling. Therefore, the future development has the potential to create fugitive dust during construction to the adjacent neighbor approximately 10 feet from the site. The following mitigation measures will reduce the project to 'less than significant' levels:

- AQ-1: Work practices and/or future development shall minimize vehicular and fugitive dust to reduce the impact of fugitive dust emissions to a less than significant level in staging areas, work areas, and adjoining roads by use of water, paving or other acceptable dust palliatives to ensure that dust does not leave the property. Access to project areas shall be limited to authorized vehicles.
- AQ-2: All vegetative waste from future development activities shall be composted and/or chipped as a means of disposal. All vegetation removed shall be chipped and spread for ground cover and erosion control. Site development and vegetation disposal shall not create a nuisance odors, smoke or dust.
- AQ-3: Burning of vegetative material is discourage, but if not alternative material is available, a Smoke Management Plan shall be submitted to the Lake County Air Quality Management District and the local fire protection District for review and approval.

Biological Resources

A Biological Resource Assessment with Botanical Survey and Delineation of Waters of the U.S. was prepared by Northwest Biosurvey on June 27, 2019 for the project (Attachment 5). The survey states that the shoreward area of the retaining wall has been recently disturbed, including a thick layer of fill

material, and has limited the number and diversity of plant taxa. No special-status animals or plants were detected within the proposed areas or adjacent areas. If land clearing is performed in the future on the lakeward area of the retaining wall, a pre-construction special-status species survey is recommended. Future construction activities associated with development have the potential to indirectly significantly impact habitat for sensitive species. All future development shall obtain all necessary federal, state and local agency permits, which may include additional environmental analyses. Further, mitigation measure BIO-5 requires an Erosion and Sediment Control Plan and a Stormwater Plan prior to any site development due to the proximity of the property next to Clear Lake to mitigate any potential soil erosion into the lake during site development.

The following mitigation measures will reduce potential biologically-related impacts to less than significant levels:

- BIO-1: If future ground disturbance or removal of vegetation occurs between February 1 and August 31 of any year, preconstruction surveys should be performed by a qualified biologist no more than 14 days prior to commencement of such activities to determine the presence and location of nesting bird species. If active nests are observed, temporary protective breeding season buffers will be established to avoid incidental take of birds, nests, or young. The appropriate buffer distance is dependent on the species, surrounding vegetation, and topography, and should be determined by a qualified biologist as appropriate to prevent nest abandonment or direct mortality from vegetation removal.
 - Non-breeding Season: September 1 through January 31. Ground disturbance and removal of vegetation within the Study Area does not require pre-construction surveys if performed between September 1 and January 31.
- BIO-2: All future residential development and its access shall be emphasized within the central portions of the project parcel and be accessed by existing Lakeshore Boulevard.
- BIO-3: All future development shall maintain a minimum of a thirty (30) foot or greater setback from top of bank for all waterways located on project parcel.
- BIO-4: Any future development shall meet all the requirements of Lake County Municipal Code Chapter 25, Floodplain Management.
- BIO-5: Prior to any work occurring in and/or near any waterway, the applicant shall submit Erosion and Sediment Control Plans and a Storm Water Management Plan to the Community Development Department for review and approval. Said Plans shall protect the local watershed from runoff pollution through the implementation of appropriate Best Management Practices (BMPs) in accordance with the Grading Ordinance.

Cultural and Tribal Resources

A *Cultural Resource Inventory* was prepared by John Parker on July 5, 2019 for this property. During the field inspection of the archeological research it was discovered that fill had been placed on the shoreward area of the retaining wall. The fill material amounts between approximately 1 to 4 feet in depth. No ground-disturbing activities are proposed. Future construction of the Project has the potential for accidental discovery of unknown, undiscovered cultural resources and tribal cultural

resources. The following mitigation measures will reduce cultural / tribal potential impacts to less than significant levels:

- CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), the applicant shall notify the culturally affiliated Tribe, and a qualified archaeologist to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, the applicant shall notify the Sheriff's Department, the culturally affiliated Tribe, and a qualified archaeologist for proper internment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.
- CUL-2: If any human remains are encountered during site preparation and construction activities, the applicant shall halt all work and immediately contact the Lake County Sheriff's Department and the Community Development Department. If any artifacts or remains are found, the culturally affiliated Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

Overall, the project is consistent with the Lake County General Plan, Lakeport Area Plan, and Lake County Zoning Ordinance. Therefore, staff has determined that the proposed use will be less than significant impact with mitigation measures incorporated pursuant to CEQA guidelines (Sec.15070 to 15075).

IV. FINDINGS REQUIRED FOR APPROVAL

GENERAL PLAN AMENDMENT

1. **The proposed amendment is consistent with the General Plan, and the Lakeport Area Plan.**

Response: *The parcel is currently designated as High Density Residential - Resource Conservation and the applicant is seeking a General Plan Amendment to change the designation of the parcel from High Density Residential (HDR) to Low Density Residential (LDR) only. The Resource Conservation designation for the subject site would remain. The parcel is currently undeveloped. The parcel is 0.44 acres in size (just over 19,000 sq. ft.), however much of the property cannot be developed with intended multi-family dwellings due to the thinness of the lot; and due to setbacks from Lakeshore Boulevard and from Clear Lake.*

In addition, the project is consistent with the Lakeport Area Plan as it supports a diversity of residential development, including single family development.

2. **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.**

Response: The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County, because the amendment facilitates a logical and orderly expansion of surrounding R1 low density designations and existing nearby land uses. The proposed General Plan Amendment has been reviewed by the County Surveyor, Sheriff's Department, Fire Marshal, and other departments and agencies for health and safety concerns. The proposed use (and any future uses) shall meet all Federal, State and local agency requirements.

3. This project will not result in any significant adverse environmental impacts.

Response: The Initial Study (IS 19-41) found that the Rezone and General Plan Amendment would not have any impact of the environment, as no development is proposed at this time. However, CEQA requires analysis of all reasonably foreseeable development or project components that may occur on-site in the future. Therefore, potential development of the parcels was analyzed at a general level and it was determined that future development of the parcels has the potential to result in significant impacts to Air Quality, Biological Resources and Cultural/Tribal Cultural Resources,. However, the identified Mitigation Measures would reduce all potential impacts to Less than Significant.

REZONE

1. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan, Lake County Zoning Ordinance and any approved zoning or land use plan.

Response: The proposal would change the existing High Density designation to Low Density, and would change the zoning designation from R3 to R1 (the overlay zoning designations would remain unchanged). The proposed Rezone would require a General Plan Amendment, in compliance with the Lake County Zoning Ordinance; the applicant has provided all information required in Article 47 to process the Rezone. In addition, all future development will have to adhere to requirements within the aforementioned plans and codes, including standards contained within the WW and SC Combining Districts. The applicant has submitted all required information for the Rezone application. With approval of the requested entitlements, the project would not conflict with the General Plan, Lakeport Area Plan or Zoning Ordinance.

2. This project will not result in any significant adverse environmental impacts.

Response: The Initial Study (IS 19-41) found that the Rezone and General Plan Amendment would not have any impact of the environment, as no development is proposed at this time. However, CEQA requires analysis of all reasonably foreseeable development or project components that may occur on-site in the future. Therefore, potential development of the parcels was analyzed at a general level and it was determined that future development of the parcels has the potential to result in significant impacts to Air Quality, Biological Resources and Cultural/Tribal Cultural Resources. However, the identified Mitigation Measures would reduce all potential impacts to Less than Significant.

If not budgeted, fill in the blanks below only:

Estimated Cost: _____ Amount Budgeted: _____ Additional Requested: _____ Future Annual Cost: _____

Consistency with Vision 2028 and/or Fiscal Crisis Management Plan (check all that apply):

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Well-being of Residents | <input type="checkbox"/> Public Safety | <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Not applicable |
| <input type="checkbox"/> Economic Development | <input type="checkbox"/> Disaster Recovery | <input type="checkbox"/> County Workforce | <input type="checkbox"/> <i>Technology Upgrades</i> |
| <input type="checkbox"/> Community Collaboration | <input type="checkbox"/> Business Process Efficiency | <input type="checkbox"/> Clear Lake | <input type="checkbox"/> <i>Revenue Generation</i> |
| | | | <input type="checkbox"/> <i>Cost Savings</i> |

If request for exemption from competitive bid in accordance with County Code Chapter 2 Sec. 2-38, fill in blanks below:

Which exemption is being requested?
How long has Agreement been in place?
When was purchase last rebid?
Reason for request to waive bid?

Recommended Action:

Staff recommends the Board of Supervisors:

A. Adopt Mitigated Negative Declaration of Initial Study (IS 19-41) for General Plan Amendment, GPAP 19-02 and Rezone, RZ 19-02 with the following findings:

1. Although future developments of the project could have a significant effect on the environment, the project will have less than significant impact with mitigation measures consistent with CEQA guidelines (Sec.15070 to 15075).
2. This project is consistent with the Lake County General Plan, Lakeport Area Plan and 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 with the proposed mitigation measures.

B. Approve General Plan Amendment (GPAP 19-02) and Rezone (RZ 19-02) 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, Lakeport 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:

Initial Study (IS 19-41)

I move that the Board of Supervisors find **the General Plan Amendment (GPAP 19-02) and Rezone (RZ 19-02)** applied for by **Richard and Beverly Siri** on property located at **4436 Lakeshore Blvd., Lakeport** further described as **APN: 029-141-22** adopt the mitigated negative declaration **(IS 19-41)** based on the findings set forth in the memorandum dated **July 20, 2021**.

General Plan Amendment (GPAP 19-02)

I move that the Board of Supervisors find that the **General Plan Amendment (GPAP 19-02)** applied for by **Richard and Beverly Siri** on property located **4436 Lakeshore Blvd., Lakeport** further described as **APN: 029-141-22** does meet the requirements of Section 47.22 and Article 10 of the Lake County Zoning Ordinance and the General Plan Amendment be granted subject to the findings listed in the staff report dated **July 20, 2021**.

Rezone (RZ 19-02)

I move that the Board of Supervisors find the **Rezone (RZ 19-02)** applied for by Richard and Beverly Siri on property located at **4436 Lakeshore Blvd., Lakeport** further described as **APN: 029-141-22** does meet the requirements of Section 47.22 and Article 10 of the Lake County Zoning Ordinance and the Rezone be granted subject to the findings listed in the staff report dated **July 20, 2021**.