

April 30, 2003

To: Sutter County Planning Commission

Re: Agenda Item #15, a): Public hearing on General Plan Amendment #03-02 to amend the General Plan Land Use Diagram changing the designation of the subject property from AG-20 (Agricultural, 20-acre minimum) to LDR (Low Density Residential); and

Agenda Item #15, b): Public hearing on Rezoning #03-05 to change the zoning classification from AG (General Agricultural) District to R-1-A (One Family Residence, Agricultural Combining) District; located at 10412 Luther Road, approximately 1,900 feet north of Pennington Road, Live Oak; A. P. #09-070-014; applicants/property owners - Doug & Sybil Traverso (Location: District: 1 - Commissioner Capaul)

### **Current Proposal**

#### A. Project Description:

The applicant requests General Plan amendment and rezone approval to change the General Plan designation from AG-20 to LDR and rezone the property from AG to R-1-A District, to allow an opportunity for the permitting of an existing occupied second residential unit. If the project is approved, the applicants anticipate being allowed to retain the second unit by ministerial permit (building permit) under the provisions of Assembly Bill 1866.

#### B. Environmental Consideration:

An Initial Study was prepared for this project in accordance with the California Environmental Quality Act and the CEQA Guidelines. The study revealed that the project could not have a significant effect on the environment. Therefore, should the Commission recommend approval of this project, staff recommends that the Commission recommend that the Board of Supervisors adopt the attached Negative Declaration.

**Background**

A. Property Description

This 5.45-acre parcel lies within the City of Live Oak Sphere of Influence, and is developed with two single-family residences and a walnut orchard. The rectangular property has 330 feet of frontage on Luther Road, and is approximately 721 feet deep.

B. Surrounding Land Use, Zoning District and General Plan Designation:

	<b>Use</b>	<b>Zoning</b>	<b>General Plan</b>
<b>Subject Property</b>	Agriculture/Rural Residence	AG	AG-20
North	Agriculture/Rural Residence	AG	AG-20
East	Agriculture/Rural Residence	R-1	LDR
South	Agriculture & Rural Residence	AG	AG-20
West	Agriculture	AG	AG-20

C. Previous Planning Commission Actions/Policies

Your Commission has generally approved rezoning of agricultural parcels when the proposed or pre-existing use is demonstrated to comply with the applicable standards of the General Plan and Zoning Code.

**Staff Comments**

A. Environmental Health:

The Environmental Health Division responded to confirm that there is sufficient room for 100 percent replacement area for both of the existing homes' leach fields.

B. Public Works Department:

The Public Works Department responded with no comments.

C. Office of the Sheriff/Coroner:

The Office of the Sheriff/Coroner responded with no anticipated impact to services provided by their department.

D. Planning (P):

See Conditions #1-4 and the analysis below.

## **General Plan Amendment and Rezone Analysis**

The previous property owner received building permit approval in 2000 to construct a new residence on the parcel, with the condition that an existing residence be demolished or converted to storage. The Building Division finalized the permit for the new residence on December 9, 2000, and finalized the conversion of the original residence to a storage building on December 19, 2000. The applicants purchased the property on December 21, 2001, and stated that the second unit was then occupied, apparently having been reconverted to a residential unit in the interim period by the previous owner. Because second residential units are not allowed in the AG District, the county required either that the second unit be vacated and converted back to storage or that the new property owners apply for a general plan amendment and rezoning to a district that would allow a permanent second residential unit.

The subject property, which is within the Live Oak Sphere-of-Influence and borders the Live Oak City limits, is designated LDR (Low-Density Residential) in the Live Oak General Plan in anticipation of being annexed to the city and developed with single-family housing within the foreseeable future. The City of Live Oak does not apply pre-annexation zoning to individual properties, but any property that is annexed to the city is, by default, zoned R-1.

The County Zoning Code currently allows second residential units by use permit in the AG District, but the applicants have stated that they intend to legitimize the second unit by obtaining a building permit as provided by Assembly Bill 1866. AB 1866 provides that, “when a local agency receives its first application on or after July 1, 2003, for a permit [for a second residential unit] pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits” (Govt. Code §65852.2.(a)(3)). AB 1866 also allows local jurisdictions to adopt ordinances governing second residential units; and, at the April 16, 2003 meeting, the Planning commission recommended that the Board of Supervisors adopt a local ordinance and provided a minor revision to the draft ordinance. The draft local ordinance restricts second residential units to the R-1 District. The applicant’s request for designation to LDR and rezoning to R-1-A is therefore consistent with existing and pending uses in the vicinity, and is also consistent with the respective general plans and zoning codes of both Sutter County and the City of Live Oak. The Agricultural Combining District zoning would also allow certain agricultural uses in keeping with the current rural character of the area.

### **Recommended Findings**

If the Planning Commission chooses to recommend approval of these applications, staff recommends the findings, actions and conditions listed below.

Based on the information contained in the staff report and/or testimony received at the public hearing, the Planning Commission finds:

- A. In accordance with the California Environmental Quality Act and the Guidelines, an Initial Study was prepared to analyze the potential impacts of the proposed General Plan amendment and rezoning. The study revealed that the project, as proposed, would not have a significant impact on the environment, and no comments have been received that demonstrate the project will have a significant effect on the environment. Therefore, the proposed Negative Declaration attached to this staff report is appropriate.
- B. The Planning Commission has independently reviewed, analyzed and considered the Initial Study and Negative Declaration prior to making its decision on the project and finds that the Negative Declaration reflects the independent judgment of the County of Sutter.
- C. The proposed general plan amendment, rezoning, and the use of the subject property comply with the applicable requirements of the Sutter County General Plan and Zoning Ordinance, subject to the conditions of approval.

### **Recommended Action**

- A. Make the findings for approval as prepared by staff.
- B. Recommend that the Board of Supervisors adopt the proposed Negative Declaration attached to this report.
- C. Recommend that the Board of Supervisors approve General Plan Amendment #03-02 changing the land-use designation from AG-20 to LDR.
- D. Recommend that the Board of Supervisors approve Rezoning #03-05 changing the zoning designation from AG to R-1-A, subject to the following Criteria of Development:
  - 1. The applicant shall file a Notice of Determination, including payment of associated fees, in the office of the County clerk within five (5) days after receiving final project approval. (P)
  - 2. The applicant shall pay any outstanding balance in excess of the amount on deposit for processing the application within thirty (30) days after the Community Services Department issues the final invoice. (P)
  - 3. The second residential unit shall not be offered for sale as a separate unit, and the existing home shall be owner occupied. (P)

4. The floor area of the second residential shall not be made greater than 1,200 square feet. (P)

Sincerely,  
LISA WILSON  
INTERIM PLANNING DIVISION CHIEF

William J. Caplinger  
Assistant Planner

Attachments: Exhibit A - Study Sketch  
Exhibit B - Site Plan  
Exhibit C - Proposed Negative Declaration and Initial Study

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