



**Contra
Costa
County**

To: Board of Supervisors
From: Catherine Kutsuris, Conservation & Development Director
Date: February 3, 2009

Subject: 1:00 P.M. Proposed rezone of a 34.17-acre property from A-4 Agricultural Preserve District to A-2 General Agricultural District

RECOMMENDATION(S):

After accepting any testimony and closing the hearing:

- A. ADOPT the proposed Negative Declaration as adequate for purposes of compliance with the requirements of the California Environmental Quality Act (CEQA).
- B. APPROVE the rezone of the 34.17-acre parcel from A-4 Agricultural Preserve District to A-2 General Agricultural District.
- C. ADOPT the findings contained in County Planning Commission Resolution No. 24-2008 as the basis for this decision.
- D. INTRODUCE Ordinance No. 2009-1 giving effect to the aforementioned rezone, waive reading, and adopt the same.
- E. DIRECT the Department of Conservation and Development to post the Notice of Determination with the County Clerk.

FISCAL IMPACT:

None; the applicant has paid the necessary application deposit, and is obligated to pay supplemental fees to cover all additional staff time and materials costs associated with

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/03/2009** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Gayle B. Uilkema, District II
Supervisor
Mary N. Piepho, District III
Supervisor
Susan A. Bonilla, District IV
Supervisor
Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 3, 2009

David Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

Contact: Will Nelson, (925)
335-1208

application processing.

BACKGROUND:

In August 2007 the applicant applied for approval of a land use permit (County File #LP072057) to construct a single-family residence. After initiating the review process, staff recommended to the applicant that the land use permit application be withdrawn and an application to rezone the property to A-2 General Agricultural District be filed instead. The reasons for this were: (1) the property is no longer covered by a Williamson Act contract, having come out in 1995; (2) a single-family residence is a permitted use in the A-2 zone; and (3) the property was zoned A-2 prior to being rezoned to A-4. On March 14, 2008, the applicant applied for a rezone from A-4 to A-2.

While processing the application, staff determined that it may be more appropriate to rezone the property to A-20 Exclusive Agricultural District instead of A-2 because the A-20 zoning is the most consistent with the General Plan's goals related to preservation of agricultural lands and open space. The applicant was informed on July 8, 2008, that a recommendation for a rezone to A-20 was a possibility.

The item was originally scheduled for hearing before the County Planning Commission on August 26, 2008, and was continued several times for various reasons. On December 2 the Commission heard the item and approved a motion recommending that the Board of Supervisors vote to rezone the property from A-4 to A-2.

Site and Area

The subject property is an undeveloped 34.17-acre property located at 109 Rancho de la Rosa Road in the Martinez/Briones Hills area. The City of Martinez boundary is approximately 2 miles east and the City of Richmond boundary is approximately 4 miles west. The property is not within any city's sphere of influence. The three other lots from the subdivision that created the subject parcel border the north, south, and west sides of the parcel and range in size from 19.95 to 34.59 acres. The east side of the property is bordered by an unrelated 83.24-acre parcel. The nearest residential community is approximately 0.75 miles (3,960 feet) east of the property in the vicinity of Alhambra Valley Road. Large tracts of land in the area are zoned A-4, including the land abutting all four sides of the property. The A-2 zone is also prevalent among properties in the vicinity.

The subject property contains rolling hills, large groves of trees, and rocky terrain. Access is limited to an unpaved private easement. A small portion of the site adjacent to the access easement is relatively flat, and is the only suitable building site readily apparent.

General Plan and Zoning Consistency

General Plan Land Use Designation

The General Plan land use designation for the site is Agricultural Lands (AL), which allows a wide range of agricultural uses and limits density to 1 unit per 5 acres. The A-2 zoning is consistent with the AL General Plan designation.

Applicability of General Plan Land Preservation Policies

The site is outside the Urban Limit Line (ULL). The ULL ensures the preservation of identified non-urban, agricultural and open space areas by establishing a boundary beyond which no urban land uses can be designated during the term of the General Plan. The ULL also facilitates the enforcement of the 65/35 Land Preservation Standard (General Plan 2005-2020, Land Use Element p. 3-8). The 65/35 Land Preservation Standard limits urban development to 35 percent of the County's land, and the remaining 65 percent be preserved for agricultural, open space, wetlands, parks and other non-urban uses (General Plan, Land Use Element p. 3-11).

The General Plan contains area-specific policies for the portion of the County in which the subject property is located. The proposed project is consistent with those policies and with the overall goals and policies contained in the various elements of the General Plan that are intended for preservation of agricultural lands and protection of open space.

Zoning

The site is zoned A-4 Agricultural Preserve District. The A-4 District is suited for properties under a Williamson Act contract. Properties under a contract are limited to the uses specified in the contract agreement. The subject site is no longer under a Williamson Act contract, thus the current zoning is unnecessary and inappropriate.

It should also be noted that the A-4 zoning requires a minimum parcel size of either 10 acres or 40 acres depending on the soil type, whereas the A-2 zoning requires a 5-acre minimum parcel size regardless of soil type. The subject site is required to be at least 40 acres under the A-4 zoning and implementation of the recommended A-2 rezone would correct the inconsistency with zoning standards.

Environmental Review

For purposes of compliance with the provisions of the California Environmental Quality Act and the State and County CEQA Guidelines, an Initial Study and Negative Declaration were prepared and circulated for review and comment between July 3, 2008 and July 23, 2008. In the Initial Study, staff concluded that the proposed rezoning would not result in significant environmental impacts. No comments were received disputing the adequacy of the environmental review. The County Planning Commission adopted the Negative Declaration at its hearing on December 2, 2008.

County Planning Commission Hearing and Decision

The hearing on this rezone request was opened by the County Planning Commission on December 2, 2008. The staff report provided analysis of the project and recommended to the Commission that it recommend to the Board a rezone from A-4 to A-20. Testimony was given by the applicant and individuals supporting a rezone to A-2.

Ultimately the Commission determined that the public benefit of rezoning the property to A-20 instead of A-2 was outweighed by the burden to the property owner. The Commission noted that the property could not be subdivided without a subdivision application being filed, and that the impacts of more intense development would be assessed as part of a subdivision review. The Commission also noted that by recommending a rezone to A-2, it was not endorsing a future subdivision.

The Commission voted 5-1 (with one commissioner absent) to recommend Board approval of a rezone from A-4 to A-2.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors denies the rezone, then the subject property will remain zoned A-4 Agricultural Preserve District, a zoning designation that is unnecessary and inappropriate given that the property is no longer under a Williamson Act contract.

ATTACHMENTS

Signed Ordinance 2009-1

Color Maps and Aerial Photograph

County Planning Commission Resolution No. 24-2008, Findings Map, Ordinance No. 2009-1

Conditions of Approval

Staff Report to County Planning Commission

Pertinent Correspondence

California Environmental Quality Act Determination

Site Plans

Notification List