

**CALAVERAS COUNTY COMMUNITY DEVELOPMENT AGENCY**  
**Planning Department**  
 891 Mountain Ranch Road, San Andreas, CA 95249  
 (209) 754-6394

**Staff Report**

<b>Hearing Date</b>	December 18, 2008
<b>Project Number/Name</b>	2008-091 County Initiated General Plan Text Amendment – transfer of density
<b>Supervisory District Number</b>	ALL
<b>Assessor's Parcel Number(s)</b>	n/a
<b>Planner</b>	Robert Sellman, Planning Director
<b>CDA Staff Report</b>	Robert Sellman, Planning Director

**Date of Preparation of Staff Report:** 12-04-08

**Project Description:** County Initiated General Plan Text Amendment – to prohibit the transfer of density from beneath the normal maximum water height of lakes, reservoirs, rivers and streams for clustering purposes

**Project Summary:** This is a request to add the following language as marked in bold to the land use element of the County general plan:

Goal II-2: Provide for flexibility in site design for single family residential developments.

Policy II-2A: Allow clustering of single family lots in any land use designation permitting residential use, without increasing the permitted density of the area.

Implementation Measure II-2A-1: Utilize the Planned Development Combining Zone provisions of the County Zoning Code when necessary.

Implementation Measure II-2A-2: Require zoning to retain open space for that area from which the density was transferred.

***Implementation Measure II-2A-3: For purposes of clustering, the transfer of density from beneath the normal maximum water height of lakes, rivers, and streams shall not be allowed.***

As written, text amendment would apply only when a proposed development includes a clustering of units with common open space area pursuant to a PD combining district. Land divisions which did not include common area/clustering would still be eligible to use the land that is under water to meet the acreage requirements for individual parcels creation.

The Draft Planning Commission Resolution with Findings is included as Attachment 1.

**Additional Project Clarification:** As discussed below, the Planning Commission could recommend additional language for Board of Supervisors consideration.

**Applicant / Owner:**  
Calaveras County

**Agent:**  
Community development agency

**Location:** County Wide

**APN(S)** N/A, **SECTION** N/A, **TOWNSHIP** N/A, **RANGE** N/A

**Existing General Plan Designation:** N/A

N/A

**Environmental Review Status:** The project is Statutorily Exempt under Guidelines Section 15061(b)(3): Projects which have no potential for a significant effect on the environment and is therefore not subject to CEQA.

**County Department and Public Agency Comments Received:** This text amendment was not circulated to other agencies as there would be no impact on any other County or public agency

**Staff Discussion:**

The Board of Supervisors initiated the proposed General Plan Text Amendment in December of 2006. The concern being addressed was relative to the transfer of density from beneath Lake Tulloch to allow relatively large scale development along the shoreline, which could not be built without the density transfer. There are other areas within the county that a similar transfer could occur, there for the general plan amendment was written in such a way as to apply a countywide.

As written the policy applies only to situations where in applicant is proposing a planned development clustering of units and using common open space to meet the density requirements. This language would not affect a parcel division that was not a planned development. As an example, if there was a 40 acre parcel, otherwise allowing a division into 10 acre parcels, contained a ten acre lake, a proposal to create four ten acre parcels each with 2 ½ acres of lake, would be considered consistent with the zoning and general plan policies

The Planning Commission could consider a recommendation to the Board to modify the language in the general plan to address situations described above to assure that substantially unusable parcels are not being created based upon "underwater" compliance with acreage requirements.

**Staff Summary:**

Staff has prepared recommendations consistent with the Board initiated request and recommends that the Planning Commission approve the proposed language as set forth.

**RECOMMENDATION FOR PROJECT # 2008-091:**

1. Pass a motion finding the project is Statutorily Exempt under Guidelines Section 15061(b)(3): Projects which have no potential for a significant effect on the environment and is therefore not subject to CEQA.
2. Pass a motion authorizing the Chairman to sign a Resolution recommending that the Board of Supervisors adopt an resolution to approve Project # 2008-091 General Plan Text Amendment based upon the Findings as set forth in the Staff Report.

**FINDINGS FOR PROJECT # 2008-091:**

1. The project is Statutorily Exempt under Guidelines Section 15061(b)(3): Projects which have no potential for a significant effect on the environment and is therefore not subject to the California Environmental Quality Act.
2. The proposed GPA is necessary to facilitate accurate and consistent application of the General Plan policies and existing regulations.

Evidence: The amendment limits the transfer of non-usable, theoretical density, from below water to dry lands, which may overburden the developing land.

- 3.. Reasonable opportunity has been provided for citizen and agency involvement in the amendment process, prior to finalizing the Planning Commission's recommendation to the Calaveras County Board of Supervisors.

Evidence: All interested citizens and agencies were notified of the proposed GPA and provided an opportunity to provide written comments and a public forum (hearing) to express their views and opinions, in compliance with Government Code § 65090, and Calaveras County Code §17.88.040, prior to a decision by the Planning Commission.

COUNTY OF CALAVERAS, STATE OF CALIFORNIA  
PLANNING COMMISSION

**RESOLUTION NO.**

>>A RESOLUTION RECOMMENDING THE BOARD OF SUPERVISORS ADOPT A RESOLUTION TO APPROVE 2008-091 GENERAL PLAN TEXT AMENDMENT TO AMEND THE CALAVERAS COUNTY GENERAL PLAN LAND USE ELEMENT GOAL II-2, ADDING IMPLEMENTATION MEASURE II-2A-3 REGARDING CLUSTERING

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WHEREAS, the Planning Department of the County of Board of Supervisors initiated a General Plan Amendment to amend the Calaveras County General Plan Land use Element Goal II-2 regarding clustering; and

WHEREAS, the Planning Commission set consideration of the project request pursuant to the procedures of the Planning Commission; and

WHEREAS, the Planning Commission considered all of the information presented to it including its staff report, information presented by the project proponent, and public testimony presented in writing and at the meeting; and

WHEREAS, the Planning Commission considered amending the implementation measures of Goal II-2 to add Implementation Measure II-2A-3 to read as follows;

Goal II-2: Provide for flexibility in site design for single family residential developments.

Policy II-2A: Allow clustering of single family lots in any land use designation permitting residential use, without increasing the permitted density of the area.

Implementation Measure II-2A-1: Utilize the Planned Development Combining Zone provisions of the County Zoning Code when necessary.

Implementation Measure II-2A-2 : Require zoning to retain open space for that area from which the density was transferred.

***Implementation Measure II-2A-3: For purposes of clustering, the transfer of density from beneath the normal maximum water height of lakes, rivers, and streams shall not be allowed.***

BE IT THEREFORE RESOLVED that the Planning Commission recommends that the Board of Supervisors approve the General Plan Text Amendment based upon the following findings:

1. The project is Statutorily Exempt under Guidelines Section 15061(b)(3): Projects which have no potential for a significant effect on the environment and is therefore not subject to the California Environmental Quality Act.
2. The proposed GPA is necessary to facilitate accurate and consistent application of the General Plan policies and existing regulations.

Evidence: The amendment limits the transfer of non-usable, theoretical density, from below water to dry lands, which may overburden the developing land.

3. Reasonable opportunity has been provided for citizen and agency involvement in the amendment process, prior to finalizing the Planning Commission's recommendation to the Calaveras County Board of Supervisors.

Evidence: All interested citizens and agencies were notified of the proposed GPA and provided an opportunity to provide written comments and a public forum (hearing) to express their views and opinions, in compliance with Government Code § 65090, and Calaveras County Code §17.88.040, prior to a decision by the Planning Commission.

PASSED AND ADOPTED by the Planning Commission of the County of Calaveras, at a regular meeting of the Planning Commission held on December 16, 2008 on a motion by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_.

AYES:  
NOES  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Chair, Planning Commission

ATTEST:

\_\_\_\_\_  
Shaelyn Strattan, Planner III

The project files are available for public review in the Planning Department, County of Calaveras, Government Center, 891 Mountain Ranch Road, San Andreas, California 95249, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday (excluding holidays).