

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Mary Jane Fagalde, Community Development Department Director  
Prepared by: Richard Coel, Assistant Director

**DATE:** January 3, 2006

**RE:** Cristallogo GPAP 05-09, RZ 05-12, GPD 05-05, APZ 05-02; Consideration of Disapproval; Supervisorial District 4

**ATTACHMENTS:** 1. Vicinity Map with Existing Zoning  
Map of Existing General Plan Designations  
Draft Urban Boundary Map  
Agency Comments  
Section 51282 of the California Government Code  
General Plan of Development & Concept Site Plan  
Planning & Policy Response dated December 28<sup>th</sup>, (from applicants)

**OVERVIEW**

The Cristallogo proposal envisions a 1,000-lot planned development subdivision around an 18-hole signature golf course, 200 condominium units, a small commercial area near the site entrance, walking trails and a clubhouse. The site area is comprised of the Black Rock Ridge Golf Course and Las Fuentes project areas. The Black Rock Ridge site was partially developed (rough grading work completed), but never finished. The Las Fuentes approvals were never vested, and have long since expired.

Due to the complexities of the land use issues surrounding the residential aspects of the Cristallogo proposal, including inconsistency with policies of the Lakeport Area Plan, and the General Plan, and Williamson Act Cancellation findings, staff felt it necessary to schedule this application for hearings for consideration of disapproval. This process allows decision-makers to review the overall project concept and consider the land use and policy implications prior to an environmental impact report (EIR) being prepared. Since the Community Development Department

cannot support the proposal due to the land use and policy issues discussed in this staff report, we are not comfortable advising the applicant to submit the tentative map application and fund the processing of an EIR unless direction is given by the Planning Commission and Board of Supervisors on the policy issues. In large part, we have taken this position due to the considerable expense to the applicants...and because the preparation of an EIR will not change the Department's concerns over inconsistency with existing policies. For this proposal to move forward, a number of land-use policies would also need to be amended.

The applicants for Cristallogo are requesting a general plan amendment and rezoning of approximately 856 acres (comprised of 12 parcels) to increase the density and change the land use designation, which currently ranges from 1 unit/40 acres to 1 unit/one to 2 acres. The range of density requested is between 1 unit per 5 acres and 5/units per acre. The application includes a request for an immediate cancellation of an Agricultural Preserve Contract consisting of approximately 394 acres of the site, and also includes a general plan of development application.

Section 15270 of the California Environmental Quality Act provides an option for quick disapproval of projects, when the agency can determine that the project cannot be approved, as follows:

***“15270 Projects which are Disapproved***

- (a) CEQA does not apply to projects which a public agency rejects or disapproves.*
- (b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.*
- (c) This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.”*

**II. PROJECT DESCRIPTION**

Applicants: Origin Homes, c/o Mark Mitchell, 1855 N. High Street, Lakeport  
Boeger Land Development, c/o Matt Boeger,

Owners: Rocky Liao, 2750 Foothill Road, Pleasanton, CA 94588  
Richard & Kimberly Evans, 939 Yaple Court, Ripon, CA 95366  
Mitch & Lynda Adams, Yaple Court, Ripon, CA 95366  
Gerald & Constance Mitchell, 17401 Boice Ln., Fort Bragg, CA

**APN Existing General Plan**

<b>Designation</b>	<b>Proposed</b>	<b>General Plan</b>	<b>Designation</b>	<b>Existing Zoning</b>	<b>Acres</b>
<b>Average Slope</b>	<b>Existing</b>	<b>Unit</b>	<b>Potential</b>	003-046-66	RL & RR
RR	RL & RR-SC	152	33%	11	003-046-67 RR SRe RR-
SC-WW	106	18.75%	21	005-009-04 RC RR	O-WW
80	39.5%	1	005-009-05	RC RR	O-SC-WW 55 29.9%
1	005-009-06	RC	RR	O-SC-WW	69 29.9% 1
005-009-07	RC	RR	O-WW	40	22.4% 1 005-010-05 RC
RR	A-WW-FF	.03	0	005-010-16	RC RR O-
WW-FF	112	11.2%	1	005-010-17	RC RR O 38
32.6%	1	005-011-06	RR & SRe	SR	RR-SC-WW 161 15.6%
63	005-011-07	SRe	SR	RR-SC-WW	32 16.7% 16
	005-012-33	SRe	SRe	A-SC-WW-FF	17 7.1% 17
<u>Locations:</u>		3580, 3595, 3851, 3907, 4051, 4141, 4151, 4161, 4283, & 4483 Hill Road, Lakeport			

**SETTING**

Existing uses and improvements: residence and grazing land

Surrounding Zoning and Land Use:

North: “O”, Open space; County sewer treatment facility, Correctional Facility

“RR”, Rural Residential; Vacant, privately owned

South: “RR”, “RL” & “A”; low density residential and agricultural uses

“C2-DR”, Community Commercial-Design Review; Vacant

East: “O-SC”, Open space – Scenic; former treated-effluent spray fields

“RR”; Residence

West: “RL”, Rural Lands; vacant & agriculture

“APZ”, Agricultural Preserve Zone; grazing land

Fire District: Lakeport County Fire Protection District

School District: Lakeport Unified School District

Water Supply: CSA #21, North Lakeport Water

Sewage Disposal: LACOSAN

Topography: Diverse, ranging from 7% to 39%

Vegetation: Grasslands, chaparral

## **DISCUSSION**

This discussion is organized into four subsections, each identified by a bold title. Each of these subsections discusses the major issues of concern with the Cristallogo proposal. Staff's concerns are limited to the residential aspect of the proposal, not the signature golf course or the commercial aspects. The proposal for 1,000 to 1,200 dwellings appears to be inconsistent with a number of policies of the Lakeport Area Plan and the General Plan, and direction being taken with the general plan update. As a result, staff sees this disapproval hearing process as an opportunity to receive feedback and direction from the Planning Commission and the Board if it is determined that the proposal can be supported by the County.

### **Available Land and Existing Development Pattern**

When the Lakeport Area Plan was adopted in December of 2000, the focus of future residential development was shifted to the Robin Hill area and the Lakeshore Boulevard corridor. While a portion of this site had previously been designated Suburban Residential (1 to 5 du/acre), the Area Plan changed it to SRe (1 acre/du) & RR (5 acres/du). The Suburban Residential land use designation is now only found east of Highway 29, approximately ½ mile from this site at the closest point.

The population projections included in the Lakeport Area Plan provide low and high growth rate projections out to the year 2020. Using the high annual growth rate of 2.2 percent, it was determined that the population in the planning area will increase from 5,544 people in 2005 to 7,649 people by 2020. Using the State's household population estimate for Lake County of 2.44 persons/household, there are currently an estimated 2,272 dwelling units within the Planning Area. Based on an average growth rate of 2.2% over the next 15 years, an additional 863 dwelling units will be needed within the Lakeport Planning Area. This averages out to 58 dwellings per year. The Cristallogo development alone is proposing more housing than needed to meet growth estimates for the next 15 years. The Community Development Department is currently processing applications for seven subdivisions within this Planning Area that total 426 lots, and there are a number of pre-existing vacant residential lots remaining, along with a tentatively approved subdivision for 37 lots along Crystal Lake Way. In addition, there have been serious discussions for two other subdivision proposals in the area. None of the tentative subdivision map applications being processed now include general plan amendments, as they are all located in areas designated for such development.

Based on conservative estimates for future development potential within the Robin Hill area and the Lakeshore Boulevard corridor, there are adequate sites available to accommodate approximately 2,300 dwellings. In staff's opinion, and in keeping with smart growth concepts, these areas should be substantially infilled before extending the community area boundary and converting outlying areas to Suburban Residential densities. A development of this size, at this time could adversely effect the orderly progression of development along Lakeshore Boulevard and in the Robin Hill area. Averaged out over 15 to 20 years as proposed by Cristallogo, an additional 60 to 80 dwellings would be introduced to the market each year. This could negatively impact the other subdivision proposals that are being processed, and alter development patterns for the next 15 to 20 years.

### **Inconsistency with Lakeport Area Plan**

The residential aspects of the Cristallogo proposal does not appear to be consistent with the following policies of the Lakeport Area Plan:

***Policy 3.4.1b:*** “Encourage development on soils (other than classes I – IV) within or contiguous to existing development and public services in the Lakeport area.”

This site is not within or contiguous to existing Suburban Residential development.

***Policy 3.4.1c:*** “Encourage infill development within the Lakeport Planning Area with emphasis on the North Lakeport area where public sewer and water systems are available.”

While public sewer is nearby at the treatment facility, and water service is located along Hill Road and is available to four of these parcels, this project does not appear to provide infill development.

***Policy 5.5.1b:*** Evaluate proposals to amend the Lakeport Area land use map that increase the acreage of land designated suburban residential and high density residential by the following criteria:

*Adequate water with suitable quality must be available and capable of being provided for each potential parcel.*

*Public water and sewer must be available to serve the property.*

*The proposal should not reduce the capacity of the public*

*water or sewer systems to accommodate land already designated for development.*

*Adequate access must be available or proposed to safely handle the potential increase in traffic without adversely impacting the existing circulation system.*

*The proposal must not adversely affect agricultural operations.*

*The proposal must not impact a significant or unique natural resource.*

*The supply of existing vacant land with the same designation as that proposed should be insufficient to accommodate projected growth in the greater Lakeport area through the planning period.*

*The area should be adjacent to existing land designated with the same designation proposed and should not result in a "spot" designation or be incompatible with existing residential densities in the vicinity.*

Criteria (2) indicates that public water and sewer must be available. Public water is not available to the entire site. LAFCO annexation would be needed to connect the parcels presently within the Williamson Act Contract. Criteria (3) is of concern because the size of this proposal will likely place it in competition with other developments that are already within community area for sewer and water service. Substantial upgrades to the water treatment facility will be needed as a result of this proposal, according to Special Districts. There are present service commitments for existing proposed subdivisions that will need to be considered.

The Cristallogo proposal also does not appear to be consistent with criteria (5), (7), and (8). Development of 1,200 dwellings in this area is likely to impact adjacent agricultural uses to the south and southwest of the site. There is a considerable amount of land available in the north Lakeport area to accommodate the projected growth for the next 20 years, (as discussed previously in the section titled: **Available Land and Existing Development Pattern.**) This site is not adjacent to land designated Suburban Residential. The nearest (SR) designated land is approximately ½ mile to the northeast of the northeast corner of this site, at the Lakeside Heights subdivision. Designating 193 acres of the Cristallogo site Suburban Residential may be considered a “spot designation”, and does not appear to be consistent with the rural densities in the area.

The Lakeport Area Plan contains the following two objectives that should be considered in the context of the Cristallogo proposal:

**Objective 5.5.2:** *Designate appropriate amounts of land for uses to accommodate projected growth rates in the Lakeport area for the next 20 years. Designate sufficient lands to accommodate a balance of land uses subject to environmental and public service constraints.*

**Objective 5.5.1** *Ensure that amendments to the land use designations are found to be in the overall public interest of the community.*

The Lakeport Area Plan has already designated considerable amounts of land to accommodate the projected growth for the remaining 15 years of term of the Plan. Based on a review of the sites available in the north Lakeport area, and estimating the development potential of these sites conservatively, there is more than twice the amount of land available that is needed to accommodate growth for the next 15 to 20 years.

## **Inconsistencies with Existing General Plan and Draft Update**

Policy 2.6 of the current Lake County General Plan (Page IV-26) states: *“The County should encourage development to occur as infill development where public services such as water and sewer systems, schools, and roads already exist.”*

The Cristallogo site is currently not considered an infill site. It is, however, a logical site for future development to occur once the existing urban area of north Lakeport has been substantially built out. While the expired Las Fuentes portion of the site already has entitlements to 100 water connections, the current land use densities provide for approximately 111 dwelling units.

The current general plan contains a brief discussion of the various community areas. The following paragraph is included under the Lakeport Area discussion:

*“Areas designated Rural Residential in the foothills above Scotts Valley are intended to provide a low density, rural buffer and transition zone between Agriculture and Residential designations. Lands designated Rural Residential on the eastern rimland adjacent to Scotts Valley agricultural operations shall not be divided into parcels with less than 20 acres. Typically, these parcels shall have a minimum residential building setback of 300 ft. from the eastern property line of the Agricultural designation. This setback is needed to avoid residential encroachment into the agricultural areas where sprays and heavy equipment are used.*

*Parcel divisions in this area shall be limited to one dwelling unit per 20 acres, including “granny units”. Rural Residential areas located further to the east of the Scotts Valley floor with existing roads and adequate public services may be appropriate for parcels at least 5 acres in size.”*

This text was added to the General Plan in 1985. When the Lakeport Area Plan was adopted in 2000, it continued to implement this section of the General Plan by keeping densities low west of Highway 29.

Additionally, the General Plan Update (GPU) is proposing to treat the existing Community Area Boundaries as “Urban Growth Boundaries”. The GPU is proposing that areas located outside of Urban Growth Boundaries will not allow residential densities higher than one unit per five (5) acres, but will allow for resort and heavy commercial development. The GPU Advisory Committee has reviewed the Draft Goals and Policies Report, and supports this concept. The intent is to reduce sprawl, and encourage infill development within existing community areas, and that the boundaries should only be expanded once there is not adequate land available to accommodate growth.

The Draft Goals and Policies Report for the General Plan Update has been reviewed by the General Plan Update Advisory Committee. It contains a number of land use polices that relate to the issues at hand, as follows:

***Policy LU- 1.1 Smart Growth***

The County shall promote the principles of smart growth, including:

- creating walkable neighborhoods,
- creating a strong sense of place,
- mixing land uses,
- directing growth toward existing communities;
- taking advantage of compact building design, and
- creating a range of housing opportunities and choices. [*New Policy*]

***Policy LU-2.2 Available Infrastructure***

The County shall encourage residential growth to locate in existing urban areas where infrastructure is available. The County shall ensure that development does not occur unless adequate infrastructure is available for that area. [*Issues and Alternatives Report Recommendation*]

***Policy LU- 2.3 Encourage Infill Development***

The County shall encourage infill development to occur where public services such as water and sewer systems, schools, and roads already exist.



[Modified *Existing Land Use Policy 2.6*]

***Policy LU-2.7 Urban Development Areas***

The County shall limit urban development to the areas within designated Urban Development Areas as defined on Figures 3-2 through 3-13). These Urban Development Areas are located in the following communities: Clearlake Oaks, Clearlake Riviera, Coyote Valley, Kelseyville, Lower Lake, Lucerne, Middletown, Nice, North Lakeport, Soda Bay, South Lakeport, and Upper Lake. [*New Policy*]

If Cristallogo is not disapproved, staff will request guidance from the Board of Supervisors to amend these draft policies, so that the adoption of the new general plan will not result in additional policy conflicts related to this development. A copy of the draft North Lakeport Urban Development Area map is included with Attachment #3. This is another reason why it is prudent to hold the hearings for consideration of disapproval, as there is still time to consider revisions to the draft general plan policies if it is determined that this project can be supported.

**Discussion of Williamson Act Cancellation**

The California Department of Conservation, Division of Land Resource Protection, has reviewed the Cristallogo proposal. Their comment letter is included as the first Agency Comment in Attachment #4, and contains a discussion of the Cancellation Findings based on the Government Code. Section 51282 of the Government Code is included as Attachment #3 in its entirety.

The 394.5 acres of the proposed Cristallogo project area that is within the Williamson Act Contract encompasses the Black Rock Ridge Golf Course site that was approved in 1994. Because that project was for a golf course only, it was found to be consistent with the open space provisions of the General Plan and the Williamson Act. This property was entered into Contract in 1980, and a notice of non-renewal was recorded on July 12, 1999, and the contract will expire on March 1, 2010.

Section 51282 of the Government Code allows for the local government to tentatively approve an immediate cancellation only if one of the following two findings can be made:

*That the cancellation is consistent with the purposes of this chapter; or  
That cancellation is in the public interest.*

In order for a cancellation to be consistent with the purposes of the Williamson Act, the Board of Supervisors must make all of the following findings:

*That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.*

*That cancellation is not likely to result in the removal of adjacent lands from agricultural use.*

*That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.*

*That cancellation will not result in discontinuous patterns of urban development.*

*That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.*

The first finding can be made. With respect to the second finding, development of significant numbers of residences on this site could impact adjacent agricultural lands to the south and west of the project area, unless significant buffers are maintained on this site and a clearly defined urban growth boundary line is established to prohibit additional sprawl to the south.

Regarding finding #3: This project would involve an amendment to the land use map in order to increase density significantly higher than that allowed by the RR & RL designations. Additionally, the general plan describes this area as a “rural buffer and transition zone between Agriculture and Residential designations” between Scotts Valley and residential areas north Lakeport. This provision contained within the Community Area discussion of Lakeport, on Page IV-35 of the general plan would need to be amended or removed (presumably under the general plan update) before finding number 3 could be made.

Concerning finding #4: Amending the land use map to allow Suburban Residential densities may be considered a “spot zoning” since this designation is not present on the west side of Highway 29, or with nearly one-half mile of the site at the closest point. This site is not contiguous to urban development.

Finding #5 is also problematic because there is a substantial amount of land available in the north Lakeport area to meet the growth projections well into the future. There are several larger, contiguous parcels in the Robin Hill Area that could potentially support development of a destination community. Also, development of the Cristallogo site for housing would not result in “*more contiguous patterns of urban development than development of*” the Robin Hill Area.

According to the Government Code, in order for a cancellation to be considered to be in the public’s best interest, the Board of Supervisors must make both of the following findings:

*That other public concerns substantially outweigh the objectives of this chapter; and That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.*

The second finding is the same as #5 in the discussion above, so needs no further discussion. In order for the Board of Supervisors to make the first finding that “*other public concerns substantially outweigh the objectives of*” the Williamson Act, the interest of the public as a whole needs to be considered. Additionally, the Board needs to find that the open space objectives of the Williamson Act are substantially outweighed by other public concerns. A more detailed analysis is included on page 3 of the letter from the Department of Conservation, with is located in Attachment #4 of this staff report.

## **V. CONCLUSION**

If the project were proposing resort-type development instead of the housing, such as fractional ownership or time-share condominiums, to be developed around the non-contracted portions of the site, a general plan amendment to Resort Commercial would be wholeheartedly supported by the Community Development Department. Resort uses can occur outside of community areas because they and do not encourage residential sprawl. While we believe that this is a logical location for development in the future, the residential aspect of this proposal is pre-mature, until additional infill development occurs in the area already planned for urban development.

Regardless of staff’s opinions, if the Planning Commission and Board of Supervisors believe that the Cristallogo proposal should move forward, we will work closely with the applicants in that process. However, policy revisions will be needed, and staff would therefore request guidance from the Board.

This item was placed on the agenda last to provide ample time for the applicant’s to present their proposal to the Commission, and to discuss policy direction with staff. The following findings and sample motions are provided should the Planning Commission determine that the project, as proposed, should be disapproved pursuant to Section 15270 of the CEQA Guidelines. A proposed resolution will be available at the hearing, if needed. If the consensus of the Commission is to recommend that processing of the Cristalloga proposal move forward, no formal action need be taken, as this issue will be placed on the Board’s agenda.

**VI. FINDINGS (For Dissapproval only)**

- A. Recommend that the Board of Supervisors deny GPAP 05-09 for the following reasons:

The Suburban Residential designation on this site is not consistent with the Lakeport Area Plan, Policies 3.4.1c and 5.5.1b.

Increasing the density at this site would result in discontinuous development of the north Lakeport area.

The Suburban Residential designation on this site is not consistent with the Lake County General Plan, Community Development Plan policy 2.6, and is also not consistent with the text of the general plan included in the Lakeport Area discussion.

The uses allowed in the Suburban Residential designation is not compatible with the existing rural and agricultural land uses in the vicinity.

The intensity and amount of density of development that would be authorized by this project are incompatible with the rural character of the area.

This proposal is inconsistent with proposed policies of the General Plan Update, including the Urban Growth Boundary map.

Projects that are denied are exempt from CEQA.

- B. Recommend that the Board of Supervisors deny RZ 04-10 for following reasons:

1. This rezoning is not consistent with Lakeport Area Plan policies 3.4.1c and 5.5.1b

The intensity of residential uses proposed in the requested “PDR” zoning district are not compatible with existing land uses in the vicinity, or with the rural character of the area.

This proposed rezoning is not consistent with the Lake County General Plan.

The intensity of residential uses requested with the rezone request to “PDR” are not compatible with the existing rural and agricultural land uses in the vicinity.

Projects that are denied are exempt from CEQA.

Recommend that the Board of Supervisors not approve the requested Williamson Act Cancellation for the following reasons:

The cancellation is not consistent with the purposes of the Williamson Act.

This cancellation request to allow residential development is not in the public interest.

There is adequate land available in the north Lakeport area to provide for projected residential growth needs for the next 20 years.

The cancellation of this contract for the purposes of developing residences would result in a discontinuous pattern of urban development, until such time that substantial infill development occurs in the vicinity of Robin Hill and Lakeshore Boulevard.

Cancellation of this contract and the ensuing residential development would likely result in removal of adjacent lands from agricultural use.

**Sample Motions:**

**General Plan Amendment Denial**

I offer the resolution recommending that the Board of Supervisors deny the general plan amendment.

**Rezone Denial**

I move that the Planning Commission recommend denial of the proposed rezoning from the base "O" "A", "RR", and "RL" districts to "PDR" applied for by Origin Homes and Boeger Land Development on property located between Scotts Valley, Highway 29 and the Hill Road Correctional Facility, Lakeport for the reasons listed in the staff report dated December 30, 2005.

**Williamson Act Cancellation Denial**

I move that the Planning Commission recommend that the Board of Supervisors not approve the cancellation of Williamson Act Contract Number 80-106.

**Cristallogo; Consideration of Disapproval, GPAP, RZ, APZ & GPD**

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