



## PLANNING COMMISSION STAFF REPORT

PLANNING COMMISSION HEARING AUGUST 19, 2009  
Agenda Item #8

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**Project #** 08-040

**Request:** General Plan amendment, rezone, and design review to change the General Plan designation and zoning of a 79-acre parcel developed with a 126,000 square foot agricultural processing building from AG-20 (Agriculture 20-acre minimums) and AG (General Agricultural) District to IND (Industrial) and M-2 PD (General Industrial Planned Development Combining District) to allow the processing of walnuts, olive oil, and the warehousing and processing of consumer packaged goods, such as soda, water, and juice. The Planned Development will limit the use of the property to the following uses:

- Food processing operations
- Bulk product storage (indoor)
- Distribution center
- Crop and Tree Farming

**Location:** 2200 Encinal Road; located on the south side of Encinal Road approximately 1,400 feet west of State Route 99; Assessor's Parcel No. 10-170-001

**Planner:** Leanne Mueller, Senior Planner

**Zoning Code Designation:** AG (General Agricultural) District

**General Plan Designation:** AG-20 (Agriculture, 20-acre minimum)

**Applicant:** Dean Miller/Pete Jelavich (DAP)

**Owner:** Elysian Farms, Inc., et al

### Staff Recommendation

The Planning Commission recommend the Board of Supervisors deny Project #08-040 (DAP) for a General Plan amendment, rezone, and design review to change the General Plan designation and zoning of a 79-acre parcel developed with a 126,000 square foot agricultural processing building from AG-20 (Agriculture, 20-acre minimum) and AG (General Agricultural) District to IND (Industrial) and M-2 PD (General

Industrial, Combining Planned Development) District to allow the processing of walnuts, olive oil, and the warehousing and processing of consumer packaged goods, based on the findings for denial contained in this staff report.

**Setting**

The property is located on the south side of Encinal Road approximately 2.7 miles north of the sphere of influence of Yuba City and 2 miles south of the sphere of influence of Live Oak. The property is 79-acres and is developed with a 126,000 square foot building, a parking area, and wastewater ponds; the remaining area is developed with a prune orchard. The surrounding area consists of orchards and scattered residences on parcels ranging in size from 0.48 to 80 acres.

Adjacent land uses, zoning and General Plan designations for the surrounding properties are summarized below.

	<b>Land Use</b>	<b>Zoning Designation</b>	<b>General Plan Designation</b>
Site	Building, ponds, orchard	AG (General Agricultural)	AG-20 (General Agriculture 20-acre minimums)
North	Orchard and residence	AG	AG-20
South	Orchard	AG	AG-20
East	Orchard/State Route 99	AG	AG-20
West	Processing building, orchard	AG	AG-20

**Previous Actions**

On September 5, 2001, the Planning Commission approved Use Permit #01-017, to allow the commercial use of an existing prune processing plant.

**Analysis**

The project is a General Plan amendment, rezone, and design review to change the General Plan designation and zoning of a 79-acre parcel developed with a 126,000 square foot agricultural processing building from AG-20 (Agriculture 20-acre minimums) and AG (General Agricultural) District to IND (Industrial) and M-2 PD (General Industrial Planned Development Combining District) to allow the processing of walnuts, olive oil, and the warehousing and processing of consumer packaged goods, such as soda, water, and juice. The Planned Development will limit the use of the property to the following uses:

- Food processing operations
- Bulk product storage (indoor)
- Distribution center
- Crop and Tree Farming

On November 12, 2007, as part of the General Plan update process, a moratorium prohibiting processing of General Plan amendments, rezones, and specific plans became effective. On May 20, 2008, the Board of Supervisors clarified the moratorium did not apply to applications for industrial rezones. This project is being heard before

the Planning Commission because the application contains a rezone to industrial and was excluded from the moratorium.

The warehousing and processing of consumer packaged goods is occurring in the building without the benefit of the proper permits or land use designations. If the project is approved by the Board of Supervisors the use currently occurring on the site will be permitted in the M-2 zoning district.

### General Plan Amendment

The project will amend the General Plan designation on 79 acres from AG-20 to Industrial. The property is located outside the spheres of influence of Live Oak, Yuba City and the County's rural communities. Surrounding properties are predominantly developed agriculturally as orchards. The nearest industrial property is located on the east side of State Route 99 approximately ¼ mile from the property.

The General Plan does not envision urban development on this property or in the area. This request could be seen as encouraging "leapfrog" development of urban uses into an agricultural area since the property is located 2.7 miles north of the Yuba City incorporated limits and sphere of influence boundary and 2 miles south of the sphere of influence of Live Oak.

The General Plan defines "urban" development as areas generally characterized by moderate and higher density residential development (e.g., 8 or more dwelling units per acre), commercial development **and industrial development**. (Emphasis added) As a result, this project meets the definition of "urban" development defined by the General Plan.

In addition, the General Plan defines "Urban Sprawl" as:

"Urban Development that occurs in an unplanned, haphazard manner that typically results in a development pattern that does not occur adjacent to existing urban development. New independent methods of providing services are often utilized rather than relying on the orderly extension of established services and facilities."

This project is isolated from existing urban development in an agricultural area and proposes to be served by private infrastructure (sewer, water, drainage and street lighting) so it appears this project meets the definition of urban sprawl.

The following General Plan land use policies are applicable to the project:

#### *Agricultural Policies*

Policy 6.A-1 states the County shall preserve agriculturally-designated areas for agricultural uses and direct nonagricultural development to areas designated for urban/suburban growth, or rural communities and/or cities.

Policy 6.A-2 states the County shall balance the needs of proposed urban and suburban development with the need to preserve agricultural lands.

#### *Commercial and Industrial Policies*

Policy 1.D-1 states the County shall designate specific areas suitable for commercial and industrial development and reserve such lands in a range of parcel sizes to accommodate a variety of commercial and industrial uses.

#### *General Land Use Policies*

Policy 1.B-1 states the County shall encourage development in the cities of Yuba City and Live Oak and annexation of existing County islands within the cities.

Policy 1.B-2 states in the Yuba City area, the sphere of influence adopted as of April 25, 1990 shall serve as the boundary for urban development, particularly residential urban development.

Policy 1.B-4 states in part that development should be directed to the west, away from the Feather River and the prime agricultural lands that run parallel to it.

#### *Economic Development Policy*

Policy 1.I-1 states the County shall work to preserve and expand business and employment opportunities within Sutter County.

Due to the project meeting the General Plan definition of urban sprawl; the project not being envisioned by the General Plan, and lacking services for urban uses, staff recommends denial of the proposed General Plan Amendment. Additionally, staff is concerned because the entire 79-acre property is proposed for General Plan amendment and rezone when only the existing building and associated parking areas will be used industrially. The need for 79-acres of industrial land associated with the proposed project is unclear.

#### Rezoning

This project will rezone the property from AG to M-2 PD (General Industrial Planned Development Combining District). A rezone is required to be consistent with the General Plan land use designation on the property. A Planned Development designation is attached to the project to limit the use of the property to only those uses proposed and can allow the County to implement its urban type development standards.

Staff is recommending denial of the rezoning in conjunction with the General Plan amendment.

#### Design Review

Section 1500-8512(b)(1) of the Zoning Code States:

“When a project requires a rezoning or planned development approval the design review will be approved by the Board of Supervisors as part of the overall project review. The Board will consider recommendations from staff and the Planning Commission in its decision. The adopted Design Guidelines and any other established standards shall provide the basis for final approvals.”

This project involves a request for rezone and planned development. An application for design review has been submitted concurrently with the rezone and planned development.

The applicant has painted the entire building including the office portion a light greenish brown color and all the doors and awnings are a darker greenish brown. The expansion joints on the north and south elevations and the awning supports on the east and west elevations are also the dark greenish brown color.

The existing parking area is landscaped with existing trees and shrubs. The applicant proposes to add trees to the area to meet shading requirements (see landscaping section for further discussion).

#### Traffic

The application indicates the facility will have materials brought to the site daily in 10 STAA (Surface Transportation Assistance Act) trucks which are longer than “California Legal” truck length, in this case, in excess of 70 feet total length. To ensure the trucks can turn into the property and onto Encinal Road without going into the opposite lane of travel the applicant will add additional pavement to the existing edge of pavement where the driveway meets Encinal Road. Additionally, the applicant has applied to Public Works and Caltrans to make the portion of Encinal Road that will be traveled by the STAA trucks a “Terminal Access” Route. This would allow the STAA truck to legally travel on Encinal Road. Caltrans has reviewed the project and indicated no concerns with the turning movements of project truck traffic from State Route 99 to Encinal Road.

#### Parking

The proposed use would require 51 parking spaces. The applicant has provided a site plan indicating a parking area in front of the building with 28 parking spaces and 15 parking spaces located at the rear and 9 on east side of the building under the existing canopy. The parking spaces will be paved to meet urban design standards.

#### Landscaping

The building currently has a lawn area and landscaping consisting of trees in front of the existing office.

To meet the shading and landscaping requirement of Zoning Code Section 1500-8118)(g)(2) the applicant has proposed additional landscaping consisting of Chinese Tallow, Chinese Pistache, Bradford Pear, Star Jasmine, Dwarf Heavenly Bamboo, and

Dwarf Raphioliopsis in the existing parking area. Chinese Tallow and Chinese Pistache are proposed for the parking area in the rear.

### **Environmental Analysis**

An Initial Study was prepared for this project in accordance with the California Environmental Quality Act and the Guidelines. The study determined the project, as proposed, could have a significant impact on the environment; however mitigation measures have been included in the project and agreed to by the applicant which reduces the possible impacts to a less than significant level. Therefore, staff recommends the Commission adopt the attached Mitigated Negative Declaration and Mitigation Monitoring Program.

### **Aesthetics**

Mitigation Measure 1 requires the applicant to comply with the County's urban development standards and Design Guidelines for the project including but not limited to structural, parking lot and access design, landscaping, lighting, screening and shading requirements. The applicant has agreed to comply with this mitigation measure which has been incorporated into the project.

### **Findings for Recommending Approval**

Based upon information contained in this staff report and/or testimony received at the public hearing, staff recommends the following findings should the Planning Commission determine to recommend approval of this project to the Board of Supervisors:

### **CEQA**

1. In accordance with the California Environmental Quality Act and the Guidelines, an Initial Study was prepared to analyze the potential impacts of the proposed project. The study determined the project could have a significant impact on the environment; however, with the mitigation measures identified in the Initial Study and agreed to by the applicant, all potential impacts would be reduced to a level of less than significant. No written comments have been received which present evidence the project will have a significant impact on the environment. Therefore, the proposed Mitigated Negative Declaration and Monitoring Program attached to this staff report are adequate under CEQA.
2. The Planning Commission has reviewed, analyzed, and considered the Initial Study and Mitigated Negative Declaration prior to making its recommendation on the project and finds the Mitigated Negative Declaration reflects the independent judgment of the County of Sutter and has been prepared in accordance with CEQA.

## **General Plan**

The project is consistent with the General Plan, in that the land use being proposed is consistent with an Industrial designation, the project is a renovation of a blighted agricultural development and provides a needed facility for the community and will create jobs consistent with Policies 1.D-1 and 1.I-1.

## **Rezoning**

The proposed rezoning to an M-2 PD District is consistent with the proposed General Plan designation of Industrial based upon Table 3 (on page 9) of the General Plan Policy Document which lists the M-2 District as a consistent zoning classification with an "Industrial" land use designation.

## **Findings for Recommending Denial**

Based on information contained in this staff report and/or testimony received at the public hearing, staff recommends the following findings:

## **CEQA**

California Environmental Quality Act states that CEQA does not apply to projects which an agency rejects or disapproves.

## **Rezoning**

The rezoning to Light Industrial Planned Development (M-2 PD) is not consistent with the existing Agriculture (20-acre minimum) General Plan designation of the property.

## **Recommended Action (For Approval)**

Should the Planning Commission desire to recommend approval of this project to the Board of Supervisors, the following motions would be appropriate:

1. "I move the Planning Commission recommend approval of the proposed Mitigated Negative Declaration prepared in accordance with the California Environmental Quality Act and the Guidelines together with the findings for approval contained in this staff report."
2. "I move the Planning Commission recommend the Board of Supervisors approve Project #08-040; a General Plan Amendment from AG-20 (Agriculture, 20-acre minimums) to IND (Industrial), a rezone from AG (General Agricultural) District to M-2-PD (General Industrial, Planned Development) District affecting 79 acres based on the findings for approval and conditions contained in this staff report."

## **Recommended Action (For Denial)**

Should the Planning Commission agree with staff's recommendation, the following motions would be appropriate:

1. "I move the Planning Commission recommend the Board of Supervisors find the California Environmental Quality Act does not apply to a project that is denied."
2. "I move the Planning Commission recommend the Board of Supervisors deny Planning Project #08-040; a General Plan Amendment from Agriculture, 20-acre minimums to Industrial, a rezone from AG (General Agricultural) District to M-2-PD (General Industrial Planned Development) District affecting 79 acres, based on the findings for denial contained in this staff report."

## **Attachments**

- A. Study Sketch and Aerial Photo
- B. Site Plan
- C. Mitigated Negative Declaration and Initial Study
- D. Color Building Elevations

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**Conditions of Approval**  
**Project #08-040 - Dean Miller & Pete Jelavich (DAP)**

The project is a General Plan amendment, rezone, and design review to change the General Plan designation and zoning of a 79-acre parcel developed with a 126,000 square foot agricultural processing building from AG-20 (Agriculture 20-acre minimums) and AG (General Agricultural) District to IND (Industrial) and M-2 PD (General Industrial Planned Development Combining District) to allow the processing of walnuts, olive oil, and the warehousing and processing of consumer packaged goods, such as soda, water, and juice. The Planned Development will limit the use of the property to the following uses: Food processing operations, Bulk product storage (indoor), Distribution center, Crop and Tree Farming

Located at 2200 Encinal Road.

1. A Notice of Determination shall be filed in the Office of the County Clerk within 5 days of approval. (P)
2. LAND DEDICATION. Within 90-days of the effective date of the zoning ordinance, the applicant shall dedicate sufficient rights of way and/or public utility easements as necessary to Sutter County to provide the specified one-half width for an Urban Collector of the following indicated roads (Sutter County Design Standards): (PW)
 

Encinal Road    30.0' R/W + 12.5' P.U.E.
3. Applicant shall be responsible for paying any outstanding account balance. (P)
4. Prior to use and/or occupancy of this site, the conditions of approval listed below shall be completed and final approval or a "Certificate of Occupancy" shall be issued by the Community Services Department, including the Divisions of Planning, Building Inspection, Environmental Health and Fire Services and the Public Works Department. Government Code §65850. (B)

**Prior to Issuance of Building Permit**

5. The project shall be required to comply with the County's urban development standards and design guidelines for the project including but not limited to structural, parking lot and access design, landscaping, lighting, screening and shading requirements. (P) (MM)
6. All signs shall comply with Division 94 (Signs) of the Zoning Code; including, but not limited to, chapter Section 1500-9485 (d) (P)
7. A total of 51 parking spaces sized 9' X 18' shall be maintained in accordance with the site plan. (P)

8. A final landscape and irrigation plan in substantial conformance with the site plan dated June 2008 shall be prepared, submitted and approved by the Planning Division. (P)
9. The applicant shall (if serving more than 25 employees) install and obtain a permit to operate a public water system from the California State Department of Health Services, Division of Drinking Water & Environmental Management. (EH)
10. The existing on-site sewage system must be evaluated by a qualified consultant to ensure that the quantity and quality of wastewater proposed can be adequately treated and disposed of on-site. The existing sewage disposal system shall be protected from any portion of said system being driven over; including but not limited to the septic tank, solid piping and leach field. Such protection shall be in the form of bollards and chain or fencing. (EH)

### **Prior to Certificate of Occupancy**

11. Any abandoned on-site sewage systems and individual water supply wells shall be destroyed in accordance with Sutter County Environmental Health regulations. Sutter County Environmental Health permits shall be obtained prior to the commencement of this work. (EH)
12. DRIVEWAYS. Prior to industrial use of the site, the applicant shall locate and setback the facility's entrance to prevent encroachment into the opposing lane of travel (CVC 21650) and driveways shall meet separation requirements. Driveways shall be constructed to align with future frontage improvements. (PW)
13. DRAINAGE. Prior to industrial use of the site, the applicant shall identify both new and existing areas of impervious surfaces on the parcel and provide a grading/drainage plan that shows these impervious surfaces, structures, driveways, and drainage facilities, including elevations and drainage patterns. The grading/drainage plan must identify stormwater discharge locations where runoff would leave the property. (PW)
14. ROAD IMPROVEMENTS. Prior to Industrial Use of the site, a Deferred Improvement Agreement shall be required for the construction/reconstruction of Encinal Road from the entrance of the facility to the end of the Caltrans right of way to support a minimum Traffic Index value of 8 for the east and westbound lanes. Applicant shall also widen Encinal Road 8 feet along the property frontage to meet Urban Collector Standards. (Sutter County Design Standards) Construction of improvements will be required when determined by the Director of Public Works. (PW)
15. FRONTAGE IMPROVEMENTS. Prior to Industrial Use of the site, a Deferred Improvement Agreement shall be required for construction of a drainage swale, curb, gutter and sidewalk adjacent to and along the property line with Public

Right of Way. Construction of improvements will be required when determined by the Director of Public Works. (PW)

16. The project shall comply with the 2007 California Fire Code (CFC). A fire apparatus access and water supply system that meets the required fire flows of the 2007 CFC shall be installed. (FS)
17. An analysis of the proposed use of the facility meeting the requirements of the 2007 California Building Code and the 2007 Fire Code is required. (B)
18. A new street address number shall be assigned by the Building Official. (B)
19. The landscaping and irrigation shall be installed in accordance with the approved landscape plan. (P)

### **Advisory Conditions/Ongoing**

20. All structures producing wastewater shall connect to the public sewer system when it is available, per the Uniform Plumbing Code (UPC). (EH)
21. All wastewater shall be disposed into the approved on-site sewage system. (EH)
22. The permitted use must be consistent with the design flow and waste strength established for the on-site sewage system. Any change of use or failure to comply with the terms of approval will result in the revocation of said permitted use. (EH)
23. The discharge of fuels, oils, other petroleum products, chemicals, or hazardous materials, into the on-site sewage disposal system is prohibited. (EH)
24. Water supply shall be from an on-site well and comply with all Sutter County Environmental Health requirements for the use intended. (EH)
25. **TERMINAL ACCESS ROUTE.** Prior to any interstate truck use, the applicant shall receive approval of a new Terminal Access Route on Encinal Road from State Route 99 to the trucking facility. (Section 911-030 Sutter County Ordinance) Use of the facility by interstate trucks predicated on T-route approval by Caltrans. (PW)
26. **ROAD and DRAINAGE IMPROVEMENTS DESIGN.** The applicant shall submit and obtain County approval of plans and specifications for the construction of public improvements in the County Right-of-Way. Improvements and encroachments shall be designed to meet the County of Sutter Improvement/Design Standards and County ordinances in effect at the time of plan approval. Plans shall be reviewed and approved by the County using the Improvement Plan permit or Encroachment Permit process as appropriate. (PW)

27. California law requires businesses handling on site (for any purpose) hazardous materials at or above 55 gallons for liquid, 500 pounds for solids, or 200 cubic feet for compressed gas to prepare and implement a Hazardous Materials Business Plan (HMBP). HMBP must be submitted to Environmental Health Division. (EH)
28. Any relocation or rearrangement of any existing PG&E facilities to accommodate this project will be at the developers/applicant's expense. There shall be no building of structures, or the storage of any materials allowed over or under any existing PG&E facilities or inside any easements that exists which infringe on PG&E's easement rights. (PG&E)
29. All wastewater discharge shall comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. (RWQCB)
30. When wastewater is generated, stored, or disposed to land, waste discharge requirements (WDRs) shall be required. (RWQCB)
31. If construction associated with the project disturbs more than one acre, the property owner shall need to obtain permit coverage under the NPDES General Permit. (RWQCB)
32. The applicant shall comply with all requirements of the Regional Water Quality Control Board for Waste Discharge Requirements, Construction Stormwater Permits, Industrial Stormwater Permits, Water Quality Certification (Wetlands), Section 404 Permits, and Dewatering Permits. (RWQCB)
33. An engineering evaluation and permit to operate may be required. ( FRAQMD)

#### Acronyms

(P)	Planning
(PW)	Public Works
(EH)	Environmental Health
(BI)	Building Inspection
(AC)	Agricultural Commissioner
(PG&E)	Pacific Gas & Electric
(RWQCB)	Regional Water Quality Control Board
(FRAQMD)	Feather River Air Quality Management District