

SUTTER COUNTY PLANNING COMMISSION

MINUTES

August 7, 2002
Supervisors Chambers
Hall of Records
466 Second Street

1. Call to Order

Chairperson Barringer called the meeting to order at 7:00 p.m.

2. Roll Call

Chairperson Barringer requested the clerk call the roll of the Commission. The following members were present and absent:

Members Present: Commissioners Sukhwinder Bajwa, Bruce Capaul, Maynard Dunn, J. R. Griffin, Jana Shannon, and Chairperson Jim Barringer

Members Absent: Commissioner Michael Cartoscelli

Staff Present: Planning Division Chief Tom Last, Senior Planner Lisa Wilson, Associate Planner Dale Follas, Associate Planner Steve Geiger, Assistant Planner Will Caplinger, Assistant County Counsel Ron Erickson, Assistant Director Larry Bagley, and Office Assistant Gail Gould

3. Pledge of Allegiance

Chairperson Barringer requested Commissioner Bajwa lead the audience, staff and Commission in the Pledge of Allegiance.

4. Approval of Minutes

The minutes of the meeting of July 3, 2002 were approved as submitted on motion of Commissioner Dunn, seconded by Commissioner Griffin and carried by a unanimous voice vote of the Commission.

Continued Public Hearing

- 5. Use Permit #01-22 to allow two externally illuminated off-site advertising signs; C-M (Commercial-Industrial) District; located at the northeast corner of State Highway 99 and Oswald Road (1235 Oswald Road), Yuba City; A.P. #23-072-023; applicant - Inverary, Inc./property owner - Richard's Tree Service (Location: District 5 - Commissioner Shannon)**

Commissioner Dunn recused himself due to a possible conflict of interest.

Associate Planner Geiger summarized the staff report and clarified that staff feels two signs would be a detriment to drivers' attention.

Chairperson Barringer opened the public hearing.

The applicant, Karri Campbell of Inverary, Inc., reiterated some concerns regarding staff's position on the project. He addressed staff's position to approve only one sign. Mr. Campbell said staff has indicated it is in the interest of the County as a whole to allow only one sign. The Zoning Ordinance allows for signs 1,000 feet apart. Staff has not given any findings. The project is exempt, which means there are no environmental impacts. The project is determined to be consistent with the General Plan and Zoning Code. The project was properly notified as to property owners within 400 feet and all agencies, yet no one has shown up concerned about it. As to the project being a detriment, there has been no comments from the Highway Patrol or Caltrans. Also, Caltrans allows signs every 500 feet and there is no height limitation. There is a demand for these types of signs. They are valuable to the community. There is a need in the community. Two signs will be available for community events at no charge. If the County does not want billboards, then they should submit that to staff and remove this from the Zoning Code.

Chairperson Barringer closed the public hearing.

Chairperson Barringer moved to approve the use permit for one sign subject to the recommended findings and conditions as stated in the staff report and with the addition of Condition #8 as follows:

The use permit shall be activated within one year of the approval date, unless an extension is filed and granted in accordance with the Sutter County Zoning Ordinance. In addition, the use permit is granted for a ten (10) year time period, subject to an extension request by the applicant. The extension request shall be filed prior to the expiration date in accordance with the requirements of the Zoning Ordinance and shall be reviewed by the Planning Commission. In considering the extension request, the Commission shall evaluate land use changes in the vicinity of the project site to determine if the sign shall be allowed to remain.

Commissioner Bajwa seconded the motion, which carried by a 3 to 2 roll call vote, with Commissioners Capaul and Shannon voting in the negative.

Commissioner Dunn returned to his seat.

Public Hearings

- 6. Variance #02-05 to designate a parcel without street frontage as a building site; AG (General Agricultural) District; located approximately 542 feet south of Cornelius Avenue and 1,000 feet west of Pacific Avenue, East Nicolaus; A. P. #33-080-054; applicant/property owner - David McReynolds (Location: District 5 - Commissioner Shannon)**

Associate Planner Follas summarized the staff report.

Commissioner Bajwa asked if the access was legal. Associate Planner Follas replied the property owner will have to show it is legal access.

Commissioner Capaul asked Associate Planner Follas to elaborate more on why this is not a special privilege. Associate Planner Follas replied there are two other parcels in the area with the same configuration.

Chairperson Barringer opened the public hearing.

Timothy Keeney, spoke on behalf of his mother, who lives at 2383 Cornelius Avenue. Mr. Keeney stated the Code violations are horrible. The applicant has brought in all kinds of equipment and running it at all times of the night. There is also not sufficient access for fire equipment. The applicant has not come up to Code on anything there right now.

Commissioner Shannon asked Mr. Keeney if there was a business going on there. Mr. Keeney said the applicant had some sort of construction business and the refuse from his operations. Commissioner Shannon asked if there were any existing trailers there. Mr. Keeney replied there was.

Georgina Pundt, 2405 Cornelius Avenue, stated she lived next door the Keeneys. She said she was one of the first to complain about the property. Mr. McReynolds already has a home there which he brought in a year ago with all the debris. Mrs. Pundt said she has a video tape of the property and she has also seen him burying debris

Planning Division Chief Last stated he understood the concern with the issue on the property, but that has to be taken care of through Code enforcement, which it is. The variance is a separate issue and that is all we are looking at tonight. The Commission must make the findings based on the variance and not on the Code violations.

Commissioner Shannon asked if, as a Commission don't they have discretion in approval of things that come before the Commission. Planning Division Chief Last replied the Commission has discretion on what comes before the Commission. Tonight, you are only considering the variance.

Commissioner Griffin pointed out Condition #1 and asked staff if something is being done. Planning Division Chief Last replied that it has been submitted to the District Attorney.

Mary Pieratt, 2365 Cornelius Avenue, Rio Oso, stated she thought the property was agricultural, but the property is a junkyard.

Timothy Keeney stated right now the access road is a small gravel road. There is no other way he can get into the property and if there is a fire, the equipment will not be able to get into the property. If a fire started on Mr. McReynolds' property, it could decimate the whole area.

Johnie Pieratt, 2365 Cornelius Avenue, Rio Oso, stated he has been awakened at 3:00 a.m. by the backup sounds from a truck and also dumping sounds. He said he is quite upset over this. There is a great deal of equipment and it is rapidly becoming an eyesore. The property owner has brought in a double wide mobile home. There is also a travel trailer. Mr. Pieratt said he has seen a light in the travel trailer at night, and there is also a portable john.

Planning Division Chief Last reminded the neighbors that the County acknowledges all of the activities are illegal. The only activities that are allowed are agricultural. The code enforcement takes some time, but the County will have the property cleaned up. The only thing the Commission can consider tonight is the variance.

Chairperson Barringer closed the public hearing.

Commissioner Shannon stated whether or not the two issues are connected, the applicant has indicated disregard for cleaning up the property. Commissioner Shannon moved that any activity on the variance be postponed until the violations are taken care of. Planning Division Chief Last stated the Commission must take action on the variance within a certain amount of time, and the cleanup will take much longer.

Commissioner Shannon withdrew her motion.

Commissioner Capaul asked for clarification on special privilege. He noted there are two parcels. Associate Planner Follas replied there are actually three, but the third parcel does not have a residence on it. Commissioner Capaul asked for an explanation on special circumstances if there is only one parcel. Associate Planner Follas stated each variance is unique unto itself and should be reviewed on a case by case basis. If the variance is denied, the applicant will be denied the use of the property as a homesite.

Commissioner Shannon stated she had a problem with this because we are going through a criminal process and asked if the variance could be continued until the criminal process is done. Associate Planner Follas replied if the variance is denied and the property is cleaned up, the applicant can tell the judge he cannot do anything with this property. If the variance is approved, then he can.

Assistant County Counsel Erickson clarified Condition #2. Planning Division Chief Last also explained the condition.

Commissioner Shannon asked why it was before the Commission. Planning Division Chief Last replied because the applicant has requested a variance for legal access and we are obligated to process the application.

Commissioner Capaul stated he was reluctant to vote for this.

Associate Planner Follas stated this was a legal parcel in 1982, but because it was not built, that right was lost.

Commissioner Capaul asked if the County had a requirement for frontage at that time. Associate Planner Follas replied that requirement came into being in about 1981.

Commissioner Dunn stated he reviewed this with staff and he believes it is an issue of land. Mr. Dunn said he was in favor of this variance because it will help clean up the problem for all these people. If things are not happening, the way they should, the people can call the County and talk to their supervisor.

Commissioner Dunn moved to approve the variance subject to the recommended findings and conditions as stated in the staff report. Chairperson Barringer seconded the motion, which resulted in a tie roll call vote, with Commissioners Capaul, Griffin and Shannon voting in the negative.

Assistant County Counsel Erickson read paragraph E, 4 of the Rules and Bylaws as follows:

A tie vote on a motion to either approve or to disapprove any application or proposal shall constitute a disapproval of such application or proposal, except that such action may be nullified by the subsequent affirmative vote of the Commission on the matter or by a vote to continue final action to a later specific date within the time limit provided by law for such action.

Where a tie vote occurs with one or more appointed Commissioners absent, and if requested by the applicant immediately following the action, the item shall be continued to the next regular meeting of the Commission. After two consecutive tie votes, the application shall be deemed to be denied.

Mr. Erickson stated this rule worked differently in this case than at last month's meeting, because all five appointees are present. No motion for a continuance was made and the variance was denied.

7. Use Permit #02-11 to allow a commercial agricultural trucking facility; AG (General Agricultural) District; located at 7200 Sawtelle Avenue, Yuba City; A. P. #23-300-148 & -149; applicants - John Ochipinti & Antonini Trucking/property owner - John Ochipinti (Location: District 5 - Commissioner Shannon)

Chairperson Barringer stated a memo was received from staff requesting a continuance, and he would like to forego the reading of the staff report unless someone wants it.

Chairperson Barringer opened the public hearing.

The applicant, John Ochipinti, stated he would be happy to answer any questions.

Chairperson Barringer closed the public hearing with no testimony being received.

Commissioner Capaul moved to continue the use permit to the meeting of September 4, 2002. Commissioner Dunn seconded the motion, which carried by a unanimous voice vote.

- 8. Use Permit #02-18 to allow the addition of 600 square feet to an existing 2,400 square foot market, relocation and adding new fueling pumps, and developing new access and parking, including a new area for truck and RV parking; AG (General Agricultural) District; located at 1281 O'Banion Road, Yuba City; A. P. #23-300-146 & -147; applicant - Shaminder Dhami/property owners - Sohan S. & Darshan K. Dhami (Location: District 5 - Commissioner Shannon)**

Chairperson Barringer waived the reading of the staff report and opened the public hearing.

The applicant's representative, Roger Key of Key & Associates, asked why the Public Works Department requested a continuance because they did not receive comments from Caltrans. Chairperson Barringer replied they want to do a traffic study. Planning Division Chief Last stated there have been concerns about traffic.

Mr. Key stated they have been working with Caltrans for quite some time on this. They have seen what they want to do. Mr. Key said he would like to have a decision tonight. Traffic will not be increased very much. They are only adding 600 square feet to the store.

Commissioner Griffin pointed out if the Commission does not have the Public Works data, then they do not have a complete staff report. Planning Division Chief Last stated Public Works' concern is not only with this project. There is another project in the area, so it is cumulative. That is why they want to postpone it--to be certain they are looking at all the impacts.

Mr. Key asked the Commission to bear in mind the applicant has done quite a bit to improve his property.

Chairperson Barringer closed the public hearing.

Commissioner Dunn moved to continue the use permit to the meeting of September 4, 2002. Commissioner Griffin seconded the motion, which carried by a unanimous voice vote.

- 9. Variance #02-04 to waive landscaping, parking, and surfacing requirements for a proposed garage/storage building: M-2 (General Industrial) District; located approximately 307 feet west of Acacia Avenue and approximately 1,000 feet north of State Highway 20, Sutter; A. P. 13-270-109; applicant - Jay Parker Construction/property owner - Sutter Community Services District (Location: District 3 - Commissioner Barringer)**

Associate Planner Geiger summarized the staff report.

Chairperson Barringer asked how long an area and how wide is the road required to be paved. Associate Planner Geiger replied it should be 12 feet wide and at least 100 feet long.

Commissioner Shannon asked if Counsel had gotten a response to the letter of July 18 from Sutter Community Services District, specifically the second page, first paragraph. Assistant County Counsel Erickson replied the first part is actually correct. He then read part of Government Code Section 53091, beginning with paragraph (d):

(d) Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, or for the production or generation of electrical energy, nor to facilities that are subject to Section 12808.5 of the Public Utilities Code, . . .”

Mr. Erickson said if this was for the building of an aqua duct or pipeline for the transmission of water, then the District would be exempt, but since it is for a building, it does not.

Chairperson Barringer opened the public hearing.

Ethel McElfresh, the manager of Sutter Community Services District, stated the letter was written because when they started this, they did not realize they would come under permitting requirements. The pad has been compacted to 98 percent, and it is all pad around the buildings. Mrs. McElfresh said they want to put in a storage building. They have rocks around the west side and partly around the north side purposely. The rocks are there because when a crane comes in, it has to go way out and around. This precludes putting in any landscaping, so they propose putting in vines along the chain link fence, which would look good in a few years. This is a work area, not a park.

James Jean, 2533 Blevin Road, Yuba City, stated he is the property owner to the east and has the access road. Mr. Jean said he is now in the process of drawing up plans to subdivide his property into industrial commercial. Mr. Jean requested deferment of the paving of the road until the placement of the road is determined. He would prefer an 8 to 10 year deferment.

Chairperson Barringer closed the public hearing.

Commissioner Dunn asked if there was a problem with the proposed landscaping. Chairperson Barringer stated he believed the trees and vines would work.

Chairperson Barringer reopened the public hearing.

Mrs. McElfresh stated they would put the vines all the way around the property.

Commissioner Shannon asked what the logic was requiring paving since there is no heavy traffic. Planning Division Chief Last replied it is required in the industrial zone all over the County. They are asking to waive that, but staff disagrees because at some point in the future, it will be developed into industrial lots.

Chairperson Barringer stated Mrs. McElfresh is asking for a deferment until a permanent road is determined. They have 98 percent compaction now, and that is harder than cement.

Associate Planner Geiger stated he had alternative language for Conditions #1 and #2 as follows:

1. A waiver for landscaping of the front yard setback area of the subject property (front 10 feet) is granted. In lieu of the front yard landscape requirement, a minimum of five (5) trees shall be planted along the perimeter of the property as depicted in the revised landscape proposal submitted by the applicant and approved by the Planning Commission. In addition, the applicant shall plant vines to extend onto the fence on all four sides of the property.

A landscape and irrigation plan meeting these requirements shall be submitted for review and approval with the Design Review application. The landscaping and irrigation shall be planted and installed prior to final occupancy of the proposed building.

2. The existing access easement along the adjacent parcel to the east shall be allowed to remain gravel surfaced. The requirement for paving of the driveway and parking area on the subject property shall be deferred for a maximum period of eight (8) years from this approval, or when the adjacent parcel to the south is developed with an industrial use and the access road to the subject property is relocated, whichever occurs first. Paving of the driveway and parking area shall comply with Sutter County standards at that time.

Commissioner Dunn stated he was in support of the project as amended. He said it would be an enhancement.

Chairperson Barringer moved to approve the variance subject to the recommended findings and conditions as stated in the staff report, with the amended conditions as stated above. Commissioner Dunn seconded the motion, which carried by a unanimous voice vote.

10. **Rezoning #02-04 to change the zoning classification of the subject property from AG (General Agricultural) District to P (Public) District; and**
11. **Tentative Parcel Map #02-08 to allow the division of a 34.5 acre parcel into parcels of 5.1 acres and an agricultural remainder; located at 3721 Pennington Road, Live Oak; A. P. #09-070-035; applicant - Muslim Cemetery of Northern California/ property owners - Mohammad R. & Nasreen A. Khan (Location: District 1 - Commissioner Capaul)**

Assistant Planner Caplinger summarized the staff report.

Commissioner Griffin asked about maintenance of the cemetery. Assistant Planner Caplinger replied there would be volunteers. Commissioner Griffin asked what the hours of the cemetery would be since the Muslim faith requires burial within 24 hours--would there be services at night? Planning Division Chief Last clarified the Commission is considering a tentative parcel map and rezoning and cannot impose operational time limits on these types of projects.

Tom Harris of Harris, Sanford and Baggett, Gridley, spoke in favor of the project. He said the staff report does a good job. Mr. Harris noted there will not be any unusual hours for services.

Muhammad Hussain, Butte City, stated there was no local Muslim cemetery. If anyone died in Chico, Butte City, Gridley, or Yuba City, etc., internment has to take place in Sacramento. Mr. Hussain also described how they would maintain the cemetery and that the burial sites would be sprayed with weed killer.

Kenneth Evans, Chairman of the Board of the Live Oak Cemetery District, spoke in favor of the project. Mr. Evans said the water for the Muslim cemetery will be from an existing well on Mr. Khan's property. Mr. Evans said there are three on the board of the Live Oak Cemetery District and they are unanimous in their approval to put this cemetery next to them.

Chairperson Barringer closed the public hearing.

Commissioner Bajwa stated he supported the project. It meets all requirements.

Chairperson Barringer said he also supported it.

Commissioner Capaul moved to recommend the rezoning be adopted by the Board of Supervisors and to approve the tentative parcel map subject to the recommended findings and conditions as stated in the staff report. Commissioner Griffin seconded the motion, which carried by a unanimous voice vote.

12. Use Permit #02-15 to allow a kennel facility for abandoned Golden Retriever dogs; AG (General Agricultural) District; located at 7495 Natomas Road, Elverta; A. P. #35-170-080; applicant - Homeward Bound Golden Retriever Rescue and Sanctuary/property owner - Norma J. Latham (Location: District 5 - Commissioner Shannon)

Associate Planner Libby summarized the staff report.

Chairperson Barringer asked how far the septic system was from the water well. Associate Planner Libby replied it was just over 100 feet.

Commissioner Dunn asked if the one year trial was part of the conditions. Associate Planner Libby replied that is Condition #27.

Chairperson Barringer opened the public hearing.

Jody Jones of Homeward Bound gave a history of their project. She said most of their help are volunteers. She said they are very successful at what they do. Mrs. Jones said she was learning a whole lot about bureaucracy.

Commissioner Capaul asked how would they propose to keep the dogs to 25 or less. Mrs. Jones replied they do the adoptions off site. On each adoption that they have, they can adopt out 5 to 10 dogs, so by adding one adoption area, they can adopt more out. Prior to this, they helped the

rescue sanctuary in Los Angeles, but they have now told them they cannot help because of limitations.

Sandra Smith, 7597 Natomas Road, stated she initially started the complaint process. Noise was an issue. Credibility is another issue. There should be credibility compliance. Mrs. Smith said she applauded what the applicant is doing, but she thinks it should be in another area. She does not think they can stay with the 25 dog limitation. She said she was also concerned about traffic increasing. The existing light on the barn shines into her house at night. She then talked about fencing, saying there are no plans to fence in the entire property.

Shawn Burnsed, 7521 Natomas Road, stated he was close to the kennel and he has had to deal with noise and the fact that it smells. Mr. Burnsed said he has an issue with credibility. The County does not have the personnel and hours to enforce the limitation of dogs. He said he would like to see a dog-proof fence. Mr. Burnsed said the applicant does not know exactly where the septic is. Also, traffic comes and goes all hours of the day. He said he is concerned with drainage, but his first concern is the safety of their children.

Brandi Burnsed, 7521 Natomas Road, asked the Planning Commission if they would want a dog kennel next to them.

Les Hintz, 2800 Sankey Road, stated his main concern was credibility, but he was also concerned about diseased dogs.

Steven Reese, 7517 Natomas Road, stated he lived closest to the kennel, and one of his biggest concerns is that there are bus stops nearby and he was worried about loose dogs interfering with the children. Mr. Reese said he was also concerned about noise.

Chairperson Barringer closed the public hearing.

Commissioner Bajwa asked about traffic-what would be a projected increase if this project is approved. Associate Planner Libby replied traffic is addressed on pages 23 and 24 of the Initial Study.

Commissioner Shannon moved to approve the use permit subject to the recommended findings and conditions as stated in the staff report. Commissioner Griffin seconded the motion, which carried by a 4 to 2 roll call vote, with Commissioners Capaul and Dunn voting in the negative.

13. Comments from the Public

None.

14. Miscellaneous Business from the Commission/Staff

A. Possible cancellation of the second meeting in August (August 21, 2002).

On motion of Commissioner Shannon, seconded by Commissioner Dunn, and carried by a unanimous voice vote, the meeting of August 21, 2002 was cancelled.

B. Discussion on billboards.

Planning Division Chief Last suggested continuing this discussion until the next meeting. Commissioner Capaul moved to continue the discussion to the meeting of September 4, 2002. Commissioner Dunn seconded the motion, which carried by a unanimous voice vote.

C. Other business and reports

Planning Division Chief Last asked the Commission if they were interested in having a study session about variances. The consensus of the Commission was they were interested in the study session.

15. Report on the Actions of the Board of Supervisors

Planning Division Chief Last stated he had nothing to report.

18. Adjournment

There being no further business, Chairperson Barringer adjourned the meeting at 10:08 p. m.

Respectfully submitted,

Thomas A. Last, Secretary
Sutter County Planning Commission