

SUTTER COUNTY PLANNING COMMISSION

MINUTES

March 19, 2008
Supervisors Chambers
Hall of Records
466 Second Street, Yuba City

1. **Call to Order**

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

2. **Roll Call**

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

Members Present: Commissioners Diljit Bains, Paul Basi, Annette Bertolini John Sanbrook, Jana Shannon, and Chairperson Gabriel Singh

Members Excused: Commissioner Jose Flores

Staff Present: Planning Division Chief Lisa Wilson, Senior Planner Leanne Mueller, Assistant Director Randy Cagle, Environmental Health Specialist Jan Hill, Public Works Staff Al Sawyer and James Walton, and Office Assistant Gail Gould

Chairperson Singh welcomed new commissioner, John Sanbrook, who represents the City of Yuba City.

3. **Pledge of Allegiance**

Commissioner Sanbrook led the audience, staff and Commission in the Pledge of Allegiance.

4. **Approval of Minutes**

The minutes of the meeting of February 20, 2008 were approved as submitted on motion of Commissioner Shannon, seconded by Commissioner Bains and carried by a voice vote of the Commission, with Commissioners Bertolini and Sanbrook abstaining.

5. **Comments from the Public**

None.

Public Hearings

6. **Project #07-067 - A tentative subdivision map to divide an 80.22-acre parcel into four 2-acre homesite parcels and a 72.2-acre parcel; AG (General Agricultural) District; located on the north side of O'Banion Road approximately ¼ mile west of George Washington Boulevard; A. P. # 23-260-007; applicants/property owners - David & Larry Waters**

Senior Planner Mueller summarized the staff report and stated staff recommends approval of this project

Commissioner Shannon asked if there was a reason this project is not an AP/APR zoning since it is clustered. Senior Planner Mueller replied that the applicants complied with the family member homesite requirements and it was not necessary to seek an AP/APR zoning.

Commissioner Sanbrook asked how the restriction on the large parcel was secured. Senior Planner Mueller said it was by a Development Rights and Open Space Easement.

Commissioner Sanbrook said the buffer on the south property line is limited to Parcel 4 and asked why the limitation did not happen on all the parcels. Senior Planner Mueller replied there are some additional residences across the street and it was recommended by the Agricultural Department to place a 100-foot buffer along the south property line of Parcel 4.

Commissioner Sanbrook asked how we could preclude the people from selling off the parcels to someone else other than family. Senior Planner Mueller responded that we cannot. If they declare it is for family members at the time of filing, then we have to accept that. Commissioner Sanbrook then said there is no way to be assured that these parcels being created for family members will stay that way. Senior Planner Mueller replied that is correct.

Chairperson Singh opened the public hearing.

The applicants' representative, Pam Clifton of von Geldern Engineering, stated they have reviewed the suggested conditions of approval and are in agreement with them other than the buffer. Mrs. Clifton said the applicants have been farming in our community for a long, long time and hope to continue to farm this property for a long time. If the buffer conditions stay in place, not only will they have to build at least 100 feet from the rear parcel line to the north, but they will also have to plant a vegetative buffer of non-orchard trees in the area they plan to farm. Therefore, they request the buffer conditions be eliminated.

Commissioner Sanbrook asked about the age of the trees, saying they looked aged. Mrs. Clifton replied if the orchard is aged, the applicants most likely would take out the trees and replant.

The applicant, David Waters, stated the orchard is a good orchard. It was planted in 1983. Mr. Waters said they are going to farm there, period.

Commissioner Shannon asked Mr. Waters if he would like to have the buffer conditions removed because they would like to farm up to the residences. Mr. Waters replied that is correct.

Chairperson Singh closed the public hearing.

Commissioner Shannon stated she would have to agree that buffers are not serving agriculture in this particular case. Commissioners Bertolini and Bains agreed.

Commissioner Basi said he was in agreement as well. The Commission has had several cases like this and is in favor of farmers farming as much land as they wish.

Chairperson Singh said he believed the Commission has had this type of project before and had deleted buffers, but this is more than one or two lots. It is true these people can sell their land whenever they want and that is the only reason he believes in the buffer requirement. It is to protect the future homes.

Commissioner Shannon moved to recommend approval of this project to the Board of Supervisors with the deletion of Conditions #6, #7, #15, #16 and #17. Commissioner Bertolini seconded the motion, which carried by a unanimous voice vote.

7. **Project #07-073 - A rezone from AG (General Agricultural) District to RAN (Ranchette) District and a tentative subdivision map to divide a 16-acre parcel into three parcels sized 3, 5, and 8 acres; AG (General Agricultural) District; located at 3443 South Walton Avenue; on the northwest corner of Walton Avenue and Barry Road; A. P. # 23-010-167; applicants/property owners - Mohinder & Balbir Bains**

Senior Planner Mueller summarized the staff report and stated staff recommends approval of this project to the Board of Supervisors.

Commissioner Sanbrook asked if any of the General Plan policies have been violated in the history of this parcel. Senior Planner Mueller replied they have not because the projects were permitted in the time frame they were created. Senior Planner Mueller then explained the ranchette requirements.

Commissioner Sanbrook stated his concern was carving up all the agricultural land, and it seems we are going against the General Plan.

Chairperson Singh opened the public hearing.

Amandeep Bains, 3443 South Walton Avenue, stated she was appearing on behalf of her father-in-law, the owner of the property. They are requesting the rezone to Ranchette because they want to build two more homes on the property and since it is zoned Agriculture, 20 acre minimum, there can only be one home on the property now. They plan to farm the property. Mrs. Bains asked if the buffers were required. Senior Planner Mueller replied the property was agriculture to begin with and the applicant is asking to go to a residential use, so this is a buffer between agricultural and residential. Senior Planner Mueller described the buffers.

Commissioner Bains asked if there was any other way of creating a buffer in that area other than evergreens. Senior Planner Mueller stated they can keep the trees they have, but will have to put in moderate to rapid growing evergreens in to make up 75 percent of the buffer.

Commissioner Singh described the differences in the zoning. Mrs. Bains said she understands this is a residential zoning, but they are going to farm the property; the family is going to live there and farm it. Planning Division Chief Wilson said the ranchette designation is the only way they could get these parcels and buffers go with Ranchettes.

Mrs. Bains said they do not agree with Condition #12 regarding paving.

Commissioner Bains asked if Walton Avenue was on the road improvement list for 2008. Al Sawyer, Assistant Public Works Director, replied it is not. Also, Public Works no longer enters into deferred improvement agreements.

Commissioner Shannon asked if paving was required on the surrounding property as they are almost all ranchettes. Assistant Public Works Director Sawyer replied the other ranchettes have deferred agreements for paving, but Public Works is no longer requesting deferred improvement agreements.

Assistant Public Works Director Sawyer said this portion of road was paved in 2005. It is in good condition, but not up to County standards for width and shoulders.

Commissioner Shannon said, so the County paved the road, but not up to County standards. Assistant Public Works Director Sawyer replied that is correct.

Discussion followed on deferred improvement agreements.

The applicant's representative, Jeremiah Bean of Milestone Associates, stated this is over 1,700 feet of paved road. They have frontage on both roads. Mr. Bean recommended going back to a deferred agreement.

The applicant, Mohinder Bains, stated he has three other parcels less than 20 acres they could put into ranchettes. His sons want to build and own homes on this particular property. Mr. Bains stated he has never sold a property he has farmed. He is not here to make money, he is here to make adjustments for his children.

Chairperson Singh closed the public hearing.

Commissioner Shannon asked how many more ranchette projects remained to come before the Commission. Planning Division Chief Wilson replied there were approximately six. Commissioner Shannon stated this is the first ranchette project that does not have a deferred agreement. Commissioner Basi said most of these ranchettes have been on County roads and were deferred. Planning Division Chief Wilson said this has been discussed with the applicants.

Commissioner Bains stated it looks like it is infeasible to require the paving now. Commissioner Basi stated the moratorium has happened already and it is not fair for the rules to change for these last few ranchettes.

Commissioner Shannon stated the Commission has been faced with some uncomfortable decisions and has been spanked by the Board of Supervisors. If we deny this, the applicants could go to the Board of Supervisors. Planning Division Chief Wilson said this decision of the Commission is a recommendation and will go to the Board of Supervisors.

Chairperson Singh stated we have this situation and for the six remaining applications we should grant deferred agreements until the County requires improvements.

Mr. Bains said these are small parcels. All his family is going to do is build new homes.

Chairperson Singh closed the public hearing.

Commissioner Bertolini moved to recommend approval of this project subject to the recommended findings and conditions as stated in the staff report with the modification of Condition #12 to require a deferred improvement agreement. Commissioner Bains seconded the motion, which carried by a 4 to 2 voice vote with Commissioners Sanbrook and Shannon voting in opposition.

8. **Project #07-092 - A variance request to modify the setback and parking requirements for six lots, which are proposed to be merged and lot line adjusted into two lots; R-1 (One-Family Residence) District; located at 2277 Elm Street, 7580 and 7538 Washington Street; A. P. #14-213-011, -012, & -013; applicants/property owners - Arbon and Peggy LaMontagne**

Planning Division Chief Wilson summarized the staff report and stated staff recommends approval.

Commissioner Sanbrook asked if setbacks were further reduced. Planning Division Chief Wilson replied the setbacks would not meet code, but the houses will no longer be over the property lines.

Chairperson Singh opened the public hearing.

The applicants' representative, Lee Goss of MHM, stated he was present to answer any questions the Commission may have.

There were no questions and Chairperson Singh closed the public hearing.

Commissioner Basi moved to recommend approval of this project to the Board of Supervisors. Commissioner Shannon seconded the motion, which carried by a unanimous voice vote.

- 9. Project #07-099 - A use permit for the drilling and production of a natural gas well located on lands controlled by a State or Federal agency; AG-FP (General Agricultural, Special Flood Plain Combining) District; located in the Sutter Bypass, approximately 2,000 feet east of the terminus of Ensley Road at the Bypass; A. P. #34-120-017; applicant - Ivanhoe Energy/property owner - Teichert Land Co.**

Senior Planner Mueller summarized the staff report and stated staff recommends approval of this project.

Chairperson Singh asked about the processing fee and property tax, if any. Senior Planner Mueller replied since this is a use permit, the applicant was charged \$1,900 deposit. The property is still owned by Teichert Land Company, so it would still be subject to property tax. Planning Division Chief Wilson stated this will have improvements on it and the Assessor may reassess it.

Chairperson Singh opened the public hearing.

The applicant's representative, Mary Halpin, stated she was present to answer any questions.

There were no questions and Chairperson Singh closed the public hearing.

Commissioner Basi moved to approve the use permit subject to the recommended findings and conditions as stated in the staff report. Commissioner Bertolini seconded the motion, which carried by a unanimous voice vote.

10. Project #07-020 - A use permit to allow an increase in the type, number and size of events held at an existing religious facility; AG (General Agricultural) District; located at 1431 Walnut Avenue; A. P. #23-061-008; applicant - Sarb Thiara/property owner - Walnut Avenue Community Center LLC

Planning Division Chief Wilson summarized the staff report and stated staff recommended denial of this project.

Commissioner Sanbrook asked if the present septic system would accommodate the proposed increase. Planning Division Chief Wilson replied the system is not sized for the increased number of uses. They would have to go to a holding system. Commissioner Sanbrook said he also had concerns about parking. Planning Division Chief Wilson said it would require directed parking.

Commissioner Sanbrook asked what the basis was for denying this. Planning Division Chief Wilson replied there is no provision in the agricultural zoning district for a community center.

Commissioner Bains asked how staff came up with ten events a year. Planning Division Chief Wilson said that was requested by the applicant, and those were events attached with the church.

Commissioner Sanbrook inquired about a noise ordinance. Planning Division Chief Wilson said the County does not have an operational noise ordinance. If there is a distraction, the police are called for disturbance of the peace.

Commissioner Sanbrook asked if environmental analysis had been prepared, Planning Division Chief Wilson stated she has prepared a negative declaration, but has not brought it forward because staff is recommending denial.

Chairperson Singh opened the public hearing and invited those in opposition to speak first.

Bill Zeller, 3232 South Walton Avenue, urged the Commission to deny this request. Mr. Zeller stated when the original permit was approved on appeal, it was approved for a religious facility. Since then, many functions other than religious have been added, and it is becoming an eye sore.

Moses Varela, pastor of the Apostolic Church, 1461 Walnut Avenue, stated he was here to oppose this. He gave a brief history of the property and said now he has had to put up with noise and police. He has records of all the times he has called the Sheriff's Department. There has been battling for two and one-half years. Reverend Varela said he is opposing approval because of noise and traffic and asked if it was a church or community center.

Rodney Romness, 1403 Reed Road, stated he was in opposition because of excessive noise, open doors during festivities, and loud music being played. Mr. Romness said this affects their quality of life.

Garry Gunderson, 1551 Reed Road, stated they all feel they try to be good neighbors. Mr. Gunderson said he feels this is just a commercial endeavor and it is not zoned for that.

Archie Hebert, 1392 Walnut Avenue, stated he lives across the road and he agrees with everything heard so far. In addition to noise, there is the parking assessment. Many times parking spills out onto Walnut Avenue, which is very narrow and is sometimes blocked by the cars. This is a business. Cars are coming and going all day long.

Wes Green, 1455 Reed Road, stated he has the same issues and his windows rattle when music is played at the center.

Vicki Meyer, 1499 Reed Road, said she wanted to reiterate what everyone else has said. They are impacted by the noise and traffic.

Alejandro Cruz, 3582 South Walton Avenue, spoke in opposition to the noise and traffic.

The applicant, Sarb Thiara, stated he was here to answer any questions and he is in favor of this project. Mr. Thiara stated he has been involved with Planning Division Chief Wilson in trying to get 52 events.

Chairperson Singh asked Mr. Thiara how he would address the concerns of his neighbors. Mr. Thiara replied the events never go past 12:00 A. M. There are four security guards monitoring traffic. They have never gotten any complaints back from the Sheriff. He is not trying to do anything wrong. They have done everything that has been asked of them to make this project work. All the issues were discussed.

Chairperson Singh asked Mr. Thiara how many times the Sheriff has been there. Mr. Thiara replied about four or five times. Chairperson Singh asked Mr. Thiara how many events that included. Mr. Thiara said he did not know; it could be two times a month or four or five.

Commissioner Sanbrook asked Mr. Thiara about the Jazzersize operation. Mr. Thiara replied he did not know about this. The center may have been used by some other person who needed a place for a period of time.

Commissioner Bains asked Mr. Thiara if this was a religious or community center. Mr. Thiara replied most events are of a religious nature. Sometimes if there is a small wedding, they go right into the reception, so the building could be used for both.

Commissioner Bertolini asked Mr. Thiara if he charges rent. Mr. Thiara replied there is a fee. There is a \$2,000,000 loan that has to be paid.

Mohinder Bains, 3443 South Walton Avenue, stated this is not just for our religion; this is for everybody. In regard to noise, Reverend Varela has been set against this. 12:00 A.M. is the limit for staying there.

Moses Varela, stated the Sheriff was called 5 times in 2005, 19 times in 2006, 24 times in 2007, and up to now there have been 3 calls. Reverend Varela said he was not against Mr. Bains, but he does not like what they do.

Chairperson Singh closed the public hearing.

Commissioner Sanbrook asked Planning Division Chief Wilson if any input was requested from the Sheriff. Planning Division Chief Wilson replied staff comments were requested from the Sheriff's office, but none were received.

Commissioner Basi asked about complaints to staff. Planning Division Chief Wilson replied she has seen no new complaints.

Commissioner Bertolini stated there needs to be a time limit on events. She asked if the project could be approved by the Board of Supervisors if it were denied by the Planning Commission. Planning Division Chief Wilson replied if appealed, it could be,.

Commissioner Bains stated this is a difficult situation. The building and facility is a benefit to the community. There is nothing like it in Sutter County.

Commissioner Basi stated he has been to this facility several times over the last couple of years. It is a nice hall and there is nothing like it in the community. Something like this is needed for the East Indian community. Commissioner Basi said he felt the disagreements with the neighbors can be resolved. There is a need in the community for this large a building and he recommends this go back to Planning to address the issues and concerns.

Commissioner Shannon said this particular issue does not seem to have any conditions on the uses that are currently in place. A community center is a wonderful thing in theory. Commissioner Shannon stated she supports this. It seems that there should be some kind of way culture and religion both could be accommodated. There are many issues to be taken care of. Set a limit of 10:00 p.m..

Chairperson Singh stated he was torn in a couple of ways. There are not many facilities that can handle this amount of people. The issues could be addressed by conditions on this. He suggested this be continued to the next available time that staff determines and rehear it.

Commissioner Sanbrook agreed there is definitely a need for a facility like this. He also thought it is in the wrong location. Commissioner Sanbrook said based on testimony received and evidence presented tonight, it would be a very difficult time making the findings to expand this permit.

Chairperson Singh moved to continue this project to the next date deemed suitable by staff. Commissioner Bertolini seconded the motion, which carried by a unanimous voice vote.

11. Miscellaneous Business from the Commission/Staff

A. Possible cancellation of the first meeting in April (April 2, 2008).

Chairperson Singh directed the meeting of April 2, 2008 be cancelled.

B. Report on the Actions of the Board of Supervisors

None.

C. Planning Commission/Board of Supervisors Discussion Topics

None.

D. Other Business and Reports

None.

12. Adjournment

There being no further business, Chairperson Singh adjourned the meeting at 9:31 p.m.

Respectfully Submitted,

Lisa Wilson, Secretary
Sutter Country Planning Commission

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