

SUTTER COUNTY PLANNING COMMISSION

MINUTES

April 16, 2008
Supervisors Chambers
Hall of Records
466 Second Street, Yuba City

1. Call to Order

Vice-Chairperson Shannon called the meeting to order at 7:00 p.m.

2. Roll Call

Vice-Chairperson Shannon 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 Jose Flores, J. R. Griffin, and Vice-Chairperson Jana Shannon.

Members Excused: Commissioner John Sanbrook.

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

3. Nominations and Election of Chairperson

Upon motion of Commissioner Basi, seconded by Commissioner Bains, Commissioner Shannon was elected as Chairperson by a majority voice vote of the Commission, with Commissioner Shannon abstaining.

4. Appointment of Representative to City of Live Oak Planning Commission

Chairperson Shannon appointed Commissioner Griffin to be the representative to the Live Oak Planning Commission.

Chairperson Shannon welcomed back Commissioner Griffin, now representing Supervisorial District 1.

5. Pledge of Allegiance

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

6. Approval of Minutes

The minutes of the meeting of March 19, 2008 were approved as submitted on motion of Commissioner Griffin, seconded by Commissioner Bertolini and carried by a unanimous voice vote of the Commission

7. Comments from the Public

None.

Public Hearings

8. 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 explained the staff report had been presented at the March meeting and provided a brief summary, concluding that staff recommends denial of the project.

At the request of Chairperson Shannon, Planning Division Chief Wilson gave a brief summary of the environmental evaluation.

Chairperson Shannon asked how enforcement of on-street parking would be handled if this project were to go forward. Planning Division Chief Wilson replied if there were several complaints that were not able to be rectified, then staff would take the use permit to the Board of Supervisors for revocation. Complaints generally are resolved; those that are not could be referred to the District Attorney's office or to the Board for permit revocation.

Commissioner Flores asked what time the events had to end. Planning Division Chief Wilson replied a condition had been included for midnight.

Commissioner Flores asked if there would be patrols. Commissioner Flores said he would like to continue this to the next meeting to get more information on the partnership membership. Commissioner Bains asked what that had to do with the application. Chairperson Shannon stated it does not really have anything to do with it.

Commissioner Basi said we sent this back to the Planning Department to mitigate the noise and traffic factors.

Planning Division Chief Wilson stated that Community Services Assistant Director Randy Cagle would like to make some comments.

Assistant Director Randy Cagle said Reverend Varella was asked at the last meeting how many times he filed a complaint. Reverend Varella did begin calling every time he had a complaint. He was then asked just to make a record and bring it in on occasion. This he did. All anyone has to do is make one complaint.

Chairperson Shannon reopened the public hearing.

The applicant, Sarb Thiara, stated he was present to answer any questions.

Chairperson Shannon asked him if he had seen and agreed with all the conditions. Mr. Thiara replied he did, except one -- the taxes and the new fees. Planning Division Chief Wilson stated the facility had been exempt from school fees as a church. If this project is permitted as a community center, then he would have to go back to the district and pay school impact fees.

Mohinder Bains, 3443 South Walton Avenue, stated that from day one the church next door was against this. Mr. Bains said they have temple functions there and then they have events such as weddings. The neighboring church also has parties. We don't complain about that church. They close at 12:00.

Parm Bains, 325 Gabriel Avenue, stated this is the only facility that caters to every religion in the area. That is one reason to keep it. The community needs a place to get together and that is what this is all about.

Bill Zeller, 3232 South Walton Avenue, stated he was here to urge the Planning Commission to deny this because it is outside the approved zoning criteria. If this is approved, this will be increasing the opportunities for violation four times. Mr. Zeller said he has not heard of any talk of religion. The Planning Commission has no logical position except to deny this request.

Vicki Meyer, 1499 Reed Road, stated she did not want a recreation hall for a neighbor. They party until midnight every week of the year. Mrs. Meyer also said she did not want her property devalued. She said some on the Commission are more concerned with providing Sutter County with a community center. Mrs. Meyer said they have lived in their home for several years and were in the country for the peace. She requested the approved ten events per year be held to. Mrs. Meyer stated there are legitimate reasons the planning division chief continues to recommend denial. Why doesn't someone listen to her.

Mary Gunderson, 1551 Reed Road, said the community center has already held more events than was allowed and asked why we can't believe they will hold 200 events per year. A party hall is a detriment to all people living here. Set out rules as they do at St. Isadore's church, of which she is a member. Mrs. Gunderson then read a statement outlining the numerous reasons this should not be allowed.

Elizabeth Romness, 1403 Reed Road, stated 750 visitors at a time makes her ill. They do not shut down at midnight. She said she has had to call the Sheriff twice. If they do not follow the rules now, what makes us think they will follow them in the future? This County needs a lot of things, but a commercial facility in an agricultural zone is not one of them.

Rodney Romness, 1403 Reed Road, asked why the Planning Commission was ignoring the recommendations of Planning staff. This use permit is not in line with the General Plan and no set of conditions can make a C-2 use fit in an AG zone. Mr. Romness said he also has the same objections as the others.

Moses Varella, 1461 Walnut Avenue, stated he would like to bring to the Planning Commission once again that the main complaint is that it has turned from a Sikh temple to a commercial facility. Every time he has called the sheriff is because of noise. Reverend Varella restated his previous objections and asked the Planning Commission not to approve this.

Mrs. Norma Varella, 1461 Walnut Avenue, stated most of us move to the country for peace and quiet. That was true until a couple of years ago. This supposed temple is not even listed in the yellow pages. She asked if this would set a precedent for others and asked the Commission not to approve this.

Gennis Zeller, 3232 South Walton Avenue, stated she objects to the 280 cars up and down the road twice a night. She has not objected to this as a religious facility, but it is no longer that, Jazzercise is being held there every day, sometimes twice a day. Mrs. Zeller asked the Planning Commission to allow them to continue as a church, but not a business.

The applicant, Sarb Thiara, stated there are over 10,000 Sikhs and Asians in the community. Attendance of 750 is not a regular occurrence. There are never 280 cars there at one time at night. Parties have not gone on until 12:00. They are shut down at 11:30 and the only people after that are cleaning up. Also, every time Mr. Zeller has called the Sheriff, it has been at 11:00 p.m. The facility does more good for the community than bad.

Chairperson Shannon closed the public hearing.

Chairperson Shannon said the Commission had this discussion at the last meeting and continued this for further consideration.

Commissioner Griffin stated the expansion of the use of the facility does not conform to our current General Plan.

Commissioner Bains stated it doesn't adhere to the current General Plan, but it does serve anybody in the community that wants to use it. Commissioner Bains said she believed the conditions will eliminate a lot of the concerns people have out there.

Commissioner Basi stated that he is pretty much in favor of this project as well. He feels the same as he did last time.

Commissioner Flores said he disagreed.

Chairperson Shannon agreed it is a much needed facility for the area. However, that does not change the fact it is an inappropriate area and it is not what this was planned for. There are problems with this and they are substantiated by third party reports.

Commissioner Basi moved to approve the use permit subject to the recommended findings for approval and conditions as stated in the staff report. Commissioner Bains seconded the motion, which was denied by a 2 to 4 roll call vote, with Commissioners Bertolini, Flores, Griffin and Chairperson Shannon voting in the negative.

9. Project #07-061 - A rezone from AG (General Agricultural) District to RAN (Ranchette) District and a tentative parcel map to divide a 10-acre parcel into two parcels sized 4 and 6 acres; located ¼ mile south of Yuba City at the northwest corner of Starr Street and Walton Avenue; A. P. #23-023-012; applicant/property owner - Kells Enterprises, LP.

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

Chairperson Shannon opened the public hearing.

The applicant's representative, Bill Walker of von Geldern engineering, stated they have seen all the suggested conditions and are in agreement with all of them and he would be happy to answer any questions.

James Kells, 1326 Jobs Peak Drive, Gardnerville, Nevada, stated his attorney faxed a copy of a probate court petition to remove Mrs. Garner as a Kells Trustee. The first hearing will be within 60 days. The attorney could not be here today, but he is available by phone. Mr. Kells asked that this be continued.

Chairperson Shannon asked Mr. Kells why that came in today at 5:03 p.m. when the last hearing was on February 20. Mr. Kells replied that the attorney's secretary dropped the ball.

Chairperson Shannon stated this issue is a land use issue. The Commission is not here to deal with disputed family trusts and will defer to Counsel on this, but getting faxes at 5:03 on the night of the meeting is very unprofessional. Mr. Kells replied someone dropped the ball. According to the attorney, it was the secretary.

Chairperson Shannon asked Senior Planner Mueller if she had a chance to discuss this with County Counsel. Senior Planner Mueller replied she only had a brief time with County Counsel.

Deputy County Counsel Bender stated they are trying to remove Mrs. Garner as trustee, etc. These matters do not concern the land use matters being pursued. Mrs. Garner does have the authority to act on matters on behalf of the trust. It is up to the Commission if they want to continue this.

Chairperson Shannon closed the public hearing.

Commissioner Basi asked Mr. Kells if he is a general partner of the trust. Mr. Kells replied he is not.

Commissioner Bains asked Mr. Kells if he is on the title anywhere. Mr. Kells replied he was not.

Commissioner Griffin asked Mr. Kells if he is a beneficiary. Mr. Kells replied he is.

Commissioner Basi asked what his concern was. Mr. Kells replied he benefits from the profits of the trust and does not know how this is going to affect that. His concern is for his children.

Commissioner Bains asked Kathy Garner if she and Mr. Kells have tried to discuss this. Mrs. Garner said Mr. Kells is not a beneficiary of the trust. Income from Kells Enterprises goes to run the business and take care of her father. James does not have any income until her father passes away.

Commissioner Bains asked Mrs. Garner if her brother would get any money if the parcels were sold. Mrs. Garner replied no.

Commissioner Griffin asked about the partnership and trust. Mrs. Garner explained the trust. Discussion on the trust followed.

Commissioner Bains said she did not see what difference it would make to continue this for 60 days. Mrs. Garner said that is not the issue. She has the authority to conduct business and that is what she is trying to do.

Commissioner Basi moved to recommend approval of this project subject to the recommended findings and conditions as stated in the staff report. Commissioner Bains seconded the motion, which carried by a 4 to 0 voice vote, with Commissioners Bertolini and Griffin abstaining.

10. **Project #07-062 - A rezone from AG (General Agricultural) District to RAN (Ranchette) District and a tentative subdivision map to divide a 19-acre parcel into four parcels sized 3, 4, 5, and 7 acres; located ¼ mile south of Yuba City on the north side of Starr Street, approximately 600 feet west of Walton Avenue; A. P. #23-023-014; applicant/property owner - Kells Enterprises, LP**

Senior Planner Mueller summarized the staff report. She stated that the applicant and the owner of Assessors Parcel No. 23-023-013 had agreed to a lot line adjustment. It is Condition of Approval No. 5, that the lot line adjustment be recorded before the map is recorded. However, the lot line adjustment is not necessary to meet Zoning Code or General Plan requirements regarding ranchettes. Ms. Mueller stated staff recommends approval of this project to the Board of Supervisors.

Chairperson Shannon opened the public hearing.

The applicant's representative, Bill Walker of von Geldern Engineering, stated they have seen all the suggested conditions and are in agreement with all of them and he would be happy to answer any questions.

Marc Snyder, 1721 Starr Street, stated the Kells agreed to sell him a portion of the land and the lot line adjustment has been approved.

Chairperson Shannon closed the public hearing.

Chairperson Shannon moved to recommend approval of this project subject to the recommended findings and conditions as stated in the staff report. Commissioner Basi seconded the motion, which carried by a 4 to 0 voice vote, with Commissioners Bertolini and Griffin abstaining.

11. **Project #07-089 - A rezone from AG (General Agricultural) District to RAN (Ranchette) District and a tentative parcel map to divide a 10-acre parcel into two parcels of 3 and 7-acres in size; AG (General Agricultural) District; located on the west side of Garden Highway, approximately 1,100 feet north of Barry Road; A. P. #23-120-027; applicant - Jeffrey Cryer/property owner - Garden Highway Church of Christ of Yuba City**

Senior Planner Mueller summarized the staff report and stated that Condition of Approval No. 9 was proposed to be changed by the Public Works Department to a deferred improvement agreement. She stated that staff recommends approval of this project to the Board of Supervisors. Senior Planner Mueller noted a letter in opposition had been received tonight.

Chairperson Shannon opened the public hearing.

The applicant's representative, Roger Key of Key and Associates, stated the conditions are acceptable and they do understand Condition 9 has been changed.

Joan Walden, 3355 Garden Highway, stated she was speaking for her mother, Irene Dost. They are the property directly south of the property being changed. One of their concerns is a drainage agreement. She said her parents were forced to sign a drainage agreement in the past to split their land. Mrs. Walden asked why the applicant isn't made to enter into such an agreement. If not, her mother's agreement should be dissolved.

Mrs. Walden said her mother does not want the property to interfere with her farming operation. She then asked about a use permit for a church. Senior Planner Mueller replied it would not be allowed. Mrs. Walden then asked if there would be any church related activities. Senior Planner Mueller said if a church is not allowed, the no church related functions would be allowed.

Mrs. Walden said they have one ongoing issue with the current tenant. He was told he has endless use to the property as long as he does not develop it. He planted peach trees right on the property line. This tenant is not proving to be loyal to his word. He uses their property as an easement and is a concern to them. Mrs. Walden said they would like to see the trees on the property line removed so he could drive on his own property.

Chairperson Shannon asked Mrs. Walden if she has called the police. Mrs. Walden replied it did not occur to her, but she has talked to multiple other people.

Roberta Fletcher, 203 Butte Avenue, said her parents owned that property and she sold it to the Church of Christ. The Dosts had walnut trees planted right on the line. Her dad could not use it for many years because of that.

Roger Key stated drainage is a standard condition of the Public Works Department, that there are buffers for spraying that will protect the residences.

Mrs. Walden said a handshake agreement does not work with this tenant. Chairperson Shannon advised Mrs. Walden some of her issues are civil and she can call and complain about this.

Chairperson Shannon closed the public hearing.

Chairperson Shannon asked if a drainage agreement is a recorded document. Assistant Public Works Director Al Sawyer stated that he believed the agreement the Dost's entered into in 1985 was the result of a 1979 drainage study. Public Works is not presently requiring such an agreement. He is not personally aware of the viability of putting in laterals now.

Chairperson Shannon asked if this should be continued in order to revoke this agreement and determine what drainage conditions are appropriate for the ranchette application. Assistant Director Sawyer replied yes, this should be looked into so we can get more information if a drainage condition would be required.

Chairperson Shannon closed the public hearing.

Chairperson Shannon moved to continue this project to an unspecified date to allow staff to review the drainage document and come back with appropriate conditions. Commissioner Griffin seconded the motion, which carried by a unanimous voice vote.

12. Project #07-090 - A rezone from AG (General Agricultural) District to RAN (Ranchette) District and a tentative parcel map to divide a 10-acre parcel into two parcels sized 4 and 6 acres; located at 1471 Barry Road, on the north side of Barry Road approximately 600 feet east of Walton Avenue; A. P. #23-062-007; applicant/property owner - Sarbjit Dhoot

Senior Planner Mueller summarized the staff report and stated staff recommends approval of this project to the Board of Supervisors. Senior Planner Mueller also stated that Public Works requests Condition #9 to be changed asking for a deferred improvement agreement.

Chairperson Shannon opened the public hearing.

The applicant's representative, Roger Key of Key and Associates, stated they have read and understand the conditions, including amended Condition #9, and agree to all of them.

Chairperson Shannon 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. Commissioner Basi seconded the motion, which carried by a unanimous voice vote.

13. Miscellaneous Business from the Commission/Staff

A. Possible cancellation of the first meeting in May (May 7, 2008).

The meeting of May 7, 2008 was not cancelled at this time due to a remote possibility of a project being ready for this meeting.

B. Report on the Actions of the Board of Supervisors

Planning Division Chief Wilson reported on March 25, 2008, the Board had denied the appeal of the Chaffee use permit (permit will not be granted) for the sale of agricultural

equipment, approved the variance for Smith on Scheiber Road and approved a General Plan Amendment for Heimburger, Dhami and Sohal.

C. Planning Commission/Board of Supervisors Discussion Topics

None.

D. Other Business and Reports

None.

12. Adjournment

There being no further business, Chairperson Shannon adjourned the meeting at 9:35 p.m.

Respectfully Submitted,

Lisa Wilson, Secretary
Sutter County Planning Commission

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