

# SUTTER COUNTY PLANNING COMMISSION

## MINUTES

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

### 1. Call to Order

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

### 2. Roll Call

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, J. R. Griffin, John Sanbrook, and Chairperson Jana Shannon

Members Excused: Commissioners Annette Bertolini and Jose Flores,

Staff Present: Planning Division Chief Lisa Wilson, Principal Planner Doug Libby, Senior Planner Leanne Mueller, Senior Planner Sydney Vergis, Deputy County Counsel Janet Bender, Assistant Director Randy Cagle, Environmental Health Specialist Jan Hill, Public Works Staff James Walton, and Office Assistant Gail Gould

### 3. Pledge of Allegiance

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

### 4. Approval of Minutes

The minutes of the meeting of July 2, 2008 were not submitted for approval.

### 5. Comments from the Public

None.

## Public Hearings

6. **Project #07-035 - A rezone from AG (General Agricultural) District to RAN (Ranchette) District and a tentative parcel map dividing a 9.9-acre parcel into two parcels sized 3.6 acres and 6.3 acres; located at 1377 Hutchinson Road; northwest corner of the intersection of State Route (SR) 99 and Hutchinson Road; A. P. #23-280-016; applicants/property owners - Robert & Julie Wisniewski**

Senior Planner Vergis presented the request for a rezone from AG (General Agricultural) District to RAN (Ranchette) District and a tentative parcel map dividing a 9.9-acre parcel into two parcels sized 3.6 acres and 6.3 acres and stated staff recommends denial of the project as it does not comply with the minimum scoring criteria.

Chairperson Shannon opened the public hearing.

Commissioner Basi asked for a confirmation of the miles traveled to a school and fire station. The applicant, Robert Wisniewski, stated it is a little over two miles as the crow flies, but when they measured it, they measured from his driveway and from the driveway to 99, it is 664 feet. From that north to the corner of the property is another 400 feet. So, there is a 1,000 feet right there. Three-tenths of a mile would be 1,500 feet. Mr. Wisniewski said if he were sitting on the fence post on the corner of Barry and 99, he would be on school property. They again measured it to the front door of Barry School and parking lot of the Oswald-Tudor Fire Department. Mr. Wisniewski said he understood the County's requirements. All the criteria have been met. A ceramic shop is directly across the street. There is a six foot high chain link fence around the entire 9.9 acres; therefore, it would probably never become agricultural land again. He then showed photos of his property.

Commissioner Sanbrook asked Senior Planner Vergis how she calculated her measurements. Senior Planner Vergis replied one was from the driveway on Hutchinson and the other was measured using GIS along the northern property line.

Chairperson Shannon closed the public hearing.

Commissioner Sanbrook said the County has established the ranchette criteria and asked if the Commission was allowed any flexibility in criteria. Chairperson Shannon replied that depends on who you ask. The Commission can use discretion in some permits; however, the Board of Supervisors has told the Commission that they must go by the criteria of the scoring system.

Commissioner Sanbrook noted this is the first ranchette application since he has been on the Commission that does not meet the criteria. Commissioner Sanbrook stated he did not agree with ranchettes because they are cutting out all the agricultural land. Chairperson Shannon said she agreed with him, but at this point what the Commission has before it is the ability to recommend approval to the Board of Supervisors or recommend denial to the Board of Supervisors and the Board of Supervisors will take the Commission's

recommendation and they will then make the decision they see best suited for the County. Planning Division Chief Wilson said the action tonight would be a denial since it is a rezone and tentative map and the applicant will have to appeal the project in order to take it to the Board of Supervisors.

Commissioner Sanbrook moved to deny the project subject to the recommended findings contained in the staff report. Commissioner Griffin seconded the motion, which carried by a 4 to 1 roll call vote with Commissioner Basi voting in the negative.

**7. Project #08-012 - Tentative parcel map approval to divide 210 acres into a 5-acre homesite parcel and a 205-acre remainder; A-2 (Exclusive Agricultural) District; located at 4545 Nuestro Road; on the north side of Nuestro Road, approximately 0.5 mile west of the intersection of Nuestro and Township Roads; A. P. #13-240-027, -068, -069 and portions of 08-280-030 and -041; applicant - Bard Anderson/property owner - Samuel B. Anderson III Trust**

Principal Planner Libby presented the request for tentative parcel map approval to divide 210 acres into a 5-acre homesite parcel and a 205-acre remainder and stated staff recommends approval. Principal Planner Libby also noted a letter had been received from the Catlett family which endorses the project.

Chairperson Shannon stated that as she recalled, the limitation on a homesite parcel was two acres and wanted to know if that had changed. Principal Planner Libby replied that had not changed, but there is an exception in that policy that says if for septic purposes you need to go larger than two acres, you can go to a maximum of five but would need a waiver from Environmental Health. That has been granted in this case.

Commissioner Sanbrook asked why no additional dwellings may be established on the remainder for ten years following the recording of the map. Principal Planner Libby responded this requirement is being made to maintain compliance with the Williamson Act which limits contracted land to one dwelling. A notice of nonrenewal covering the homesite parcel will be filed but it takes ten years for the contract to expire.

Chairperson Shannon opened the public hearing.

The applicant's representative, Mel Copenhaver, of California Engineering Company, stated he was there to answer any questions.

Chairperson Shannon asked if they had reviewed the conditions of approval. Mr. Copenhaver said they had and they agreed.

Chairperson Shannon closed the public hearing.

Commissioner Sanbrook asked for an explanation of advisory conditions. Principal Planner Libby addressed the issue and discussion ensued regarding the heading and categorizing of conditions.

Commissioner Basi moved to approve the project subject to the recommended findings and conditions as stated in the staff report. Commissioner Sanbrook seconded the motion, which carried by a unanimous roll call vote.

**8. Project #07-056 - A use permit for a retail nursery and the repair of agricultural equipment in an existing 5,000 square foot agricultural building. The area associated with the repair business and parking will consist of an approximately 1-acre (200' x 230') portion of the property; AG (General Agricultural) District; located at 8851 Garden Highway; on the west side of Highway 99 approximately 250 feet south of Ashford Avenue; A. P. #25-090-043; applicant/property owner - Kulvinder Grewal**

Senior Planner Mueller presented the request for a use permit for a retail nursery and the repair of agricultural equipment in an existing 5,000 square foot agricultural building and stated staff recommended approval.

Commissioner Basi said driving down Highway 99 and going around that bend there is a lot of high speed traffic. His concern would be traffic pulling in and farm equipment pulling out onto the highway and asked if that had been addressed. Senior Planner Mueller stated this project was referred to Caltrans and they did not have any conditions.

Commissioner Sanbrook asked how one could have a retail nursery and not sell fertilizers and chemicals. Senior Planner Mueller replied the applicant is not proposing to sell fertilizers and chemicals. Commissioner Sanbrook stated fertilizers and chemicals not for retail sale should be a condition. Hours of operation should also be a condition. Commissioner Sanbrook asked if storage of equipment should be addressed. Senior Planner Mueller said the applicant has indicated he would not be storing equipment. He just wants to repair the equipment, so that is a specific condition of approval.

Chairperson Shannon opened and closed the public hearing with no testimony being received.

Commissioner Sanbrook asked if the site plan should be included as a condition. Planning Division Chief Wilson replied the site plan is included as a part of the record with the staff report and although not stated explicitly, the attached site plan is used to stamp off as approved with the use permit. Commissioner Sanbrook asked about the hours of operation. Senior Planner Mueller responded that there is not a condition for hours of operation, but the Commission may add a condition. Chairperson Shannon stated she did not see any valid reason to enforce hours of operation in an operation like this. Being for agricultural trees and equipment repair, a lot of time the workers are working well before 8:00 a.m. and are driving at a lower peak travel time.

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

9. **Project #05-024 - A General Plan amendment from AG-20 (Agriculture 20-acre minimum) to IND (Industrial) and a rezone from AG (General Agricultural) District to M-1 (Light Industrial) District for 4.8 acres; located on the south side of Oswald Road, approximately 800 feet east of Highway 99. 1104 Oswald Road; A. P. #23-192-027; applicant/property owner - Nar Heer, et al**

Senior Planner Mueller presented the request for a General Plan amendment from AG-20 (Agriculture 20-acre minimum) to IND (Industrial) and a rezone from AG (General Agricultural) District to M-1 (Light Industrial) District for 4.8 acres, and stated staff recommended denial to the Board of Supervisors. Senior Planner Mueller also said a letter from Surinder Chahal was provided to the Commission tonight.

Commissioner Sanbrook asked why this application was being processed when Zoning Code Section 1500-213 says if an application is incomplete, it is void. Senior Planner Mueller replied staff had been instructed by the Board of Supervisors to process this application at the time the moratorium was adopted.

Commissioner Sanbrook said if this is recommended for approval, then there is nothing to preclude the applicant from utilizing the property for any use that is permitted in the M-1 District. Senior Planner Mueller replied that is correct.

Chairperson Shannon opened the public hearing.

The applicant's representative, Dennis Nelson, stated they have a slight difference of opinion with staff in that they believe the application submitted is complete. They have submitted the elevations for the existing building. This started when a trucking company moved in which is technically not in compliance with agricultural use. The only way to bring the trucking company into compliance is to rezone to Industrial or ask the local business to move out. The reason why they were not wanting to necessarily limit the use of the site is they were not proposing industrial zoning in the first place. That is the only zoning they can use to make this a legal site. The Board of Supervisors has directed through the General Plan process that this whole corridor be looked at for possible changes of uses within the General Plan. It is not prudent at this point in time to limit the site. They are asking the Commission to look at it in the same way they do. This is an existing business. Mr. Nelson said he believes this does meet conditions as set forth and the application should be deemed complete.

Commissioner Sanbrook stated this needs to be a General Plan amendment and rezone to operate the business legally. Mr. Nelson replied if the trucking operation hauls peach bins or prune bids, they are in compliance. If they haul something other than agriculture, they are not in compliance. It is a technical issue that needs to be addressed either through ordinance or the General Plan or Zoning Ordinance because you have an operation here that will haul fruit one time and some other type of usage another time.

Charles Ernst, 1020 A Oswald Road, stated he lives to the south of this property and has for eight years. People have died on the highway between Oswald and Messick. This will be the fourth trucking company in this area. He has never seen any agricultural hauling in

or out of this place. Mr. Ernst said he fears this will be turned into another truck company and not be used as an agricultural trucking stop. It has not been. The current owner decided after 5:00 p.m. to grade the property on a windy day until 8:00 a.m. Then, he laid gravel again after 5:00 p.m. Mr. Ernst said he did not want another trucking company.

Commissioner Sanbrook asked what kind of hauling they are doing if not hauling agricultural products. Mr. Ernst replied he had no idea, these are all covered trailers and he does not know what is inside of them. Mr. Ernst said he just has never seen the usual agricultural hauling.

Chairperson Shannon closed and then reopened the public hearing.

The applicant, Nar Heer, stated grinding was being done on Walton Avenue and he was able to get the gravel cheap. They could only deliver it at night. The trucking company basically could haul frozen fruit and ice cream, probably 95 percent is fruits and vegetables. They may be hauling some dry loads also. Commissioner Basi confirmed it was not a trucking company owned and operated by Mr. Heer. Mr. Heer said there may be 10 to 15 trucks around the yard at one time. They have not had any accidents on 99 or Oswald. Mr. Heer said anything he can do to make this possible, he will do.

Commissioner Sanbrook stated a letter received from Surinder Chahal complains about the refrigeration systems on the trucks running all night. Mr. Heer replied his property is about 360 feet from Mr. Chahal and borders the truck stop. The Highway 99 Truck Stop has probably 300 trucks that park there. So, there is noise coming from there possibly. It is possible noise comes from his property, but it also comes from others.

Chairperson Shannon closed the public hearing.

Chairperson Shannon stated this is set up for the quick denial process and the Commission cannot make a decision. The Commission can refer it back to staff for the environmental study and conditions. Planning Division Chief Wilson replied this case would go to the Board of Supervisors automatically. Chairperson Shannon said the quick denial process probably would be the best way to handle this.

Commissioner Sanbrook moved to recommend denial of this project to the Board of Supervisors subject to the recommended findings as contained in the staff report. Commissioner Griffin seconded the motion, which carried by a 4 to 1 roll call vote, with Commissioner Bains voting in the negative.

10. **Project #06-052 - A tentative subdivision map to divide a 27-acre parcel into a 25-acre parcel and a 2-acre homesite parcel and a variance request to create the 2-acre parcel without frontage on a County accepted and maintained road; AG-FP (General Agricultural-Special Flood Plain Combining) District; located on the east side of Garden Highway at the intersection with Messick Road; A. P. #23-234-012, 23-253-017, -018, and -019; applicant/property owner - Walter & Ellen Berg Family Trust**

Senior Planner Mueller presented the request for a tentative subdivision map to divide a 27-acre parcel into a 25-acre parcel and a 2-acre homesite parcel and a variance request to create the 2-acre parcel without frontage on a County accepted and maintained road and stated staff recommends denial.

Commissioner Sanbrook confirmed the 27 acres currently being dealt with is the remainder of Tentative Map #832.

Commissioner Sanbrook said there was no reason why the applicant could not create a flag lot. Senior Planner Mueller replied it is staff's position he has enough area to provide the necessary frontage.

Chairperson Shannon stated creating some access would be the way to go. We have had other people who have come to the Commission asking for approval of property that is land locked. It could be a dangerous precedent allowing a landlocked lot.

Chairperson Shannon opened the public hearing.

The applicant's representative, Bill Walker of von Geldern Engineering, stated this was kind of a complex project. In addition to the application tonight, there was the issue of the transfer of development rights. Back in December of 2006, he appeared before the Board for the transfer of development rights in order to create Parcel 1. Parcel 3 has adequate acreage for two homes, so they wanted to transfer one development right to Parcel 1 and use the existing easement for the private road to the new homesite. But that does not comply with the frontage requirements, so the variance was submitted. He also stated the applicant has requested the variance to cluster the new homesite with existing parcels that were allowed to be created without frontage which is consistent with General Plan Policy. Mr. Walker said he would be happy to answer any questions.

Commissioner Sanbrook stated he had no problem with the creation of a homesite parcel, but he is concerned by the variance. He asked Mr. Walker if he could address the special circumstances for this. Mr. Walker said Grace Berg wants to build a home near Mr. Berg. This would be clustering homes as required.

Chairperson Shannon said she agreed with everything but sees so many flag lots come in. She agrees with trying to achieve clustering, but is very concerned that other people would be in with an easement. She asked Mr. Walker to explain why they did not ask for a flag lot. Mr. Walker replied that in this case, the variance has been granted twice; otherwise, he would tell other people to forget it. Mr. Walker explained providing a flag lot would take

up too much of the 2 acres. If they could get a little flexibility from staff, they could create that. Planning Division Chief Wilson replied there is no flexibility in allowing a bigger parcel for access.

Commissioner Sanbrook stated he was having a hard time with the findings. In looking at Finding #2. In the vicinity there were other variances approved that has allowed this. One could argue this would not be a point of special privilege.

Chairperson Shannon asked if this particular project did come under our discretionary power.

Deputy County Counsel Bender stated the Commission has the authority to recommend the variance for approval.

Commissioner Sanbrook stated it could be argued this is not a special privilege since there are other properties in the area that have been granted variances in the past. Deputy County Counsel Bender said you could argue those are in the vicinity.

The applicant, Walter Berg, stated this is not for financial gain. This would consolidate our family holdings. The Board of Supervisors has approved the concept in general.

Chairperson Shannon closed the public hearing.

Chairperson Shannon stated she would like to recommend this be brought back to staff for findings so we could have something to approve and move this on. That is based on commissioner Sanbrook's interpretation. Chairperson Shannon asked if that would take a motion. Planning Division Chief Wilson said that should be a motion. In regard to findings, we understand that clustering is important. Also, variances have been approved on neighboring parcels.

Chairperson Shannon reopened the public hearing to allow the Commission to continue this to the August 20, 2008 meeting.

Commissioner Sanbrook moved to continue this project to the meeting of August 20, 2008 at which time it would be brought back with findings for approval for the Commission to consider.

Commissioner Basi 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 August (August 6, 2008)**

Chairperson Shannon directed the meeting of August 6, 2008 be cancelled.

### **B. Report on the Actions of the Board of Supervisors**

Planning Division Chief Wilson stated she had no actions to report.

**C. Planning Commission/Board of Supervisors Discussion Topics**

Planning Division Chief reminded the Commission of the Planning Commission and Board of Supervisors joint study session scheduled for July 24 at which the General Plan update would be discussed at 7:00 pm in the Veterans Hall.

**D. Other Business and Reports**

None.

**12. Adjournment**

There being no further business, Chairperson Shannon adjourned the meeting at 8:24 p.m.

Respectfully Submitted,

Lisa Wilson, Secretary  
Sutter Country Planning Commission

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