

SUTTER COUNTY PLANNING COMMISSION

MINUTES

May 19, 2010
Supervisors Chambers
Hall of Records
466 Second Street, Yuba City

1. **Call to Order**

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

2. **Roll Call**

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

Members Present: Commissioners Tejinder Dosanjh, Tom Engler, J. R. Griffin, John Sanbrook, and Chairperson Paul Basi

Members Excused: Commissioner Felicity Clark

Members Absent: Commissioner Jose Flores

Staff Present: Planning Manager Lisa Wilson, Senior Planner Leanne Mueller; Deputy County Counsel Janet Bender, Assistant Director Randy Cagle, Environmental Health Specialist Jan Hill, Public Works Associate Civil Engineer David Tomm, and Office Assistant Gail Gould

3. **Pledge of Allegiance**

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

4. **Approval of Minutes**

The minutes of the meeting of April 21, 2010 were approved as submitted on motion of Commissioner Griffin, seconded by Commissioner Engler and carried by a voice vote with Chairperson Basi and Commissioner Sanbrook abstaining.

5. **Comments from the Public**

None.

Public Hearings

6. **Project #10-001 - A use permit to allow a 12,000 square foot commercial warehouse addition to an existing fruit and nut processing facility; AG (General Agricultural District) and M-1 (Light Industrial); located at 833 Tudor Road (State Route 99), Yuba City; Assessor's Parcel No. 25-060-059; applicant - BCM Construction/owner - Bains Family Revocable '05 Trust**

Planning Manager Wilson stated the applicant had submitted a letter withdrawing this application.

7. **Project #09-031 - A General Plan amendment, rezone, and design review to change the General Plan designation and zoning of the property from AG-20 (Agriculture, 20-acre minimum parcel size) and AG (General Agricultural) District to COM (Commercial) and C-2 PD (General Commercial, Planned Development Combining) District, to allow continued temple operations, and to permit the existing 14,400 square foot building to operate as a service and social club with 45 events per year with a maximum of 250 attendees per event for both the temple operations and social club; AG (General Agricultural) District; located at 431 Walnut Avenue, north side of Walnut Ave approximately 500 feet west of State Route 99; Assessor's Parcel No. 23-061-008; applicant - Parm Bains/owner - Walnut Avenue Community Center, LLC**

Senior Planner Mueller presented the request for a General Plan amendment, rezone, and design review to change the General Plan designation and zoning of the property from AG-20 (Agriculture, 20-acre minimum parcel size) and AG (General Agricultural) District to COM (Commercial) and C-2 PD (General Commercial, Planned Development Combining) District, to allow continued temple operations, and to permit the existing 14,400 square foot building to operate as a service and social club with 45 events per year with a maximum of 250 attendees per event for both the temple operations and social club and stated staff recommended denial.

Commissioner Sanbrook asked if there were any conditions imposed by Use Permit 99-08 as to the number of events and attendees. The amendment in June 2000 makes no connection to that use permit. Senior Planner Mueller replied it was anticipated the heaviest use of the facility would consist of ten festivals and four weddings per calendar year with up to 250 people in attendance at the largest event. That was the project that was proposed in 1999 and that was the project description that was forwarded in the staff report and was approved by the Planning Commission at that time. In looking at the conditions of approval in the file, the number of attendees was not specifically limited.

Commissioner Sanbrook confirmed that the PD overlay would give some control over what was permitted in the commercial zone.

Commissioner Sanbrook asked if the purpose of the project as stated on page 6 of the Mitigated Negative Declaration was still true. Senior Planner Mueller replied it was.

Chairperson Basi stated going back to the history portion of this, in 2007/2008 they were requesting 52 events with up to 750 guests. Now this project is back. Senior Planner Mueller responded it is different this time. Previously it was a use permit amendment to increase the attendees and increase the number of events and staff's position was to recommend denial because they were operating essentially as a service and social club, which was not a permitted use in the agricultural district. They are now asking for a General Plan amendment and rezone to give them the proper General Plan designation and zoning to be a service and social club in that building. Chairperson Basi asked if the rezone was proper. Senior Planner Mueller said it is a proper resolution to the issue that a service and social club not attached to religious events at the facility is not permitted in the agricultural district. However, given our General Plan policies regarding urban sprawl, staff cannot support this request.

Commissioner Sanbrook asked how you make a distinction as to whether a particular event is classified as a social or religious event. Senior Planner Mueller said that was problematic with the use permit that is currently in effect because there was some difficulty in distinguishing between the types of events. The initial problem with that is, based on complaints received, they were going over the permitted number of events. Now, in the conditions of approval attached to this application, it is 45 events for both the religious facility and the service and social club, not including normal daily religious activities held at the temple.

Chairperson Basi asked about complaints. Planning Manager Wilson replied Community Services received two or three per year. The operators/owners are contacted and given a chance to rectify the complaint. Planning Manager Wilson said she did not believe any complaints were received in the last six to nine months.

Commissioner Griffin wanted to know if the applicant had participated in the new General Plan update. Senior Planner Mueller replied initially they did, but the Board of Supervisors did not include their request in the approved land use plan, which is why we are going through this process separately.

Chairperson Basi opened the public hearing.

Rodney Romness, 1403 Reed Road, stated the events are more on a "for rent" basis. The center has been rented by Yuba City High School, River Valley High School, and various weddings have been held there. Mr. Romness said he agreed with staff's recommendation for denial. It is spot zoning and leap frog development at its finest. If the Planning Commission does not recommend denial on this basis, we must discuss the inadequacy of the Initial study. The California Environmental Quality Act imposes a low threshold requirement for preparation of an environmental impact report. Generally, a public agency must prepare an EIR whenever substantial evidence supports a fair argument that a proposed project may have significant effects on the environment. There is a potentially significant effect on groundwater quality. Mr. Romness said in Condition 17 staff is admitting the mitigation measure may not be adequate. The potential impact on groundwater is a fair argument for potential environmental impact

and will require this project to have an EIR prepared if the Planning Commission does not go along with staff's recommendation for denial.

Commissioner Sanbrook asked Mr. Romness about noise and traffic issues. Mr. Romness replied the owner did these studies when a certain event was going on that he knew would be a silent event.

Mr. Romness then discussed the noise and traffic issues.

Chairperson Basi asked Mr. Romness when the last time was that he made a complaint. Mr. Romness replied it was last Saturday night. Before that, they were very quiet, but every now and then one will get out of hand.

Archie Hebert, 1392 Walnut Avenue, stated his residence is directly across from the facility on the south side. He talked about traffic. At the entrance to the facility, the driveway width is 26 feet and the length of the driveway from the street to the building is 450 feet. Because of the parking design, when people are leaving the facility, they can get up to a pretty good speed. They slow down when they get to Walnut, but they do not stop and they pull out onto Walnut Avenue which is usually light traffic. Mr. Hebert said his concerns are the design of the parking area and the driveway to the facility which allows vehicles to speed up as they are coming out and empty onto Walnut Avenue. Since this is being operated as a business with many vehicles going in and out, there are no traffic controls such as speed bumps or stop signs.

Bill Zeller, 3232 South Walton Avenue, stated he lives one-half mile due west of this property. He said he strongly urges the Commission to deny this request. Noise is a major factor. A noise study was done by an agency chosen by the applicant and done on a single day and time known by the applicant. Multiple samples should have been done. It should be done objectively and unknown to the operators. This was not done objectively in that sense and, therefore, there is a potential significant impact to the environment. More study needs to be done.

Mr. Zeller said he has done some research and using reports obtained from the Sutter County Sheriff's Department, they responded to complaints on 39 separate dates. Many of those required multiple calls on the same date. In addition to involving loud excessive noise, some involved altercations. Mr. Zeller said the most recent he was aware of was on May 9 at 12:10 a.m. Every single response by the Sheriff's Department in those 39 complaints was after 10:25 p.m. They have been repeatedly requested by the Sheriff's Department to turn down the music and close the doors. Mr. Zeller said the neighbors were originally approached by a group in this community and they were expecting to get a church. That is why they didn't put up any obstacles or protests. What they got was a social club that is now asking for commercial zoning. They have not been good neighbors. If this is approved, it would set a dangerous and reckless precedent for the County. The proposal is in conflict with the existing General Plan and it is not included in the plans for the proposed General Plan.

Planning Commission members asked Mr. Zeller questions regarding noise and Sheriff's Department responses.

Margaret Green 1455 Reed Road, stated noise is a real issue at her house. Events go on past the midnight hour. In addition to noise, there are cars drag racing. She commended Planning Commission staff for the Initial Study and recommending denial. This facility is in an agricultural area and isolated from existing urban development. It is not an area for a social club that wants to be a commercial enterprise. Mrs. Green said this proposed use is in direct opposition to the General Plan and is leap frog development. It would be setting a precedent and would be difficult to deny similar applications in the future. She would like to see the right thing done. Granting this would be a special privilege and would be only for the benefit of the landowner. Mrs. Green urged the Commission to deny this project.

Moses Varela, 1461 Walnut Avenue, stated he was the pastor at the Apostolic Church next door to this project and was present to oppose approval of this request. They have been living through this for five years. Mr. Varela said he was concerned about noise. Most activities start around 7:00 or 8:00 and go on until 12:00 to 2:00 a. m. The parking area has only certain stripes, but they do fill the place up. The average number of attendees when they have parties there is 500 to 700 people. He is totally against it. Do the right thing and deny it.

Commissioner Sanbrook asked Mr. Varela how long his church has been there. Mr. Varela replied it believes it was in the late 70s. They have never had a complaint.

Sarb Thiara, 2599 Reed Road, stated he was here to answer any questions. One question was the parking issue. They can park along the fence in the graveled area. They can also park along the driveway. They have two exits and security guards there. The facility kitchen is an approved commercial kitchen, but catered food is also allowed. If they wanted to use it, they could.

Mr. Thiara said they were a community center and if they can't help their community, he did not know what else they were supposed to do. They need a place and we provide it. It is not a money-making thing. They have a caretaker that lives on site.

Mr. Thiara said they are trying to do everything the County has asked of them. For instance, they spent over \$100,000 on drainage. The property drains to Gilsizer Slough. The pastor's property drains onto ours, but that is okay. We paid for paving the road. Everything that was asked us by the County, we did. If there is anything else we need to do, we will do it. We want to do everything right. This is a nice center and the County needs something like this.

Chairperson Basi stated last time this was brought to the Planning Commission, there was a traffic plan brought up to control traffic. He asked if that was still in existence. Mr. Thiara replied it was.

Gennis Zeller, 3232 South Walton Avenue, stated there is no denying it is in the best interest of the people who built the building to have the zone changed. It is not the County's responsibility to do spot zoning for something that was built, and apparently they weren't counseled about how they were going have income to pay for the building.

We on our street and in our neighborhood have always supported the temple and four events a year and those were all to be related to the temple. What we are looking at here is a commercial enterprise. What we are objecting to in the neighborhood besides the noise and the traffic is overlooking what the plan is for the County and doing spot zoning. You really leave yourselves wide open for all sorts of things to happen within the County and develop an attitude of build it and then they will change.

Mrs. Zeller said it is a lovely building and they built it to serve their temple community. It has never been used strictly for that purpose; it has always been more of an income producing thing. It is a hall to rent. They built the building and misled us if what they want is a rental hall. It should have been built where it is zoned for that.

Chairperson Basi closed the public hearing.

Commissioner Sanbrook asked Senior Planner Mueller if the traffic and noise studies done in 2008 were sufficient for purposes of this project. Senior Planner Mueller replied the traffic study evaluated beyond what they are proposing currently, so that is an adequate representation. As far as the noise study is concerned, it is our understanding that the noise consultant they hired went to the site and evaluated what was described as being a typical event. So, staff has accepted that noise study as well.

Commissioner Sanbrook asked if the mitigated Negative Declaration was adequate in view of the issues raised tonight. Senior Planner Mueller replied there were two studies done--traffic and noise. Neither one of them recommended any mitigation measures for the project, so what staff carried forward were their recommendations and made them conditions of approval.

Commissioner Sanbrook asked if the wastewater discharge system would exceed the designed capacity given the intensity of the proposed use. Senior Planner Mueller stated the system was designed for 250 people and that is why staff recommended limiting the number of people to 250 and that is why Environmental Health has asked for an event monitoring program and an event log after each event.

Commissioner Dosanjh asked if the system could handle 250 people more than one time a week. Senior Planner Mueller asked Environmental Health Specialist Jan Hill for comments. Environmental Health Specialist Hill said the original design indicated a maximum peak load of 1,000 gallons per day. It works out that 250 people would be fine. 250 attendees on a daily basis should not overload the system. Commissioner Dosanjh said if there were 250 attendees once per week, then the system should work for even more than 250. Environmental Health Specialist Hill replied if there was an attendance of 250 once a week, the system should be more than adequate and for a long time. Environmental Health Specialist Hill stated that Sutter County requires a three-day holding capacity in the tank. The initial primary tank is 3,000 gallons in size. The kitchen has its own separate tank of 1,500 gallons. The 3,000 gallon tank could take care of three 1,000 gallon production days, not all at one time, but 1,000 gallons per day. 500 attendees would meet the maximum of 1,000 gallons and the system could possibly take care of that.

Referencing Condition #11, Commissioner Sanbrook said he thought road improvements were constructed previously. Senior Planner Mueller replied it was her understanding road improvements have been made but not to the level Public Works is requiring at this point. Public Works Associate Civil Engineer David Tomm stated Walnut Avenue is a local road and on either side of the property the width of the roadway is approximately 16 and 17 feet wide, so that is less than 8 and 9 foot travel lanes on either side of the property. Both lanes are substandard right now for a commercial area.

Commissioner Engler stated he would like staff to address concerns the public made regarding an EIR. Senior Planner Mueller responded there have been two studies done on this property and carried forward into this project. One is the traffic study and one is the noise analysis. Those are the two major issues that both the neighbors and staff have identified as having potentially significant impacts. Both studies indicated the project would not have a significant impact and both studies generated no mitigation measures, only suggestions on how to improve the situation. Therefore, staff did not feel that triggered the need for an EIR. Those suggestions are included as Conditions #6, #9 and #13.

The Planning Commission discussed environmental and operational issues of the project.

Commissioner Sanbrook moved to recommend denial to the Board of Supervisors subject to the recommended findings for denial as stated in the staff report. Commissioner Engler seconded the motion which carried by a 3 to 2 roll call vote, with Chairperson Basi and Commission Dosanjh voting in the negative.

8. Miscellaneous Business from the Commission/Staff

A. Possible cancellation of the first meeting in June (June 2, 2010)

The meeting of June 2, 2010 was cancelled on motion of Commissioner Engler, seconded by Commissioner Griffin and carried by a unanimous voice vote.

B. Report on the Actions of the Board of Supervisors

Planning Manager Wilson stated she had nothing to report.

C. Planning Commission/Board of Supervisors Discussion Topics

None.

D. Other Business and Reports

None.

9. Adjournment

There being no further business, Chairperson Basi adjourned the meeting at 9:18 p.m.

Respectfully Submitted,

Lisa Wilson, Secretary
Sutter County Planning Commission

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