

May 29, 2002

To: Sutter County Planning Commission

Re: Agenda Item #7: Public hearing on Tentative Parcel Map #02-04 to allow the division of a 130.44 acre parcel into two parcels, 20.50 and 109.94 acres in size; and

Agenda Item #8: Public hearing on Use Permit #02-14 to allow creation of a 20.50-acre parcel developed with an existing agricultural support facility (rice dryer, storage, and farm headquarters); and

Agenda Item #9: Public hearing on Variance #02-02 to allow creation of a parcel less than the required minimum parcel size; AG (General Agricultural) District; located at 5370 Riego Road (south Sutter County); A. P. #35-320-012, applicant/property owner - Tom Atkinson, II (Location: District 5 - Commissioner Shannon).

Current Proposal

A. Project Description:

The applicant requests approval of a tentative parcel map to divide the subject 130.44 acre parcel into a 20.50 and 109.94 acre parcel. The Sutter County Zoning Code allows for creation of parcels smaller than the minimum required by the General Plan land use designation, which, in this case is 80 acres, provided that the parcel is for an agricultural support facility and that one resultant parcel is at least 80 acres or larger, subject to the approval of a use permit (Section 1500-1414(1)(B)). If the use permit is not approved, a variance is necessary since the General Plan land use designation requires an 80 acre minimum parcel size for the subject property.

B. Environmental Consideration:

An Initial Study was prepared for this project in accordance with the California Environmental Quality Act and the Guidelines. The study revealed that the project, as proposed, would not have a significant impact on the environment. Staff therefore recommends the Commission adopt the attached Negative Declaration.

Background

A. Property Description:

The subject site is 130.44 acres in size. The northern portion is developed with a residence and a rice drying facility with related improvements. The southern portion is planted in rice.

B. Surrounding Land Use, Zoning District and General Plan Designation:

	Use	Zoning	General Plan
Subject Property	Residence, rice drying facility, rice	AG	SSCI/C
North	Agricultural	AG	SSCI/C
East	Agricultural	AG	SSCI/C
South	Agricultural	AG	SSCI/C
West	Rio Ramaza residential subdivision	AG, M-H-S	SSCI/C

C. Previous Commission Action/Policies

In December 1976, the Planning Commission approved Tentative Parcel Map #314, which allowed division of an approximate 147 acre parcel into the 16.5 acre parcel located adjacent to the east and the approximate 130 acre subject parcel. At that time, the property was owned by the current property owner (applicant). According to the Planning Commission minutes, the purpose of the division was to lease a corn drying operation on the 16.5 acre parcel to another party with the possibility of a later sale.

At the May 1, 2002, Planning Commission meeting, the Commission considered Tentative Parcel Map #02-04 and Variance #02-02 submitted by the applicant. At the hearing, an option of filing a use permit application (instead of a variance) to create a parcel containing the rice drying facility, residence, and related improvements was discussed. At the conclusion of the hearing, the Commission voted unanimously to continue the items to allow the applicant to file a use permit application for the proposal to be heard at the June 5 meeting.

Staff Comments

A. Public Works Department (PW):

See Conditions #3-#9.

B. Environmental Health (EH):

See Conditions #10-#14.

C. Office of the Sheriff/Coroner (S/C):

The Sheriff/Coroner responded the project would not impact services provided by their department.

D. Building Division (B):

The Building Division responded with no comments to the proposal.

E. Emergency Services Division (ES)

See Condition #15.

F. Pacific Gas & Electric Company (PG&E)

See Condition #16.

G. Sacramento County Airport System (SCAS)

See comments attached as Exhibit D.

H. Planning (P):

Tentative Parcel Map Analysis

The State Subdivision Map Act requires that the proposed parcel map be consistent with the County's General Plan, Zoning Code, and Subdivision Ordinance.

Conformance with General Plan

The subject property is designated South Sutter County Industrial/Commercial Reserve by the Sutter County General Plan. Although the property is designated Industrial/Commercial Reserve, it lies outside the boundaries of the South Sutter County Specific Plan area recently adopted by the County. Staff has attached the previous staff report (Exhibit F), which contains the analysis of the General Plan policies related to the tentative parcel map and variance. Since the applicant has now modified his request to include a use permit to allow creation of a parcel for an agricultural support facility, the following goal and policies contained in the General Plan are also applicable to the proposal:

General Plan Goal 6.B

To facilitate preservation, growth and expansion of agricultural industries within Sutter County.

General Plan Policy 6.B-2

“The County shall encourage local processing of agricultural products grown in Sutter County and other locations.”

General Plan Policy 6.B-3

“The County shall encourage the continued operation and expansion of existing agricultural industries.”

The subject property is currently rice farmed and contains a rice drying facility. The proposed project will create a separate 20.50 acre parcel for the existing homesite and rice drying facility on the northern portion of the property. Based on soil information provided in the USDA Soil Survey, on-site soils are used for irrigated crops, mainly rice. The General Plan identifies a minimum 80 acre parcel size for those areas with soils used primarily for rice. As noted above, the Zoning Code allows for creation of parcels smaller than the minimum required by the General Plan land use designation, which, in this case is 80 acres, provided that the parcel is for an agricultural support facility and that one resultant parcel is at least 80 acres or larger, subject to the approval of a use permit.

The applicant has submitted a site plan showing the existing improvements on the proposed 20.50 acre parcel as well as planned future improvements to the rice drying facility. These future improvements include additional rice drying tanks, receiving pits, a new scale, and new driveways from Riego Road. Staff believes the proposed parcel map is consistent with the General Plan, particularly General Plan Goal 6.B and Policies 6.B-2 and 6.B-3 which promote the continued operation and expansion of agricultural industries.

Conformance with the Zoning Code

The subject property is zoned General Agricultural (AG). As previously stated, the Zoning Code allows for creation of parcels less than the minimum required by the General Plan provided the parcel is for an agricultural support facility. The proposal to create the 20.50 acre parcel will allow continued ownership by the applicant of the rice drying facility and allow area for future improvements. The proposed 109.94 acre agricultural remainder meets the 80 acre minimum parcel size requirement. The proposal is therefore consistent with the Zoning Code.

Conformance with the Subdivision Ordinance

The County Subdivision Ordinance establishes standards and requirements to regulate and control the design and improvement of land. Section 1400-515(a) of the Subdivision Ordinance requires that the minimum area of all lots conform to the zoning requirements for the district in which the subdivision is located in. As noted above, the proposed parcels conform to the requirements of the Zoning Code. Staff therefore believes the proposal is consistent with the Subdivision Ordinance. See the previous staff report (Exhibit F) for further analysis and discussion of recommended conditions.

Conclusion

Staff believes that the proposed project is consistent with the County General Plan, Zoning Ordinance, and Subdivision Ordinance. Staff is therefore recommending approval of the proposed tentative parcel map.

Use Permit Analysis

Section 1500-8216 of the Zoning Code states that the Planning Commission may approve a use permit if it finds that the proposed use will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County. Additionally, the Commission shall find that the use is consistent with the General Plan.

Approval of the use permit will allow the creation of a 20.50 acre parcel containing an existing rice drying facility (agricultural support facility), residence, and other related improvements. The proposal will allow the applicant (property owner) to retain his agricultural operation and residence and sell off the remaining 109.94 acres. Use of the 20.50 acre parcel will continue as an agricultural support facility, with possible expansion proposed in the future. According to the applicant, the 109.94 acre parcel that is currently rice farmed will be sold to the Natomas Basin Conservancy.

A condition recommended by staff requiring that residential development rights be granted to the County for the 109.94 acre parcel will prohibit any additional residences from being constructed. If sold to the Conservancy, the 109.94 acre parcel would likely be taken out of rice production. As habitat area, however, the use of this parcel would remain compatible with agricultural operations. As stated above in the Tentative Parcel Map analysis, staff believes the proposal is consistent with the General Plan.

As a result of the change to the use permit application, staff is recommending two additional conditions of approval that were not referenced in the original staff report. First, since the rice dryer operation uses propane, the Emergency Services Division of the Sutter County Community Services Department has commented that the business will need to file a Hazardous Materials Business Plan with their Division. This will be required to be filed within 30 days of project approval (See Condition #15). Second, a standard condition from PG&E with regard to any relocation or rearrangement of their facilities by the project has also been added (See Condition #16).

Variance Analysis

The applicant originally requested variance approval to deviate from the County's minimum lot size requirement of 80 acres within the AG zone district. At the May 1 meeting, the Commission continued the project to allow the applicant the opportunity to file the use permit application to be considered in lieu of the variance. The analysis of the variance request is contained in the previous staff report (Exhibit F). As discussed in the previous report, staff believes the proposal does not meet the findings required for variance approval and therefore, recommends denial of the variance.

Recommended Findings for Tentative Parcel Map #02-04 and Use Permit #02-14 Approval

Based on the information contained in the staff report and/or testimony received at the public hearing, the Planning Commission finds:

- A. In accordance with the California Environmental Quality Act and the Guidelines, an Initial Study was prepared to analyze the potential impacts of the proposed tentative parcel map. The Study revealed that the project, as proposed, would not create an impact on the environment. There have been no comments provided demonstrating the project will have a significant effect on the environment. Therefore, the proposed Negative Declaration attached to this staff report is appropriate.
- B. The Planning Commission has independently reviewed, analyzed, and considered the Initial Study and Negative Declaration prior to making its decision on the project and finds that the Negative Declaration reflects the independent judgment of the County of Sutter.
- C. The proposed tentative parcel map and use of the subject property complies with the applicable requirements of the Sutter County General Plan, Zoning Ordinance, and Subdivision Ordinance.
- D. Since conditions have been included to reduce potential impacts on the surrounding properties, the establishment, maintenance, and operation of the use will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- E. The proposed use permit to retain the agricultural support facility use on a separate 20.50 acre parcel is consistent with the policies and goals of the Sutter County General Plan.

Action required for Project Approval

- A. Make the Findings for approval as prepared by staff.
- B. Adopt the proposed Negative Declaration prepared for the project and attached to this report.
- C. Deny Variance #02-02 for the reasons stated in the staff report.
- D. Approve Tentative Parcel Map #02-04 and Use Permit #02-14, subject to the following conditions:
 - 1. The applicant shall file a Notice of Determination, including payment of associated fees, in the office of the County Clerk within five (5) days after the end of the ten (10) day appeal period. (P)
 - 2. The final map shall be recorded within 36 months of the approval date or the engineer/surveyor shall submit a request for and receive approval of a time extension in accordance with the Sutter County Subdivision Ordinance. The life of the use permit shall coincide with that of the parcel map. Once the final map has been recorded, the use permit shall be deemed activated. (P, PW)

3. All rights of way and easements, public or private, shall be shown on the final map along with the recording references. (PW)
4. Where existing rights of way are prescriptive or where their locations cannot be determined to a reasonable certainty, per official records, the subdivider shall grant to Sutter County rights of way to all roads within the lands being subdivided which are also shown as County maintained on the current County maintained mileage maps. (PW)
5. No grading or alteration of the existing terrain that would direct additional waters to the County road shall be done without the approval of the Department of Public Works. This condition shall be so stipulated on the final map. (PW)
6. All tests and investigations required to assure, to a reasonable certainty, that the lots created by this subdivision meet the minimum standards for its intended use shall be conducted prior to filing of a parcel or final map. (PW)
7. Encroachment permits are to be obtained from the Public Works Department for any new driveway or road connections to be made to existing County roads. Construct new driveway(s) to current County standards. (PW)
8. Building Pads shall be at elevations in conformance with Section 1300-022(F) of the Sutter County Ordinance Code, as defined by Resolution No. 92-124. (PW)
9. If sufficient rights of way do not already exist, additional rights of way and/or public utility easements shall be deeded to Sutter County to provide the specified one-half widths of the following indicated roads: (PW)

Riego Road	42' R/W + 10' P.U.E.
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10. Prior to the recordation of the map, the subdivider shall provide to Environmental Health a map that clearly shows the location of a Minimum Useable Sewage Disposal Area (MUSDA) for Parcel 1. The MUSDA delineation shall comply with Sutter County Environmental Health regulations for the designation of an on-site sewage system replacement area. The site plan shall also include the location of existing on-site sewage systems, wells, structures, drainage ditches, flood-irrigated crops, and other encumbrances that may affect the placement of an on-site sewage system. (EH)
11. Prior to the recordation of the map, the subdivider shall provide a signed statement that any abandoned on-site wells and sewage systems have been destroyed in accordance with Sutter County Environmental Health regulations. Sutter County Environmental Health permits shall be obtained prior to the commencement of this work. (EH)
12. A note must be recorded on the map stating that the water supply for Parcel 1 shall be from an individual well located on the subject property. (EH)

13. The following note shall be recorded on or with the map:

“The Minimum Usable Sewage Disposal Area (MUSDA) on record with Sutter County Environmental Health shall remain unimproved and reserved exclusively for on-site wastewater needs until such time as structures or facilities served by the MUSDA have been connected to a sewer system operating under permit from the California Regional Water Quality Control Board.” (EH)
14. A perpetual open area easement and grant of development rights agreement must be recorded with the map prohibiting uses on the 109.94-acre remainder that would require an on-site sewage system. Prior to any abandonment of this easement and grant of development rights by the County for on-site sewage systems, all requirements in effect at the time of the abandonment must be met. (EH)
15. Within 30 days of project approval, the applicant shall file a Hazardous Materials Business Plan for the rice drying facility with the Sutter County Community Services Department, Emergency Services Division. (ES)
16. Any relocation or rearrangement of any existing PG&E facilities to accommodate this project will be at the developer’s/applicant’s expense. There shall be no building of structures allowed under or over any PG&E facilities or inside any PG&E easements that may exist within the project site. (PG&E)

Sincerely,

THOMAS A. LAST
PLANNING DIVISION CHIEF

Steve Geiger
Associate Planner

Attachments: Exhibit A - Study Sketch
Exhibit B - Tentative Map
Exhibit C - Proposed Negative Declaration and Initial Study
Exhibit D - Comments received from Sacramento County Airport System
Exhibit E - Site plan with proposed future improvements for rice drying facility
Exhibit F - Previous staff report, dated April 24, 2002, for Tentative Parcel Map #02-04 & Variance #02-02 (without exhibits)

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