

July 31, 2002

To: Sutter County Planning Commission

Re: Agenda Item #10: Public hearing on Rezoning #02-04 to change the zoning classification of a portion of the subject property from AG (General Agricultural) District to P (Public) District;

Agenda Item #11: Public hearing on Tentative Parcel Map #02-08 to allow the division of an existing 34.5 acre parcel into parcels of 5.1-acres and an agricultural remainder; located at 3721 Pennington Road, Live Oak; A. P. #09-070-035; applicant - Muslim Cemetery of Northern California/property owner - Mohammad Khan (Location: District 1 - Commissioner Capaul)

Current Proposal

A. Project Description:

This project involves rezoning a 5.1 acre portion of an existing 34.5 acre agricultural parcel from AG (General Agricultural) District to P (Public) District and splitting off the rezoned portion in order to create a public Muslim cemetery. The applicant has stated that no public Muslim cemetery exists locally and that local Muslims must travel out of the area to meet the interment needs of the Islamic faith.

B. Environmental Consideration:

An Initial Study was prepared for this project in accordance with the California Environmental Quality Act and the CEQA Guidelines. The study revealed that the project could not have a significant effect on the environment. Therefore, should the Commission recommend approval of this project, staff recommends that the Commission recommend that the Board adopt the attached Negative Declaration.

Background

A. Property Description:

The subject property is a 34.5-acre agricultural parcel located on the north side of Pennington Road approximately 0.40-mile east of Township Road. The property has 963 feet of frontage on Pennington Road and is 1,564 feet deep. The property is developed with peach and prune orchards and contains two rural residences and associated outbuildings.

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

Property	Use	Zoning	General Plan
Subject Property	Agriculture	AG	AG-20
North	Agriculture	AG	AG-20
East	Live Oak Cemetery	AG	AG-20
South	Agriculture	AG	AG-20
West	Agriculture/Rural Residential	AG	AG-20

C. Previous Planning Commission Actions/Policies:

On December 19, 1972 your Commission approved Rezoning #126, a Commission-initiated rezoning that established a zoning plan in the Live Oak/Pease Road area and that designated the subject property as AG (General Agricultural) District.

Staff Comments

A. Environmental Health (EH):

See Criteria of Development #4-6.

B. Public Works (PW):

See Criteria of Development #7-15.

C. Building Inspection (BI):

Building Inspection responded with no comments at this time.

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

The Office of the Sheriff/Coroner responded with no comments and no anticipated impacts on their services.

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

See Criteria of Development #16.

F. Reclamation District 2056 (RD):

See Criteria of Development #17.

G. Planning (P):

See Criteria of Development #1-3.

The proposed cemetery would be operated by the Muslim Cemetery of Northern California, which would initially use its own Board members and volunteers for maintenance and interments. As a cemetery established and operated by a religious organization, the Muslim Cemetery is not subject to the licensing requirements of the State Cemetery Act (Business and Professions Code §9600 *et seq.*). The Cemetery and Funeral Bureau of the Department of Consumer Affairs, however, maintains jurisdiction over all cemeteries regarding business practices and burial standards, e.g., depth of earth cover. Each burial (or transport of human remains outside of California) also requires a “Permit for Disposition of Human Remains” from the Sutter County Health Department.

The proposed cemetery would greatly benefit local Muslims for two main reasons: 1) there are no Muslim cemeteries in Sutter County; and 2) Islam’s particular requirements for the burial of the dead cannot be easily accommodated in conventional cemeteries. These requirements include that the deceased should be buried within 24 hours, that the alignment of the grave must lie on a northeast-to-southwest axis so that the deceased may rest facing Mecca, and that the finished grave must be raised between four and twelve inches off the ground to prevent anyone from walking or sitting on the gravesite. These requirements may be difficult to meet if death occurs at the beginning of a weekend or holiday, and if the local cemetery, as is common practice, aligns gravesites perpendicular to on-site access roads and levels gravesites for ease of turfgrass maintenance. The cemetery is proposed to adjoin the existing Live Oak Cemetery, and thus the project is consistent with an adjacent land use. The Muslim Cemetery, however, does not propose utilizing any personnel, facilities, equipment or water supply of the Live Oak Cemetery.

The current General Plan land-use designation of the subject parcel is AG-20 (General Agriculture/20-acre minimum parcel size). The General Plan also lists the proposed P (Public) District zoning designation as consistent with the AG-20 land-use designation. Moreover, Zoning Code Section 1500-5912 establishes cemeteries as a permitted use in the Public District; and Section 1500-5914 provides that Public District development standards, including minimum parcel sizes, will be determined for individual projects through the site plan approval process. This process revealed that the proposed 5.1-acre parcel is an appropriate size for the proposed cemetery use, and that the remaining agricultural parcel (29.4-acres) will remain consistent with the AG-20 land-use designation.

The Subdivision Map Act exempts land dedicated for cemetery purposes (Govt. Code § 66412, subd.(c).), but this exemption applies only to the dedication of plats or maps showing individual cemetery plots. The conveyance of the 5.1-acres, therefore, is subject to the applicable provisions of the Subdivision Map Act, which include requirements that a tentative or parcel map be consistent with the general plan. Sutter County General Plan Policy 6.A-6 requires that “Minimum parcel sizes in agriculturally designated areas shall be 20 acres in those areas

containing orchard compatible soils...” Thus, in order to achieve consistency with the General plan and to demonstrate compliance with the Subdivision Map Act, the approval of the parcel map is conditioned to require that the applicant obtain approval of the rezoning (AG/General Agricultural to P/Public) from the Sutter County Board of Supervisors prior to recordation of the parcel map (see Criteria of Development #3).

Recommended Findings

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 CEQA Guidelines, an Initial Study was prepared to analyze the potential impacts of the proposed project. The study revealed that the project, as proposed, could not have a significant effect on the environment. Therefore, the Negative Declaration attached to this report is appropriate.
- B. The Planning Commission has independently reviewed, analyzed, and considered the Initial Study and Negative Declaration prior to making its recommendation on the project and finds that the Negative Declaration reflects the independent judgment of the County of Sutter.
- C. The requested rezoning from AG (General Agriculture) to P (Public) District is consistent with the General Plan and with uses on the subject and adjacent properties.
- D. The requested parcel map is consistent with the General Plan, Zoning and Subdivision Ordinances and with uses on the subject and adjacent properties.
- E. The proposed project will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental to property or improvements in the neighborhood or to the general welfare of the County.

Recommended Action

- A. Make the findings as recommended by staff.
- B. Recommend that the Board of Supervisors adopt the proposed Negative Declaration attached to this report.
- C. Recommend that the Board of Supervisors approve Rezoning #02-04 changing the classification of a 5.1-acre portion of the subject parcel from AG (General Agriculture) to P (Public) District, subject to the Criteria of Development.
- D. Approve Tentative Parcel Map #02-08 to allow the division of an existing 34.5-acre parcel into 29.4- and 5.1-acres, subject to the following Criteria of Development:

Criteria of Development

1. The applicant shall file a Notice of Determination in the Office of the County Clerk within five (5) days after the date that the project approval becomes final. (P)
2. Upon payment of the Notice of Determination fees, the applicant shall pay any outstanding balance in excess of the amount on deposit for processing the application. (P)
3. Prior to recording the parcel map, the applicant shall obtain approval of the Rezoning from the Sutter County Board of Supervisors. (P)
4. Prior to recording the parcel map, the subdivider shall provide to Environmental Health a map that clearly shows the exact location of the Minimum Usable Sewage Disposal Area (MUSDA) for each parcel. The MUSDA delineation shall comply with Sutter County Environmental Health regulations. (EH)
5. A note shall be recorded on the parcel map stating that water supply shall be from individual wells located on the subject properties. (EH)
6. The following note shall be recorded on or with the parcel 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)
7. All rights of way and easements, public or private, shall be shown on the final map along with the recording references. (PW)
8. 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)
9. 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)
10. 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)

11. Encroachment permits shall be obtained from the Department of Public Works for any new driveway or road connections to be made to existing County roads. New driveway(s) shall be constructed to current County standards. (PW)
12. 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)
13. The following statement shall be placed on the final map:

“Access to the parcels created by this parcel map and shown hereon as rights of way or easements is not to be construed to indicate that a passable roadbed exists within the limits shown on this parcel map. Road construction or maintenance within these limits will not be accomplished or administered by Sutter County and is solely the responsibility of the landowners being served by the private road.” (PW)
14. Prior to issuance of a building permit, a drainage and grading plan shall be approved by the Department of Public Works. (PW)
15. 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:

Pennington Road	30.0' R/W + 10.0' P.U.E. (PW)
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16. Any relocation or rearrangement of any existing PG&E facilities to accommodate this project will be at the developers/applicants 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 subject project. (PG&E)
17. Prior to issuance of a building permit, the applicant shall submit to and receive approval of the drainage and grading plan from Reclamation District 2056. (RD)

Sincerely,

THOMAS A. LAST
 PLANNING DIVISION CHIEF

William J. Caplinger
 Assistant Planner

Attachments: Exhibit A - Study Sketch
 Exhibit B - Site Plan
 Exhibit C - Rezoning Map
 Exhibit D - Initial Study & Proposed Negative Declaration

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