



PLANNING COMMISSION STAFF REPORT

PLANNING COMMISSION HEARING MAY 19, 2004
Agenda Item #9

Request: To rezone 62± acres from AG (General Agricultural) District to AG-PD (General Agricultural, Combining Planned Development) District and a subdivision map to divide the subject property into six, 2-acre parcels and one 50± acre parcel. The project is located on the west side of Garden Highway between Messick and O'Banion Roads, Yuba City (AP# 23-252-010, -013, -015, -017, -019, -022 and -024). Project numbers RZ #03-14 and SM #03-03

Planner: Lisa Wilson, Senior Planner

**Applicant /
Property Owner:** Sierra Gold Nurseries, Inc., 5320 Garden Highway, Yuba City, CA 95991

Staff Recommendation

Recommend to the Board of Supervisors to:

1. Adopt the findings in this report, and
2. Deny Rezoning #03-14 and Subdivision Map #03-03.

Project Description

The project is a request to rezone 62± acres from AG (General Agricultural) District to AG-PD (General Agricultural, Planned Development Combining) District and subdivide the property into seven parcels.

Setting

The property is located on the west side of Garden Highway between Messick Avenue and O'Banion Road. The subject property is an agricultural field used for row and field crops and currently planted in wheat. The surrounding properties are orchards and open agricultural field agricultural uses with scattered residences.

	Land Use	Zoning Designation	General Plan Designation
Site	Open Field Agriculture	AG District	Ag-20
North	Orchard	AG District	Ag-20
South	Orchard	AG District	Ag-20
East	Open Field Agriculture	AG District	Ag-20
West	Orchard with residence	AG District	Ag-20

Previous Actions on Project

This project was considered by the Planning Commission on January 21, 2004. At that time staff had brought the project to the Commission under the “quick denial” process for a recommendation to the Board of Supervisors. The Commission’s vote on the project was a tie vote; therefore, under the Commission’s rules, that vote amounted to a project denial.

On March 2, 2004, the Board of Supervisors heard the project. The applicant’s representative requested the environmental analysis be prepared in order to fully consider the project. At the conclusion of the hearing, the Board directed the matter be referred back to staff for preparation of an environmental document and staff report. In its action to direct the matter back to staff, the Board explicitly stated that they had taken no action on the project and advised the applicant that the Board’s direction was not to be construed as the Board favoring approval of the project. Staff was directed to inform the Planning Commission that the Board took no action on this project and that their direction to complete environmental review of the project was merely to grant the request of the applicant’s representative.

Environmental Analysis

An Initial Study was prepared for this project in accordance with the California Environmental Quality Act and the Guidelines. The study indicated that the project, as proposed, could have a significant impact on the environment; however mitigation measures have been included by the applicant which reduces the possible impacts to a less-than-significant level. Therefore, a Mitigated Negative Declaration and Mitigation Monitoring Program may be adopted.

Section 15270(a) of the California Environmental Quality Act and the Guidelines state that CEQA does not apply to projects which an agency rejects or disapproves.

Analysis

Rezoning

The project includes a request to rezone the 62 acres from AG (General Agriculture) to AG-PD (General Agriculture-Planned Development). The Planned Development designation allows for some flexibility to parcels standards, but is still subject to conformance with the General Plan density requirements. Considering the General Plan designation of AG-20 (General Agriculture - 20 acre minimum) over the 62 acres, a total of 3 parcels are allowed to be created. The flexibility of the PD zoning designation

allows the parcels to be smaller than 20 acres, however, the overall density cannot exceed the density allowed by the General Plan (3 parcels).

The State Government Code requires that any rezoning or subdivision map must be consistent with the local agency's general plan. The application proposes to create 7 parcels. Based upon the inconsistency with the General Plan, staff recommends denial of the requested rezone.

The applicant's representative has stated two arguments in favor of project approval. The first argument utilizes a footnote reference in Table 1 of the General Plan Policy Document of, "*Only one principal dwelling allowed per lot*". The second argument is based upon General Plan Policy 6.A-6 containing a reference to "*Historical Uses*".

Table 1 is entitled "Development Standards" (attached as D-1)). The footnote "Only one principal dwelling allowed per lot" identified in Table 1 clearly states the density is either 20 or 80 acres as the minimum parcel size. A footnote cannot be construed to allow parcels to be created contrary to the entirety of the General Plan policies.

Policy 6.A-6 of the Sutter County General Plan specifies minimum parcels size requirements. This policy states:

6.A-6: Minimum parcel sizes in agriculturally designated areas shall be 20 acres in those areas containing orchard compatible soil and 80 acres in those areas with soils used primarily for row crops, field crops, and range land as shown on the Land Use Diagram. Historical uses and physical boundaries may be considered on a case by case basis. All parcels resulting from subdivisions or parcel maps shall contain the minimum required acreage for the land use designation. Homesite parcels, as permitted in Policy 6.A-4, shall not exceed 2 acres unless the Environmental Health program grants a waiver for sewage disposal, in which case the parcel may be allowed for up to 5 acres. Remainder parcels shall meet the minimum parcel size of the agricultural land use designation.

The reference to "Historical uses and physical boundaries may be considered on a case by case basis" was included in the policy to provide a basis for determining whether the minimum parcel size should be considered as 20 or 80 acres when the parcel lies across both the 20 and 80 acre designations. The sentences of this policy immediately before and immediately after the *historical use* clause clearly state that parcel sizes shall meet the minimum acreage requirements of the land use designation, either 20 or 80 acres. Again, a single portion of a policy cannot be construed to allow parcels to be created contrary to the entirety of the General Plan.

Subdivision Map

As previously noted above, in order to approve a tentative subdivision map the County is required to find that the map is consistent with the General Plan. Section 66474 of the Subdivision Map Act and Section 1400-245(a)(1) of the County's Subdivision Ordinance requires that when a proposed subdivision is found to be not consistent with the applicable general or specific plan, the map shall be denied.

The subject property is currently zoned AG (General Agricultural) District. The Zoning Code contains policies similar to the General Plan regarding parcel sizes and densities and, therefore, requires that new AG District parcels have a parcel size that meets 20 or 80 acre minimum as designated by the General Plan Land Use Designation. Since the proposed parcels will be less than one-half the minimum parcel size as required by the General Plan, the tentative map does not conform to the Zoning Code.

Due to the density and minimum parcel size issues discussed above under the "Rezoning" section, the proposed tentative subdivision map is likewise not consistent with the General Plan either; therefore, the map is required by both the State Subdivision Map Act and the County's Subdivision Ordinance to be denied.

Summary

The proposed rezoning and subdivision map are not consistent with the land use policies of the General Plan in that they would allow a residential density over twice that which is allowed by the General Plan and parcel sizes less than the minimum size as required by the General Plan. There are no policies contained within the General Plan under which the proposed project could be found to be consistent; therefore, both the Planning, Development and Zoning Laws and the Subdivision Map Act of the State Government Code, and the County's Subdivision Ordinance require the project be denied.

Findings

Based upon information contained in this staff report and/or testimony received at the public hearing, the Planning Commission recommends the following findings:

CEQA

Section 15270(a) of the California Environmental Quality Act and the Guidelines state that CEQA does not apply to projects which an agency rejects or disapproves.

Rezoning

1. The subject property is located in an area designated by the Sutter County General Plan Land Use Designation as being an agricultural area requiring 20-acre parcel minimums for new agricultural parcels.
2. The proposed rezoning application would allow a residential density for the subject property of approximately one dwelling unit per 8.9 acres or over twice the residential density allowed and less than one-half the parcel size required by the General Plan.
3. In that the proposed rezoning would allow a residential density over twice that which is allowed by the General Plan and parcel sizes of less than one-half the minimum size as required by the General Plan, the rezoning is not consistent with the Sutter County General Plan.

Tentative Subdivision Map

1. The subject property is located in an area designated by the Sutter County General Plan Land Use Designation as being an agricultural area requiring 20-acre parcel minimums for new agricultural parcels.
2. The proposed tentative subdivision map for the subject property proposes to subdivide the property into parcels at a residential density for the subject property of approximately one dwelling unit per 8.9 acres or over twice the residential density allowed and less than one-half the minimum parcel size as required by the General Plan.
3. The subject property is currently zoned AG (General Agricultural) District and is shown on the Sutter County General Plan as being in an area designated on the General Plan Land Use Designation map as requiring a 20-acre parcel minimum for new agricultural parcels.
4. The proposed tentative subdivision map for the subject property proposes to subdivide the property into parcels for an average parcel size of 8.9 acres per parcel which is less than one-half the minimum parcel size as required by the General Plan.
5. In that the proposed tentative subdivision map would allow a residential density over twice that which is allowed by the General Plan and parcel sizes of less than one-half the minimum size as required by the General Plan and AG (General Agricultural) District, the proposed tentative subdivision map is not consistent with either the Sutter County General Plan or the Sutter County Zoning Code.

Recommended Action

Should the Planning Commission agree with staff's recommendation, the following motion would be appropriate:

"The Planning Commission recommends to the Board of Supervisors that the Board deny the proposed rezoning #03-14 to AG-PD (General Agricultural-Planned Development Combining) District and tentative subdivision map #03-03 to subdivide the subject property into seven parcels, based on the recommended findings contained in the staff report."

Attachments

- A. Study Sketch
- B. Reduced Subdivision Map
- C. Negative Declaration and Initial Study
- D. Tables 1 and 2 of the General Plan Policy Document

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