



## PLANNING COMMISSION STAFF REPORT

PLANNING COMMISSION HEARING July 21, 2004  
Agenda Item #7

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**Request:**

1. General Plan amendment from Agriculture to Agriculture Preserve on 120.8 acres,
2. Rezoning from AG (General Agricultural) District to AP (Agricultural Preserve) District and APR (Agricultural Preserve Residential) District,
3. Subdivision of the property into six, two-acre Agricultural Preserve Residential District parcels and one 109-acre Agricultural Preserve District, and
4. Modification of the Subdivision Ordinance's lot width to depth ratio.

Located on the north side of South Butte Road near the intersection of South Butte Road and Wyncoop Road, A. P. #13-200-063, Project Numbers #04-007 and SM #03-01

**Planner:** Dale Follas

**Applicant/  
Property Owner:** Richard Wilson, 2532 Franklin Road, Yuba City, CA 95993

### Staff Recommendation

Recommend to the Board of Supervisors the denial of the requested entitlements for a General Plan amendment from Agriculture to Agriculture Preserve; rezoning to AP (Agricultural Preserve) District and to APR (Agricultural Preserve Residential) District; the subdivision into six, 2.0 acre parcels and one, 109 acre parcel; and the modification of the Subdivision Ordinance lot width to depth ratio.

### Project Description

The project is a General Plan amendment to Agriculture Preserve for 120.8 acres, a rezoning of 109 acres to AP (Agricultural Preserve) District and 12 acres to APR (Agricultural Preserve Residential) District, and the subdivision of the property into six, 2.0-acre Agricultural Preserve Residential District parcels and one, 109-acre Agricultural Preserve District parcel. The six proposed APR District parcels would each be allowed one, single-family residence served by individual septic systems and wells. The single,

109-acre AP District parcel would remain in agricultural use and not be allowed any residential development. All parcels would be accessed from South Butte Road.

The proposed residential lots exceed the Subdivision Ordinance allowed lot width to depth ratio of 1:3; therefore, the project includes a request for a modification under the Subdivision Ordinance.

## **Environmental Analysis**

Section 15270(a) of the California Environmental Quality Act Guidelines states that CEQA does not apply to projects which are denied or disapproved.

## **Background**

This project was continued from the Planning Commission meeting of May 19, 2004 at the request of the applicant (see copy of May 19<sup>th</sup> Planning Commission staff report attached as Attachment A).

On May 19<sup>th</sup>, staff made a summary presentation of the project, the public hearing was opened, public testimony was received, and at the conclusion, the public hearing was left open and continued to the meeting of July 21, 2004 (see minutes of meeting of May 19<sup>th</sup>, attached as Attachment B).

At the hearing, staff distributed to the Commission a copy of a letter from Cici Herold regarding the Wilson project and the Agricultural Preserve designation (see Attachment C).

At the May 19<sup>th</sup> hearing, Ms. Donna Peter, representing North Valley Cotton Gin which is located in the FPARC District south of the project site, indicated concern that the proposed residential subdivision would attract a different type of buyer to the area. Those buyers would be looking for a quiet, scenic area near a golf course and would be rudely surprised by the Cotton Gin operation. Ms. Peter indicated that the Cotton Gin operated seasonally. During its operation period from October to January it operates seven days a week for 24 hours a day and is very loud. The noise from the Gin is clearly audible at the golf course property and the Wilson site. She also indicated some concern about dust from the Gin but indicated that the Gin has installed all required dust control equipment. Her concern is that the people who would purchase the residential properties would pressure her clients through nuisance lawsuits to force changes in the Gin's operation.

Additionally, Ms. Peter stated that the FPARC District is an Agricultural-Industrial zone approved by the people and that the proximity of residential uses would discourage future agricultural-industrial use of the property.

Chairperson Capaul asked for information on the decibel level of the Gin. Staff has researched the request and responded in the "Staff Comments" section below.

## Planning Commission Follow-up Comments

Based upon an administrative interpretation of the AP/APR District, the District is to have a very limited application and is not applicable to lands that are across the street from property that is currently being farmed; therefore, staff has revised the recommendation of the report to deny the proposed applications. The definition of “currently being farmed” includes lands which have historically been farmed, but that may currently be lying fallow. The intent of this provision is that the residential use of the APR District portion of the project would adversely affect the adjacent agricultural land owner’s ability to farm that land.

During the meeting of May 19<sup>th</sup>, Commissioner Southard inquired about how long Ms. Herold had lived at her current address and how large was her property. In response, the Herold property was purchased in 1995 and contains 17.03 acres.

In response to Ms. Peter and a question from Chairperson Capaul, staff has researched the noise issue of the cotton gin and its impact on the Wilson Project. Staff has found that the U. S. Department of Agriculture and several other sources have analyzed noise levels from cotton gins indicating that the operation of a cotton gin creates noise levels in the 97 to 99 decibel range. Typical noise comparison charts classify 100 decibels as “Very Loud.”

The cotton gin in the FPARC District is located approximately 1,955 feet from the nearest corner of the Wilson residential parcels. Over that distance, the noise level reduction from the cotton gin to the closest portion of the residential parcels would be slightly over 34 decibels (in General Plan Background Report). Assuming the FPARC’s cotton gin operates at the loudest level as suggested by the various studies, 99 decibels, the exterior noise level from the cotton gin at the closest corner of the Wilson residential parcels would be slightly less than 65 decibels (99 decibels minus 34 decibels).

Policy 8.A-1 of the General Plan requires, “The County shall not allow development of new noise-sensitive land uses where the noise level due to non-transportation noise sources will exceed the noise level standards shown on Table 7 at the property line of the new noise sensitive land use unless noise mitigation measures have been incorporated into the project design to achieve the required standard.”

The maximum decibel level allowed during the daytime for new noise sensitive uses under Table 7 is 70 dB while the nighttime maximum level is 65. Based upon the attenuation of the noise over the distance from the Cotton Gin, the exterior noise levels from non-transportation noise sources at the property line, although at the maximum level that is allowed at night, will not exceed the maximum noise level allowed by Policy 8.A-1.

Another point raised by Ms. Peter was that the residential use of the Wilson property will affect the future agricultural processing use of the FPARC District. Ms. Peter

characterized these uses as agricultural-industrial activities and indicated that future such uses will not wish to be located in an area near residential uses are located.

The adjacent property south of the Wilson property is the non-open space portion of the FPARC District. The FPARC District is not an industrial zone; it is a zone the essentially allows most of the agricultural uses permitted or conditionally permitted in the County's agricultural districts.

The FPARC allows the processing, handling and storage of agricultural products if done for the property owner, as well as the commercial processing, handling and storage of agricultural products for a property owner or multiple owners of agricultural products (i. e., rice owner's cooperative, etc.). The district also allowed other agricultural associated activities as "permitted uses", where in the AG District those same uses would have required a use permit. Additionally, the FPARC allows some recreational activities as permitted uses (e. g., golf courses and parks).

Also, the FPARC allows some uses as a permitted use that had previously been allowed in the AG District by use permit through Planning Commission interpretation; e.g., energy generation facilities. The FPARC is another form of an agricultural zone that does not allow typical industrial uses as allowed in either the M-1 or M-2 Districts.

In addition, residential uses are allowed as a permitted use within the non-open space portion of the FPARC District. Therefore, the County would lack the authority to deny an application for a residential building permit regardless of proximity to the cotton gin.

## **Findings**

Based upon information contained in the May 19<sup>th</sup> and July 21<sup>st</sup> Planning Commission staff reports on the Wilson project and/or testimony received at the public hearing, the Planning Commission recommends that the Board of Supervisors adopt the following findings:

## **CEQA**

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

## **Tentative Subdivision Map**

Proposed tentative map is not consistent with the General Plan designation and zoning classification of the subject property in that the map would allow the use and development of the property in a manner not allowed by either the General Plan designation or zoning classification.

## **Recommended Action**

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

"I move that the Planning Commission recommend to the Board of Supervisors that the Board deny the General Plan amendment to 'Agricultural Preserve' designation, the rezoning to AP (Agricultural Preserve) District and APR (Agricultural Preserve Residential) District, and the subdivision map because the tentative map is inconsistent with the General Plan designation and zoning classification of the property."

### **Attachments:**

- A. Staff Report from Planning Commission Meeting of May 19<sup>th</sup> on Wilson Project
- B. Minutes from Planning Commission Meeting of May 19<sup>th</sup> on Wilson Project
- C. Letter of May 2, 2004 from Cici Herold to Planning Commission and Board of Supervisors on Wilson Project and Agricultural Preserve

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