

June 25, 2003

To: Sutter County Planning Commission

Re: Agenda Item #5, a): Public hearing on General Plan Amendment #03-03 to amend the General Plan Land Use Diagram changing the designation of the subject property from AG-80 (Agriculture, 80-acre minimum) to OS (Open Space); and

Agenda Item #5, b): Public hearing on Rezoning #03-06 to change the zoning classification from AG (General Agricultural) District to PR (Park-Recreation) District; located on the north side of Thompson Road at the Sutter Bypass, Robbins; A.P. #24-070-004 and -007; applicant - Wildlands, Inc./property owners - James & Aldean Akin (Location: District 5 - Commissioner Shannon)

Current Proposal

A. Project Description:

The applicant requests General Plan amendment and rezone approval to change the General Plan designation from AG-80 to OS and rezone the property from AG to P-R District, to allow the creation of the Gilsizer Slough Preserve. The preserve is in part intended to provide mitigation for impacts to giant garter snake habitat caused by the Wild Goose Gas Storage project in Sutter County.

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, as proposed, would not have a significant effect on the environment. Therefore, should the Commission wish to approve the project, staff recommends the Commission recommend that the Board of Supervisors adopt the attached Negative Declaration.

Background

A. Property Description:

This 162-acre property adjoins the east levee of the Sutter Bypass, immediately north of Thompson Road. The property has approximately 2,032 feet of frontage on Thompson Road, and

is approximately 2,589 feet deep. A portion of Gilsizer Slough, consisting of approximately 49 acres of perennial marsh and 8 acres of open water, bisects the property from northeast to southwest. Flanking the slough are two upland areas containing 105 acres combined, which have been historically cultivated for row crops and, occasionally, rice.

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

Property	Use	Zoning	General Plan
Subject Property	Agriculture	AG	AG-80
North	Agriculture	AG	AG-80
East	Agriculture	AG	AG-80
South	Agriculture	AG	AG-80
West	Levee & Bypass, Agriculture	AG	AG-80

C. Previous Planning Commission Actions/Policies:

On May 3, 1995, your Commission approved Rezoning #95-02, which rezoned an off-site agricultural parcel under the same ownership to AG-PD (General Agricultural, Planned Development Combining) District. The rezoning allowed the construction of a second residence on that parcel, and General Plan density standards were maintained by the transfer of residential development rights from the two parcels that are the subject of the current applications. Approval of the General Plan amendment and rezoning applications will not terminate or otherwise affect the development rights agreement.

Staff Comments

A. Building Inspection:

The Building Inspection Division responded with no comments.

B. Environmental Health:

The Environmental Health Division responded with no comments.

C. Office of the Sheriff/Coroner:

The Office of the Sheriff/Coroner responded with no anticipated impact to services provided by their department.

D. Public Works Department:

The Public Works Department responded with no comments.

E. Planning (P):

See the Criteria of Development and the analysis below.

General Plan Amendment and Rezone Analysis

By creating a preserve that will both function as a GGS mitigation bank and expand an existing open water and wetland habitat area, the project is consistent with General Plan Policies 4.B-4: “The County will encourage the creation and use of wetland mitigation banks as long as their creation and existence will not adversely impact existing and/or planned agriculture or urban development.” and 4.C-7: “The County encourages the preservation of rare, threatened or endangered animal species.” Agricultural operations on the property and in the vicinity have not been hindered by the historic presence of the existing open-water and perennial marsh, therefore the project is anticipated to be compatible with continuing agricultural uses on adjacent properties.

The environmental Initial Study revealed that, of the 162-acre project site, 105 acres consist of upland areas that have been historically farmed to produce row crops or rice. Of these 105 acres, approximately 73% (±76 acres) consist of the mapping unit “Marcum clay loam, siltstone substratum, 0-1% slopes,” a Class II soil (when irrigated) that is considered Prime Farmland. This unit comprises approximately 1.6 percent (>6,300 acres) of soils in the county. Although the project proposes converting this farmland to other-than-agricultural use, the conversion will create wildlife habitat values superior to any similar values provided by rice fields or row-crop land. Staff considers this aspect of the project to override the minor conversion of Prime Farmland on the site. Because “habitat” is not a permitted land use within the agricultural (AG-80) land-use designation, the proposed permanent conversion of these agricultural lands requires amending the land-use diagram to Open Space (OS) designation.

General Agricultural (AG) zoning is consistent with the OS land-use designation, and permanent wildlife habitat creation is permitted in the AG zone with approval of a development agreement. However, rezoning to PR (Park-Recreation) District is also consistent with the OS designation, and both provides a property-tax advantage to the applicant and limits potential uses of the property to those more compatible with wildlife habitat. Staff believes that the requested General Plan amendment and rezoning are consistent with the policies and regulations contained in the General Plan and Zoning Code.

Recommended Findings

If the Planning Commission chooses to recommend approval of these applications, staff recommends the findings, actions and conditions listed below.

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 project for the subject property. The study revealed that the project, as proposed, would not create a significant impact on the environment. No written comments have been provided which present evidence that the project will have a significant impact 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 General Plan amendment, rezoning, and the use of the subject property comply with the applicable requirements of the Sutter County General Plan and Zoning Ordinance, subject to the Criteria of Development.

Recommended Action

- A. Make the findings for approval as prepared 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 General Plan Amendment #03-03 changing the land-use designation from AG-80 to OS.
- D. Recommend that the Board of Supervisors approve Rezoning #03-06 changing the zoning designation from AG to PR, subject to the following Criteria of Development:
 - 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 receiving final project approval. (P)
 - 2. Use of the property shall be limited to a wildlife habitat preserve. (P)
 - 3. The applicant shall pay any outstanding balance in excess of the amount on deposit for processing the application within thirty (30) days after the Community Services Department issues the final invoice. (P)

Sincerely,
LISA WILSON
INTERIM PLANNING DIVISION CHIEF

William J. Caplinger
Assistant Planner

Attachments: Exhibit A - Study Sketch
Exhibit B - Site Plan
Exhibit C - Proposed Negative Declaration and Initial Study

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