

January 29, 2003

To: Sutter County Planning Commission

Re: Agenda Item #17: Public hearing on Tentative Parcel Map #02-13 to allow the division of six parcels totaling approximately 331 acres into 13 parcels ranging in size from 20.1 to 37.3 acres; AG (General Agricultural) and AG FP (General Agricultural, Special Flood Plain Combining) Districts; located north of Lee Road, south of Garwood Road, along Garden Highway, Nicolaus; A. P. #33-010-047, -048, -023, -024, -025 & -026; applicant - Tom Applegarth/property owner - Roy E. Lanza, et al (Location: District 5 - Commissioner Shannon)

### **Current Proposal**

#### A. Project Description:

The applicant requests approval of a tentative parcel map to divide six contiguous parcels totaling 331+ acres into thirteen parcels that range in size from 20.1 to 37.3 acres.

#### 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. Therefore, staff recommends the Commission adopt the attached Negative Declaration.

### **Background**

#### A. Property Description:

There is an existing residence on one of the subject parcels. The majority of the property is currently used as field crop land or is vacant. A portion of the property (approximately 12.5 acres) lies adjacent to the Feather River on the west side of the levee.

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

	Use	Zoning	General Plan
<b>Subject Property</b>	Agricultural, residence	AG, AG FP	AG-20, OS
North	Agricultural, Feather River	AG, AG FP	AG-20, OS
East	Agricultural, residential	AG	AG-20
South	Golf course, orchard	PR PD, AG FP	PR
West	Feather River	AG FP	OS

C. Previous Commission Action/Policies

According to County records, there have been no previous Commission actions on the subject property.

**Staff Comments**

A. Public Works (PW):

See Conditions #3-#10.

B. Environmental Health (EH):

See Condition #11.

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

The Sheriff/Coroner has reviewed the project and responded with the following comment:

“We find there is no obvious impact as proposed – **HOWEVER** – if future development appears it could impact our services.”

Staff contacted the Sheriff’s Department to clarify this comment. They indicate that, as proposed, 13 new residences on the proposed 13 lots would not impact their services. If, however, the proposal is modified to create a higher residential density (i.e. ranchette lots), it could lead to a substantial increase in service calls and impact their services.

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

See Condition #12.

E. Planning (P):

The project site is designated both AG-20 (Agriculture, 20-acre minimum) and OS (Open Space) by the Sutter County General Plan. The Feather River levee, located near the western edge of the project site, forms the boundary between these two land use designations. Consistent with these designations, the site is zoned AG (General Agricultural) in the AG-20 designated area and

AG FP (General Agricultural, Special Flood Plain Combining) District in the OS designated area.

In order to approve a tentative map, the State Subdivision Map Act requires that the proposed map be consistent with the County's General Plan. The Sutter County Subdivision Ordinance requires that the map comply with its provisions, the State Subdivision Map Act, and the County Zoning Code in order to be approved.

#### Conformance with General Plan

Except for an approximate 12.5 acre portion located within the levee, adjacent to the Feather River, the majority of the project site is designated Agriculture, 20 acre minimum (AG-20) by the General Plan. According to the definition contained in the General Plan, typical land uses allowed in AG-20 designation include: crop production, orchards, grazing, pasture and rangeland, resource extraction activities, facilities that directly support agricultural operations such as agricultural products processing, and necessary public utility and safety facilities. Staff believes that this definition clearly states that the primary purpose of this designation is to provide area for agricultural uses or uses that are directly supportive of agriculture.

The Agricultural Resources section of the General Plan contains a specific subsection entitled, Protection and Enhancement of Agricultural Resources. Within this subsection, the following finding, goal, and policy are applicable to the proposed project:

Finding 6c. The County's agriculturally related economic base could be jeopardized by the conversion of agricultural land to urban uses and through incremental divisions of agricultural land for rural residential uses unless appropriate measures are taken.

Goal 6.A To preserve high quality agricultural land for agricultural purposes.

Policy 6.A-1 The County shall preserve agriculturally-designated areas for agricultural uses and direct non-agricultural development to areas designated for urban/suburban growth, or rural communities and/or cities.

According to the USDA Soil Conservation Service Soil Survey, the property contains three soil types: Holillipah loamy sand, 0 to 2 percent slopes; Nueva loam, 0 to 1 % slopes; and Shanghai Variant loamy sand, 0 to 1 percent slopes. Most areas of Holillipah loamy sand are used for irrigated orchard crops, mainly walnuts, peaches, and prunes. Most areas of Nueva loam and Shanghai Variant loamy sand are used for irrigated crops, mainly walnuts. When irrigated, all three soils meet the criteria for Prime Farmland.

The applicant is proposing a total of 13 parcels, ranging from 20.1 to 37.3 acres in size. It is important to note that Parcels #1-#5, which are the largest in the proposed subdivision, contain acreage that is located on the west (river) side of the levee. This acreage, although available to include in the subdivision's total acreage, in practicality is not usable for building or for agricultural uses since it is physically separated by the levee and located within the flood plain of the Feather River. To be consistent with the AG-20 designated portion of proposed Parcels #1-

#5 (east of the levee), staff has required that these portions of the parcels contain at least 20 acres.

Staff acknowledges that the applicant's proposal meets the technical requirements of the General Plan (i.e. 20 acre minimum parcel size, etc.) and the development standards of the Zoning Code. Staff has therefore provided a recommendation for approval for the project. However, staff does believe that dividing over 300 acres containing highly productive soils into a relatively large number of lots is in potential conflict with the intent of the General Plan and could be detrimental to nearby agricultural operations. The subdivision of agricultural land to its minimum allowed parcel size and the resulting impact to agricultural land use is a significant policy issue. Staff will be presenting this issue to the Board of Supervisors independent from this project at a later date.

If approved, staff recommends two conditions to ensure consistency with the General Plan. First, a condition is recommended requiring that construction of residences on the proposed parcels be required to be located within 300 feet of the front (street frontage) property line. This condition is recommended to encourage clustering of residences, minimize acreage removed from farming, and is consistent with the above noted General Plan policies and policies related to creation of homesite parcels.

A second condition is recommended requiring that the subdivider enter into a modified development rights agreement on the portions of Lots #1-#5 that lie on the west side (river side) of the levee. The agreement would prohibit development of this area since it lies within a flood plain, contains riparian habitat, and is designated Open Space under the General Plan. The development rights agreement supports the following General Plan policies:

- Policy 1.G-1 The County shall encourage development projects to minimize their impacts to open space areas and wildlife habitats.
- Policy 4.B-1 The County shall require new development to fully mitigate the loss of federally regulated wetlands to achieve a "no net loss" through any combination of avoidance, minimization, or compensation.
- Policy 4.D-1 The County shall encourage the preservation of important areas of natural vegetation, including, but not limited to oak woodlands, riparian areas, and vernal pools.
- Policy 4.D-3 The County shall require that new development projects avoid, to the maximum extent possible, ecologically-fragile areas (e.g. areas of rare, threatened or endangered species of plants, riparian areas, vernal pools).

#### Conformance with the Zoning Ordinance

The majority of the site is zoned General Agricultural (AG), while the area within the Feather River levee is General Agricultural, Special Flood Combining (AG FP). Section 1500-1414 of the Sutter County Zoning Ordinance provides that minimum lot size for lots within the AG District be either 20 or 80 acres as determined by the overlaying General Plan Land Use

Designation. As indicated above, the land use designation for the portion of the parcels located east of the levee is AG-20. The proposed parcels meet the requirements of the AG zone district and therefore, the request is consistent with the Zoning Ordinance.

### Conformance with the Subdivision Ordinance

The County Subdivision Ordinance establishes standards and requirements to regulate and control the design and improvement of land. Staff has reviewed the proposal against the Subdivision Ordinance and believes it complies with established standards.

### 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 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. With the recommended conditions of approval required, the proposed tentative parcel map and use of the subject property is consistent with the Sutter County General Plan and complies with the applicable requirements of the Zoning Code and Subdivision Ordinance.

### Recommended Action

- 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. Approve Tentative Parcel Map #02-13, 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. (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)

Garwood Road	20.0' R/W + 10.0' P.U.E.
Lee Road	20.0' R/W + 10.0' P.U.E.
Garden Highway	30.0' R/W + 10.0' P.U.E.

10. All County roads within the development site must be improved to current County road standards. Roadway improvement plans and construction of the roadway improvements shall be approved by the Director of Public Works. (PW)
11. The subdivision shall comply with Sections 700-140G, G (1), & H of the Sutter County On-Site Sewage Treatment and Disposal Ordinance. Compliance with these sections will require that the following conditions are met:
  - A. A note shall be recorded on or with the parcel map or final map stating that a site evaluation to determine the suitability of the proposed parcels(s) for utilizing an on-site sewage system has not been conducted. Any use

that generates sewage or wastewater regulated by the Environmental Health Department or the RWQCB shall not be permitted unless all requirements of the On-Site Sewage Treatment and Disposal Ordinance, or any amendments thereto in effect at the time of development are met.

- B. If individual wells are proposed for the subdivision, a one hundred (100) foot protection zone shall be established around each existing and proposed well site. The proposed well location(s) must minimize development impacts on surrounding parcels. (EH)
12. 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)
13. The following note shall be recorded on the final map:
- Construction of residences on the proposed parcels shall be located within 300 feet of the front (street frontage) property line. (P)
14. Prior to recordation of the final map, the applicant shall sign a modified development rights agreement prohibiting all development (i.e. residences, accessory buildings, fences, etc.) of that portion of proposed Lots #1-#5 lying west (river side) of the Feather River levee. (P)

Sincerely,

THOMAS A. LAST  
PLANNING DIVISION CHIEF

Steve Geiger  
Associate Planner

Attachments: Exhibit A - Study Sketch  
Exhibit B - Tentative Parcel Map  
Exhibit C - Proposed Negative Declaration and Initial Study

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