

January 29, 2003

To: Sutter County Planning Commission

Re: Agenda Item #16: Public hearing on Tentative Parcel Map #02-16 to allow the division of an existing 40 acre parcel into a two acre homesite parcel and a 38 acre agricultural remainder parcel; AG (General Agricultural) District; located at 3349 Bogue Road, Yuba City, A. P.# 22-020-005, applicant/property owner - Larry D. Tate (Location: District 4 - Commissioner Southard).

Current Proposal

A. Project Description:

The applicant requests approval of a tentative parcel map to divide a 40 acre parcel into a two acre homesite parcel and a 38 acre agricultural remainder parcel.

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. If the project is approved, staff recommends the Commission adopt the attached Negative Declaration.

Background

A. Property Description:

The subject parcel has a residence and a shop building located at the southwest corner of the property. The remaining 38 acres of the parcel are devoted to walnut orchard.

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

	Use	Zoning	General Plan
Subject Property	Walnut orchard, residence	AG	AG-80
North	Orchards, residences	AG	AG-80, AG-20
East	Orchards, residences	AG	AG-80
South	Orchards, residences	AG	AG-80
West	Orchards	AG	AG-80

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-#11.

B. Environmental Health (EH):

See Conditions #12-#17.

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

The Sheriff/Coroner responded the project would not impact services provided by their department.

D. City of Yuba City, Community Development Department (YC):

The Yuba City Community Development Department commented that the project is within the City's Sphere of Influence. The City further commented that they oppose the creation of an estates (ranchette) size property in an area that is recommended for Low Density Residential development on the City's new General Plan. If the project is approved, the City requests that bonding for full street improvements on Bogue Road be provided as a condition of the map.

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

See Condition #18.

F. Planning (P):

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

General Plan Policy 6.A-6 states that 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. This policy also states that historical uses and physical boundaries may be considered on a case by case basis. The policy further allows a landowner to create a homesite parcel up to 2 acres in size, unless the Environmental Health program grants a waiver for sewage disposal, in which case the parcel may be allowed for up to 5 acres. The policy states that in creating a homesite parcel, the remainder parcels shall meet the minimum parcel size of the agricultural land use designation (20 or 80 acres).

The Sutter County General Plan Land Use Diagram shows that the subject parcel is designated Agriculture, 80 acre minimum (AG-80). According to the Land Use Diagram, the AG-20/AG-80 land use boundary is approximately 300 – 400 feet north of the subject property. Staff has attached a diagram to the report (Exhibit C) which shows the location of the AG-20/AG-80 boundary in relation to the subject property and the property involved in the parcel map submitted by Hardial Singh (PM #02-15), being considered on the same agenda. This boundary generally separates soils that are suited primarily for orchard crops (i.e. peaches, prunes, walnuts, etc.) from those more suited to rice or field crops. Based on the AG-80 designation, the subject 40 acre parcel is “non-conforming” with the 80 acre minimum parcel size. In order to be consistent with the above General Plan Policy, the applicant would be required to maintain a minimum 80 acre remainder parcel when creating a homesite parcel.

According to the USDA Soil Conservation Service Soil Survey, the site contains three different soil types: Conejo-Tisdale complex, Liveoak sandy clay loam, and Marcum-Gridley clay loams. Conejo-Tisdale complex and Liveoak sandy clay loam are mostly used for irrigated orchard crops, such as peaches, prunes, and walnuts. Liveoak sandy clay loam is considered Prime Farmland when irrigated. Marcum-Gridley clay loams are mostly used for rice, with irrigated peaches and prunes listed as secondary crops. The Soil Survey map shows that each soil comprises approximately 1/3 of the parcel.

The subject 40-acre parcel has approximately 38 acres currently devoted to walnut orchard. According to the applicant, the subject property and the surrounding area have been developed with orchards for fifty or more years. In determining minimum parcel size in agriculturally designated areas, General Plan Policy 6.A-6 does contain a general statement that “historical uses” may be considered on a case by case basis. With this application, the applicant would like the County to make a determination that the property be considered AG-20, based on the historical use of the land for orchards. The Commission will need to determine, based on the information presented, whether the property should be designated AG-20 or AG-80. Once this determination is made, the appropriate action to approve or deny the parcel map may be taken.

The applicant originally inquired about having this property designated AG-20 in a letter sent to staff last October. Staff responded with a letter stating that the parcel is designated AG-80 by the

General Plan (See Exhibit D for staff's letter). This letter further noted that although the subject parcel has orchard compatible soils, it is surrounded by soils that are classified as field crop soils. Staff's concern is that redesignating AG-80 parcels to AG-20 simply because they have orchard compatible soils will lead to similar requests by other property owners. This could eventually lead to the AG-20/AG-80 boundary losing its significance and result in the subdivision of a significant amount of agricultural properties.

Staff acknowledges that in 1996, a similar request was made on another AG-80 designated parcel located on the south side of Bogue Road, just east of the subject property. That application (Parcel Map #96-05, Nachattar Chohan) proposed to create a 2 acre homesite parcel and a 32 acre agricultural remainder. The property was developed with a residence and according to information provided in the staff report, had a peach orchard that had been planted for 40 years. Staff recommended denial of that application. The Commission, however, determined that the subject parcel should be considered AG-20 due to it having orchard compatible soils and a peach orchard planted for many years. The Commission therefore approved Parcel Map #96-05.

Consistent with that application, staff is recommending denial of this parcel map application since it is not consistent with the General Plan designation. As previously stated, the Land Use Diagram shows this property to be designated AG-80. The Commission should note that the map upon which the Land Use Diagram is based came from the "Soil Survey of Sutter County", published by the U.S. Department of Agriculture, Soil Conservation Service. Although the Soil Service map is not perfectly accurate, it is the best available data short of conducting actual soil tests on every parcel in the County. Therefore, it should be expected that "pockets" of orchard soils will exist within the row and field crop designated areas, and vice versa. In some cases, these "pockets" may be found considerably farther from the AG-20/AG-80 boundary line than the subject parcel.

For the purposes of the General Plan, the County is required to have a land use diagram and the minimum parcel sizes established by it. When the current General Plan was adopted, both the Planning Commission and Board of Supervisors took considerable testimony on the subject of minimum parcel sizes in the agricultural areas. It was the Board's conclusion that minimum parcel sizes should be based on soil types and that this diagram was the best indicator of soil types available to the County.

If the Commission approves this application, staff recommends a condition that residential development rights be granted to the County for the remainder parcel. This condition, which was also required on the previously approved Chohan parcel map (Parcel Map #96-05), will reduce the amount of land potentially removed from agricultural production by prohibiting construction of a residence on the remainder parcel.

Conformance with the Zoning Ordinance

The subject property is zoned General Agricultural (AG). 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 is determined to be AG-80. Therefore, the request is also not 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. Section 1400-515(a) of the Subdivision Ordinance requires that the minimum area of all lots conform to the zoning requirements for the district in which the subdivision is located in. As noted above, the proposed project does not conform to the 80 acre minimum requirement of the AG zone district. Therefore, the request is not consistent with the Subdivision Ordinance.

Conclusion

The proposed project is not consistent with the Sutter County General Plan, Zoning Ordinance, and Subdivision Ordinance. Staff is therefore recommending denial of the proposed tentative parcel map.

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 judgement of the County of Sutter.
- C. The proposed tentative parcel map is not consistent with Sutter County General Plan Policy 6.A-6 since the remainder parcel will not meet the 80 acre minimum required by the AG-80 General Plan designation.
- D. The proposed tentative parcel map is not consistent with the Sutter County Zoning Ordinance and Subdivision Ordinance.

Recommended Action

Make the Findings listed above and deny Tentative Parcel Map #02-16.

If the Planning Commission chooses to approve this application, staff recommends the following Findings and Conditions:

Findings Required for Project Approval

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. Due to the historical orchard use of the property for fifty years and the orchard compatible soils on the property, it has been determined that the subject parcel should be considered Agriculture, 20 acre minimum (AG-20)
- D. The proposed homesite parcel is two acres in size and will be created for the owner of the property. The proposal is therefore consistent with General Plan Policies 6.A-4 and 6.A-6.
- E. 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.

Action Required for Project Approval

- 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 #02-16, 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)

Bogue Road 42.0' R/W + 10' P.U.E.

10. Prior to the filing of the final map on these parcels, an agreement shall be entered into with Sutter County. This agreement shall run with the land and shall be binding on all successors in interest and shall provide for the following: (PW)

Participation in a zone of benefit, drainage district, agency, service area or any other public entity for the financing of construction and maintenance of a drainage system. In addition to the special assessment district or public entity referred to immediately above, the agreement between the developer and Sutter County of any legally available fee, assessment or other financing mechanism to facilitate the construction and maintenance of a drainage system.

11. A deferred improvement agreement, secured by a bond or other security approved by the Director of Public Works shall be entered into with Sutter County. This

agreement shall run with the land and shall be binding on all successors in interest. The agreement shall provide for the following: Street paving, curbs, gutters and sidewalks. (PW)

12. Prior to the recordation of the map, the subdivider shall provide to Environmental Health a map that clearly shows the exact location of the Minimum Useable Sewage Disposal Area (MUSDA) for each parcel. The homesite parcel should show a replacement MUSDA of 10,000 square feet which should be located around the soil profile pit excavated on 12-04-02. The remainder parcel has the choice of showing a MUSDA around the soil profile pits excavated also on 12-04-02 or by requesting the waiver of MUSDA determination requirement as set forth in Section 700-140G of the On-Site Sewage Treatment and Disposal Ordinance. If the waiver is granted, the following condition shall be met: (EH)

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 parcel(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.

13. Prior to the recordation of the map, the subdivider shall provide a signed statement that any abandoned on-site wells and sewage systems have been destroyed in accordance with Sutter County Environmental Health regulations. Sutter County Environmental Health permits shall be obtained prior to the commencement of this work. (EH)
14. A note must be recorded on the map stating that all structures producing wastewater shall connect to the public sewer when it is available, per the Uniform Plumbing Code (UPC). (EH)
15. A note must be recorded on the map stating that water supply shall be from individual wells located on the subject properties. (Off-site private water supplies are prohibited unless proper documentation of easements and legal contracts are provided). (EH)
16. The following note shall be recorded on or with the 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)

17. Prior to the recordation of the map, the applicant shall submit to Environmental Health for review and approval the following documents: (EH)
 - A. A site plan prepared by a qualified consultant, showing lot boundaries, the minimum usable sewage disposal area designated for each lot, locations of existing and proposed water wells, test hole locations, roadways, driveways, easements, and other constraints to on-site sewage system siting.
18. 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 exist within the project site. (PG&E)
19. Prior to the recordation of the map, the landowner shall execute an open space easement and development rights agreement with the County of Sutter which prohibits construction of a residence on the proposed remainder parcel. (P)

Sincerely,

THOMAS A. LAST
PLANNING DIVISION CHIEF

Steve Geiger
Associate Planner

Attachments: Exhibit A - Study Sketch
Exhibit B - Tentative Parcel Map
Exhibit C - Diagram of AG-20/AG-80 boundary in relation to subject property
Exhibit D - Staff's letter to applicant re: General Plan determination
Exhibit E - Proposed Negative Declaration and Initial Study

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