

August 27, 2003

To: Sutter County Planning Commission

Re: Agenda Item #5: Public hearing on Tentative Parcel Map #03-11 to allow the subdivision of a 27.5 acre parcel into two parcels, a 3.0 acre homesite and a 24.5 acre agricultural parcel; AG (General Agricultural) District; located in on the north side of South Butte Road, approximately 1,000 feet easterly of intersection of South Butte Road and Wyncoop Road and approximately 1 mile westerly of the rural community of Sutter; A. P. #13-200-103; applicant/property owner - Larry Lewis (Location: District 3 - Commissioner Barringer)

Current Proposal

A. Project Description:

The project is the subdivision of a 27.5-plus acre parcel into a 24.5 acre parcel and a 3-acre homesite parcel to be occupied by the property owner. The area of the larger parcel already contains an existing residence. The homesite parcel would eventually have a new residence constructed thereon. Access to both parcels would be from South Butte Road. Both parcels would be served by individual septic systems and private wells.

Portions of the subject property is within both the County 20-acre and 80-acre minimum area. A determination will need to be made as to historical use of orchard lands. If the determination is made that the property has a historical orchard use and, therefore, only one residence per twenty acres is allowed, the subdivider has offered to grant development rights on an adjoining 20 acre parcel in order to meet the General Plan density. With the granting of development rights on the adjacent parcel, the net effect of this project is to allow for the construction of a one, new, single-family residence.

B. Environmental Consideration:

An Initial Study was prepared for a similar subdivision into two parcels where the parcels were a two-acre homesite and a 25.5-acre agricultural remainder parcel in accordance with the California Environmental Quality Act and the Guidelines. The study of the similar project revealed that the project, as proposed, would not have a significant impact on the environment. Staff has determined that the revised project is similar in impacts to the original proposed project; therefore, if the Planning Commission wishes to approve the project, staff recommends the Commission adopt the attached Negative Declaration (see Exhibit B).

Background

A. Property Description:

The subject property contains 27.5 acres, an existing residence, an existing aircraft hanger now used as an agricultural accessory building, and an existing agricultural well. The rear portion of the property that contains the Ag-80 portion of the property was planted in orchard within the last few years while the front portion of the property, south of the existing residence, is used for pasture land for goats.

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

The project is located in a mixed agricultural area approximately one (1) mile westerly of the community of Sutter. The area also has several agricultural and/or rural homesites. Immediately easterly of the subject property is a commercial stable, while immediately westerly of the property is a closed, Class 3 solid waste disposal site that has previously been illegally used for the disposal of Class 1 and Class 2 wastes. The closed dump site also contains an existing natural gas well. Approximately 1/3 of a mile further to the west is the Southridge Golf Course. Approximately 26.5 acres of the site is designated as Ag-20 by the General Plan while the remaining one acre is in the Ag-80 designation.

	Use	Zoning	General Plan
Subject Property	Agricultural (Orchard and grazing land)	AG	Ag – 20 and Ag-80
North	Agricultural	AG and FPARC	Ag -20, Ag – 80, and FPARC
East	Commercial Stable	AG	Ag – 20
South	Agricultural	AG	Ag – 20
West	Agricultural, gas well, and abandoned solid waste disposal site	AG	Ag – 20 and Ag-80

(See Exhibit A for study sketch.)

C. Previous Commission Actions/Policies:

In order for your Commission to approve a tentative map, the State Subdivision Map Act requires that the proposed map be consistent with the applicable General Plan and County Zoning Code. In reviewing the project in relationship to the General Plan, the following policies appear to apply:

- 6.A.-4: A landowner shall be allowed to separate his or her homesite from the original parcel. Additionally, homesites for landowner's sons or daughters shall be permitted as long as it is clearly documented that the family member is involved in the family farming operation. Divisions for this purpose shall provide, to the extent possible, for cluster housing and minimize acreage removed from farming. Applicants requesting

divisions that would not provide for cluster housing shall be required to provide evidence of a physical constraint on the property that would show cluster housing is not possible or is infeasible. Development rights shall be granted to Sutter County or its designee for the remaining agricultural lands. Densities shall be limited to those permitted by the underlying agricultural land use designation.

- 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.

In June, 2003, your Commission considered a subdivision application on a nearby parcel to the west (Richard Wilson, TPM #03-01). On that application, your Commission did not take a definitive action on the issue of historical orchard use for determining the Ag-20/Ag-80 issue under General Plan policy 6.A-6. The majority of your Commission expressed the opinion that the Wilson property area shown within the AG-80 area on the General Plan map but that had been planted in orchard within the last five years should be considered as having historical orchard use and, therefore, should be considered as being within the Ag-20 General Plan designation.

Staff Comments

- A. Public Works Department (PW):

See recommended conditions.

- B. Environmental Health Division (EH):

See recommended conditions.

- C. Office of the Sheriff/Coroner:

The proposed tentative map has been reviewed by this office and we find that there is no anticipated impact on our services (paraphrased).

- D. Pacific Gas and Electric Company:

Any relocation of any existing PG&E facility to accommodate this project will be at the property owners' expense. There shall be no building of structures allowed under or over any of our facilities or inside any PG&E easements that may exist within the subject property.

E. Planning (P):

The proposed tentative map would subdivide an approximately 27.5-acre parcel into two parcels, a three-acre homesite parcel and a 24.5-acre agricultural parcel with an existing residence. A new residence would eventually be constructed on the homesite parcel for the property owner and his daughter would occupy the existing residence.

Under General Plan policy 6.A-4, homesite parcels may be allowed provided that the development rights are provided on the agricultural remainder parcel. In this case, since the agricultural remainder parcel already contains an existing residence, the property owner/subdivider has agreed to grant development rights on an adjacent 20-plus acre parcel of land that does not contain any residences in order to comply with policy 6.A-4.

The project was originally submitted and processed as a two parcel subdivision with the homesite parcel being two acres in size. However, during the review of the project the Environmental Health Division determined that a 20,000 square foot MUSDA was required on the homesite parcel and that two acres was not a sufficient size to accommodate the MUSDA along with a new residence and the existing accessory building (the existing aircraft hanger). Therefore, the homesite parcel was enlarged to three acres in accordance with General Plan policy 6.A-6.

Since the Initial Study was prepared for a two acre homesite parcel, staff reevaluated that study and came to the conclusion that the changes to the project related impacts were inconsequential and, therefore, the Initial Study adequately discussed the revised project impacts. A note to that effect was included on the Initial Study.

As may be noted in the discussion under "Subject and Surrounding Properties Land Use, Zoning Classification and General Plan Designation", portions of the subject property is within both the Ag-20 and Ag-80 General Plan designation areas. It appears that approximately 1.0± acres of the total 27.5 areas of the subject property are in the Ag-80 designation. The rear portion of the property has an immature orchard that has been planted within the last couple of years.

As mentioned previously, in June, 2003, your Commission heard the Wilson parcel map. On that map, the majority of your Commission indicated sans a formal vote that they felt that the applicant had made his case for a historical orchard use under General Plan policy 6.A-4. With the Wilson map, the applicant had planted the property in orchard within the last five years.

Although separated by one property, the Wilson property and the subject property share common soil types and have a similar situation concerning an immature orchard planted within the last few years. Based upon planting of the rear of the subject property in orchard, the subdivider, Mr. Lewis, believes that a historical orchard use has been established on the subject property similar to the Wilson map. If your Commission so agrees and finds that a historical orchard use has been

established, then the proposed tentative map would conform to the County's Subdivision Ordinance, Zoning Code, and General Plan, including policies thereof.

Staff has recommended approval of the tentative map subject to several conditions. These conditions are necessary for the proposed use to provide minimum safety requirements for the protection of life and property for the intended use, the protection of existing public improvements, or to comply with code requirements.

In addition to the standard conditions of similar projects, staff has included a non-standard condition pertaining to the testing of the water quality from any new well on the homesite parcel. Soil sampling performed both in the 1980's and within the last couple of years at the waste disposal site has indicated the presence of hazardous and acutely hazardous materials in the soil. These materials could potentially contaminate the ground water and cause severe health problems for anyone residing in the new residence on the homesite parcel. Due to the potential for severe health problems, staff has included a condition that any new well drilled on the homesite parcel be tested for those hazardous materials found in the previous soil testing of the waste disposal site and the results provided to the Environmental Health Division for their records.

Recommended Findings

Based on information contained in the agenda report and/or testimony received at the public hearing, the 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 a similar subdivision of the subject property. The study revealed that the similar project, as proposed, would not have created a significant impact on the environment. After completion of that Initial Study, the project applicant revised the project to increase the homesite parcel from two acres to three acres. The original Initial Study was reevaluated and it was determined that the project change was inconsequential to the project related impacts described in the Initial Study. 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 proposed 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. Based upon evidence included in the agenda report on the tentative map that a historical orchard use has been established on that portion of the subject property designated on the General Plan as Ag-80 and, due to that historical use, the Commission has determined that that area is designated Ag-20 pursuant to General Plan policy 6.A-6.
- D. The proposed subdivision would allow the division of approximately 27.5-plus acres of land into two parcels for a 3-acre homesite parcel and a 24.5-acre plus agricultural remainder

parcel for agricultural use and in an area where provisions and policies the AG (General Agricultural) District and the Sutter County to General Plan allow such uses; therefore, the proposed parcel sizes and uses are consistent with the Sutter County Zoning Code, the Sutter County General Plan, and policies thereof.

- E. Based upon a determination by the Environmental Health Division that the homesite parcel requires a 20,000 square foot MUSDA and that a two acre homesite parcel is not of sufficient size to accommodate the required MUSDA and the existing and proposed improvements, the homesite parcel's increase to three acres in size is consistent with General Plan policy 6.A-6.
- G. Any dedications and/or improvements required of the proposed subdivision and imposed as conditions of approval are consistent with the property's agricultural use in a rural, agricultural area in order to provide an adequate level of access and services for the public's health, safety and general welfare, in order to conform to regulations of the Sutter County Ordinance Code and General Plan, and to conform to requirements pertaining to the protection of public resources and other public and private improvements.

Recommended Action

- A. Review and consider the Negative Declaration;
- B. Adopt the recommended findings;
- C. Adopt the Negative Declaration;
- D. Approve the tentative map subject to the following conditions:

Upon Approval of the Map

- 1. A Notice of Determination including any fees shall be filed in the Office of the County Clerk within five (5) days of the end of the ten-(10) day appeal period. (P)

On-Going

- 2. 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 Public Works Department. Additionally, no grading or alteration of the existing terrain that would direct additional waters from one lot to any adjacent lot is allowed. This condition shall be so stipulated on the parcel map. (PW)
- 4. 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)

5. 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)

Prior to Recordation of the Map

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 completed. (PW)
7. All rights of way and easements, public or private, shall be shown on the parcel map along with the recording references. (PW)
8. 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)
9. All on-site wells that have been abandoned shall be destroyed in accordance with Sutter County Environmental Health regulations. The subdivider shall provide to the Environmental Health Division a signed statement that this has been completed or that no abandoned wells are located on the property. The subdivider shall obtain from said Division permits, for the destruction of any abandoned well prior to the commencement of well destruction. (EH)
10. The subdivider shall provide to Environmental Health Division a map, which clearly shows the exact location of the Minimum Useable Sewage Disposal Area (MUSDA) for each parcel. The MUSDA delineation shall comply with Sutter County Environmental Health regulations. (EH)

With the Recording of the Map

11. 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 road:

South Butte Road	33.0' R/W + 10.0' P.U.E (PW)
------------------	------------------------------
12. The applicant shall submit to Environmental Health for review and approval the following documents:
 - 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.

- b. Additional soils testing information prepared by a qualified consultant indicating the basis for the sizing and design of the on-site sewage system. (EH)
13. A note must be recorded on the map stating the following:
- a. The water supply for the property 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).
 - b. 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)
14. The subdivider shall enter in to a standard development rights agreement with the County on the adjacent 20-plus acre parcel (APN 13-200-102). (P)

Upon Drilling of Well on the Homesite Parcel

15. Any new well drilled on the homesite parcel shall be tested for those hazardous materials found in the previous soil testing of the adjacent waste disposal site and the results of that testing provided to the Environmental Health Division for their records. (P)

Sincerely,

DANELLE STYLOS
PLANNING DIVISION CHIEF

Dale Follas
Associate Planner

Attachments: Exhibit A - Study Sketch
Exhibit B - Tentative Map
Exhibit C - Negative Declaration and Initial Study
Exhibit D - Letter Requesting Waiver of Recording of Parcel Map

H:\planning commission-2003\09-03-03\reports\pm 03-11 (lewis)