

March 26, 2003

To: Sutter County Planning Commission

Re: Agenda Item #12: Public hearing on Rezoning #03-04 to change the zoning classification of two parcels totaling 324+ acres from the AG (General Agricultural) and AG FP (General Agricultural, Special Flood Plain Combining) Districts to the AG-PD (General Agricultural, Planned Development Combining) and AG-PD FP (General Agricultural, Planned Development and Special Flood Plain Combining) Districts; and

Agenda Item #13: Public hearing on Tentative Subdivision Map #03-02 to allow the division of said 324+ acres into 15 parcels including 13 homesite parcels ranging in size from 1.50 to 2.77 acres and two agricultural remainder parcels, 100.4 and 202.1 acres in size; 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 owners - Roy E. Lanza (Location: District 5 - Commissioner Shannon).

### **Current Proposal**

A. Project Description:

At the February 5<sup>th</sup> meeting, the Planning Commission considered the applicant's original proposal, Tentative Parcel Map #02-13, which proposed to divide the subject property into 13 parcels ranging in size from 20.1 to 37.3 acres. After considering the staff report and testimony provided at the hearing, the Commission expressed concerns regarding the proposal and its potential impact to agricultural operations. As an alternative, staff discussed with the Commission the concept of using a Planned Development overlay zone. As a result, the Commission requested that the applicant revise his proposal and submit a new map proposing smaller, "clustered" homesite sized parcels that would preserve larger agricultural remainder parcels. The Commission voted to continue the item to the April 2<sup>nd</sup> meeting to allow the applicant time to revise his project accordingly.

In response to the Commission’s continuance, the applicant submitted these applications on February 18<sup>th</sup>. The applicant requests approval of the rezone from the AG (General Agricultural) and AG FP (General Agricultural, Special Flood Plain Combining) Districts to the AG-PD (General Agricultural, Planned Development Combining) and AG-PD FP (General Agricultural, Planned Development and Special Flood Plain Combining) Districts. The applicant also requests approval of a tentative subdivision map to divide the two contiguous parcels totaling 324+ acres into 15 parcels including 13 homesite parcels ranging in size from 1.50 to 2.77 acres and two agricultural remainder parcels, 100.4 and 202.1 acres in size.

**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, could have a significant impact on the environment; however, mitigation measures have been recommended by staff which reduce the possible impacts to a less-than-significant level. Therefore, staff recommends the Commission adopt the attached Mitigated Negative Declaration and Mitigation Monitoring Program.

**Background**

**A. Property Description:**

There is an existing residence on one of the subject parcels. The majority of the 324+ acres is currently used as field crop land or is vacant. A relatively small portion of the property lies on the west side of the levee, adjacent to the Feather River.

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

	<b>Use</b>	<b>Zoning</b>	<b>General Plan</b>
<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. The applicant’s original proposal, Tentative Parcel Map #02-13, was considered by the Commission on February 5<sup>th</sup> and continued to allow the applicant to revise his project in order to address concerns regarding preservation of agricultural resources.

## **Staff Comments**

### A. Public Works (PW):

See Conditions #3 - #9.

### B. Environmental Health (EH):

See Condition #10 - #16.

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

No comments were provided from the Sheriff/Coroner's Office with regard to this project.

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

PG&E requested that a 10-foot wide Public Utility Easement be dedicated along all lot frontages. This is being required as Condition #17. PG&E also provided their following standard comment:

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.

### E. Reclamation District No. 1001 (RD1001):

See Condition #18.

### F. Planning (P):

## **Rezone**

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 consider approval of the tentative subdivision map which proposes to create 13 parcels below the 20 acre minimum required parcel size, the applicant was required to file an application to rezone the property to include a Planned Development (PD) overlay to the existing AG and AG FP zone districts. According to the County Zoning Code, one of the purposes of the Planned Development district is "to encourage creative and more efficient approaches to the use of land through lot design, use of open space, mixture of land usage and/or densities, adjustment of setbacks or other means to create a better environment." The Planned Development overlay

has been used on previous projects within the AG zone district to allow for parcels less than 20 or 80 acres. In these instances, staff has recommended approval of the smaller parcel sizes provided that the number of parcels created does not result in the allowed density for the existing parcel to be exceeded (i.e. one residence per 20 or 80 acres, depending on General Plan land use designation). Staff has also required that the subdivider grant residential development rights to the County on the agricultural remainder parcel (or parcels) to maintain General Plan density requirements and to prohibit future residences that may lead to conflicts with existing agricultural operations.

The rezone to include the Planned Development overlay is being proposed to allow for the parcels less than 20 acres in size proposed by the accompanying tentative subdivision map. Based on the applicant's proposal and the recommended mitigation measures for the tentative map to preserve agricultural uses that are discussed in the following section, staff believes that this rezoning meets the intent of the General Plan.

**Tentative Subdivision Map**

In order to approve a tentative subdivision 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. 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 as defined by the Soil Conservation Service.

In this revised proposal, the applicant is proposing a total of 15 parcels: 13 which are homesite parcels ranging from 1.50 to 2.77 acres, and two agricultural remainder parcels, 100.4 and 202.1 acres in size. The subdivider had originally proposed a total of 13 parcels that were each 20 or more acres in size. By rezoning the property to include the Planned Development overlay and the transfer of development rights, the subdivider is allowed the flexibility to propose parcels smaller in size than the 20 acre minimum size required by the existing General Plan designation. In allowing the smaller parcels to be created and clustered together along Lee Road, staff believes that the proposed design better preserves agricultural uses in the area, allowing for two large agricultural remainder parcels (Lots 14 & 15) to continue to remain agriculturally viable. In order to maintain the agricultural viability of these two remainder parcels and meet General Plan density requirements, staff is requiring residential development rights be conveyed to the County. This is also incorporated as a mitigation measure and will prohibit construction of future residences on the two remainder parcels.

Although clustered together, the proposed 13 homesite parcels have the potential to impact and be impacted by on-going agricultural operations on the proposed remainder parcels. With regard to agricultural land uses, the Sutter County General Plan contains the following applicable policies:

Policy 1.F-1: The County shall require that new development adjacent to agricultural areas be designed to minimize conflicts with adjacent agricultural uses.

Policy 1.F-4: The County shall protect agricultural operations from conflicts with non-agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.

The Sutter County Design Guidelines contain standards for buffers adjacent to agriculturally zoned or used land. To reduce impacts from adjacent agricultural practices, such as spraying and dust generated by disking or other operations, these standards suggest a minimum 100 foot residential exclusion area when adjacent to field crops and 300 foot exclusion area when adjacent to orchard crops. The subject property is currently used mostly as field crop land, with a small orchard located in the center portion of the property.

In order to be consistent with these policies and to minimize conflicts with adjacent agricultural uses, staff recommends a mitigation measure requiring that a 100-foot wide buffer area be established along the northern boundary of proposed Lots 1-13. In addition, a 50-foot wide buffer area is recommended along the western boundary of proposed Lot 1 and the eastern boundary of proposed Lot 13.

Based on the above information and with the mitigation measures noted required, staff believes the proposed tentative subdivision map is consistent with the General Plan.

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. Approval of the proposed rezoning to include the Planned Development overlay will allow for the proposed parcels less than the 20 acre minimum to be created. With approval of Rezone #03-04, the proposed tentative subdivision map will be 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 project. The Study revealed that the project as proposed could have a significant impact on the environment; however, with the mitigation measures identified in the Initial Study, all potential impacts will be reduced to a less-than-significant level. No written or oral comments have been provided which present evidence that the project as mitigated will have a significant impact on the environment. Therefore, the proposed Mitigated Negative Declaration and Mitigation Monitoring Program attached to this staff report are appropriate.
- B. The Planning Commission has independently reviewed, analyzed, and considered the Initial Study and proposed Mitigated Negative Declaration prior to making its decision on the project and finds that the Mitigated Negative Declaration reflects the independent judgment of the County of Sutter.
- C. The rezoning to the AG-PD zone district allows for the creation of homesite parcels smaller than the 20 acre minimum parcel size since the overall General Plan density (1 residence per 20 acres) will be maintained. The rezoning is appropriate since it will allow smaller homesite parcels to be clustered along Lee Road and preserve two large remainder parcels for agricultural use. A mitigation measure is recommended that will require the granting of residential development rights to the County for the remainder parcels, which will prohibit construction of future residences on those parcels. The preservation of this agricultural land is consistent with General Plan Goal 6.A.
- D. The project will not adversely impact adjacent agricultural operations because an appropriate buffer will be implemented as a mitigation measure to minimize potential conflicts, consistent with General Plan Policies 1.F-1 and 1.F-4.

- E. With the recommended mitigation measures and conditions of approval required, the proposed tentative subdivision 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. Recommend that the Board of Supervisors adopt the proposed Mitigated Negative Declaration prepared for the project and attached to this report.
- C. Recommend that the Board of Supervisors approve Rezoning #03-04, changing the zoning from the AG and AG FP Districts to the AG-PD and AG-PD FP Districts.
- D. Recommend that the Board of Supervisors approve Tentative Subdivision Map #03-02, 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)
 

Lee Road	20.0' R/W + 10.0' P.U.E.
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10. Prior to the recordation of the map, the subdivider shall provide to Environmental Health a map which clearly shows the exact locations of both the Minimum Useable Sewage Disposal Area (MUSDA) and the individual well for each parcel. The delineation of the MUSDA and well locations shall comply with Sutter County Environmental Health regulations. (EH)
11. A note shall be recorded on the map which states that the approved locations of both the MUSDA and the individual well proposed for each parcel are provided on a map that is on file with the Sutter County Environmental Health Department. (EH)
12. 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)
13. 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)
14. 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)
15. 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)

16. Prior to the recordation of the map, 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. Specific language must be recorded on the face of the map addressing the special design considerations and/or system design requirements for the proposed parcels. (EH)
17. The applicant shall dedicate a 10-foot wide Public Utility Easement along all lot frontages. (PG&E)
18. Prior to recording of the map, an approved storm drainage system shall be provided for all proposed lots that will drain west to Reclamation District 1001 Drain Lateral #3 located at the intersection of Lee Road and Garden Highway. Plans for the proposed drainage system shall be submitted to the Reclamation District for review and approval. (RD1001)
19. The project site shall be sufficiently watered during grading and construction activities to prevent excessive amounts of dust. (P)
20. Prior to recording of the final map, the landowner shall execute an open space easement and development rights agreement with the County of Sutter prohibiting future residential development on proposed Lots 14 & 15. This requirement shall be included as a note on the recorded map. (Mitigation Measure #1) (P)
21. Residential exclusion areas (agricultural buffers) shall be established along the northern 100 feet of proposed Lots 1-13, along the western 50 feet of proposed Lot 1, and along the eastern 50 feet of proposed Lot 13. Residences shall not be permitted to be constructed within these areas; however, accessory agricultural structures and non-residential accessory structures may be built, subject to development standards. These residential exclusion areas shall be implemented by the applicant/landowner, noted, and reflected on the final map prior to recordation. (P)

Prior to recordation of the map, the subdivider shall plant and maintain a vegetative buffer, 15-feet in width, within all residential exclusion areas to reduce impacts from adjacent agricultural practices, such as spraying and dust generated by disking or other operations. The vegetative buffer shall contain fast growing evergreen trees and/or shrubs from the County approved landscape materials list and shall be physically and biologically designed to avoid conflicts with the adjacent agricultural operations. The height of the vegetative buffer at maturity shall be not less than thirty (30) feet. A landscape plan and maintenance program

for the vegetative buffer shall be submitted to the Planning Division for review and approval. This plan shall identify maintenance responsibility for lots before and after sale. (Mitigation Measure #2) (P)

Sincerely,  
LISA WILSON  
INTERIM PLANNING DIVISION CHIEF

Steve Geiger  
Associate Planner

Attachments: Exhibit A - Study Sketch  
Exhibit B - Tentative Subdivision Map  
Exhibit C - Proposed Mitigated Negative Declaration and Initial Study  
Exhibit D - Mitigation Monitoring Program

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