

SUTTER COUNTY PLANNING COMMISSION

MINUTES

June 20, 2012
Supervisors Chambers
Hall of Records
466 Second Street, Yuba City

1. Call to Order

Chairperson Amarel called the meeting to order at 6:00 p.m.

2. Roll Call

Chairperson Amarel requested the clerk call the roll of the Commission. The following members were present and excused:

Members Present: Commissioners Paul Basi, Tejinder Dosanjh, J. R. Griffin, John Sanbrook, Jerry Stewart and Chairperson John Amarel

Members Excused: None.

Staff Present: Principal Planner Doug Libby, Senior Planner Leanne Mueller, Assistant Planner Kevin Yount, Deputy County Counsel Janet Bender, Director Danelle Stylos, Environmental Health Specialist Jan Hill, Public Works Associate Civil Engineer David Tomm, and Office Assistants Gail Gould and Kathy Ferguson.

3. Pledge of Allegiance

Chairperson Amarel led the audience, staff and Commission in the Pledge of Allegiance.

4. Approval of Minutes

The minutes of the meeting of May 2, 2012 were approved as submitted on motion of Commissioner Sanbrook, seconded by Commissioner Basi and carried by a voice vote of the Commission.

5. Comments from the Public

Principal Planner Steve Geiger with the Community Services Department wanted to recognize Gail Gould on the occasion of her retirement after 24 years with the County. With her hard work and dedication she has helped out with the Planning Commission preparedness and taking minutes for close to 300 meetings.

Public Hearings

6. Project #12-005 - A Use Permit for a 44,800 square foot agricultural manufacturing building in addition to an existing 42,912 square foot building; AG (General Agricultural) District; located at 3453 Riviera Road, Live Oak; Assessor's Parcel No. 09-010-059; applicant/property owner – Coe Family Trust Khera (A Mitigated Negative Declaration has been prepared.)

Assistant Planner Yount summarized the previously circulated staff report and noted the project is an expansion of an existing agricultural manufacturing business that will result in a larger building for the fabrication of agricultural equipment and storage of raw materials and finished product. This project and is consistent with the AG (General Agricultural) District; the General Plan and Zoning Code. Assistant Planner Yount concluded that staff is recommending approval of the project together with a Mitigated Negative Declaration, Mitigation Monitoring Program and conditions attached to the staff report.

Commissioner Sanbrook questioned the fencing requirements for this site. Assistant Planner Yount stated that fencing is not required for this project.

Commissioner Stewart questioned whether there was a need for an expanded leach field. Assistant Planner Yount stated the site contains sufficient room for the proposed expansion including adequate leach field.

Commissioner Sanbrook stated that he had looked at the site and was impressed.

Chairperson Amarel opened the public hearing.

Jeff Spence, 1008 Live Oak Blvd, project engineer stated he wished to address previous questions by the Commission and explained the area around the existing storage building is fenced and the existing leach field system will be expanded. Mr. Spence concluded by stating the applicant has reviewed the proposed conditions and mitigation measures and has no objections.

Commissioner Sanbrook stated that he had no problems with the Mitigation Measures.

Chairperson Amarel closed the public hearing.

Commissioner Sanbrook made a motion to adopt the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared in accordance with the California Environmental Quality Act and the Guidelines and approve Project #12-005; a Use Permit for a 44,800 sq. ft. agricultural manufacturing building. Commissioner Dosanjh seconded the motion, which carried by a unanimous voice vote of the Commission.

7. Project #12-015 - A Use Permit to allow the addition of three, 960 square foot each, modular classrooms to an existing church facility on a 4.28-acre parcel; AG (General Agricultural) District; located at 1461 Walnut Avenue; Assessor's Parcel No. 23-061-009; applicant - Moses Varela/property owner - Apostolic Assembly Khera

Senior Planner Mueller discussed the previously distributed letter received from the applicant requesting a continuance of the public hearing to the July 18, 2012, meeting.

Commissioner Sanbrook asked if staff had any objection to the request. Senior Planner Mueller stated that staff has no objections.

Principal Planner Libby stated that if the Commission concurs with the applicant's request, the Commission should open the public hearing and continue the project with the public hearing open. Chairperson Amarel opened the public hearing.

Commissioner Sanbrook made a motion to continue this project to the meeting of July 18, 2012. Commissioner Stewart seconded the motion, which carried by a unanimous voice vote of the Commission.

8. Project #12-002 - A Use Permit for a general office including dispatching for the property owners onsite farming operation and off-site commercial trucking business; AG (General Agricultural) District; located on the north side of Eager Road, approximately 1,800 feet west of State Highway 99; Assessor's Parcel No. 10-220-073; applicant - New Legend, Inc./property owner - Samara Revocable '11 Trust Khera

Assistant Planner Yount summarized the previously circulated staff report noting that on June 7, 2011, the Board of Supervisors denied Project #11-010, a request for a General Plan Amendment from Agriculture, 20-acre minimum to Industrial, and a rezone from General Agricultural (AG) to Light Industrial Planned Development (M-1-PD) to allow for a commercial truck terminal with associated uses. The project was denied because that project did not comply with the newly adopted General Plan. Assistant Planner Yount concluded by stating that due to this project being inconsistent with the General Plan and the Zoning Code, staff recommends denial of Project #12-002.

Commissioner Sanbrook questioned what the Planning Division's policy is on accepting applications and does this project fit the qualifications for a Use Permit. Assistant Planner Yount responded the policy is that all applications are accepted over the counter but could result in a negative staff recommendation.

Commissioner Sanbrook asked if it was suggested last June to the applicant to apply for a use permit and questioned if an office can be established in an AG District. Assistant Planner Yount stated the previous application received by New Legend was a rezone request. Additionally, he stated that a commercial office can be established in an AG District if the primary use is supportive to agricultural activities.

Commissioner Sanbrook asked if an office can be established on the property to service an agricultural operation occurring on the land. Assistant Planner Yount stated that 50% of the operation is permitted by right, but the other does not. Commissioner Sanbrook asked if it is allowed to use the office for dual purpose.

Principal Planner Libby stated that certain activities one can do in an AG District is not subject to a use permit. An office for dispatching trucks that are not affiliated with an on-site farming operation requires a use permit. Commissioner Sanbrook questioned if the Zoning Code states that an office for a farm operation can be put there.

Principal Planner Libby responded that an office serving an on-site farming operation can be established in the AG District by obtaining a building permit only.

Chairperson Amarel asked if the applicant is the owner of the parcel and stated that the owner could want the use permit but may be leasing out the land for someone else to farm. Assistant Planner Yount stated the applicant owns the property.

Commissioner Dosanjh asked who Mr. Chima is. Assistant Planner Yount stated that Mr. Chima is a neighbor to the project and that anyone can oppose a project. Commissioner Sanbrook asked if Mr. Chima was provided notice. Assistant Planner Yount stated Mr. Chima does not own property within the 400 foot notification boundary but each project is advertised in the newspaper.

Commissioner Dosanjh asked how long the owner has owned the property and asked other questions. Assistant Planner Yount stated that he has owned the property for approximately two to three years. Principal Planner Libby stated the applicant will be speaking later and the Commission should direct those questions to him or his representative.

Commissioner Basi asked if the prune dehydrator is still in operation. Assistant Planner Yount stated it is not active; the applicant is proposing to establish a new modular office building and will not be utilizing the existing buildings.

Commissioner Dosanjh asked if they are putting the 3,600 sq. ft. office building on vacant land and when they move the fence are they pulling out any trees. Assistant Planner Yount stated the office building is proposed on vacant land and they are not proposing to remove any trees.

Commissioner Basi asked what the direct impact of putting a modular on an existing slab would be or is there simply direct conflict. Assistant Planner Yount stated the project is projecting 50 percent commercial use and 50 percent agricultural use, so unfortunately there is not enough agricultural use to support a use permit.

Commissioner Basi asked how far away the nearest Commercial or Industrial zone is. Assistant Planner Yount said that there's Industrial zoned land located on the East side of Highway 99. Principal Planner Libby stated the new Employment Corridor Zoning is located approximately 800 to 1,100 feet away.

Commissioner Sanbrook asked if the proposed project is located across from Wilbur Packing. Assistant Planner Yount said that Wilbur Packing is located east of the proposed project.

Community Services Director Stylos stated that with the new General Plan, the Zoning Code is outdated; however an update is proposed as part of the budget for the upcoming fiscal year. She continued that the Commission needs to look at the intent of the zoning code and spirit of the law.

Commissioner Dosanjh said that Highway 99 south and north are rich land for agriculture and it's the back bone of Sutter County. He is concerned about seeing the opportunity for more employment staying in Sutter County.

Chairperson Amarel opened the public hearing and advised the audience regarding the 3 minute testimony rule so please be concise and do not repeat your questions.

Dennis Nelson, 950 Tharp Road, Yuba City, stated he is the representative for the applicant and stated this proposal is totally different than failed rezoning request. He said that it is the same property but unlike the previous proposal where they were requesting a truck terminal, the current request is for a use permit for an office building to be used for dispatching of trucks only. There will be no trucks on site. He stated that Supervisor Gallagher insisted that he would support a use permit for an office building for dispatching purposes only. He stated the Zoning Code and the General Plan provide a right to establish an office for personal farm use, but to use the name New Legend requires a use permit. They plan on combining their staff and putting a 3,600 sq. ft. office building on the site for the farm headquarters and dispatching center, but the remaining land will remain in farming.

Commissioner Sanbrook asked if the owner farms or leases the property. Mr. Nelson stated there is no lease on the land, but they do have someone else farming it. Commissioner Sanbrook asked if they plan on abandoning the commercial trucking business at their current location. Mr. Nelson stated it is located on the frontage road and the trucks are parking at various truck terminals around Sutter County and West Sacramento. Mr. Nelson stated the applicant desires to combine two businesses into one location, and 50% of the use is commercial, but that will vary.

Commissioner Sanbrook asked what the nature of the business is and do they own the trucks or are they independent contractors.

Robert Moffitt, 1872 Calais Drive, Yuba City stated they are owner-operator truck drivers that operate in 48 states. Commissioner Griffin asked how many trucks they operate and will the proposed office dispatch these trucks. Mr. Moffitt replied they have 160 trucks that haul for business like Wal-Mart, Target and other top 10 retailers. The proposed office will be used to dispatch these trucks. Mr. Nelson stated the same people who will dispatch the commercial trucks will also dispatch the agricultural trucks.

Commissioner Sanbrook questioned Mr. Nelson on how he addresses Zoning Code 1500-1410 regarding primarily agriculturally related. Mr. Nelson stated they are not removing the agricultural production; land previously used for the dehydrator removed land from agricultural production. The applicant is requesting to add a transportation aspect to the operation and they need a headquarters to diversify their operations. Assistant Planner Yount stated if it were strictly commercial use with no agricultural component, it would clearly not be permitted.

Commissioner Sanbrook asked what constitutes an undesirable encroachment by other land uses upon agricultural land and how is the encroachment undesirable. Assistant Planner Yount stated this use is better suited on land Zoned Industrial or Commercial.

Frank Coats, 3392 Caminito Avenue, Yuba City spoke in opposition of the project. Mr. Coats stated that he owns land east of the project site and is concerned regarding the use of the office building for a non-agricultural business and that due to more traffic it would be difficult for him to farm. Mr. Coats stated New Legend purchased the property knowing the agricultural land use but they continue to try to get more value out of the land. He stated the dehydrator burned down.

Commissioner Sanbrook asked how he felt the proposed project will adversely impact the land. Mr. Coats responded the office employees may be upset due to the dust, pesticide use and noise resulting from his farming operation.

Commissioner Dosanjh asked what the difference would be if the office was used strictly agriculturally with no dispatching proposed. Mr. Coats stated that if the County approves a use permit, the applicant will do what they want. Commissioner Dosanjh stated this proposal is no different than Wilbur Packing who has 31 employees on the other side of Eager Road. Mr. Coats stated there is plenty of available office space in other places in Sutter County and he wants to make sure everyone understands the burden this project places on local agricultural operations.

Anthony Laney, 1598 Sanders Road, Live Oak, stated he owns and farms property to the north of the subject property. He stated in the original rezone application that was previously denied, their application did not mention an agricultural use. He questioned whether the applicants are farm managers, land owners or do they lease the property to someone else. Mr. Laney stated he does not see a need for such a large office because most farmers work out of their home or pickups. He feels the owners are not actively farming this property and that once the office building is established they will be back in a year or sooner requesting a truck terminal because that is the owner's desire. Mr. Laney stated the previous application was denied by the Board of Supervisors and he requested the Commission to consider staff's recommendation and deny this project.

Commissioner Griffin asked how many acres does Mr. Laney farm and how many hours does he spend managing his farming operation. Mr. Laney responded that he farms 650 acres and does it every awake and sleeping minute. Mr. Laney stated that he spends 2 hours a week out of his home completing paperwork for his farm operation.

Chairperson Amarel closed the public hearing.

Commissioner Sanbrook stated he had additional questions for the applicant so Chairperson Amarel re-opened the public hearing.

Commissioner Sanbrook referred to Attachment D in the staff report, page two, paragraph above the last, that states that commercial trucks will not park or occupy the site for any extended period of time and Commissioner Sanbrook stated this bothers him.

Mr. Nelson stated truck drivers will drop off or pick-up paperwork at the office which should take a few minutes. Mr. Nelson stated this proposal will utilize 2/3 of an acre that will not accommodate commercial truck parking. Commissioner Stewart asked where trucks will park. Commissioner Basi asked if there is a provision for parking. Mr. Nelson stated that planning staff accepted this language.

Chairperson Amarel closed the public hearing.

Commissioner Griffin stated that he feels there are a lot of problems associated with proposed project because you cannot hire someone for 104 hours a year. He cannot see there will be a 50/50 split between agricultural and non-agricultural use and cannot see that this project is primarily agriculturally related or supportive.

Commissioner Basi stated he did not see any direct impact on the neighbors by putting an office at this location and that no trucks will be entering, exiting or parking there. He stated that he supports the project.

Commissioner Sanbrook stated what bothers him is that Zoning Code 1500-1412 allows retail commercial, provided the use is primarily agriculturally related or supportive and he is not seeing the evidence to support it.

Commissioner Dosanjh stated he has done agricultural work for several years. He feels that farmers haul 80 percent year round and he feels they are hauling primarily agricultural items. He stated that one thing is clear; we are pushing truck parking out of Sutter County. He continued that putting an office at this location makes driving down Eager Road a nice view and they are employing 10 to 15 people. And it is not a truck terminal because they will not be having trucks park there.

Commissioner Griffin made a motion that the Planning Commission find the CEQA does not apply to a project that is denied and moved the Planning Commission deny Project #12-002, a use permit for a general office including dispatching for the property owners on-site farming operation and off-site commercial trucking business. The motion was seconded by Commissioner Sanbrook.

Commissioner Dosanjh questioned if the Planning Commission can forward this project to the Board of Supervisors for a determination. Assistant Planner Yount stated this project will only be heard by the Board of Supervisors if the project decision is appealed.

Principal Planner Libby stated the Planning Commission is the decision making body for use permit requests.

Chairperson Amarel asked for a roll call vote, which resulted in a tie vote with Commissioners Griffin, Sanbrook, and Amarel supporting the motion to deny the project and Commissioners Basi, Dosanjh and Stewart opposing the motion.

Principal Planner Libby reviewed with the Commission its By-laws regarding tie votes in that a tie is considered a denial unless the project is continued to the next meeting to allow an absent commissioner to vote. Additionally, the Commission may hold a subsequent vote that could alter the decision.

Commissioner Stewart stated the proposed project will not change the property, meaning additional land will not be taken out of agriculture. The applicants are proposing an office on land that has been previously disturbed.

Commissioner Dosanjh stated that employees will arrive in the morning, have lunch and then be going home at the end of the day. He does not know where the disturbance will come from.

Commissioner Basi stated this is a use permit and if it comes into violation they can always bring it back to the Commission. Commissioner Basi continued there were no real conditions on this use permit. Assistant Planner Yount stated that there are conditions if the project was to be approved.

Commissioner Sanbrook stated he does not feel this project will be used in an agricultural aspect.

Director Stylos stated that additional conditions can be added but they will have to bring this project back at a later date because staff will need to review and update the conditions. She stated the Commission will have to continue this project to a later date. Principal Planner Libby clarified that conditions of approval were provide in the staff report so the Commission could approve the project if desired. If there is a substantial change to the conditions provided, the project will need to be continued to prepare the necessary changes.

Chairperson Amarel stated they are not operating legally and they will not follow the Zoning Code and General Plan.

Principal Planner Libby stated if the Commission's denial stands tonight, the applicant will have 10 days to appeal the Commission's decision.

Chairperson Amarel stated that three Commissioners are not comfortable with the project in regards to the Zoning Code and General Plan. Commissioner Sanbrook stated it violates the Zoning Code and General Plan, so how can we approve this project.

With no further motion, the vote stands as a denial.

Commissioner Griffin reiterated the applicant can appeal this decision to the Board of Supervisor, by contacting the Planning Staff and submitting an appeal to the Clerk of the Board.

9. Miscellaneous Business from the Commission/Staff

A. Possible cancellation of the first meeting in July.

The meeting of July 4, 2012 was cancelled on motion of Commissioner Griffin, seconded by Commissioner Dosanjh and carried by a unanimous voice vote.

B. Report on the Actions of the Board of Supervisors

Principal Planner Libby stated there were two Board of Supervisors actions to report to the Commission. First, the second round of consistency rezoning implementing the new General Plan took effect on June 8, 2012. Second, the Board of Supervisors denied the Bonanza Seed landscape variance along Railroad Avenue. As a result, solid fencing and landscaping are required to be installed per the County's Design Guidelines.

C. Planning Commission/Board of Supervisors Discussion Topics

None.

D. Other Business and Reports

Principal Planner Libby again wanted to recognize Gail Gould on her retirement. This being her last Planning Commission meeting he thanked her for her 24 years of preparing Commission agendas, providing the required notices, assembling all of the agenda materials and timely distributing the packets to the Commission.

10. Adjournment

There being no further business, Chairperson Amarel adjourned the meeting at 7:52 p.m.

Respectfully Submitted,

Lisa Wilson, Secretary
Sutter County Planning Commission

P:\Planning\Planning Commission Minutes\2012 Minutes\06-20-2012 Mtg minutes (kathy version).docx