

SUTTER COUNTY PLANNING COMMISSION

MINUTES

December 19, 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 Angel Diaz, Mike Geraldo, J. R. Griffin, John Sanbrook, Jerry Stewart and Chairperson John Amarel

Members Excused: Commissioner Paul Basi

Staff Present: Planning Manager Lisa Wilson, Principal Planner Doug Libby, Senior Planner Leanne Mueller, County Counsel Ron Erickson, Public Works Associate Civil Engineer David Tomm, and Office Assistant Kathy Ferguson

3. **Pledge of Allegiance**

Commissioner Diaz led the audience, staff and Commission in the Pledge of Allegiance.

4. **Approval of Minutes**

The minutes of the meeting of November 7, 2012 were approved as submitted on motion of Commissioner Sanbrook, seconded by Commissioner Stewart and carried by a voice vote of the Commission.

5. **Comments from the Public**

None.

Public Hearings

6. **Project #12-023** - A use permit to establish a 37 Megawatt (MW) solar generating facility on approximately 250-acres of a 260-acre site in three phases; A-2 (Exclusive Agriculture) District; Southeast of the intersection of North Township and Nuestro Roads located at 3500 Nuestro Road; Assessor's Parcel No's: 10-230-064 and 065; Applicant - New West Renewable Resources LLC/Property Owners - Jennifer Strum and Alan Ruzich. (Staff recommends approval; mitigated negative declaration has been prepared)

Principal Planner Libby summarized the previously circulated staff report and referred the Commission to an addendum distributed prior to the meeting that requests that two additional conditions be added to the project; one relating to lighting and a second to preserve an existing oak tree. Principal Planner Libby reviewed with the Commission several overhead maps including the phased site plan, an aerial of the site and map showing the project's location in relation to Yuba City and its sphere of influence. Principal Planner Libby stated the applicant states the proposed project can provide up to 25 percent of Yuba City's electricity needs at build out. Principal Planner Libby stated that an Initial Study was prepared and the potential impacts to aesthetics and loss of agricultural land were identified and mitigated with Mitigation Measures No. 1 and No. 2.

Commissioner Sanbrook asked several questions about an existing truck yard located adjacent to the project to the west including the size of that parcel and existing fencing around the truck yard.

Commissioner Sanbrook confirmed the existence of a home on the project site and that its use would continue. Principal Planner Libby confirmed that is staff's understanding.

Commissioner Sanbrook asked if we received any comments from the City of Yuba City. Principal Planner Libby stated that we have not.

Commissioner Sanbrook asked if we received any comments from the surrounding residences and where are they located in connection to the project location. Principal Planner Libby stated that two property owners had discussed the project in person with staff. One interested party is located at the southwest corner of Nuestro Road and Township Road, and the second is located along the north side of Nuestro Road.

Commissioner Sanbrook asked if the property owner is leasing out the property, what the terms of the lease and what the life of the project will be. Principal Planner Libby stated yes the site is being leased; however, the terms of the lease are private information but believes the lease could last for up to 40 years.

Commissioner Sanbrook asked if we received any comments from Pacific Gas and Electric. Principal Planner Libby stated yes; however, the comments were minimal and generic.

Commissioner Sanbrook questioned the proposed screening around the project: what kind of screening will be put outside the fence; what kind of trees; and will the screening go up to the top of the fence. Principal Planner Libby stated the screening outside the fence has not been specified yet; it will be whatever works best; whatever kind of trees that will not

interfere with the agricultural use of the site that is chosen and will also not conflict with the solar collection.

Commissioner Sanbrook stated the Agricultural Plan stated approximately 70% of the 260 acres will be covered by the solar equipment and buildings, but it seems to me that it will be closer to 90%. Principal Planner Libby stated that you need to look at the total acres involved including the land in the 50-foot setback and the grazing component in between the solar modules.

Commissioner Sanbrook asked if the use permit has to be activated within one year. Principal Planner Libby stated yes, although the Zoning Code allows for two one-year extensions.

Commissioner Sanbrook asked if there are any health risks when you live or work around the solar panels. Principal Planner Libby stated that he was not aware of any.

Chairperson Amarel asked if there was a soils map for the property and was there any classification done on the soils. Principal Planner Libby stated there are four different types of soils on the property. Mr. Libby displayed a soil map and indicated the yellow on the map represented the prime agricultural soils which are considered a Class 1 or 2 soil type.

Commissioner Sanbrook asked if there is a financial assurance so when the project comes to an end, the property will be put back to its original status. Principal Planner Libby responded there is no such condition at this time.

Commissioner Sanbrook asked what constitutes a viable agricultural use. Principal Planner Libby stated that they will be held to their proposed submitted agricultural plan.

Rhonda Mills, a partner with the New West Renewable Resources stated they are the applicant for this project. Ms. Mills states the land owner is in it for the long term. Ms. Mills stated they chose this site based on strict criteria and its proximity to the existing PG&E electrical sub-station located along Pease Road that is less than two miles away and this sub-station provides 40 percent of Yuba City's electric needs.

Commissioner Geraldo stated that he contacted Pacific Gas & Electric and asked how many other sub-stations are in Sutter County; which they told him there are eight. Commissioner Geraldo asked if they considered any of the other sub-stations. Ms. Mills stated the Pease Road sub-station is an older facility that will require upgrading as part of this project that will be paid for by New West Renewable Resources. Ms. Mills stated the construction phase of this project will create approximately 100 jobs; and will be hiring two local companies which will all have a ripple effect in the community in regards to the purchasing of lodging, gas and food. Commissioner Geraldo stated that it's a big budget. Ms. Mills stated they are excited about being here in Sutter County and know there will be an impact on the community around the project. Ms. Mills stated in regards to the aesthetics there would be 10-foot high fence with 20-foot high trees.

Commissioner Geraldo stated he went out to the center of the project site and it had a wonderful view of the Sutter Buttes.

Commissioner Sanbrook stated this location has a great view of the Sutter Buttes and stated that you chose this site because of the lack of environmental impact but asked what about the people? Commissioner Sanbrook also asked how long is the lease. Ms. Mills replied it is for up to 35 years.

Commissioner Geraldo stated the people surrounding this site will lose their views and it is a nice site. Ms. Mills stated the screening will be year round and the panels at night will be in a stow position and that during the day they would be approximately 10-feet in height.

Chairperson Amarel asked if the screening will block the reflection from the panels. Ms. Mills stated they have not selected what type of mounting systems or panels (black or blue) they will be using, so she is not sure about the glare.

Commissioner Sanbrook asked if the 10-foot fence will be for security purposes. Ms. Mills stated yes primarily, but will also provide screening.

Commissioner Sanbrook asked about any health risks in regards to being around the panels. Ms. Mills replied there is no toxicity associated with the panels.

Commissioner Diaz asked in terms of jobs, will you be hiring locally? Ms. Mills stated they will be finding someone in the local region and will work with the local people. Commissioner Diaz asked if New West will give it to a general contractor and they would be doing the hiring, so you cannot guarantee local hires. Ms. Mills stated they will be working with a general contractor and will have some influence on asking them to hire locally.

Chairperson Amarel opened the public hearing.

Louis Ferri, 3774 N. Township Rd., stated that he has lived at that location for 50 years. Mr. Ferri stated he has a nice view of the Sutter Buttes and the Sierra Nevada and he hoped that his children would move there and live. Mr. Ferri stated there has always been a drainage problem and he feels that more water would be going onto his orchard due to his property being at a lower elevation.

Commissioner Sanbrook asked how many acres you own. Mr. Ferri stated that he has 23 ½ acres. Mr. Ferri asked why do the trees they plan on using for screening have to be so tall. Mr. Ferri also was concerned about that acreage being taken out of agricultural production; he stated the land had virgin soil, that it has never had an orchard on it. Commissioner Geraldo asked what had been grown on the property. Mr. Ferri stated that they have grown: tomatoes, pumpkins, barley, wheat and onions.

Bruce Capaul, 3333 Nuestro Road, third house from Broadway on the north side. He stated that he does not want 25-foot trees. Mr. Capaul stated that he can see the coastal range and he expected to lose that view to an orchard and feels the panels will block the view just as much as an orchard. Mr. Capaul stated he sees no need for screening. Mr. Capaul stated he would prefer a 75-foot buffer (setback) and asked what the County's policy on solar panel sites are and how many will the County allow.

Commissioner Geraldo asked how long Mr. Capaul has lived there. Mr. Capaul stated 18 years and he also stated that alfalfa has been grown on the subject property.

Commissioner Sanbrook asked how far away Nuestro School is from the project site. Mr. Capaul stated the school building is approximately 600 feet away from project site.

Richard Libby, 1841 Cutting Avenue, stated he has lived in the area for 30 years. Mr. Libby stated it's a shame to take that land out of agricultural production. Mr. Libby stated they will need to put butte rock down to help with the drainage from the rain runoff from the panels. Mr. Libby stated that they said they would graze sheep, but you need the sun to grow the grass.

Commissioner Geraldo asked about the comment on the need for butte rock. Mr. Libby stated that due to the runoff of rain from the panels, you will need to put down butte rock under the panels to help with drainage. Mr. Libby stated the County already has a power plant, CalPine. Mr. Libby stated that Wal-Mart is close to a substation, and the solar panels would be better suited over parking lots which already have drainage set up.

Barry Greathouse, 3292 Nuestro Road, Mr. Greathouse stated this project will destroy his view of the Sutter Buttes and feels it's wrong to take the ground out of farm production. Mr. Greathouse feels this is the wrong place to put solar panels and that he agrees that they would be better suited over parking lots. Mr. Greathouse feels that property values will go down.

Richard Alves, 3730 N. Township Road, stated he has lived there for seven years. Mr. Alves stated there are few houses around the project site and that it has good land for farming. Mr. Alves stated that solar panels belong on top of houses or in parking lots. Mr. Alves stated the 10-foot fence will not block the 17-foot panels. Mr. Alves is concerned the applicant does not know exactly what they are going to be doing. Mr. Alves stated they have 360 degree views coming out of their house and feels the property values will go down. Mr. Alves stated his concern about only hearing about this project two weeks ago and he also has concerns regarding the drainage coming off the proposed project site and that an environmental impact report was not done. Mr. Alves does not feel this is a good investment for Sutter County.

Geoffrey Wander, Attorney of Law, stated that he is a local resident. Mr. Wander stated he felt the noticing was a little short and that the property owners would lose their view of the Sutter Buttes. Mr. Wander was concerned in regards to the switching of land use; he stated that it was prime farm use and valuable land use. Mr. Wander stated there has always been a drainage problem in this area. Mr. Wander feels the project is incomplete at this time and there are too many unanswered questions. Mr. Wander asked what will happen when the local farmers work their land and get dirt on the panels.

Commissioner Sanbrook stated that they will have the right to continue to farm their own land. Mr. Wander just feels that when they work their fields the dirt will get into the air and onto the panels, at which time they will not produce the energy they anticipate.

Joe Alves, 3843 Nuestro Road, stated he has concerns regarding the screening problem and that he does not notice anything in the plan to improve the drainage problem.

Julie Alves, 3843 Nuestro Road, stated she has lived in the area for 30 years and at this location for 7 years. Mrs. Alves stated this is wonderful dirt; the best dirt. Mrs. Alves stated she hopes you have all the answers to all the questions before you decide anything.

Rhonda Mills, applicant for the project stated they would like to work with all of you. Ms. Mills was surprised to find out how many of you do not want the screening. Ms. Mills stated they are open to working with all of the surrounding property owners on the landscaping plan. Ms. Mills stated they gave the worst case scenario which gave a 17-foot tall panel during cleaning and at night, in stow position; which during the day would possibly be only 10 to 12-foot tall. Ms. Mills stated they were playing it smart to decide on the panels and mounting systems because costs are always changing, they did not want to lock themselves into a particular type of construction until they are ready to build the system. Ms. Mills stated the reason they chose this site was when the work was being done it would have minimum impact. Ms. Mills also stated they are planning to create a drainage system and maintain it.

Commissioner Diaz asked if the property owner was here at the meeting.

Alan Ruzich, 5200 Olivehurst Way, Elk Grove, CA, stated he owns the property with his sister who lives in Nebraska. Mr. Ruzich stated the land has always been in his family. Mr. Ruzich stated he sub-contracts the land out but it does not produce enough income. Mr. Ruzich stated that he is not a farmer and this was the best way to keep the property in his family's name. Mr. Ruzich understands about the views of the Sutter Buttes but he has a responsibility to his family. Mr. Ruzich stated that if you had any ideas, let him know.

Commissioner Sanbrook asked about his contract with New West; is it contingent on the approval here tonight. Mr. Ruzich stated yes. Commissioner Geraldo asked if the land will be returned to the original condition. Mr. Ruzich stated at the end of the 30 years, he can either extend the contract or there is a bond to ensure everything is removed and returned to its original condition.

Commissioner Geraldo asked if there was a reserve set up for the clean-up of the property. Mr. Ruzich stated he could not remember, but it is in the contract.

Chairperson Amarel called for a 10 minute break.

Chairperson Amarel reconvened the meeting and closed the public hearing.

Commissioner Diaz asked can we come up with a solution in regards to the drainage problems. Principal Planner Libby stated yes, we are able to take care of the issues. Principal Planner Libby stated that regarding Condition #18 which is a Public Works condition; prior to development they will need to submit a drainage plan that will be reviewed and approved by the County.

Commissioner Sanbrook asked about the drainage in Condition #18, but he stated the surface runoff will remain onsite. Principal Planner Libby stated that when the panels go to their vertical position, these concerns will be addressed. Principal Planner Libby stated he wanted to comment in regards to the noticing of this project; the proposed environmental document was advertised in the newspaper and in regards to the public notice, State Law

requires a 300 feet notification boundary around the project, but Sutter County provides a 400 foot notification radius around the project site at least 10 days prior to the meeting date, which is also State law.

Principal Planner Libby stated this type of project is listed in the Zoning Code as an appropriate use of agricultural land with a use permit. The Board of Supervisors held a study session over three years ago regarding commercial solar and did not provide direction to amend the Zoning Code at that time. A policy discussion regarding the appropriateness of this use in agricultural areas may be better suited as a discussion topic with of Planning Commission and Board of Supervisors at a future joint meeting.

Commissioner Geraldo is not in favor of giving up 240 acres of agricultural land.

Commissioner Diaz stated he believes this topic should be revisited with the Board of Supervisors in regards to getting ahead of the future development and does not want to impact prime agricultural land. Principal Planner Libby stated these are concerns that should be voiced under the Planning Commission/Board of Supervisor discussion topic section of the Commission's agenda.

Commissioner Sanbrook stated that in 2009 a study session was held by the Board of Supervisors with their main concern being the loss of agricultural land and the impact on neighboring properties.

Commissioner Griffin asked if the decision on the height of the screening is still open for discussion. Principal Planner Libby stated yes. Commissioner Griffin suggested that since the height is undetermined, can planning staff make the maximum height the same as the highest apparatus. Principal Planner Libby stated that they could modify Condition #20 and insert language that the screening be the minimum height necessary to screen the project from public view.

Commissioner Sanbrook stated the project as proposed has a minimum 50-foot set back from all property lines and enclosed by a 10-foot high fence and then he stated that it is inconsistent in regards to General Plan Policy 1.16 and that findings have to be made. Commissioner Sanbrook stated he is in favor of solar projects, but this is the wrong place for the project; it is taking out prime agricultural land and he cannot support it. Principal Planner Libby reiterated that staff believes the findings can be made with the incorporation of the screening mitigation into the project.

Commissioner Geraldo stated there is zoning for residential; mulit-units; commercial; retail and industrial and that there should be special zoning for solar projects.

Chairperson Amarel stated the discussion of new zoning districts is a subject for the Board of Supervisors to make the determination on.

Commissioner Griffin stated the land owner states this property is not making enough money with the agricultural business and for him to keep the land in the family he needs this solar project.

Commissioner Stewart made a motion to adopt the proposed mitigated negative declaration prepared in accordance with CEQA and approve Project #12-023, a use permit to establish a 37 Megawatt (MW) solar generating facility in three phases, subject to modifying the conditions of approval by adding two new conditions, #22 and #23 from the addendum, and modifying condition #20b by adding the minimum height necessary to screen the project from public view. Commissioner Griffin seconded the motion, which carried by a roll call vote (3-2) with Chairperson Amarel abstaining.

Commissioner Sanbrook asked if the only way this project will get to the Board of Supervisors is by appeal and wanted to advise any interested party that they have a 10 day appeal period.

7. **Project #12-013** - A Surface Mining Permit, Reclamation Plan, and Financial Assurance to remove up to 1 million cubic yards of material from 330 acres of three adjoining parcels, totaling 469-acres; the property is in the Sutter Pointe Specific Plan Area and has multiple Zoning Classifications as follows: P (Public), OS (Open Space), MDR (Medium Density Residential), LDR (Low Density Residential), HDR (High Density Residential), CC (Community Commercial), E1 (Employment 1); North side of Riego Road approximately 2,600 feet west of Pleasant Grove Road; Assessor's Parcel No's: 35-260-016, -020, -021; Applicant/Property Owner - South Sutter, LLC. (Staff recommends approval; mitigated negative declaration has been prepared)

Senior Planner Mueller summarized the previously circulated staff report, stating that the project plan is to remove up to 1 million cubic yards of material from 330 acres of three adjoining parcels so the remainder of the properties can be laser leveled for rice production. The material removal will begin in the spring of 2013 and terminate in December 2014.

Commissioner Geraldo asked if money was set aside for financial assurance. Senior Planner Mueller stated yes. Commissioner Geraldo asked if they will be doing dry farming. Senior Planner Mueller stated they will be taking the top soil and setting it aside; taking out the borrow material, and then replacing the set aside top soil so the properties can be laser leveled for rice production.

Commissioner Amarel asked if the borrow material will be used for maintaining of the roadways. Senior Planner Mueller stated that the material will be used on the Riego Road interchange.

Commissioner Sanbrook stated that it's not a land use permit and will it need to go before the State. Senior Planner Mueller stated this is like a hybrid use permit and that the State has already commented on the project.

Commissioner Sanbrook asked if it is consistent with the Sutter Pointe Specific Plan General Plan and the Natomas Habitat Plan. Senior Planner Mueller stated yes to both.

Commissioner Diaz asked since it is a natural habit which agencies were notified? Senior Planner Mueller stated that Fish and Game, US Fish and Wildlife and the Natomas Basin HCP were sent requests for comments and hearing notices. Commissioner Diaz asked

what makes the staff decide it is consistent with the Sutter Pointe plan. Senior Planner Mueller stated they are not changing the zoning from AG, and that zoning is in the plan.

Commissioner Stewart asked if there is a time limit on the project. Senior Planner Mueller stated the plan specifies the project will end December 2014. Commissioner Stewart stated that not all of the soil will be moved, so will it be laser leveled. Senior Planner Mueller stated yes, all areas that soil will be removed will be laser leveled.

Chairperson Amarel opened the public hearing.

George Carpenter, South Sutter LLC stated they own approximately 800 acres, 480 acres has been leveled and approximately 270 has never been laser leveled. Mr. Carpenter stated the property that has been leveled is farmed in rice and they want to be consistent with the surrounding properties. Mr. Carpenter stated that to finance this project they will be selling off the dirt for projects like the Riego Road interchange which will start around May 1st. Mr. Carpenter stated the end result for this project is to produce active rice fields.

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 CEQA and approve Project #12-013, a surface mining permit, reclamation plan and financial assurance cost estimate to remove up to 1 million cubic yards of material from 330 acres of three adjoining parcels, subject to the conditions of approval. Commissioner Diaz seconded the motion, which carried by a roll call vote (5-0), with Chairperson Amarel abstaining.

8. Miscellaneous Business from the Commission/Staff

A. Possible cancellation of the first meeting in January (January 2, 2013)

The meeting of January 2, 2013 was cancelled on motion of Commissioner Diaz, seconded by Commissioner Stewart and carried by a voice vote, with Chairperson Amarel abstaining. The next meeting will be on January 16, 2013.

B. Report on the Actions of the Board of Supervisors

None

C. Planning Commission/Board of Supervisors Discussion Topics

Commissioner Diaz feels there should be a study session with the Board of Supervisors in regards to solar project locations.

Commissioner Diaz stated the circumstance for the Planning Commission's decision on variances going to the Board of Supervisors for final determination, no longer seems necessary. Planning Manager Wilson stated that staff agrees and proposes to change this in the new Zoning Code.

D. Other Business and Reports

Planning Manager Wilson stated the testing has been done on the Venoco sites and the use permit was released.

Chairperson Amarel stated that due to his election to the school district board, this will be his last Planning Commission meeting, since he cannot sit on both boards. Chairperson Amarel stated he has had a great time and he will miss everyone.

10. Adjournment

There being no further business, Chairperson Amarel adjourned the meeting at 8:56 p.m.

Respectfully Submitted,

Lisa Wilson, Secretary
Sutter County Planning Commission

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