



PLANNING COMMISSION MINUTES OF DECEMBER 15, 2022

The San Joaquin County Planning Commission met in regular session on December 15, 2022 at 6 p.m., in the San Joaquin County Administration Building, 44 N. San Joaquin St., #640 (Board of Supervisors Chambers), Stockton, California.

The meeting was called to order by James Grunsky, Chair.

The Pledge of Allegiance to the flag was given.

Roll Call:

(present)

Commissioners

James Grunsky, Chair
Sheri Midgley, Vice-Chair
Randy Hamilton
Donald Ruhstaller
Jass Sangha

County Staff

Zoey Merrill, County Counsel

Chris Heylin, Department of Public Works

Cesar Ruvalcaba, Environmental Health Department

Community Development Department Staff

Jennifer Jolley, Director
Corinne King, Deputy Director of Planning
Stephanie Stowers, Senior Planner
Giuseppe Sanfilippo, Associate Planner
Allen Asio, Office Assistant Specialist
Domenique Martorella, Office Assistant Specialist
Toby Morelli, Administrative Assistant

(absent)

APPROVAL OF PREVIOUS MEETING MINUTES:

Minutes from 08/18/2022, 09/01/2022, 09/15/2022, and 10/20/2022.

MOTION:

It was moved, seconded (Hamilton / Midgley), and passed by a vote (5 to 0) to:

1. Approve and accept the minutes.

VOTE:

AYES: Sheri Midgley, Jass Sangha, Donald Ruhstaller, Randy Hamilton, James Grunsky

NOES:

ABSENT:

ACTION ON REQUESTS FOR CONTINUANCES OR WITHDRAWALS:

Request for continuance to a date uncertain for Item # 2, Use Permit No. PA-2000012 of 157 California Reserve, Inc. (c/o NJA Architecture) by the applicant's attorney.

MOTION:

It was moved, seconded (Ruhstaller / Hamilton), and passed by a vote (5 to 0) to:

1. Continue Item # 2 to a date uncertain.

VOTE:

AYES: Jass Sangha, Donald Ruhstaller, Sheri Midgley, Randy Hamilton, James Grunsky

NOES:

ABSENT:

ACTION ITEMS:

- 1. GENERAL PLAN MAP AMENDMENT NO. PA-2200030 AND ZONE RECLASSIFICATION NO. PA-2200031 OF GURPREET S. & GAGANDEEP K. JUDGE** to change the General Plan designation of a 5.0-acre parcel from A/L (Limited Agriculture) to A/I (Agricultural Industrial), and to change the zoning of the same parcel from AL-5 (Limited Agriculture, 5-acre minimum) to AI (Agricultural Industrial). If approved, the applicant has indicated they will apply for an Improvement Plan application for a maximum of 25 combined trucks and trailers. **THIS ITEM IS CONTINUED FROM THE NOVEMBER 17, 2022, PLANNING COMMISSION HEARING.**

The project site is located at the northwest corner of E. Eight Mile Rd. and N. Micke Grove Rd., east of Lodi. (Supervisorial District: 4)

GIUSEPPE SANFILIPPO, ASSOCIATE PLANNER, introduced the staff report into the record.

Commissioner Ruhstaller asked why it took a year to get a signed Compliance Agreement.

Director Jolley replied that it is a new policy or tool, which will ensure that violations will not continue.

Commissioner Ruhstaller asked if the applicant had been fined or sanctioned.

Tim Burns, Code Enforcement Chief, answered that no fines have been assessed. New enforcement action would begin in January, and the applicant would be subject to fees, fines, or penalties. They would be addressed in a more assertive way and a timelier manner. The goal is to have voluntary compliance.

Commissioner Hamilton asked if Code Enforcement has the power to stop applicants, who are in violation, until they get the necessary permits.

Mr. Burns confirmed that Code Enforcement cannot prevent them, but they could work with County Counsel for an injunction, which would be a long process.

Zoey Merrill, County Counsel, stated it would be ideal to not fine the applicant but to cooperate with them to get things done as promptly as possible. If more time is needed or if there is a third-party permit, a compliance agreement is the tool to use.

Mr. Burns added that Code Enforcement would be moving forward to implement fines, fees, and penalties beginning in 2023.

Director Jolley said that it takes time to build a more robust Code Enforcement division. It was previously understaffed and undereducated but now there are people and policies being implemented.

Commissioner Hamilton asked if the neighbors were notified of the violation.

Director Jolley answered that Code Enforcement does not notify the neighbors. She explained the complaint and investigation processes.

Commissioner Grunsky asked if it was known when the applicant started parking trucks.

Mr. Sanfilippo said the Code Enforcement case was opened on December 9, 2021.

Commissioner Grunsky asked if a half-mile distance from an interchange qualifies for the Agricultural-Industrial (A-I) Zone.

Director Jolley replied that the ordinance, adopted in January 2022, allows it for properties within a half-mile of an interchange.

Commissioner Grunsky asked if the applicant was aware of staff working on this ordinance at the time of violation.

Director Jolley answered yes.

Commissioner Hamilton asked who determines what is agriculturally related or non-agriculturally related.

Director Jolley answered that the A-I Zone and truck parking ordinance does not require people to provide agricultural services.

Commissioner Hamilton asked if there would have to be a stormwater drainage permit or plan.

Director Jolley answered that the applicant intends to apply for an Improvement Plan, which would include being reviewed by other departments.

Commissioner Hamilton asked which department decides what road the trucking facility uses to go in and out and if it is the County's plan to improve Eight Mile Road or Micke Grove Road.

Chris Heylin, Public Works Engineer, stated that Public Works would look at the access when the Improvement Plan application is reviewed.

Director Jolley answered that the details of the design of the project have not been looked at because an Improvement Plan application has not been submitted. It needs the correct zoning first.

Commissioner Hamilton asked if a truck can legally make a turn onto Micke Grove Road and cross over the white line.

Mr. Heylin answered that Public Works would have to take a look at it. The intersection will be signalized and the roads widened.

Commissioner Hamilton asked if there are any offices or bathrooms included in the project.

Mr. Sanfilippo answered that the applicant had not mentioned of having any structures or buildings at this time.

PUBLIC HEARING OPENED.

PROPONENTS:

Gurpreet Judge, applicant, explained the plan for how trucks would enter and exit the site and that the future road widening would help with the traffic issues. He said the addition of fencing would help in noise reduction. He stated that the property meets the criteria of the A-I Zone and if approved, an Improvement Plan application would be submitted. He said he had signed a Compliance Agreement with the County, which will ensure that he would follow the protocols.

OPPONENTS:

Neighboring residents John Sergis, Jacqueline Quam, and Mike Steed presented their concerns regarding noise, illegal dumping, water drainage, traffic, property value, and lights shining onto neighboring properties.

REBUTTAL:

Mr. Judge explained that environmental professionals inspected the property and would have shared any issues. The Improvement Plan would address the issue about lighting leaving the boundary. Traffic issues would be resolved once improvements to the road have been made.

Commissioner Ruhstaller asked if the applicant was hiring mechanics.

Mr. Judge answered that he hung up a sign for a month but then took it down. He was not looking to hiring mechanics.

Commissioner Ruhstaller asked if illegal dumping of tires and oil was occurring.

Mr. Judge replied that it does not happen and it is not their general practice.

Commissioner Hamilton asked for the number of refrigerated trailers and if they run at night.

Mr. Judge said that he has three refrigerated trailers that do not run at night.

Commissioner Hamilton asked if there are limitations to parking refrigerated trailers at night.

Director Jolley answered that there are no limitations in the old code or the new code. If the applicant would willingly agree to not run the refrigerators in the evening, it could be added to the Conditions of Approval.

PUBLIC HEARING CLOSED.

Commissioner Grunsky asked if there are rules for applying for the same General Plan Map Amendment and Zone Reclassification applications on the same property, following a denial.

Ms. Merrill stated that she was not sure and would have to take a look.

Commissioner Grunsky asked how people were notified during the proposed A-I Zone process.

Director Jolley explained that there were study sessions that determined the half-mile requirement and the selection of parcels. Any new requests for additional parcels were included. Neighbors within a certain radius of these properties were notified.

Ms. Merrill clarified that no application of the same type may be accepted 12 months after a denial for the property, whether the same owner or someone else.

Commissioner Ruhstaller and Commissioner Sangha pointed out that the applicant went through the process in the wrong order, by operating before submitting an application. They said it would have been helpful for the applicant to have met with the neighbors. Commissioner Grunsky agreed.

Commissioner Hamilton stated that the project does not fit the neighborhood.

Commissioner Midgley said that there is a need for truck parking and that the location fits the criteria.

MOTION:

It was moved, seconded (Hamilton / Sangha), and passed by a vote (3 to 2) to:

1. Deny General Plan Map Amendment No. PA-2200030 and Zone Reclassification No. PA-2200031.

VOTE:

AYES: Donald Ruhstaller, Randy Hamilton, Jass Sangha
NOES: Sheri Midgley, James Grunsky
ABSENT:

2. **USE PERMIT NO. PA-2000012 OF 157 CALIFORNIA RESERVE, INC. (C/O NJA ARCHITECTURE)** to establish a small winery in 2 phases over 5 years. Phase 1 includes the construction of a 10,530-square-foot production building and a 2,300-square-foot covered crush pad. Phase 2 includes the construction of a 9,930-square-foot multipurpose building; a 1,500-square-foot tasting room; and a 9,500-square-foot expansion to the Phase 1 production building. The project site is located 0.5 miles east of N. Davis Rd., 1 mile south of W. Peltier Rd., northwest of Lodi. (Supervisorial District: 4)

Continued to a future Planning Commission hearing.

3. DEVELOPMENT TITLE TEXT AMENDMENT NO. PA-2200189 OF SAN JOAQUIN COUNTY to amend Chapter 9-1080, Agricultural Mitigation, of Title 9, to improve the County's ability to carry out the purpose and intent of the Chapter. Amendments include clarifications of how agricultural mitigation is to be accomplished in the County. **THIS ITEM IS CONTINUED FROM THE NOVEMBER 3, 2022, PLANNING COMMISSION HEARING.**

Two draft Development Title Text Amendments are being provided to the Planning Commission for review:

Text Amendment Option A: Draft amendments proposed by Community Development Department staff. These amendments would provide for additional clarifications of how agricultural mitigation is to be accomplished, pertaining to use of a Qualifying Entity to oversee and implement the County agricultural mitigation program (and eliminating use of the AgTAC), as well as how agricultural mitigation may be accomplished through use of agricultural land conservation easements, payment of in-lieu fees or use of an agricultural mitigation bank.; and

Text Amendment Option B: Draft amendments proposed by the Agricultural Technical Advisory Committee ("AgTAC"). These amendments were previously considered by the Planning Commission in 2021, with one additional amendment being added clarifying agricultural land conservation easements shall be held in perpetuity.

CORINNE KING, DEPUTY DIRECTOR, introduced the staff report into the record.

Commissioner Hamilton asked about projects that require agricultural mitigation. Ms. King answered that those projects had a General Plan Map Amendment or Zone Reclassification to change them from an agricultural use to a non-agricultural zone or General Plan designation. Agricultural mitigation would be required prior to getting a permit for their underlying use.

Joe Petersen, AgTAC member, explained the reasons for the difficulty of achieving a quorum. He spoke about the accomplishments made by the AgTAC which included the agreement of stacking of easements, agreement to use the Delta for mitigation, and the approval of mitigation for three projects. Mr. Petersen explained the goal of the conservation easement, which was to keep the land in agriculture, restrict development, but also create flexibility for farmers and agriculture. He said Option B would allow people to use the California Farmland Trust (CFT), a mitigation bank, or some other easement. He stated that it mirrors a current process that is already established in the county, which is the Williamson Act. He provided an example of how a recorded agricultural mitigation easement would look like in a Preliminary Title Report. He spoke to how Option A would control land use and that the CFT easements are restrictive.

Commissioner Grunsky asked what the purpose of the AgTAC would be if Option B were approved. Mr. Petersen answered that they would have to determine costs and review every application that comes through.

Commissioner Sangha asked if the AgTAC meetings are open to the public. Mr. Petersen replied that they are.

John Beckman, AgTAC member, stated that he was agnostic on Option A and Option B. He proposed that the San Joaquin Council of Government (SJCOG) Habitat Conservation Plan be included as a third option, or Option C.

Director Jolley stated that staff was trying to propose something for agricultural purposes that is in line with how the Habitat Conservation Plan works. It would be preferred to have an expert in agriculture to monitor and report to ensure that agriculture is protected. The easement cannot be held as currently proposed by the AgTAC. Option A would be a voluntary easement that farmers enter into. Staff was searching for something easily understood by the developer that does not require the meeting of the AgTAC. Staff's version had three options, which would be monitored and regulated by a qualifying

entity. Option B's monitoring does not do anything more than what zoning already does, which is dictate what could be done on a piece of property.

Zoey Merrill, County Counsel, said that the Planning Commission can direct staff to explore Option C.

Director Jolley said that one option from staff's version is that a qualifying entity, SJCOG or someone else, can adequately mitigate for both habitat conservation and agricultural protection at the same time if they feel like they are meeting the intent to preserve agriculture and habitat.

Nick Bokides, AgTAC member, stated that Option A is a burden to agriculture, not transparent, not flexible, not sustainable, and could lead to potential lawsuits against farmers. He recommended to keep some form of the committee and to keep the public involved. He would like to see more discussion and concepts. He wanted to know why the proposal to have discussions with the Board of Supervisors was denied.

Charlotte Mitchell, on behalf of California Farmland Trust, stated that the CFT works with willing landowners, who wish to protect their land forever, with a farmland conservation easement. The CFT finds the funding or mechanism to compensate landowners for their development right, which is then sold to the CFT, and an easement is placed on the property. It is a private transaction between the CFT and the landowner. The CFT sometimes receive grant funding from the State of California, which are sometimes matched using mitigation fees. The CFT protect agricultural lands, unlike SJCOG which focuses on habitat lands. The CFT would agree to work with the County on being the qualified entity in Option A. The CFT is staffed with the sole focus of working with willing landowners and agricultural conservation easement transactions.

Kirsten Pringle, of behalf of Delta Protection Commission, stated that the DPC supports Option A because it provides a higher level of protection of agriculture lands and offers third-party qualifying entities. The DPC is strongly supportive of the added language of "in perpetuity" to both options. She recommended that staff explore a higher mitigation ratio.

Stanton Lange, AgTAC member, agreed with Joe Petersen and stated that Option B would not burden county staff.

Steve Mayo, on behalf of San Joaquin Council of Governments, stated that putting all of the onus on county staff would be overwhelming and a qualifying entity would be strongly recommended. It is the landowner's choice on how far they want to restrict their property and the end goal is making sure that the land is viable agricultural land.

Director Jolley replied to the question about the denied request to meet with Board of Supervisors. The Board of Supervisors were not satisfied with the proposed ordinance and requested that it continue to be worked on. The request for an ad hoc committee was denied by the chairman of the Board of Supervisors and Option A was staff's attempt to carry out what the Board of Supervisors had requested.

Director Jolley addressed the concern of only three projects being mitigated. She stated that there have been more projects but there was not a working ordinance that allowed for mitigation. The alternatives were to pay fees to an existing qualifying entity or get approval from the Board of Supervisors to pay an in-lieu fee. The in-lieu fees have been sitting in a trust account because there was not a way to purchase land to put an easement on. She provided the definition of a qualifying entity and said that there could be an option of creating a qualifying entity.

Director Jolley stated that the biggest difference between the options were that Option A has reporting and makes sure that it remains in productive agriculture and Option B has no reporting or monitoring but the concern is that it does not protect agriculture any more than zoning does. The reporting, monitoring, and keeping it in perpetuity meets the intent of protecting agriculture. The 2:1 mitigation ratio would not be considered at this time.

Commissioner Hamilton asked how much work is required by staff for the handling of Williamson Act parcels. Director Jolley answered that the Community Development Department is responsible for putting the land under contract or taking land out of contract. Those applications are taken to the Board of Supervisors. Every time a project comes in, they are looked at for consistency with the Williamson Act. The zoning ordinance lays out the uses that are compatible with Williamson Act, but not every use in the agricultural zone is compatible with Williamson Act.

Commissioner Hamilton asked how Option A would be handled while short-staffed. Director Jolley answered that if there were not a monitoring and reporting component to the easement, then there would not be a huge impact to staff. Putting together the AgTAC meetings requires a significant amount of work by clerical and planners. She said that it would also be more difficult to get a quorum because remote meetings were no longer allowed.

Commissioner Ruhstaller asked what constituted a quorum for the AgTAC. Director Jolley answered that 6 out of 9 is a quorum and 6 full votes are required to pass a vote. Ms. Merrill added that the voting process was designed to be difficult to pass a vote.

Commissioner Sangha asked if it would be possible to have a mixture or hybrid of the two options, one that would keep the AgTAC and provide transparency. She asked if the item could be tabled to look at all the options in detail, along with any other options. Ms. Merrill answered that the Planning Commission can table the item and direct staff to consider adding an element of a commission to Option A.

Commissioner Ruhstaller said that a committee was already in place and perhaps changes could be made to help staff.

Commissioner Grunsky said that having only 4 of 9 AgTAC members show up was not enough. There becomes a circular process with Option B and no progress is made when there is not a quorum. Option A is ready-made and projects can continue to move forward. There would be no burden to staff because there would be third-party qualifying entity. He asked if it was possible to change the makeup of the AgTAC.

Director Jolley replied that it could be done. She added that the current version of the ordinance does not provide the public of a clear process for how to mitigate. She said the problem with the County being the qualifying entity and accepting in-lieu fees is that the money will be sitting in an account without a plan of how to use it.

Ms. Merrill explained that the current ordinance requires a mitigation strategy. If there is no strategy, there needs to be something clear so that staff or the AgTAC could make findings that drive the determination.

MOTION:

It was moved, seconded (Ruhstaller / Midgley), and passed by a vote (5 to 0) to:

1. Table the item to a date uncertain.

VOTE:

AYES: Jass Sangha, Donald Ruhstaller, Sheri Midgley, Randy Hamilton, James Grunsky
NOES:
ABSENT:

4. **CONSENT MAJOR SUBDIVISION NO. PA-2100280 OF CHRISTOPHER AND DIANE KNOLL TRUST (C/O DILLON & MURPHY)** to divide a 14.57-acre parcel zoned Rural Residential (R-R) into 7 parcels with a 2-acre minimum lot size. The resulting parcels will utilize on-site private wells and septic systems for residential development. Storm water will be retained on-site. A cul-de-sac is proposed for access to 3 of the parcels. A 25-foot-wide access easement is proposed for the benefit of the remaining 4 parcels. The project site is located on the south side of E. State Route 12; 1,555 feet west of N. Locust Tree Rd., Victor. (Supervisory District: 4) **THIS ITEM IS CONTINUED FROM THE NOVEMBER 17, 2022, PLANNING COMMISSION HEARING.**
5. **CONSENT TIME EXTENSION FOR PREVIOUSLY APPROVED USE PERMIT NO. PA-0900179 OF OUR LADY OF FATIMA SOCIETY OF THORNTON, CALIFORNIA, INC.** for a previously approved Use Permit for public and community assembly events within a 12,000-square-foot, multi-purpose assembly hall. The project site is located on the north side of W. Oak St., 275 feet east of N. Sacramento Blvd., Thornton (Supervisory District: 4)

MOTION:

It was moved, seconded (Hamilton / Sangha), and passed by a vote (5 to 0) to:

1. Approve action items # 4 and 5 on consent, with the recommendations in their respective Staff Reports.

VOTE:

AYES: Donald Ruhstaller, Jass Sangha, Sheri Midgley, Randy Hamilton, James Grunsky

NOES:

ABSENT:

The meeting adjourned at 9:00 P.M.

James Grunsky, Chair

Jennifer Jolley, Secretary