



PLANNING COMMISSION MINUTES OF NOVEMBER 16, 2023

The San Joaquin County Planning Commission met in regular session on November 16, 2023 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
Donald Ruhstaller
Chris Meehleis
Jass Sangha

County Staff

Zoey Merrill, County Counsel

Shayan Rehman, Department of Public Works
Chris Heylin, Department of Public Works

Steven Shih, Environmental Health Department
Frank Girardi, Environmental Health Department

Community Development Department Staff

Jennifer Jolley, Director
Corinne King, Deputy Director of Planning
Megan Aguirre, Principal Planner
Stephanie Stowers, Senior Planner
Sol Jobrack, Associate Planner
Allen Asio, Office Assistant Specialist
Karen Sandhu, Office Assistant Specialist

Minutes not presented to Planning Commission for approval.

ACTION ON REQUESTS FOR REMOTE PARTICIPATION:

MOTION:

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

1. Approve remote participation for Commissioner Sangha due to a medical situation.

VOTE:

AYES: Sheri Midgley, Chris Meehleis, Donald Ruhstaller, Jass Sangha, James Grunsky

NOES:

ABSENT:

ACTION ITEMS:

1. **GENERAL PLAN MAP AMENDMENT NO. PA-2300135 & REVISION OF APPROVED ACTIONS FOR PREVIOUSLY APPROVED SITE APPROVAL NO. PA-1900295 OF MOSSDALE ASSOCIATES (C/O MIKE SOUZA)** to change the General Plan designation of a 5.90-acre portion of a 143.85-acre parcel (239-030-08) from I/L (Limited Industrial) to I/W (Industrial Warehouse). A Revisions of Approved Actions to remove Condition of Approval 1j. from a previously approved Site Approval Application to allow on site services consistent with the proposed General Plan designation. The project site is on the east side of W. Mossdale Rd. across from the Interstate 205 (I-205) northern off-ramp in Lathrop (Supervisory District: 3)

CONSENT

2. **REVISIONS OF APPROVED ACTIONS FOR A PREVIOUSLY APPROVED USE PERMIT NO. PA-1800090 OF FORWARD INC.** to modify Condition 1.b.iv. to include a bridge crossing on the North Fork of South Little Johns Creek. This bridge was depicted in the 2018 Forward Landfill Expansion Final Supplemental EIR (Figures III.C-4, III.C-5, & III.C-6) and bridge crossings on the North Fork of South Little Johns Creek have been incorporated in the project since 1990 (City of Stockton Austin Road Landfill Expansion Project). The north bridge is proposed for on-site circulation only. It will be utilized to access APN: 181-150-16 181-150-09 & 181-150-08, and provide year-round, all-weather access to the existing soil barrow pit. The project site is on the west side of Austin Rd., 0.5 miles north of Lynch Rd., north of Manteca (Supervisory District: 4)

CONSENT

MOTION:

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

1. Approve action items #1 and #2 on consent, with the recommendations in their respective Staff Reports.

VOTE:

AYES: Sheri Midgley, Chris Meehleis, Donald Ruhstaller, Jass Sangha, James Grunsky
NOES:
ABSENT:

3. **VARIANCE NO. PA-2300015 OF RONALD & CAROL RUGANI TRUST (C/O DILLON & MURPHY)** to reduce the minimum required parcel size in the AG-40 (General Agriculture, 40-acre minimum) zone from 40 acres to 4.10 acres and 33.40 acres. The underlying project, which cannot be applied for unless the Variance is approved, is a Minor Subdivision of the existing 37.52-acre parcel into a 33.40-acre parcel and 4.10-acre parcel and Williamson Act Contract cancellation for the 4.10-acre parcel. The existing 37.52-acre parcel contains 2 residences that will both remain on the proposed 4.10-acre parcel. The project site is on the north side of E. Eight Mile Rd., 3,100 feet east of N. Tully Rd. (Supervisory District: 4)

SOL JOBRACK, ASSOCIATE PLANNER, introduced the staff report into the record.

PUBLIC HEARING OPENED:

PROPOSERS:

Joe Murphy, project engineer, discussed the challenges associated with Variance projects, noting their controversial nature and frequent opposition. He presented the rationale for the Variance, which would enable the Rugani family to retain their property if they decide to sell the farm.

Joe Murphy contested Findings No. 1 and No. 3, highlighting that the irregular property line, established 70 years ago, was shaped by the land's topography. He explained that if the property line had been drawn due north and south, the total area would be 40 acres.

Mr. Murphy emphasized that the land's unique topographic features create a special circumstance, justifying the Variance. In addressing Finding No. 3, Joe Murphy argued that granting the Variance would not significantly alter the existing 70% ratio and would have a negligible impact, as no other properties nearby face similar topographic challenges.

Mr. Murphy noted that he successfully applied this argument in three prior Variance applications. He concluded by stating that the approval of the Variance would enable the Rugani family to establish a homesite parcel.

OPPOSERS:

None.

REBUTTAL:

None.

PUBLIC HEARING CLOSED.

Commissioner Grunsky inquired about the three variances. He also inquired about what was planted on the property.

Joe Murphy responded that the Variance projects were from 2010, 2014, and 2018 and that cherry trees were planted on the property.

Commissioner Grunsky said the variance request was reasonable.

Commissioner Ruhstaller commented that he would be in favor of approval.

Commissioner Midgley said that she didn't see how the applicant meets the criteria for the 4 Findings and does not know how they can move the motion forward.

Commissioner Sangha said she would be in favor of approval.

County Counsel advised on how to proceed with the motion since the Findings weren't met.

The Associate Planner, Sol Jobrack, introduced conditions to the commissioner's which would allow Findings No.1 & No.3 to be made.

Director Jolley gave guidance on how to present the recommendation to make the Findings.

MOTION:

It was moved, seconded (Ruhstaller / Meehleis), and passed by a vote (4-1) to:

1. Make Findings No.1 and No.3 based on the recommendations of the Conditions of Approval.

VOTE:

AYES: Chris Meehleis, Donald Ruhstaller, Jass Sangha, James Grunsky

NOES: Sheri Midgley

ABSENT:

4. **CONDITIONAL USE PERMIT NO. PA-2100238 OF DATTA YOGA CENTER (C/O TULASI C. TUMMALA)** for a Religious Assembly to be developed in 2 phases over 5 years. Phase 1 includes the construction of a 5,000-square-foot temple and assembly hall for up to 250 people, and a 3,000-square-foot residence to be utilized for a priest residence. Phase 2 includes the construction of a 12,000-square-foot temple building, and a 7,000-square-foot addition to the Phase 1 assembly hall building. Phase 2 proposes an attendance increase to 750 people. At full buildout, the religious assembly facility anticipates 50 visitors per day, 5 days a week, and 250 visitors on Saturday and Sunday. Additionally, the facility anticipates a maximum of 750 visitors at any one time 1 Saturday or Sunday per month. The project site is on the north side of W. Bethany Rd., 1,045 feet west of S. Naglee Rd, Tracy. (Supervisory District: 5)

MEGAN AGUIRRE, PRINCIPAL PLANNER, introduced the staff report into the record.

Commissioner Grunsky asked whether a live screen was better than a masonry wall.

Megan Aguirre, Principal Planner, stated it is her understanding that a live screen can absorb pesticides better.

Commissioner Ruhstaller had a question about the maximum number of attendees and required parking.

Megan Aguirre clarified the number of maximum attendees noting the project was providing more parking than required.

PUBLIC HEARING OPENED:

PROPONENTS:

Steve Herum, Attorney for the Applicants, provided insight from experience regarding the establishment of religious assembly facilities in agricultural zones. Attorney Herum also discusses the differences between Protestant and Hindu services.

Doug Ganguly, the project applicant, gave an informational presentation on the Datta Yoga Center project. He explained that they have no desire to impede on any agricultural activities. During the presentation, Mr. Ganguly provides further clarification on the differences between Hindu and Christian worship assemblies. He addressed the neighbor's concerns and noted that there will not be a school built on the property.

Doug Davis, the project designer, discussed details of the project design. He elaborated on project phasing, utilization of the proposed structures, parking and the boundary of the project site accessible to the public. Mr. Davis also stated that an easement was offered to the Naglee-Burke Irrigation District, but that offer was declined. Mr. Davis further clarified the project attendance.

Mr. Herum concluded the presentation by emphasizing that the project meets all the requirements and added that he had never seen a Staff Report for a project have 120 letters of support. Mr. Herum also stated that an offer was made for an agreement that no complaints would come from the Temple regarding agricultural uses on adjacent parcels.

Commissioner Ruhstaller inquired about prior agreements with regard to pesticide usage.

Mr. Herum elaborated on what the verbiage would state in an agreement. Essentially there would be no complaints from the temple for ordinary farming activities using approved pesticides.

Mr. Vinay, a neighbor, lives 3 minutes from the project site. He states that he doesn't see any issues with building a place of worship at that site.

Sedisha, another community member, stated the project would be beneficial to the community and essential to teaching the small children the Hindu Religion.

Dr. Vas Rahven stated that the project will promote positive physical, mental, and spiritual effects to the community.

Raj, a local farmer raising goats and chickens, explained that he discussed the project with other neighboring farmer's and none of the farmers had opposition to the project.

Chinaprea, a local realtor in the area, stated that the first question perspective buyers ask is whether there is a Hindu Temple nearby. He states that there is a need in the area for a Hindu temple and he recommends the project be approved.

Helawam, a community member, stated that the traffic patterns are not fixed for Hindu celebrations at temples because attendees are generally not on-site all at the same time.

A community member that did not provide their name stated that culture is important and wants to pass their customs on to their children. He explained that Temples are a place where parishioners connect emotionally with their families and others.

Regu, a community member, stated that the Temple is beneficial because it is integral to raising his children in the Hindu faith. He states his children need to connect with people who have spiritual knowledge which happens at Hindu Temples.

Kanaka, a community member, stated that both academic school and spiritual teachings are important for children to receive for a holistic education. He states that values learned at Temples are important for character development in children.

Dr. Bajati Ghoti who recently moved from the Bay Area to Tracy stated it's frustrating that there are no temples to serve the regional community and indicated that he supports the project.

Ram, an immediate neighbor to the project site, stated that the applicant approached him in a friendly manner and that the focus of the Temple is for non-commercial activities for the benefit of the community.

Sudeep, neighbor to the project site, has no concerns or objections with the Temple. He stated that he farms almonds and applies pesticides quarterly and stated that he hopes to have support from the temple management with regards to his farming activity and supports the project.

Raju, a community member, supports this project because the Temple will provide community support. He stated that the applicant has done a great job developing the plans to meet the county requirements.

OPPONENTS:

Alexis Stevens, Attorney for the Naglee-Burke Irrigation District, states that building a very large religious assembly in this area is incompatible with surrounding land uses. Mrs. Stevens also stated that the project is incompatible with the County's General Plan goals with preserving agriculture and that it is unclear how the Planning Commission can approve the project based on the findings included in the Staff Report because of its conflict with the General Plan policies and goals.

Mrs. Stevens also stated that farmers should be able to apply pesticides in accordance with the law and shouldn't have to coordinate with others to do so. Mrs. Stevens stated that the Right-to-Farm Ordinance is not sufficient to protect farmers against complaints that may be raised by the proposed use.

Philip Martin, a neighbor in opposition, stated that the project is further out into the flood plain than any other religious site that has been approved. He said that comparing this project to Southwinds Church is a false equivalency because it is farther out by a mile and that is significant because it's closer to the river. He also stated that 64.6% of the support letters are from Mountain House and that the traffic study is flawed because the traffic study stated that only 10% of attendees would be coming from Mountain House. He states he would like to see a solid fence around the perimeter of the parcel as it would protect the attendees from falling into a ditch or wandering into a field, which may have been recently sprayed.

Pat Markine, a neighbor in opposition, stated that she doesn't think this site is right for the proposed project and that there must be a better location for the proposed project and, she cannot support the project.

A representative for Parminder farms, located on a parcel neighboring the project site, is concerned about conflicts with adjacent land uses and states that a solid fence would protect adjacent land and the temple facility. He also stated concerns regarding the traffic generated by the people coming to the proposed facility from Mountain House using Bethany Road because the traffic will impact farmers being able to move their equipment.

REBUTTAL:

Mr. Herum, the applicant's attorney, requested that the Planning Commission disregard comments from the Irrigation District, asserting that these comments fall outside the District's area of expertise. Steve acknowledged that the district did raise two valid concerns: access to district facilities and the potential contamination of the district canal by temple wastewater.

Attorney Herum noted that while an easement through the project site for access to District facilities was proposed, the district declined this offer. He emphasized that the project is designed to ensure that wastewater remains on-site and does not affect district facilities. Furthermore, Attorney Herum pointed out that Irrigation Districts do not engage in farming; their primary role is to provide water. Therefore, any concerns related to farming and land use compatibility are beyond their scope. He assured the Planning Commission that appropriate mitigation measures would be implemented to address issues concerning farming, safety, and pesticides.

PUBLIC HEARING CLOSED.

Commissioner Grunsky closed public hearing and asked questions regarding the methodology of the Traffic Study and how the counts were derived.

Joanne, a consultant with Willdan Engineering, stated that the traffic counts were derived from information provided by the applicant and that they were not provided specific percentages of where parishioners were coming from. She noted that Willdan Engineering gave their best estimate regarding trip distribution and that it was approved by the County Department of Public Works.

Christopher Heylin, an engineer with Public Works, stated that trips to the proposed facility are coming northbound from Interstate 205, and that trips that are coming from either Mountain House or parts of Tracy are coming northbound onto Lammers.

Philip Martin, a neighbor in opposition, stated that the direct route to Mountain House is from Bethany Road, and that the intersection of Lammers and Bethany Road is one of the two closest intersections to the site which was not included in the traffic study. He stated he doesn't see how that intersection wasn't studied when it is the most direct route from Mountain House to the proposed project site. He believes the wrong intersections were reviewed.

Commissioner Sangha reported that she met with the applicant and several neighbors, as well as visited the project site. She expressed agreement on the necessity of constructing a wall around the site to restrict children's access to the ditch. Her primary concern was traffic, particularly regarding tractors on the roadway.

Commissioner Sangha acknowledged concerns related to pesticide use but noted that the applicants are open to collaborating with adjacent landowners to ensure they are good neighbors. She indicated her willingness to support the project moving forward.

Mr. Herum clarified that the distribution of trips is not influenced by letters received by public agencies. He emphasized that Willdan Engineering conducted the traffic study based on their expertise and experience, and that the study was approved by the County department of Public Works. As such, the Planning Commission can confidently rely on this study for its determinations. Additionally, Mr. Herum pointed out that many of the supportive responses lack information about their addresses.

Commission Grunsky stated that his bigger concern is that the County allows the religious assembly use in agricultural zones, and how those uses can impact both agricultural operations, as well as trucking related to agricultural operations.

Commissioner Ruhstaller reported that he also met with the applicant and discussed traffic concerns. He expressed his belief that the applicant is committed to working with neighbors to mitigate traffic impacts, particularly during the harvest season. Additionally, Commissioner Ruhstaller raised concerns regarding pesticide use and emphasized the need for a masonry wall to serve as a barrier between the project and adjacent agricultural operations.

Commissioner Midgley also stated that she is also in favor of the project and feels the applicant addressed all the concerns and meet the requirements.

MOTION:

It was moved, seconded (Ruhstaller / Sangha), and passed by a vote (4-1) to:

Approve with a condition to install a masonry wall instead of live screening.

1. Adopt the Mitigated Negative Declaration
2. Adopt the Mitigation Monitoring and Reporting plan
3. Adopt the Findings for Use Permit
4. Approve Use Permit No. PA-2100238 with the Conditions of Approval, and including a condition to install a masonry wall instead of live screening

VOTE:

AYES: Donald Ruhstaller, Chris Meehleis, Sheri Midgley, Jass Sangha

NOES: James Grunsky

ABSENT:

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

5. Amend the first motion to include the modification to the recommended Conditions of Approval No.1. j. in the notes for this evening.

VOTE:

AYES: Donald Ruhstaller, Chris Meehleis, Sheri Midgley, Jass Sangha, James Grunsky

NOES:

ABSENT:

The meeting adjourned at 8:30 P.M.

James Grunsky, Chair

Jennifer Jolley, Secretary