



PLANNING COMMISSION MINUTES OF FEBRUARY 2, 2023

The San Joaquin County Planning Commission met in regular session on February 2, 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
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
Megan Aguirre, Senior Planner
Stephanie Stowers, Senior Planner
Allen Asio, Office Assistant Specialist
Laura Sauers, Office Assistant Specialist

ACTION ITEMS:

1. **GENERAL PLAN TEXT AMENDMENT NO. PA-2200212 OF SAN JOAQUIN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT** to amend Section 3.1 Community Development Element pertaining to the Agriculture Industrial (A/I) General Plan designation. The amendments would add the A/I designation to the Land Use Designation table (pg. 3.1-25); remove the existing specific locational criteria from the general description page (pg. 3.1-57.1); and add the existing specific locational criteria and other related policies to Land Use Goal LU-7 (pg. 3.1-61) pertaining to Freeway/Highway Access, Parcel Size Exceptions, Prime Farmland, and Primary or Secondary Zone of the Delta. The project site is countywide.

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

Commissioner Hamilton asked how Staff considers or interprets “Not ideal for farming.”

Megan Aguirre said that Staff would consider the information an applicant brought to us, such as soil classification. San Joaquin County has a soil study that classifies soil and indicates how viable it is for farming.

Commissioner Sangha asked if Staff looked at property along Interstate 5.

Ms. Aguirre said that the existing criteria allow some properties along I-5 related to interchanges. Staff was not asked to look at adding more properties in those areas.

Commissioner Sangha asked if the radius would remain at half a mile.

Ms. Aguirre said that the half mile does not apply along the entire route, but at the interchanges.

Director Jolley said that when Staff was originally creating the ordinance, they looked at the lowest impact to other properties, trying to put AI properties as close as possible with easy access to interchanges. Staff is looking specifically at Interstate 580 and State Route 132 because with that strict criterion of looking within a half mile of an interchange, there were almost zero sites that could be considered in the south part of the county. The issue was raised by Supervisor Rickman, District 5. Staff is trying to create additional opportunities in this area without opening it up wide for the entire county. Staff believes that adequate locations are provided along I-5 and State Route 99, and that those areas do not need to be discussed further but is recommending to allow locations along State Routes 4, 12, and 88 because there are some parcels along those areas that are not viable for farming. Such parcels would be few and far between, and some are within the Primary Zone of the Delta. By using all the locational criteria, a lot of parcels in the county are excluded. State Route 132 and Interstate 580 are the most challenging to create policy on due to the lack of interchanges.

PUBLIC HEARING OPENED:

PROPONENTS:

Steve Herum, representing Tracy Dirt, said that their property missed the criteria to be eligible. This amendment would allow his client to apply for a Use Permit application.

OPPONENTS:

None.

PUBLIC HEARING CLOSED.

MOTION:

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

1. Forward General Plan Text Amendment No. PA-2200212 to the Board of Supervisors with a recommendation for approval based on the ability to make the required Basis for General Plan Text Amendment with the addition of a 1-mile radius requirement for properties along State Route 132 and Interstate 580.

VOTE:

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

NOES:

ABSENT:

2. **APPEAL TO THE PLANNING COMMISSION NO. PA-2000214 OF KAMPS PROPERTY MANAGEMENT, LLC (C/O NEW CINGULAR WIRELESS)** This project is an appeal of the Community Development Department's approval of a Site Approval for an unmanned 125-foot-tall wireless communications tower and associated equipment to be located within a 1,600-square-foot lease area. The project site is located on the southeast corner of S. Murphy Rd. and E. Colony Rd., Ripon (Supervisory District: 5)

STEPHANIE STOWERS, SENIOR PLANNER, introduced the staff report into the record.

PUBLIC HEARING OPENED:

PROPOSERS:

Kevin Gallagher, applicant representing Complete Wireless Consulting on behalf of New Cingular Wireless PCS LLC doing business as AT&T Mobility, requested that the Planning Commission uphold the approval of the project and to deny the appeal.

He explained the coverage gap, distances to nearest residences, relocation of the facility in the future, the data for the coverage maps were not based on field measurements but were based on simulations of topography, vehicle/indoor/outdoor coverage, and the process of searching for alternative locations.

OPPOSERS:

Adrienne Williams, appellant, stated that, as a resident of the neighborhood, she has not experienced drops in coverage. She stated that the maps may have been manipulated, and do not prove a need for the tower. She also stated that the site is too close to the Colony Oak Elementary School and would be a nuisance in the area.

Christy Martin, resident, stated that 58 area residents are against the project, and that the project has no community support. She stated that the community would benefit if they had a communication problem, but there's not a gap in coverage.

Elena Dillard, resident, stated that there is no need for the tower, that there is no gap in service. She also stated that 5G technology has health and safety impacts, and that she feels that this tower is a money grab from AT&T.

Clint Williams, resident, stated radio frequency has been identified by the World Health Organization as possibly hazardous, and that there have been no studies regarding the impacts of 5G technology. He stated that the tower would be impossible to remove if permitted and that there is no gap in coverage.

Allen Asio, staff, read the following 2 emails into the record:

Larry Fredriks: Concerned regarding proximity to school and impacts to property values.

Juliet Begoun: Concerned regarding aesthetics and health and safety impacts of radio frequencies.

REBUTTAL:

Kevin Gallagher, applicant, described the process behind mapping and drive tests that show a need for additional service in the area. He stated that studies have shown that health concerns relating to towers are negligible after a distance of 656 feet. Mr. Gallagher introduced Bill Hammet, third-party radio frequency expert.

Bill Hammett, radio frequency expert, provided additional details regarding the need for the tower, and the tower's impacts. He stated that the modeling for this tower shows that exposure levels will be less

than 1% of the threshold for schools and homes.

Commissioner Grunsky asked if Wi-Fi calling technology qualifies as an alternative technology.

Zoey Merrill, Deputy County Counsel, stated that under Federal Communication Commission regulations, Wi-Fi calling is not an alternative technology.

Commissioner Grunsky questioned drive test legitimacy if neighbors are not experiencing service issues and based on his experiences in the vicinity.

Kevin Gallagher explained that engineers perform the tests, looking at dropped calls and the quality of the coverage for services above and beyond calling, including services provided to the first responder network.

Commissioner Sangha asked if the applicant set up a public meeting with the community.

Kevin Gallagher stated that no meetings were held because there were no other options regarding tower placement.

Commissioner Sangha asked why the service maps on the AT&T website contradict what is being shown today. She also questioned why the restrictions and regulations from the Telecommunications Act of 1996 still apply 26 years later.

Kevin Gallagher explained that the maps provided for marketing include outdoor coverage areas for calls, and do not apply to indoor locations, service strength in transit, or services that require additional data than calling.

Commissioner Ruhstaller said that those who don't want it the tower are not actually concerned regarding radio frequency safety, but just don't want a tower in their area.

PUBLIC HEARING CLOSED.

Commissioner Hamilton stated concern that company never reached out to the community and that the project would limit the growth of the City of Ripon. He stated that he was not provided enough evidence that there are gaps in coverage.

Commissioner Sangha stated that she believed that the applicant should have worked with the neighbors and the community. She stated that it was telling that no neighbors came in support of the project.

Commissioner Grunsky stated that he did not see any community support.

Commissioner Midgley stated that denying the project would go against federal law, the Telecommunications Act of 1996.

Zoey Merrill, Deputy County Counsel, stated that Commissioner Midgley's statement about the Telecommunications Act is accurate, that the Act preempts the County in regard to cell towers, and the burden is shifted to San Joaquin County to show the existence of a potentially available and technologically feasible alternative. She stated that County Counsel's office worked with staff and AT&T and found no evidence or reason to believe that the gap coverage data that was provided to San Joaquin County was not industry standard and compliant with FCC. She stated that if denied, San Joaquin County would be liable, and could be legally challenged as denial is preempted specifically by the Federal Communication Commission rules.

Commissioner Ruhstaller asked about the appeal process, and what would happen if the Planning Commission approved the appeal, denying the project.

Zoey Merrill, Deputy County Counsel, stated that the action is appealable to the Board of Supervisors for a final action.

Commissioner Sangha asked why the application was brought back to Planning Commission if they do not have the ability to deny.

Commissioner Grunsky asked what the next step would be.

Zoey Merrill, Deputy County Counsel, stated that if the project was denied by Board of Supervisors, the courts would supersede County denial, and the tower would be permitted. She stated that the County has little to no ability to deny a tower, however, this procedure is required under the Development Title, which she understands is frustrating.

Commissioner Hamilton asked if the County hired an engineer to review AT&T information.

Zoey Merrill, Deputy County Counsel, stated that the County relied on best practices and law, and did not hire an independent engineer.

MOTION:

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

1. Deny the appeal and uphold the Community Development Department's approval of Site Approval No. PA-2000214.

VOTE:

AYES: Sheri Midgley

NOES: Jass Sangha, Randy Hamilton, Donald Ruhstaller, James Grunsky

ABSENT:

MOTION:

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

1. Approve the appeal and deny the Community Development Department's approval of Site Approval No. PA-2000214.

VOTE:

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

NOES: Sheri Midgley

ABSENT:

The meeting adjourned at 7:45 P.M.

James Grunsky, Chair

Jennifer Jolley, Secretary