

FINDINGS

Applicant-requested Revocation of existing Revised Special Use Permit S85-0070R2/Fudge Factory Farm Planning Commission/October 24, 2024

Based on the review and analysis of this project by staff, and supported by discussion in the staff memorandum and evidence in the record, the following findings can be made:

1.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

- 1.1 This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15301 (Existing Facilities) stating that, “Class One consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of existing or former use.”
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department at 2850 Fairlane Court, Placerville, CA.

2.0 GENERAL PLAN FINDINGS

2.1 The proposed use is consistent with General Plan Policy 2.2.1.2.

The Agricultural Land (AL) land use designation applies to lands that contain the characteristics of choice agricultural land (i.e., contain choice agricultural soils and / or contain prime farmland. The County Department of Agriculture has determined that the land is well suited for agricultural production.

Rationale: The project will continue to cultivate commercial crop production, 2.5 acres of apples, 1 acre Christmas Trees, 2 acres berries, ½ acres other nut and fruit trees, and ¼ acre grazing use after revocation of the Conditional Use Permit.

2.2 The proposed use is consistent with General Plan Policy 2.5.2.2.

Policy 2.5.2.2 states that all applications for discretionary projects or permits, including but not limited to, General Plan amendments, zoning boundary amendments, tentative maps for major and minor land divisions, and Conditional Use Permits shall be reviewed to determine consistency with the policies of the General Plan.

Rationale: Review of General Plan policies applicable to revocation of Revised Special Use Permit S85-0070R2 show that the continued agricultural use of the existing crop cultivating land use designation is consistent with the policies of the General Plan related to Agricultural uses.

3.0 ZONING FINDINGS

3.1 The proposed use is consistent with Title 130, Article 2, Table 130.21.020.

The existing project site is located within the Planned Agriculture zoning designation.

Rationale: Table 130.21.020 identifies that crop production, grazing, produce sales grown on site are consistent with this zone.

3.2 The project is consistent with Section 130.40.260

The project parcel meets the minimum requirements for Ranch marketing.

Rationale: The lot size is 10.1 acres which meets the minimum required lot size, and over 5 acres of permanent crops will continue to be grown and maintained.

3.3 The project is consistent with Section 130.52.021.

Section 130.52.021 specifies the applicability, review authority, and specific findings required to authorize a use permit based on any single use that triggers the need for the Conditional Use Permit.

Rationale: As discussed in the project background the candy shop and cabinet production / sales use were established through the approval of a of Special Use Permit in 1985 by the Zoning Administrator, and a Revised Special Use Permit by the Planning Commission on January 22, 2009 consistent with the provisions of Section 130.52.021. The cabinet making use has ceased, and the remaining uses are allowed by right consistent with the Ranch Marketing Ordinance.

3.4 The project is consistent with Section 130.54.090(A)(1) through (6).

Section 130.54.090 specifies the procedures for revocation or modification of permits by the County, the appeal procedures in compliance with Section 130.52.090, and uses after revocation, when it is found that the permit has been violated, has lacked substantial compliance, or when the use is determined to be a public nuisance.

Rationale: Section 130.54.090(A)(1) identifies the procedures for revocation of previously approved permits or authorizations, including that the review authority of original jurisdiction shall hold the public hearing to revoke the permit. The revised Conditional Use Permit was authorized by the Planning Commission. Therefore, the proposed revocation is being heard by the Planning Commission consistent with Section 130.54.090(A)(1).

Sections 130.54.090(A)(2) and (3) identify that notice shall be provided to the owner of the property, and to the Applicant for the permit or approval if different from the property owner on which the use or structure authorized by the permit being considered for revocation, and that that notice shall be mailed through U.S. Postal Service, certified, first class, and postage paid, at least twelve days prior to the public hearing for permits being considered for revocation. Planning has notified both the owner of the property and the project Applicant consistent with the requirements of Sections 130.54.090(A)(2) and (3).

Section 130.54.090(A)(4) identifies the required findings that any one of must be made for any permit or authorization to be revoked or modified. The required findings are all associated with changes, misrepresentation by the Applicant, lack of compliance with conditions of approval, improvements in violation of applicable codes, laws, ordinances, etc., improvements or uses that have become detrimental to the public health, safety, or welfare; or the manner of operation constitutes and/or is creating a public nuisance. However, S85-0070R2 is in compliance with its authorization and the associated conditions of approval. The permit is not in violation or become detrimental to public health, safety, or welfare, nor has it become a public nuisance. Revocation of the Conditional Use Permit by the County at the request of the applicant is simply the only mechanism for which the permit may be revoked, and the Applicant can proceed with the use as permitted in Table 130.22.020 (see Finding 3.1 above).

Section 130.54.090(A)(6) identifies that the County's action to revoke a permit or authorization shall have the effect of terminating it and denying the privileges granted by the original approval. The Applicant understands the revocation terminates privileges granted by the original approval. However, the use is now a permitted use and no additional privileges would be required to continue operating the use at the existing location.

3.5 The project is consistent with Section 130.54.090(B).

Section 130.54.090(B) identifies that any permit revoked by the review authority may be appealed in compliance with Section 130.52.090.

Rationale: The decision by the Planning Commission is appealable to the Board of Supervisors consistent with Section 130.54.090(B)