



# County of Yolo

## PLANNING AND PUBLIC WORKS DEPARTMENT

**John Bencomo**  
DIRECTOR

292 West Beamer Street  
Woodland, CA 95695-2598  
(530) 666-8775 FAX (530) 666-8728  
[www.yolocounty.org](http://www.yolocounty.org)

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## YOLO COUNTY PLANNING COMMISSION

CHAIR: Mary Kimball  
VICE-CHAIR: Jeb Burton  
MEMBERS: Leroy Bertolero; Jeff Merwin; Richard Reed; Keith Williams; Don Winters

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### MINUTES

December 10, 2009

#### ADMINISTRATIVE AGENDA

1. Chair Kimball called the meeting to order at 8:30 a.m.
2. Pledge of Allegiance was led by Commissioner Merwin.

MEMBERS PRESENT: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters  
MEMBERS ABSENT: None  
STAFF PRESENT: David Morrison, Assistant Director of Planning  
Eric Parfrey, Principal Planner  
Donald Rust, Principal Planner  
Stephanie Berg, Associate Planner  
Jeff Anderson, Assistant Planner  
Philip Pogledich, Senior Deputy County Counsel  
Aundrea Hardy, Office Support Specialist  
Lonell Butler, Chief Building Official

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3. ADOPTION OF MINUTES OF THE **NOVEMBER 12, 2009** MEETING.

#### Commission Action

The Minutes of the **November 12, 2009** meeting were approved with the following corrections.

- The Motion for Agenda Item 7.1 should read as follows:

MOTION: Reed SECOND: Burton  
AYES: Bertolero, Burton, Kimball, Merwin, Reed, and Williams  
NOES: None  
ABSTAIN: None

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ABSENT: Winters

- Page 7, second paragraph, third sentence, should read as follows.

Runoff already has great difficulty in getting under ~~Interstate 99~~ County Road 99W, where it naturally wants to flow. He added that he doesn't know if the idea for the proposed lakes was to take care of the runoff water, but if so, their storage capacity is nowhere near large enough.

- Page 8 , 4<sup>th</sup> paragraph, expand on Commissioner Reed's comment for clarification.

Commissioner Reed concurred with Commissioner Bertolero's comments and added that another subject that they should consider is how to integrate the existing community into the new town. He indicated that new infrastructure should incorporate existing facilities and be extended into already developed areas, to minimize the potential for gentrification for existing neighborhoods, and to make certain that locals are included in design and decision making.

- Commissioner Reports, Item D, should read as follows:

~~Vice Chair Burton~~ Commissioner Reed reported that he, Stephanie Berg, the employees of the Yocha Dehe Wintun Nation toured County Road 41, and discussed issues pertaining to the proposed abandonment. He also attended an event at the Barsotti's Capay Organic Farm. In addition, he extended his condolences to the family of Che Barnes, a member of the Coast Guard who recently died on duty.

MOTION: Bertolero SECOND: Merwin  
 AYES: Bertolero, Burton, Kimball, Merwin, Reed, and Williams  
 NOES: None  
 ABSTAIN: Winters  
 ABSENT: None

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4. PUBLIC REQUESTS

The opportunity for members of the public to address the Planning Commission on any subjects relating to the Planning Commission, but not relative to items on the present agenda, was opened by the Chair. The Planning Commission reserves the right to impose a reasonable limit on time afforded to any individual speaker.

No one from the public came forward.

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5. CORRESPONDENCE

5.1 Email – Letter from Yolo County residents regarding the proposed radio broadcast tower on Mace Boulevard.

5.2 Email – Compiled comments from Yolo County residents regarding the abandonment of County Road 41.

5.3 Multiple letters regarding the radio broadcast tower on Mace Boulevard.

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Chair Kimball acknowledged receipt of all correspondence sent with the packet and distributed at the beginning of the meeting.

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### TIME SET AGENDA

6.1 **2009-038:** Request for a rezoning of approximately 59.8 acres from the existing Agricultural Preserve (A-P) zoning to the Agricultural Industry (AGI) zoning. The project also includes a separate application for a Tentative Parcel Map to create three parcels out of two existing parcels, and a Lot Line Adjustment and Williamson Act Successor Agreements to reconfigure the property lines to be consistent with the new zoning boundaries. The property is proposed for rezoning to accommodate a new winery production facility and the accompanying waste treatment ponds. The project involves two separate contiguous parcels of approximately 115 acres (APN: 043-310-012) and 145 acres (APN: 043-310-011), located approximately four miles southwest of the unincorporated community of Clarksburg, at the intersection of Jefferson Boulevard (State Route 84) and Hamilton Road. Owner/Applicant: Bogle Family (E. Parfrey)

Eric Parfrey, Principal Planner, presented the project and answered questions from the commission.

Chair Kimball opened the public hearing.

Warren Bogle, applicant, thanked Yolo County, and staff for their vision on the 2030 Yolo County General Plan, provided project information, and answered questions from the commission.

Commissioner Bertolero asked Mr. Bogle questions regarding whether the proposed winery would be able to process the product of other local existing grape growers.

Greg Swaffar of Summit Engineering, and the project engineer, made himself available to the commission to respond to questions and elaborate further on details of the project, including the fire department's requirements and eight-foot shoulder requirements for the right of way.

Chair Kimball thanked Mr. Swaffar, and recommended that he check to make sure the project conforms to the newly adopted Design Guidelines.

Commissioner Merwin asked Mr. Swaffar for further details regarding the use of well water and the effect it may have on neighbors.

Mr. Swaffar responded to the questions posed, and explained that they do not foresee that well use will have an impact on local ground water levels and the reasons for his conclusion.

Steve Heringer, Clarksburg resident, and grower in the area, extended his thanks and appreciation to the commissioners for all the time, energy and effort they spend for the benefit of the residents. He expressed his support of the Bogle Family, and of the project.

Gary Merwin, third generation farmer in Clarksburg, communicated his support of the project to the commission and explained the current process of trucking his grapes out of the county, and the benefit that approving the project will provide to the Clarksburg community.

Mark Wilson, Delta Protection Commission, thanked the Planning Commission for taking the time to visit Clarksburg and the project site, and stated that he thinks the Bogle project is in line with the vision for the newly adopted 2030 Yolo County General Plan. He provided some history of the attempt to keep out

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urbanization of the Delta, and gave an explanation on the unintended consequences of not being able to build facilities similar to the Bogle project. He added that the Delta Protection Commission really wants to promote agricultural processing and farm-related businesses within the Delta; therefore, the project is consistent with where the Delta Commission would like to see things go. He expressed his desire to see the Planning Commission vote unanimously in favor of the project.

Tim Waits, speaking on behalf of Clarksburg Wine Grape Growers and Vintner's Association, came forward to express the group's support of the Bogle project.

Steve Winkler, Clarksburg resident, thanked the commission, thanked the Bogle Family for their support of the community, and expressed his approval of the project and the Bogle Family.

Glenn Greene, Clarksburg resident, voiced his concerns regarding how the project site was chosen, and stated that it was his understanding that other sites were available that could have had less of an impact on the community. He added that he understands that it is a goal of the county to keep jobs, and provide opportunities for the community and the county to grow; however, it seems to him that up the street in Southport there are many available buildings and facilities. He clarified that he was not opposed to the project, but was interested in how the site was chosen.

Chair Kimball recommended that Mr. Greene contact the Bogle family, or the Yolo County Planning staff, to address his concerns with the project.

Mike Heringer, Clarksburg resident and sixth generation farmer, expressed his support for the project, and his experience with the family and their community support.

Chair Kimball closed the public hearing.

Commissioner Winters commended the Bogle Family and their consultant Ken Lazzaroni, and expressed his support of the project by stating that the project was a big advantage for the area, especially with the grapes staying in the area. He was also pleased with the collaboration of the family with their neighbors.

Commissioner Merwin explained that he is a resident of the Clarksburg community, and after conversation with neighbors within the community, he found that the project was largely viewed as an asset to the community and the county. He has some concerns regarding ground water, but there isn't any indication that it will be a problem, and he is sure that the Bogle Family has no intent to cause well failure. Overall, he is comfortable and in support of the project.

Commissioner Williams expressed his enthusiasm about the project, and stated that he hopes the project goes through as quickly and as smoothly as possible. He also thanked the applicant for providing a visual of the facility so that the commission was able to ascertain that high towers and buildings are not involved.

Vice-Chair Burton acknowledged that he has heard about the need of such a project in the Clarksburg area for quite some time. He said he is in support of, and is desirous of, having the facility in Clarksburg. His only concern was other regulatory agencies getting involved in it, but it appears that it is under control. In closing, he commended the Bogle Family, and communicated that the project is extremely important for Yolo County and for the community in general.

Commissioner Reed said that he was pleased that the project would enhance economic development, and supports the goals that Yolo County has for both the Clarksburg area and for the county in general, in terms of jobs and expansion of the wine industry. It is aligned with the strategic planning in the 2030 General Plan and the General Plan's Environmental Impact Report. In addition, he shared his satisfaction with the mitigation

measures for Hamilton Road and on the state route. He hopes that the issues with the fire compliance will be worked out, but overall, supports the project.

Commissioner Bertolero spoke of a tour that he and two of his fellow commissioners took of the site, and shared his satisfaction of the plans. He summarized his concerns and how those concerns had been resolved. He stated his support of the project.

Chair Kimball thanked her fellow commissioners for their comments. She directed her comments to the applicants and told them that the project pulls together all of the values that she holds, which is mainly, keeping farmers farming. She added that the Bogle Family has really created something special that with the proposed project.

Commissioner Merwin made a motion to approve the project, with the acknowledgement that the Conditions of Approval issues are to be resolved as the process goes forward.

### **Commission Action**

That the Planning Commission recommends the Board of Supervisors take the following actions:

1. **HOLD** a public hearing and consider public comments regarding the proposed actions for the Bogle winery project;
2. **ADOPT** the Statutory Exemption as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment J**);
3. **ADOPT** the Ordinance rezoning approximately 59.8 acres from the Agricultural Preserve (A-P) zone to the Agricultural Industry (AGI) zone (**Attachment F**);
4. **ADOPT** the Findings for the proposed project (**Attachment G**);
5. **APPROVE** Tentative Parcel Map #4976 and the Conditions of Approval (**Attachment H**); and
6. **APPROVE** the Williamson Act Successor Agreements (**Attachment I**).

MOTION: Merwin                      SECOND: Winters  
AYES: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters  
NOES: None  
ABSTAIN: None  
ABSENT: None

Chair Kimball called a 5-minute recess.

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- 6.2 **2009-028:** A road right-of-way abandonment request for the unmaintained portion of County Road 41 (also known as Arbuckle Road), located just north of Rumsey (affects APNs: 018-260-17, 018-260-18, 060-270-01, and 060-270-05). The project proposes to address land management conflicts, such as trespass, vandalism, and illegal hunting and poaching, by restricting unauthorized public access to private property. The property owner also wishes to protect significant cultural sites and to limit any potential liability for private maintenance of the public right-of-way. The project proposal includes permanent closure of the seasonal gates, construction of a vehicle turnaround at the proposed lower

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terminus, as well as granting access rights in the event of an emergency. Owner/Applicant: Yocha Dehe Wintun Nation (SB Cormier)

Stephanie Berg Cormier, Associate Planner, presented background information on the project and answered questions from the commission.

There was discussion about the community involvement and their desire to keep County Road 41 open for recreational purposes

Chair Kimball opened the public hearing.

Jim Etters, Director of Land Management for the Yocha DeHe Wintun Nation, provided further details regarding the application for the road abandonment, and the grounds for which they were basing their request. He explained the intent to allow access to emergency vehicles, and how it would be achieved.

Tim Ramirez, resident of Yolo County, requested that the Planning Commission deny the request for abandonment of County Road 41, and allow for continued access to the public. He expressed his opinion that the Tribe and the public could come to common agreement.

Frank Sieferman, previous Yolo County Planning Commissioner and resident of Yolo County, shared several of his experiences as a county commissioner. In addition, he shared the fact that he personally uses County Road 41, and added that abandonment of the road would be a serious mistake. He requested that the commission deny the abandonment request.

Andrew Fulks, President of Tuleyome, expressed appreciation for the Tribe's conservation efforts and their connection to the land. However, regardless of who the applicant is, Tuleyome is still opposed to the closure of the road because it is a public resource and a public trust under the current streets and highway's code. Additionally, the 2030 Yolo County General Plan conflicts with the abandonment of the road. However, this does present a good opportunity for the tribal community to work with Yolo County to find a way that is more beneficial for everyone, by protecting cultural sites, while allowing public access.

Bob Schneider, representing the Sierra Club, informed the commission of their opposition to the abandonment of County Road 41, as the road is used for hiking, biking, mountain climbing, and photography among others. They feel that further discussions about the issues are appropriate, and they hope that the Planning Commission will deny the request.

Frankie Gonsalves, said that his family has been in the area for 30 years, and they love Road 41. He stated that the road is a public road. He has a bird's eye view of it and can see everything that happens on it. In addition, he uses it for hiking and drives it once a year. He doesn't want the views from the top of that road to be lost for his children or for his grandchildren. He shared his opinion that any vandalism comes from the other side of the county line, where access is wide open.

Leland Kinter, Secretary at the Yocha Dehe Wintun Nation, explained that the tribe has applied for abandonment of County Road 41 in order to protect a cultural site and to keep it in its original state. Now that the Tribe pays for the maintenance of the road, keeping it up for public access is not in their best interest. Additionally, he shared their feelings regarding fencing the area, and their desire to protect it without taking away from its natural beauty.

Helen McCloskey, a farmer and resident of Rumsey, said that the road abandonment is an issue of the entire community. It isn't just a private property rights issue with a public road like this. The road is held in trust for the public by the county and is an incredible resource. She added that it is also a safety issue, and that the road is used in emergencies. Just because the county does not have the money to maintain the road now,

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does not mean that they will not be able to maintain it in the future. If the county abandons the road now, they will never get it back again.

Chet Lloyd, Yolo County resident, spoke of vandalism, and how it is a part of the price of public access. He said that he owns both sides of County Road 40, across from the Rumsey Bridge on 41A, and he deals with poaching, garbage, and vandalism issues. However, they would never ask that the county close the road because it isn't in the public good. He walks County Road 41 daily and picks up trash as he does. The road bisects his land, and he has the same issues as the Tribe, but he doesn't feel that the county should abandon a road that they will have the money to maintain the road in the future. He wants his children and the public to have the right to walk that road and share in it's beauty.

Frances Burke, member of a group that has walked County Road 41, stated that the road is an asset for the community and the public in general. She said she appreciates the Tribe's concern about protecting their ancestral sites. However, it is her understanding that the sites are not really that near the road. The road is a valuable resource that provides the opportunity for people to get out in nature and she requested that the commission consider the value of Road 41 and not give it away.

Anne Rawlins, resident, and property owner on County Road 41 for over thirty years, stated that when abandoning something, it is done because it is of no further value. However, the testimony today reinforces the fact that it is almost constantly in use. Road 41 is such a valuable asset that she would be dismayed if the county did not maintain the right-of-way. She understood why road maintenance was halted due to the financial crisis. However, in future years, when the crisis is over, the county will have the finances to again maintain the road. In closing, she spoke of the emergency access available for use on the road.

Cleveland Bellard, local developer and farmer in the Capay Valley, spoke of maintaining the road as public access. .In addition, as the chair and director of a non-profit organization, he has had the opportunity to take young inner city minority children into the valley to talk to them about the historic state of the valley, especially the summit, which in the past has been called Nigger Heaven. Having access to travel up County Road 41, and to be able to look back down and share the beauty of the valley, really enhances his discussion about emphasizes how valuable the valley is. Although the Yocha Dehe Wintun Nation stated that they would like to utilize that piece of property to educate their children about their past, a lot of others would like to continue to use County Road 41 to enhance and bring about the past of their forefathers.

Chair Kimball closed the public hearing

Commissioner Bertolero thanked the public for coming and speaking, in addition to the emails that were received. He said that an important issue is that the Board of Supervisors ceased maintenance on County Road 41, but that they would retain the easement and would keep the easement for future public use. Additionally, when the tribe purchased the property approximately a year ago, he is sure that they were aware of any negative impacts created by the road, so there were no surprises. He spoke of the new General Plan, and how more importance would be placed on parks. Abandonment will add greater demand to existing parks and other public lands. He addressed the maintenance of the road and the washouts along with the use of emergency roads, and the fact that road abandonment is final. Therefore, with all due respect to the Tribe and their heritage, he supports the staff recommendation to deny the road abandonment

Commissioner Reed empathized with the applicant's concerns and expressed sensitivity towards the meaning of the land to the tribe; nevertheless, he does not feel the road abandonment proposal is the way to attain their objective. He said that the road abandonment proposes to solve a private landowner's problem by giving away a valuable public asset with no compensation and no alternative, and to him, it is illogical and unacceptable. He stated that people who trespass, poach, and vandalize, most often do them with vehicular access to remote areas. Hikers, birders, bicyclists, and botanists are not the type to desecrate land, but tend to be great stewards of land and have due respect for private property. County Road 41 serves a current

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public use as recreation and a back up emergency route. He quoted the Yolo County Office of Emergency Service as saying, "There is no substitute for retaining right of way to assure future access in the event of a bridge failure, or other long term need." The road also serves a prospective public use, future access, and continued emergency route. Commissioner Reed reiterated the actions taken by the Board of Supervisors in March 2009. In addition, he commented on the votes to keep the road available by advisory committees and other groups, and offered alternatives to the applicant to provide access to the top of the ridge. In closing, Commissioner Reed shared his intent to support the staff recommendation to deny the road abandonment, and encouraged the landowner to meet with responsible people who might come up with other ways to preserve the public's right of way and will meet Tribal needs.

Vice-Chair Burton said that he understands where the Tribe is coming from, and he shares the concerns for heritage sites; however, he has a greater concern for maintaining public rights, easements, or recreational uses so that everyone can share the natural beauty that exists. He added that many of the residents are natives and many of them have had generations of family members here that understand the beauty and history of the area. To deny the right for the future generations to access it, is in his opinion, a travesty. There has to be a balance between the needs of private landowners, heritage issues, and the public use. In this instance, he thinks that public use greatly outweighs the other issues. Therefore, he also supports denying the request.

Commissioner Williams agreed with his fellow commissioner's comments, and thanked all of the residents that came to the meeting and those that sent correspondence. He found that when looking at the county smart growth plans for Dunnigan and the new capacity of residences per acre, the county would need public access to open space, so he agrees with staff not to abandon County Road 41.

Commissioner Merwin concurred with his fellow commissioners and expressed his respect for the Yocha De He Wintun Nation's desire to protect heritage sites. He stated however, that the road abandonment does not serve the greater interest of the public, since the road is being used, even if it is not used daily for vehicular traffic. He said that the landowners knew that County Road 41 existed when the property was purchased, so it isn't a surprise to them; however, it is their right to request abandonment, but he is in support of denying the request.

Commissioner Winters agreed with the previously stated comments of his fellow commissioners, as it is clear that there is a public use for the road. He expressed his appreciation for all the comments submitted by local residents, and the Yocha De He Wintun Nation, and explained that this project is a classic conflict between maintaining private land and providing access to the public. Considering the compelling public interest, the road must remain open, and he trusts that nature will take care of much of the vandalism and dumping that may take place there, since growth and washouts will result in a decrease in vehicular traffic. He stated his support of the staff's recommendation to deny the abandonment

Chair Kimball said that she too agrees with her fellow commissioner's comments. She added that she has worked with the Tribe, and hopes to continue working with them, as they have an incredible stewardship ethic, which is to be commended. However, her concerns come from a different perspective. She thinks that there has been a lot of positive movement by the Tribe in the last five years in regards to public outreach. Therefore, the request for road abandonment concerns her. She understands the Tribe's reasoning, but the unintended consequences could be more detrimental than the Tribe may realize. Many people have come forward to support keeping the road open for different reasons, and for the most part, they support the Tribe and understand the reason for protecting the Tribe's sacred places. She urged the applicants to rescind their request for road abandonment and rather than taking it further to the Board of Supervisors, work with the community that shares their values to resolve their concerns.

### **Commission Action**



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That the Planning Commission recommends to the Board of Supervisors:

1. **HOLD** a public hearing and receive comments;
2. **ADOPT** the Statutory Exemption as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines (**Attachment C**);
3. **ADOPT** the Findings (**Attachment D**) for denial of the right-of-way abandonment of the unmaintained portion of County Road 41; and
4. **DENY** the request.

MOTION: Reed                      SECOND: Williams  
AYES: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters  
NOES: None  
ABSTAIN: None  
ABSENT: None

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6.3 **2009-001:** A Use Permit to construct and operate a 335-foot tall radio broadcast tower in the Agricultural General (A-1) zone. The radio tower will be held in place with 15 guy wires located at varying heights on the tower in three directions, spaced 120 degrees apart and anchored at a distance of 240 feet from the base of the tower. The proposal also includes a 150-foot concrete equipment building, a propane tank, and generator. The radio tower will be utilized by KDVS, Davis and KMJE, Woodland. The project is located 28150 Mace Boulevard, approximately 0.75 mile south of the City of Davis (APN: 069-010-08). Owner/Applicant: John and Maryalice Martin/Results Radio, LLC. (J. Anderson)

Jeff Anderson, Assistant Planner, presented the project and answered questions from the commission.

Chair Kimball opened the public hearing.

Ron Castro, Chief Technical Officer of Results Radio, LLC, provided background information about the project, including the details regarding the request for a continuance. He also answered questions from the commission.

Teresa Brooks Tanin, long time resident, came forward to express her opposition to the radio tower due to aesthetic reasons.

Lance Stanley, El Macero resident, explained to the commission why he was opposed to the installation of the radio tower, including concerns about radiation.

Tracy Beckwith, El Macero resident, shared her concerns about the proposed radio tower being located so close to a residential area.

Stephen Cole, President of the El Macero Home Association, advised the commission of the association's opposition to the project.

Neil Ruud, UC Davis student, provided the commission with the benefits of the proposed radio tower, including providing non-profit organizations easy access to the airways.

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Kevin Corrigan, General Manager of KDVS, briefly expressed his support of the project for the radio station.

Todd Urick, Technical Consultant for KDVS, came forward to express his support of the tower, and explained the benefits to the station including increased broadcast coverage.

Matt Williams, El Macero resident, informed the commission that all the benefits shared by those in support of the project are also obtainable by installing the tower at the alternative site at the Yolo County Landfill. The alternative location would provide all of the benefits without negatively affecting local residents.

John Cooluris, Chair of the Willowbank County Service Area Advisory Committee, provided the commission with the committee's opposition to the project, and explained that it had been an item on their agenda for the last four meetings.

Bill Abbott, Abbott and Kinderman, representative of the Southeast Davis Coalition, spoke of the interpretation of the County Code, and asked the commission to take into account the level of power of the radio tower when interpreting the code. He stated that the County Code does not allow high power transmitters to be located within agricultural zoning. In conclusion, he addressed the continuation request, and requested that they deny the project based on the power level.

Andrew Morris, Willowbank resident, explained that he appreciates the benefits to UC Davis from the radio tower; however, if he and his wife had known that the tower was going to be built at the proposed location, they never would have built their home there. He respectfully requested that the commission deny they proposed project.

Richard H. McCapes, Willowbank County Service Area Advisory Committee member, expressed his support of the letter that the county service area committee sent to the commission urging denial of the project. He added that he was an AT&T subscriber, and he receives very good wireless communications in South Davis and the Willowbank area.

Chair Kimball closed the public hearing.

Philip Pogledich, County Counsel, advised the commission that due to the lack of Findings included in the staff report, there must be a continuance; however, the commission may direct staff to prepare Findings consistent with the recommendation, should they so choose.

Chair Kimball explained to the public that though she appreciates those that came forward to request that the commission deny the project, they haven't received all of the information. In addition, much of the correspondence received regarding the project, came in too recently to allow a decision to be made.

Commissioner Winters commented on the number of residents whom would be negatively impacted by locating the radio tower at the proposed location. He was interested in having the applicant provide alternative locations; otherwise, he has a negative view of the project as currently proposed.

Commissioner Merwin stated that with the opposition to the proposal, he sees a difficult climb for the applicants and he would like to see findings or data to support whether or not the project could be relocated to the landfill. He expressed his understanding of the benefits and the risks and stated that he is not in outright support of denying the project, but rather in support of continuing the matter to await further information.

Commissioner Williams said that he supports the continuance as he hasn't made up his mind yet, so he would like to see more information about alternative sites and, if it is available, more information on the necessity of the tower.

Vice-Chair Burton advised of his need to have answers on the options for alternative sites, whether high-power facilities are allowed under the code, and expansion on potential health effects prior to making a decision. He also requested that some case law be provided, if available, about the health effects.

Commissioner Reed shared his concern about the zoning and the power levels emitted by the tower, and requested that County Counsel address those issues. In addition, he had concerns about the adequacy of the Negative Declaration and requested that it be reviewed further to see if the project should require an Environmental Impact Report or something similar. Finally, he requested to see further verifiable evidence that other locations were considered and information on antenna patterning.

Commissioner Bertolero concurred with his fellow commissioners, and acknowledged the public correspondence and the concerns, such as aesthetics and the proximity to the Yolo Flyway. He said that he lives in El Macero, and although he cannot see it from his home, it does affect many other residents of El Macero and Willowbank. He stated that he was not opposed to the radio tower, as he thinks that it has value; however, when looking at the proposed site, and the two alternate sites, they are all within one-half mile of each other. Regardless of which site is chosen, they all have the same impacts on the same people, and considering that the signal will reach Sacramento, Woodland, and further, he doesn't see why they should focus on a one-half mile impact on a specific community. He requested to see sites in more remote areas, and efforts to colocate on existing towers.

Chair Kimball agreed with her fellow commissioners, and added that she passes by a similar radio tower regularly, and she doesn't notice it, so she feels there may be some misperceptions about the tower. She recommended that the applicant use the time given for the continuance to meet with the public and address concerns.

Commissioner Reed made a motion to continue the item until March 2010, with direction to staff to provide further information requested by the Planning Commission.

## **Commission Action**

### **The Planning Commission**

1. **HELD** the public hearing and received comments; and
2. **CONTINUED** the item to the March 2010, Planning Commission hearing, at the request of the applicant.

MOTION: Reed                      SECOND: Burton  
AYES: Bertolero, Burton, Kimball, Merwin, Reed, Williams and Winters  
NOES: None  
ABSTAIN: None  
ABSENT: None

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- 6.4 **2008-030:** An appeal remanded back to the Planning Commission from the Board of Supervisors for a proposed Minor Use Permit for a commercial stable to operate a horse boarding facility for up to 75 horses, add a 15,840 square foot covered riding arena, and the installation of an advertising sign in the Agricultural Preserve (A-P) zone. The project is located at 23151 County Road 100A, south of County Road 27 and just east of State Highway 113 north of the City of Davis (APN: 041-110-15). A Mitigated Negative Declaration has been prepared for this project. Owner/Applicant: Creekside Stables/ Botter (D. Rust)

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Donald Rust, Principal Planner, presented background information about the appeal and answered questions from the commission.

Chair Kimball opened the public hearing.

Kent Calfee, legal representative for the applicant, provided a brief description of the results of past Planning Commission meetings, and explained that all outstanding differences had been resolved between the applicant and the fire department, with the exception of an issue regarding the inclusion of an additional condition for an Avigation Easement. Mr. Calfee explained that the applicant finds the condition acceptable; however, county staff does not want to be a participant in making a recommendation on that specific condition. Therefore, both the applicant, and representative for Growers Air, request that a condition be added to the Use Permit, which includes the recording of the Avigation Easement form that they provided.

Chair Kimball asked if the need for the Avigation Easement was an ongoing matter.

Mr. Calfee explained that it was an issue that came up in connection to litigation involving the county, the applicant, and Growers Air Service over Willow Creek.

Greg Forest, legal representative of Growers Air Service, Inc., advised that his client is in agreement with the Avigation Agreement. He explained that they did submit a letter opposed to the Use Permit; however, with the addition of the Avigation Agreement condition, they are no longer in opposition.

There was further discussion clarifying the terms of the Avigation Easement, and an explanation regarding the planning division's unwillingness to support the inclusion of the Avigation Easement.

Chair Kimball closed the public hearing.

Vice-Chair Burton said that it is odd to include the Avigation Easement that involves two private parties as a condition, but he isn't concerned one way or the other. His previous concerns were the fire issues and those have been resolved. Nevertheless, he is frustrated with the process by which the applicant was able to build something without the proper process. Regardless, his intent is to support the recommendation for approval.

Commissioner Reed stated that he had nothing further to add and thanked Mr. Morrison for his explanation regarding the staff's basis for not including the easement request in the Conditions of Approval.

Commissioner Bertolero advised that Mr. Holsclaw had contacted him regarding the issue and explained that there has been past legal issues with the county, but what it came down to was that Mr. Holsclaw was at the location first and he has many flights to the west. With the stable moving in on him, it restricts his flights for fear of having someone thrown off a horse. Therefore, that is why he has worked out the easement with the applicant. He agreed with comments from Vice-Chair Bertolero about the process by which the applicants came to the recommendation of approval today, and although he isn't pleased with the process, he will support staff's recommendation for approval.

Mr. Morrison provided a brief explanation about the process by which structures are inspected after they have already been built, and that if needed, the structure may need to be partially redone to allow for inspection.

Commissioner Williams concurred with his fellow commissioners, and said that he was pleased to see that the Avigation Easement may be included.

Commissioner Merwin said that he too, had spoken to Mr. Holsclaw about the easement and he is pleased to see it included.

Commissioner Winters said that the Avigation Easement is one of the brighter points of the whole process and is glad that it was mutually agreed on. He said he was ready to approve the recommendations of staff.

Chair Kimball added that she was glad to see there was a meeting of the minds on the Avigation Easement and she feels that it may not have resulted, if the process had not been prolonged for a year; therefore, there is something positive that came out of it.

Vice-Chair Burton made a motion to approve the Use Permit and Conditions of Approval, with the inclusion of the Avigation Easement.

**Commission Action**

**The Planning Commission took the following actions:**

1. **RECEIVED** a staff presentation, opened a public hearing, and received comments;
2. **ADOPTED** the Mitigated Negative Declaration (**Attachment C**) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines;
3. **ADOPTED** the Mitigation Monitoring and Reporting Plan which implements and monitors all mitigation measures in accordance with CEQA and the CEQA Guidelines (**Attachment D**);
4. **APPROVE** the Use Permit and Conditions of Approval (**Attachment E**); and
5. **ADOPT** the recommended Findings (**Attachment F**).

MOTION:       Burton               SECOND: Bertolero  
AYES:           Bertolero, Burton, Kimball, Merwin, Reed, Williams and Winters  
NOES:           None  
ABSTAIN:       None  
ABSENT:        None

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- 6.5 **20004-037:** An appeal of the Planning and Public Works Department decision regarding a proposal to construct partial foundations for the 49 homes remaining to be built as part of the Rivers Edge (White) residential subdivision (FSM#4708) in Knights Landing. The project site is zoned Residential One-Family / Planned Development (R-1/PD). The project site is bordered by the Colusa Basin Drain Canal and at the western end of 6<sup>th</sup> and 9<sup>th</sup> Streets in the Town of Knights Landing. Owner/Applicant: Castle Companies (D. Rust) (continued from October 8 meeting)

Donald Rust, Principal Planner, presented information on the project, and answered questions from the commission. There was further discussion regarding FEMA, and county regulations and requirements

Chair Kimball opened the public hearing.

Dan Boatwright, appellant, was available to provide further information, and answer questions from the commission.

Kent Calfee, legal representation for the appellant, made himself available to answer questions from the

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commission.

Chair Kimball closed the public hearing.

Commissioner Bertolero said that he discussed the issue several times with Mr. Rust, and spent a lot of time on it. To him, there are three issues: (1) the legal determination as to what the "start of construction" constitutes; (2) would the homes be constructed under the county building standards that are currently in effect; and (3) the financial consequences to the county and to Castle Homes if they choose one side or the other on the flood issue. Staff supports the position that just building the garage slabs alone, may not meet the requirements for grandfathering them in under the existing FIRM maps. He summarized the financial impacts on the applicant and the FEMA requirements that will take effect after June of 2010. He expressed uncertainty as to which issue was more significant, but after much consideration he supported the staff recommendation to deny the appeal.

Vice-Chair Burton stated that he understands where the staff recommendation is coming from; however, he doesn't buy the FEMA argument, and feels that the county is more concerned with setting precedence. Consequently, he supports the applicant on his request because of the economic impact to the project if the appeal is denied.

Commissioner Williams concluded that the staff is looking towards the future and they are trying to be cautious; thus, he supports them in that.

Commissioner Merwin acknowledged the effect of the new FEMA regulations on his life. He commented on the economic impacts on Castle Homes and said that spending a little less up front is probably a more conservative approach. Whether or not FEMA will come back later and dispute it, is uncertain. As for setting precedence, this request is different from others that were requested, so he is in support of allowing the applicant to move forward.

Commissioner Winters summarized the prolonged process by which the appeal has progressed, and said that it is a very difficult call, but it is in everyone's best interest that the project moves forward,

Commissioner Reed stated that so much of this concerns levels of risk. The commission has to consider who will bear the risk of levee failure and/or the risk of the project not going forward. The risk to the county is that they may have to defend the project to FEMA, and the risk to Knights Landing residents who may have to live with something that is incomplete. To him, it comes down to how to get the project done as soon as possible. As a result, he will uphold the appeal.

Chair Kimball shared her desire to see the project completed, and stated that if a portion of the project hadn't already been completed, she may have a different perspective and it would be an easier subject. Her decision is based on the fact that the project is partially completed, and they can't depend entirely on whether FEMA will or will not grandfather the slabs in. She expressed certainty and confidence that the Yolo County Building Department would not allow Castle Homes to move forward if the slabs were not approved; therefore, she supports the applicant in his appeal.

Commissioner Bertolero made a motion to adopt the recommended actions and deny the appeal. Second by Commissioner Williams. 2 Ayes, 5 Noes, Motion failed.

Vice-Chair Burton made a motion to approve the appeal, and directed staff to bring back the Findings and CEQA document for consideration at the January 28, 2010, Planning Commission meeting. The revised Findings would include the caveat that engineering designs for the partial foundations must be approved by staff prior to pouring.

**Commission Action**

The Planning Commission took the following actions:

1. **HELD** the public hearing and accepted public testimony regarding the appeal;
2. **DETERMINED** that the Categorical Exemption prepared for the appeal was the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines; and
3. **APPROVED** the appeal.

MOTION: Burton                      SECOND: Merwin  
AYES: Burton, Kimball, Merwin, Reed, and Winters  
NOES: Bertolero and Williams  
ABSTAIN: None  
ABSENT: None

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**REGULAR AGENDA**

7. DISCUSSION ITEMS
- 7.1 None

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**8. DIRECTOR'S REPORT**

A report by the Assistant Director on the recent Board of Supervisor's meetings on items relevant to the Planning Commission and an update of the Planning and Public Works Department activities for the month. No discussion by other commission members will occur except for clarifying questions. The commission or an individual commissioner can request that an item be placed on a future agenda for discussion.

David Morrison brought the commission up to date on the following:

- 8.1 Personnel and Budget:
  - a. Since the last meeting, there have not been any further personnel changes. The department continues to operate at reduced staffing levels. As of July 2009, the Yolo County Planning Division was reduced from 20 positions, down to approximately 11 positions.
  - b. In regards to the budget, the department projections and actual revenue are almost consistent; however, the next six months remain uncertain. There are three major areas of uncertainty, consisting of building permits, the state's budget, and whether or not the Dunnigan Specific Plan will continue to move forward.
- 8.2 Board of Supervisors:
  - a. The Parking Ordinance was heard, and will return with a few minor changes that were requested by the Board of Supervisors.

- b. The Wetlands Habitat Conversion Ordinance was continued until January 26, 2010.
- c. At the December 15, 2009 meeting, the Board of Supervisors will consider options to the Williamson Act program.

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9. COMMISSION REPORTS

Reports by commission members on information they have received and meetings they have attended which would be of interest to the commission or the public. No discussion by other commission members will occur except for clarifying questions.

- A. Commissioner Bertolero reported that he attended citizen's advisory committee meetings in Clarksburg, Esparto, Dunnigan, Yolo-Zamora, and the Capay Valley. He also toured County Road 41, toured the Bogle Winery construction site, attended the Dunnigan Fire Department annual dinner dance, visited the Knights Landing Rivers Edge Subdivision, and visited with several of the homeowners there.
- B. Commissioner Reed reported his attendance at the Willowbank County Service Area Committee meeting, and of other conversations held with the chair of that committee. In addition, he toured County Road 41 with a group from Tuleyome, spoke with Ken Lazzaroni regarding the Bogle Winery project, attended the Capay Citizen's Advisory Committee meeting, and received voicemails from Dan Boatwright regarding the Knights Landing project.
- C. Vice-Chair Burton explained that he had been out of the country for the majority of the month, but had received the correspondence regarding the County Road 41 abandonment, and the Results Radio project.
- D. Commissioner Winters reported that he met with the applicants at Bogle Winery and toured the site. He spoke with Dan Boatwright regarding his project, and acknowledged receipt of the correspondence regarding abandonment of County Road 41, and the Results Radio project.
- E. Commissioner Merwin stated that he met with the other Commissioners at the Bogle Winery site and took a tour. He received a phone call from Dan Boatwright, which he was unable to return, and spoke to neighbors in Clarksburg regarding the Bogle Winery project.
- F. Commissioner Williams reported that he attended citizen's advisory committee meetings in Esparto, Dunnigan, and Capay Valley. He also toured County Road 41, visited the Bogle Winery site, attended the Dunnigan Fire Department's Dance, and took a tour with Gary Shaad at the south end of the Tehama-Colusa Canal.
- G. Chair Kimball thanked her fellow commissioners for all their dedication and work with the public, and shared that she spent much time working with the public on the County Road 41 abandonment. She reported that she was able to hike up to the top of County Road 41 and spoke to many of the people along the way. Since the hike, she was able to speak to approximately ten people in person regarding the subject. In addition, she spoke with Dan Boatwright regarding his request.

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10. FUTURE AGENDA ITEMS

The opportunity for commission members to request that an item be placed on a future agenda for discussion. No discussion by other commission members will occur except for clarifying questions.

- 10.1 Workshop on the Draft Environmental Impact Report for the Granite Construction – Esparto Surface Mining and Reclamation Permit
- 10.2 The return of the Results Radio, LLC, request.
- 10.3 Election of Officers.
- 10.4 Request to abandon County Road 75A.
- 10.5 Findings for Castle Company.

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11. ADJOURNMENT

The Regular Meeting of the Yolo County Planning Commission was adjourned at 2:32 p.m. The next regularly scheduled meeting of the Yolo County Planning Commission is January 28, 2010, in the Board of Supervisors' Chambers.

Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the Board of Supervisors by filing with the Clerk of the Board within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the Clerk of the Board must be submitted at the time of filing. The Board of Supervisors may sustain, modify, or overrule this decision.

Respectfully submitted by,

David Morrison, Assistant Director  
Yolo County Planning and Public Works Department