

MINUTES

YOLO COUNTY PLANNING COMMISSION

April 7, 1999

1. CALL TO ORDER

Chairman Lang called the meeting to order at 8:37 a.m.

MEMBERS PRESENT: Walker, Woo, Stephens, Heringer, Lang, Rodegerdts, and Gerber
MEMBERS ABSENT: None
STAFF PRESENT: John Bencomo, Assistant Director
Mark Hamblin, Associate Planner
David Morrison, Resource Manager
Marshall Drack, Economic Development Coordinator
Brett Hale, Chief Building Official
Steven Basha, County Counsel
Thomas Geiger, County Counsel
Carole Kjar, Secretary to the Director

1.1_ Supervisor Lynnel Pollock honored Commissioner Henry Rodegerdts, since today was his last meeting. She expressed gratitude from her and the entire Board of Supervisors. She said she knows how long the Commission deliberates, and the care and concern with which they attack each item on the Agenda, and come to a good recommendation that can be sent to the Board of Supervisors.

Supervisor Pollock read and presented Commissioner Rodegerdts with a Resolution from the Board of Supervisors, and wished him well in his new job with the California Farm Bureau Federation. She expressed appreciation for all he has done for Yolo County and the concern that he has shown, particularly for the preservation of agricultural land, because that, too, is something that she, as well as the whole Board of Supervisors, is very concerned about. She said one of the Board's major goals is to preserve agricultural land in Yolo County and to keep agriculture as a viable and industrious economy in the County.

Henry Rodegerdts accepted the Resolution, stating that this is one of the most difficult decisions he has had to make, and that it has been one of the greatest experiences of his life. He conveyed that he feels it's appropriate that he step down, given his new position. He said he'll miss working with Lynnel, and he'll miss the direction from the Board of Supervisors, and expressed thanks for

having been given the opportunity.

- 1.2 Steven Basha, County Counsel, introduced the new Deputy County Counsel, Thomas L. Geiger. He said the Commission may see him before them on occasion.



2. ADOPTION OF THE MINUTES FOR THE PREVIOUS MEETINGS

Commission Action

The Revised Minutes of the February 11, 1999 meeting, which reflect the Commission's request for the more detailed minutes of the Turn of the Century item, Request for Recision, were approved with the following corrections:

Item 6.2, **98-038**, Page 9, CHANGE from "i's" to "it's" in Fourth Paragraph, Second Line.

MOTION: Walker SECOND: Woo
AYES: Walker, Woo, Stephens, Heringer, Lang, Rodegerdts, and Gerber
NOES: None
ABSTAIN: None
ABSENT: None

The Minutes of the March 3, 1999 meeting were approved with the following corrections:

Item 6.2, **98-043**, Page 6, CHANGE wording in First Paragraph, Fourth Line, from "support bearing" to "support for varying".

MOTION: Woo SECOND: Rodegerdts
AYES: Walker, Woo, Stephens, Heringer, Lang, Rodegerdts, and Gerber
NOES: None
ABSTAIN: None
ABSENT: None



3. 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 Chairman. 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.



4. CORRESPONDENCE

Chairman Lang acknowledged that there was no correspondence sent with the packet or distributed at the beginning of the meeting.



5. CONSENT AGENDA

Items on the Consent Agenda are believed by staff to be non-controversial and consistent with the Commission's previous instructions to staff. All items on the Consent Agenda may be adopted by a single motion. If any commissioner or member of the public questions an item, it should be removed from the Consent Agenda and be placed in the Regular Agenda.

- 5.1 **98-065** - A request to establish a Williamson Act Contract for a 158 acre parcel and Change of Zone for the subject site from Agricultural General (A-1) to Agricultural Preserve (A-P) zone. Subject property is located on the east side of County Road 104, 4.5 miles south of Davis. A Negative Declaration has been prepared for this item. APN: 033-150-38. Applicant/Owner: Anderson (M. Hamblin)

Commission Action

- (1) **ADOPTED** the attached proposed Resolution recommending to the Board of Supervisors: approving the attached Negative Declaration as the appropriate environmental document; adopting the proposed Findings; approval of the Zone Change and approval to establish a 158 acre parcel into a Williamson Act Land Use Contract subject to the Conditions of Approval in the staff report;
- (2) **RECOMMENDED** that the Board of Supervisors amend Zoning Map No. 29 of the County of Yolo to reflect a change of zone from Agricultural (A-1) to Agricultural Preserve (A-P) for the 158 acre subject property.

MOTION: Walker SECOND: Woo
AYES: Walker, Woo, Stephens, Heringer, Lang, Rodegerdts, and Gerber
NOES: None
ABSTAIN: None
ABSENT: None

CONDITIONS OF APPROVAL

Yolo County Planning & Public Works Department

Planning Division

- 1. The property owner(s) shall execute a Land Use Contract for the subject property in a form approved by the Office of the County Counsel of Yolo County. Said contract shall be recorded at property owners expense in the Office of the Yolo County

Clerk/Recorder. The applicant shall submit, for review and approval to the Yolo County Planning and Public Works Department, Planning Division the legal description to be incorporated into the Land Use Contract for the subject property prior to the Yolo County Board of Supervisors public hearing on the item. A copy of the recorded contract shall be returned to the Yolo County Planning and Public Works Department prior to the issuance of any permits on the site.

2. The Land Use Contract established for the subject property shall be incorporated as part of Agricultural Preserve No. 60.

County Counsel

3. In accordance with Yolo County Code §8-2.2415, the applicant shall agree to indemnify, defend, and hold harmless the County or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the County, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action or proceeding and that the County cooperate fully in the defense. If the County fails to promptly notify the applicant of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the County harmless as to that action. The County may require that the applicant post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

Failure to comply with the **CONDITIONS OF APPROVAL** as approved by the Yolo County Planning Commission may result in the following:

- * **legal action**

FINDINGS

In accordance with Section 8-2.3005, Article 30, Chapter 2 of Title 8 the Yolo County Regulations, and Chapter 4 of Title 7 of the Government Code of the State, the Yolo County Planning Commission finds:

1. That the public health, safety, and general welfare warrant the change of zone;

The proposed establishment of a Land Use Contract (Williamson Act Conservation Contract) on this property will satisfy the purpose of the zone by preserving prime lands, by preventing the unnecessary conversion from agricultural uses and in maintaining the County's agricultural economy.

2. The zone or regulation is in conformity with the Master Plan (General Plan);

The proposed project is determined to be in compliance with the intent of the General Plan policies and applicable Zoning Regulations.

3. That the soils found on the subject property are predominately Class I or II soils according to the Soil Survey of Yolo County; and

The subject property contains Capay Silty Clay (Class 2 soil - prime) as shown on "The Soil Survey Of Yolo prepared by the United States Department of Agriculture Soil Conservation Service".

4. That the zone change and the inclusion of the property into the Williamson Act Land Use Contract meets the exception to minimum acreage size as outlined in Section 8-2.408(e)(2)(I).

The proposed property/site abuts property that is already zoned Agricultural Preserve and will be incorporated as part of the larger existing Agricultural Preserve No. 60. The 158 acre parcel meets the minimum acreage requirements as established under A-P Zone for prime, cultivate, irrigated land.



6. REGULAR AGENDA

6.1 A continuation of a status report for Conditional Use Permit 96-033 originally granted to Kris La Point that allowed for the development of two Aquaculture Ponds (J. Bencomo)

John Bencomo gave the staff report, including an update with regard to any progress the new owner has made on the project.

The public hearing was opened.

Mr. Bailey, representing Davis Aqua, said they retained a consultant, submitted a Site Evaluation to the Commission, dated January 25, 1999, by Mr. Tony Vaught, whom is held in very high regard within the Aquaculture industry. He stated that, in follow up, a sampling was taken yesterday, which continues to substantiate that it's a valid fishing operation, and a diversification of agricultural efforts on tremendously poor ground, and they're looking forward to an expansion of what they have. The report from the consultant states that the general health and the numbers of the fish captured, with such a small sample of the lake, were very encouraging, etc..

Commissioner Rodegerdts commented that it's clear that the operation they approved some time ago was not really designed for aquaculture, it was designed for waterskiing.

Mr. Bailey said they are just trying to rectify the effort.

Commissioner Rodegerdts stated that this is not a public waterskiing facility and never will be, and that is not to be the emphasis of this operation. He asked John Bencomo if conducting a waterskiing operation out there is not consistent with the compatible uses of this Williamson Act property. John Bencomo answered that this is correct, it would require a modification of the use permit, if used as a waterskiing operation.

Mr. Bailey said his client understands that, and it should have been understood from day one. He said they are going to progress with quiet enjoyment and the fish production operation. He added that, in talking with the consultant, there are commercial waterskiing operations that do have fish throughout the state, this is not recreating the wheel, so they are compatible. He stated that they will be working, if at all possible, with University of California, Davis, with complementing their activities, and they'll keep the Commission informed so they don't step on any further toes.

Mr. Saca, one of the owners of the property, said he understands they cannot make this into a public facility, nor does he intend to. He said he does intend on having their family and immediate friends use this for their quiet enjoyment, and that's one of the reasons they got involved, and he gave his word that it's not going to be a public facility, they're not going to sell memberships and have lessons out there. He said he thinks this will be a viable option for them to help sustain the property, and to continue with farming and harvesting the fish.

Commissioner Woo asked if marketing of the fish was explored.

Mr. Saca said that his understanding is that there are distributors that come and actually harvest and sell the fish, and that the big market in this area is the Bay Area.

Mr. Bailey said they do wholesale the fish as well, and that the most marketable fish are in the 1 to 1-1/2 pound range, and that, based upon the sample selection taken yesterday, are going to reach that in August or September. He said they have contacted distributors and they have shown interest in their fish.

Commissioner Woo asked if somebody will be living out there.

Mr. Saca said they retained an architect and probably within the next two weeks, they're going to be putting in plans for a residence out there.

Commissioner Woo said the consultant made quite a few recommendations for things like a paddle wheel for aerating, etc.. She asked if there are plans to put any of that out there.

Mr. Saca said, yes, but that the water ski boats help aerate the waters also.

Commissioner Woo said she doesn't think that's what the consultant said was adequate.

Mr. Bailey said they'll be looking at tailoring the water inflow to aerate as well, and that they have a lot more planning to do.

Commissioner Rodegerdts asked if the damaged fish are marketable.

Mr. Bailey said that the consultant verified that they are marketable. He said that activity and good management is going to take care of the majority of this.

Commission Rodegerdts commented that he doesn't think that private use of waterskiing will have a significant effect on the aeration process. He said that he thinks paddle wheel aerators are necessary, since a whole lot of oxygen is needed.

Commissioner Gerber asked if it would be possible to come by and see the operation sometime.

Mr. Saca said, definitely, and that everyone on the Commission is invited to come out whenever they'd like, that they should let them know, and he and Bruce will be glad to show them around.

The public hearing was closed.

Commission Action

- (1) **DIRECTED** staff to continue to work with the new property owners for an effective resolution to the previously identified issues of concern and that staff

make a subsequent progress report back to the Commission at the October 1999 meeting for a further status report, a report on the harvest, expansion plans, etc., and if it is appropriate, and if the Owner is prepared to continue to cooperate, that the agenda item be coupled with the Planning Commission visiting the site as part of its agenda outline.

MOTION: Rodegerdts SECOND: Stephens
AYES: Walker, Woo, Stephens, Heringer, Lang, Rodegerdts, and Gerber
NOES: None
ABSTAIN: None
ABSENT: None

Following presentation of the application and the recommended action, a public hearing was held at which two people from the public appeared, followed by the deliberations of the Planning Commission which lasted approximately twenty minutes.



6.2 **98-043** - A continuation of a request for a 72-Unit Subdivision and Planned Unit Development, and Rezoning from R-1/PD (Single Family Residential/Planned Development) to R-1/PD-49 (Single Family Residential/Planned Development No. 49). The project is located west of State Highway 16 and north of Woodland Avenue, in the town of Esparto. A Mitigated Negative Declaration has been prepared for this project. APNs: 049-150-18, 19, 37, and 38. Applicant/Owner: C&J Properties (D. Morrison)

David Morrison gave the staff report on the continuation of the request, after being referred back to the Esparto Citizens Advisory Committee for additional comment regarding the issues raised during the public hearing at the March 3 Planning Commission Meeting, and answered questions from the Commission. He stated that the Esparto Advisory Committee met on March 16 and was not able to take this item up due to a quorum not being achieved, so at this time there is no Committee reference that can be presented to the Commission regarding the issues that were raised.

David Morrison said that staff condensed those issues into general topic areas and has provided staff's comments, which have been discussed with the Vice Chair of the Esparto Citizens Advisory Committee, who was in substantial agreement with the comments as made.

David Morrison briefly explained the topics to the Commission, as follows:

Architecture

Staff is recommending that the same condition that was placed on the Country West II Subdivision, new Condition 24.5, be included with this as well, encouraging the additional use of options to minimize the appearance of the garage. These options would include porches, courtyards, and/or landscaping.

Parks

As was stated at the last meeting, the applicant has agreed to install grass landscaping, fencing and irrigation for the detention basin, at their costs, without using offset fees. Offset fees would continue to be used to create the pedestrian walkway bike path around the perimeter of the subdivision. The parks issue will be taken up by the Esparto Citizens Advisory Committee at future meetings as they discuss why they feel that future parks should be placed. The remaining offset fees would be placed into a trust account until such time as a direction for the future parks of Esparto is determined.

Landscaping

With regards to landscaping and the use of agricultural trees in there, there is a policy in the Esparto General Plan which encourages the use of agricultural trees. We understand that there may be some concerns held by adjoining property owners who have orchards regarding those trees and we would amend Condition Approval No. 9 to have the landscaping plan reviewed by the Ag. Commissioner prior to approval.

Paths

Regarding whether the paths should be asphalt or decomposed granite, staff still maintains that asphalt would last longer and would be easier to maintain, and it would be more durable as far as road surface goes, but they are willing to defer to the Committee on this matter.

Caltrans Right of Way

Staff has not seen any evidence to support why Caltrans should be denied right of way and they continue to support that request. They are supporting the inclusion of the right of way dedication, they are not requesting that the right of way request be deleted.

100' Wide Buffer

The applicant has expressed to staff that they have recently come to an agreement with the adjoining property owner, Mr. Orciuli, to the west, to lease a 50 foot wide strip immediately adjoining the subdivision where no farming will occur. That plus the 50 feet of landscaping and the pedestrian bike path will create the 100' outside of the residential lots that staff has been looking for. The no build area in the rear of these lots would be removed and staff feels that this adequately satisfies their concerns.

Absorbing Homes in Esparto

The General Plan explicitly states that up to 150 units can be approved in any one year and that amount has not been exceeded, even with both subdivisions.

Detention Basin

There was a suggestion that the detention basin be moved to a more central location or be made more visible in order to improve its safety and its aesthetic value. Due to topographical concerns and drainage layout of the design, staff believes that it's appropriately located in its present location. The applicant, however, has agreed to include open fencing along the rear yards of these houses that would allow for visibility from the rear yards of those lots into the detention basin to make it more visually accessible. In addition, the applicant has moved the lot across the street and has reoriented the lot across the street from an east-west access to a north-south access. This creates for the appearance of more of a neighborhood of houses facing each other, it gives a more consistent streetscape. It gives it a more wide open feel at the end of the cul de sac.

The applicant has agreed to provide additional landscaping to improve the amenity at the end of the cul de sac. Finally, it creates additional room so that the detention basin's maximum depth is now back down to a little over 3 feet. Staff is satisfied with that and would not see the need for additional fencing on this side. Staff still feels that the site of the detention basin along the highway would continue to need to be fenced to prevent children from running out into the highway, but does not feel the need for fencing between the detention basin and the pathway.

Infrastructure

A letter has been submitted from the Esparto Community Services District regarding their plans for future improvements. Those plans, of course, are dependent upon both the Country West II and the Parker Place Subdivisions, and staff is satisfied with the level of detail and the assurances that the District will provide the necessary infrastructure at the appropriate time.

David Morrison pointed out that, while this has not been commented on by the Esparto Advisory Committee, in anticipation that there would be comments, this was noticed for action. He said that if the Planning Commission feels satisfied with the analysis provided by staff in their memo today, the Planning Commission can take action and make a recommendation to the Board of Supervisors on this matter if they so desire.

Commissioner Stephens asked for the exact language of the park dedication fees established by the County. David Morrison said he'll get a copy of the General Plan and answer this today at the earliest opportunity.

The public hearing was opened.

Mr. Taglio, of C&J Properties, recapped the history and future of the project, described an updated map, and answered questions from the Commission. He said they met with Commissioner Woo who had some very legitimate concerns about the safety and visibility of the detention pond, and he believes solutions have been achieved. Furthermore, they were more closely able to achieve the physical desirability that the County was looking for and still provide the buffer that is a natural division on the east end. He stated that the buffer, aside from providing the basic function of the drainage, and providing a recreational facility that will be complimentary to the community, has the safety factor

and desirability factor of homes not having to abut up against the highway. He said they have obtained an easement from the adjoining landowner, Mr. Orciuli, so that they have the 100 feet at this time.

Rich Jenness, Engineer with Laugenour and Meikle, stated that the detention basin had an approximate design depth for the design 100-year storm event of 4', and since that time modification of those lots in the cul-de-sac area has expanded the volume of that pond, and at this point it has reduced the pond water depth to approximately 3.2'. He feels that satisfies a portion of the safety concerns the Commission had in that regard. Regarding Commissioner Woo's comments about positioning the pond, they addressed that in a letter suggesting that in terms of setback requirements, lots backing up on Highway 16, from the Developer's standpoint, it is more desirable to have the buffer between the lots and Highway 16 be the pond area instead.

Ron Voss, resident of Esparto and Chair of the Esparto Citizens Advisory Committee, requested that, since the March 30 Esparto Citizens Advisory Committee meeting was cancelled, the Planning Commission action be postponed until the Esparto Citizens Advisory Committee has an opportunity to discuss it at their regular scheduled meeting next week. Regarding the issues that are on the table and were raised at the last Planning Commission meeting, the following was expressed by Mr. Voss:

- **Growth.** Item No. 9 in the Staff Report asks how soon the capacity will be ready to accommodate additional growth. He thinks the correspondence between C&J and the Community Services District clarifies the cost issues, but he doesn't think it clarifies the time line for when the infrastructure will be there.
- **Landscaping.** He believes in Item No. 3 in the Staff Report, regarding landscaping, that it's a good addition that agriculture trees, that are chosen, be subject to the Ag. Commissioner's approval, but he thinks the maintenance issue of the ag. trees should be specified and addressed as well.
- **Design Issues.** He believes that C&J has adequately addressed the design issues that were raised last time, and he supports them; however, the house designs and the fencing design are still outstanding issues.
- **Fencing.** He fully supports the proposal on the location of the fencing. He suggested the fencing at the basin at the corner of Matmor and Gibson in Woodland, which is an iron fence with large brick posts, as one possibility.
- He thinks the Advisory Committee should address what should be done with the Birrell property.

Commissioner Stephens asked why the Esparto Citizens Advisory Committee was cancelled. Mr. Voss said he can't speak directly since he was out of the country during the February, March and April meetings.

Commissioner Stephens asked Mr. Voss if the main concern, as he understands it, of the Advisory Committee is the design of the houses themselves. Mr. Voss says his own opinion is that he thinks the Committee will find this proposal very satisfactory and would endorse what C&J has done since the last Planning Commission Meeting. He stated that he thinks the Advisory Committee's main concerns are drainage, the detention pond, the design of the houses, and the aesthetics.

Commissioner Stephens asked questions regarding the Birrell property. Mr. Voss said he was not present for the March meeting, but he doesn't believe that the Advisory Committee has addressed this issue since the Caltrans notification has been given. He said he thinks that the only discussion held early on was whether there was any possibility that C&J could somehow acquire that property and bring the whole thing into development. He said some use for the land needs to be designated.

Mr. Taglio gave his perspective of the comments made by Mr. Voss. He said that C&J had the Advisory Committee approval in the month of February after many meetings, and subsequent to that the issues from the last Planning Commission Meeting were addressed. He said that, after the last Planning Commission Meeting, they were ready, willing and able to respond to the Advisory Committee, and that they were on their way to the meeting, and they were told that the meeting had been cancelled since there was no quorum. Mr. Taglio stated that he thinks they have fairly addressed every issue, and that time has become a factor, and that they can address everything at today's Planning Commission Meeting. He explained that they agree to work with the Advisory Committee on the design of the houses and the fencing. He stated that the Birrell property issue is out of their hands.

Mr. Marking, General Manager with the Esparto Community Services District, answered concerns brought up at the last Planning Commission Meeting about the engineering and the aspects of what infrastructure was going to be placed, and how soon it was scheduled. He said that before they are willing to spend a lot of money on engineering, they want to make sure that the projects are going to be approved. He said that he assures that he personally has responsibility, as does his Board, to see that the proper infrastructure is onsite and placed prior to any unit being allowed to hook up to the Community Services District, and that this will be the case. He said he can't give a time line right now until it goes through engineering and they actually get engineering estimates on what it's going to cost and how soon this can be done. He said the homes will not be allowed to be hooked up until the necessary facilities to accommodate them are put in place. He thinks it's important that the two projects move along timely together. He feels that trust should be given that the Community Services District will move forward in a proper and responsible manner.

Commissioner Stephens asked if some kind of infrastructure (not detailed) can be designed since they know the number of units. She stated that it seems to her that they should be able to come up with some kind of rough approximation, a time line. Mr. Marking answered that they know what is going to occur, from the Psomas Engineering Plan, and the approximate costs. He thinks there is some undue concern that somehow these houses will be allowed to be hooked up without water and sewer, but that's not the case – they will be required to have an onsite, there will be a reservoir, an online pump station, more acreage and ponds, upgrading of sizes from 8' to 10' trunk lines, upgrading of pumps, etc., and when they will occur depends on the progress of these projects. He

said they have to know what their time lines are and their time lines depend on getting these through the regulatory process, the planning process and the Board of Supervisors. He said Country West is through, but it's tied hand in hand with facilities with the C&J project. He stated that he doesn't know how he can give any more at this time until these projects, and the engineering is put on paper and the actual costs are defined, and construction schedules are out for implementation of design and construction.

Commissioner Heringer asked if they can put it into effect that they will have the ability to provide hookups for the amount of houses in the two developments. Mr. Marking said absolutely, they are committed to that, and they will put that into writing. Commissioner Heringer stated that he sees no problem here.

Commissioner Rodegerdts suggested that the reality is that when this development is built it will be permitted to hook up to whatever is available, whether it's adequate or not, and that he shares Commissioner Stephens' concerns. He said that the plan Mr. Marking presented last time was much more concrete than what was reflected in the letter written March 16 as part of this proceeding, and that he is not at all comfortable about this.

Mr. Taglio stated that they paid \$60,000 to the Psomas Engineering firm to do a study which gave a reference point as to what had to be done. He stated that once they have some entitlement on this property, and that they know it can go forward, they are willing to take a risk and put up the front end money to be able to get more explicit engineering costs, estimates, timing, etc., to be able to assure everyone that there's a viable engineering program available.

Commissioner Woo asked Mr. Taglio if they have a rough figure of what it will cost to do the fronting for the project. Mr. Taglio said the rough cost is about \$6,000 per unit x 72, but that once they make that commitment and they start to move forward in a project, their carry costs

become significantly higher, and they're not about to do that unless they're confident that they have good solid reason to believe that the Community Services District can perform. He said C&J will front the \$6,000 per unit to the Community Services District, which will be up lined by them, and the other is C&J's costs as far as internal improvements go, which is an integral part of building the subdivision and finishing off the lot so it's ready for connection to a house.

Commissioner Heringer asked if the \$432,000 (\$6,000x72) is enough money for the Services District to create the services needed. Mr. Marking said that they know that the revenues brought in will cover all the expected infrastructure costs -- it's a timing situation.

Commissioner Heringer asked the applicant if they are willing to put up the total amount of money for the total amount of homes they're going to build at the outset so they put their plan in gear. Mr. Taglio stated that they would expect that they would go on a continuous basis, so they would not be going out on the premise that it would be anything less than a continuous development program. Mr. Taglio said they don't have the answer as to how much they have to come up with, but if that's the issue they will certainly be able to address it. He stated that they will be able to secure the money, but they're not committing to that money until they have the entitlement, because there has to be a predictable time table.

Commissioner Walker stated that he thinks this matter has been discussed sufficiently for the public hearing phase, and that the Planning Commission should decide what they want to do, since these questions have repeatedly surfaced. He said he has no questions in his mind about C&J Properties knowing what they're doing financially.

Mr. Voss clarified that the Advisory Committee has not dwelled on a concern that these houses might be hooked up without an infrastructure – they have assumed all along that this may be the case. He stated that the question they have repeatedly asked, and have had no answer to, is what the approximate time line is (starting date, and how long will it take)?

David Morrison responded to the above as follows:

He addressed Commissioner Stephens question about the park fees and the pedestrian/ bicycle trails by saying that Policy E-S.7. for the Esparto General Plan states that parkland in lieu fees will be collected for the design and construction of new parks and pedestrian/bicycle trails as illustrated on Figure 4, etc... He stated that it is staff's position, after discussing it with County Counsel, that the detention basin was determined to have little or no recreation value and the applicant would agree to pick up the landscaping costs of that. He said that the only purpose of the trail is to provide recreational use, and that staff believes that the parkland in lieu fees should go not only to the trail but to the landscaping on either side of the trail within the 50' buffer, or 20' buffer depending on which side, and that to do otherwise would begin to get away from the nexus.

He said, with regards to Ms. Birrell, as noted in the staff report, she did submit a comment letter on this project, received on February 2. He stated that he has spoken with her on two occasions and she is aware of the Caltrans requirement, and that she has asked about connecting a street over so that she may develop her property. He stated that staff has responded to her that they cannot force the applicant to pay to allow her to develop her property, that would not to be equitable, and have encouraged her to contact the applicant to try to work out some kind of joint arrangement. He said she has been informed of all public meetings and he has not heard further from her regarding this.

With regard to the housing and fencing designs, he stated that staff has continued to state throughout this process that they would be referring those designs over to the Esparto Advisory Committee for additional comment.

He stated that the placement of sewer and water lines is going to depend on the configuration of the tentative subdivision, and that if the subdivision map is substantially changed during the Planning Commission Hearing, if it's substantially changed by the Board, placement of the infrastructure is going to change, construction costs are going to change, and the time line is going to change. He said the time line cannot start until there is a project to design for, and there isn't a project to design for until the Planning Commission and the Board have considered the project and made a possible approval. He said that staff is satisfied with the District, and they do not feel that they can dictate what actions another independent government agency can take, any more than they could

expect this District to hold the County hostage on General Plan Growth Development. He said he appreciates the concerns of the Commission, that this has been a very robust discussion which has given a great deal of thought, and certainly indicates the level of concern that the Commissioners have for this project, and very justifiably so, since this is a big step for the Esparto Community.

The public hearing was closed.

Commissioner Rodegerdts said that the discussion held this morning shows that we have not moved an inch from where we were a month ago in getting some of these questions answered.

He said he thinks the Commissioners, in considering this project, should read again the verbatim minutes of the dialogue that took place last time. He stated that he would like to see a Memo of Understanding, a piece of paper with some signatures on it, from the Developer, that when this project is approved, then they will be prepared to pay up to..., and the Services District comes back and says, and when we get that money, then we will commit to put in the infrastructure, which will be done at approximately then..., and then, you, developer, will agree that you will have 72 hookups for us at that point in time to begin to pay for this system, in addition to what you have already agreed to put up front. Commissioner Rodegerdts said that Mr. Marking came up last time and indicated to him that he is really on top of this situation. Commissioner Rodegerdts said there's a whole lot more facts and figures in the verbatim minutes from last month that appear in the letter that was written for this meeting. He said he is not prepared to go forward in a leap of faith and approve this development on the basis of what is known at this point of time, and without the Citizens Advisory Committee being informed officially of the Planning Commission's thoughts last month, having an opportunity to read the verbatim transcript of the minutes, and giving us further input. He said the Planning Commission has a duty here to protect the community from itself.

Commissioner Rodegerdts, as a point of information to his colleagues he is leaving today, expressed that the new Dunnigan Advisory Committee has among its members at least three folks from the development community, and there may be more whose names he doesn't recognize, and the justification for that was that they own property there. He said the Planning Commission should not shirk their responsibilities, even though they may not be popular, but that they have a duty.

Commissioner Walker stated that he doesn't entertain the kinds of concerns that many of the Commissioners have raised. He said he would like some additional information from the

Esparto Advisory Committee, and other than that he is prepared to support the suggestion that it be certified.

Commissioner Heringer stated that his thoughts are similar to Commissioner Walker's. He said he thinks it should be sent back to the Advisory Committee to let them hassle with the time lines, how many homes they're going to phase in, how much money is going to come, etc.... He'd like to put this on hold until we hear from them, it's their project.

Commissioner Gerber said that, after this morning's presentations and discussion, he feels that the project probably is in a reasonable alignment, that it is do-able, and that the Developer and the District are showing good faith, and that he supports the project.

Commissioner Stephens stated that she loves to rely on good faith, but dollars do count, and if you don't have plans, you don't have a project, and that she has heard twice today, from the Developer and the Services District, that they will not commit until the project is approved. She believes there needs to be commitment from all parties, or there will be a mess out there. She said she's very much in favor of development of Esparto, and this particular development, but she feels more questions need to be answered. She stated that before she can vote for a project that has no sewer, no water, and only good faith, she wants to see a Memo of Understanding that spells out the dollars and other commitments. She would also like to see it go back to the Advisory Committee one more time. She said she appreciates all the work that C&J has done.

Commissioner Woo expressed that there needs to be an order of magnitude (not an exact cost estimate) to find out how much money it's going to cost to do this, and whether we are even in the ball park where this could be financed. She said she was very glad to see the revised plan, which was an improvement over the last one, and that opening up the end of the cul de sac to the detention pond, and the landscaping and amenities that they have voiced that they are willing to do, will make a much bigger difference than can be told on a piece of paper. She stated that she is in support of the project.

Commissioner Lang said he feels that they, as a Commission, are way over their boundaries, because they have to give a planned community the OK, through the Supervisors, to start the initial planning, which in turn will start the mechanism for the sewer and the water. He said he feels that if the issue doesn't go forward, with good faith that they're going to work together, then we're at square one. He said we either have Esparto dry up, or we have it move ahead into the 21st Century.

A ten minute recess was called.

Commission Action

DIRECTED staff to defer action on this item until the meeting of May 13 1999, and in anticipation of further consideration, that there be prepared an exchange of letters between the Developer and the Esparto Community Services District, getting down to specifics in terms of probable costs or a range of costs and specific times of completion.

MOTION: Walker SECOND: Rodegerdts
AYES: Walker, Woo, Stephens, Heringer, Lang, Rodegerdts, and Gerber
NOES: None
ABSTAIN: None
ABSENT: None

Following presentation of the application and the recommended action, a public hearing was held at which four people from the public appeared, followed by the deliberations of the Planning Commission which lasted approximately twenty minutes.



6.3 **98-060** - A request for a Tentative Parcel Map and Agricultural Contract Division to divide a 645 acre parcel into two parcels. Subject property is located on the east side of I-505 between County Road 27 and 28 in the Agricultural Preserve (A-P) zone. A Negative Declaration has been prepared for this item. APN: 050-120-13. Applicant/Owner: Evelyn Pryor Trust (M. Hamblin)

Mark Hamblin gave the staff report and answered questions from the Commission and made clarifications. He said the applicant is proposing to divide the parcel with this action.

Commissioner Gerber asked which action triggers the environmental. Mark Hamblin answered that it's the division. He said an applicant, if they wish to withdraw themselves from a Williamson Act Contract, files with the Clerk of the Board of Supervisors, there's no action taken by this Body.

The public hearing was opened.

Mr. Bell, with Laugenour and Meikle, said he's here to answer questions, and that his firm assisted the applicant in the preparation of his application. He said the property has been farmed by the family for years and they indicate that they intend to continue.

The public hearing was closed.

Commissioner Rodegerdts commented that he sees no precedential setting here at all.

Commission Action

- (1) **APPROVED** the attached Negative Declaration as the appropriate environmental document for this project in accordance with the California Environmental Quality Act and Guidelines (CEQA);
- (2) **ADOPTED** the proposed FINDINGS for this project as presented in the staff report;
- (3) **APPROVED** the tentative parcel map (TPM #4396) and the agricultural contract division subject to the conditions listed under CONDITIONS OF APPROVAL presented in the staff report.

MOTION: Rodegerdts SECOND: Heringer
AYES: Walker, Woo, Stephens, Heringer, Lang, Rodegerdts, and Gerber
NOES: None
ABSTAIN: None

ABSENT: None

Following presentation of the application and the recommended action, a public hearing was held at which one person from the public appeared, followed by a brief deliberation of the Planning Commission.

CONDITIONS OF APPROVAL

Yolo County Planning & Public Works Department

Planning Division

1. The Final Map for the project shall be filed with the Yolo County Planning and Public Works Department within two years from the date of the approval by the Yolo County Planning Commission or the Parcel Map shall become null and void without any further action in accordance to the State Subdivision Map.
2. The Final Map shall be prepared with the Basis of Bearings being the California Coordinate System, Zone 2, and NAD 83.
3. The property owner(s) shall execute separate Williamson Act Successor-In-Interest Contracts for each separate legal parcel created by this parcel map in a form approved by the Office of the County Counsel of Yolo County. Said Successor-In-Interest contracts shall be recorded at property owners expense in the Office of the Yolo County Clerk/Recorder. A copy of the recorded separate Successor-In-Interest contracts shall be returned to the Yolo County Planning and Public Works Department, Planning Division, prior to the issuance of any permits on the site.

County Counsel

4. In accordance with Yolo County Code §8-2.2415, the applicant shall agree to indemnify, defend, and hold harmless the County or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the County, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action or proceeding and that the County cooperate fully in the defense. If the County fails to promptly notify the applicant of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the County harmless as to that action.

The County may require that the applicant post a bond in an amount determined to be sufficient to satisfy the above indemnification and defense obligation.

Failure to comply with the CONDITIONS OF APPROVAL as approved by the Planning Commission may result in any or all of the following:

- **non-issuance of a future building permit;**
- **legal action.**

FINDINGS

(A summary of the evidence to support each FINDING is shown in italics.)

California Environmental Quality Act & Guidelines (CEQA)

In accordance with CEQA the Yolo County Planning Commission finds:

A Negative Declaration has been prepared as the environmental assessment for the project in accordance to the California Environmental Quality Act and Guidelines.

Yolo County Zoning Regulations

Subdivision Map

In accordance with the Section 66474.61, Article 1, Chapter 1 of the State Subdivision Map, the Yolo County Planning Commission finds:

(a) That the proposed map is consistent with the applicable general and specific plan as specified in Section 65451 of the Subdivision Map Act;

The Yolo County General Plan land use designation for the subject property is AG (agricultural). The proposed use and acreage size are consistent with the County General Plan.

(b) That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans;

The design of the proposed subdivision is consistent with the County General Plan. The Yolo County General Plan land use designation for the subject property is AG (agricultural). The site is zoned A-P (agricultural preserve). The applicant is creating 2 parcels consisting each of 322 acres.

(c) That the site is physically suitable for the type of development;

The site is physically suited for the proposed development. The property is zoned A-P (agricultural preserve). The property has historically been used for agricultural operations. The applicants are creating 2 parcels each of 322 acres. The Union School Slough portion of the property is located within a 100 year flood zone.

(d) That the site is physically suitable for the proposed density of development;

The applicants are creating 2 parcels and 2 separate agricultural contracts consisting each of 322 acres. The County's A-P Zone permits one single family residence on a minimum of a 20 acre parcel and one residence per agricultural preserve contract.

(e) That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

The design of the parcel map, and agricultural contract division are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or type of improvements is not likely to cause serious public health problems;

The design of the parcel map or type of improvements are not likely to cause serious public health problems. The applicants are creating 2 parcels and 2 separate agricultural contracts consisting each of 322 acres.

(g) That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Agricultural Preserve Contract Division

In accordance with Section 8-2.403. of Article 4 of Title 8 and provisions of the A-P Zone, the Yolo County Planning Commission finds:

(1) That the parcels created are consistent with the zone by preserving the agricultural use from the encroachment of nonagricultural uses;

The proposed parcel map and agricultural contract configuration exceeds the minimum acreage requirement as established by the County's AP Zone. The applicant on December 11, 1998 withdrew a non-renewal request on the property that was scheduled to be executed on January 1, 1999 in order to keep the property within an agricultural contract.

- (2) That the parcels tend to maintain the agricultural economy;

The property has been historically used for irrigated row crop involving alfalfa hay, rice, and tomatoes. The subject property contains Class 2 soil - prime (Marvin Silty Clay Loam, Meyers Clay, Capay Silty Clay). Currently there are no wells on the site. Irrigation is provided by the Clear Lake Water District to properties.

- (3) That the parcels tend to assist in the preservation of prime agricultural lands;

The new parcels will consist each of 322 acres. The property has been historically used for irrigated row crop involving alfalfa hay, rice, and tomatoes. The parcels contain Class 2 soil - prime. The parcels have access to irrigation water through the Yolo Central Canal.

- (4) That the parcels preserve lands with public value as open space;

Agricultural land is considered a principal component of open space. The properties are to remain in agricultural use. The properties are to remain within agricultural contracts.

- (5) That the proposed use is consistent with the General Plan;

The proposed agricultural use of the site is consistent with the County General Plan.

- (6) That the proposed contracts in question were created in conformity with and complies with all the requirements of the Subdivision Map Act of the State.

The project request includes a tentative parcel map application. The proposed agricultural contracts to be established will be reflected in Parcel 1 (322.68 ac.) and Parcel 2 (322.68 ac.) created by the parcel map (TPM #4396).

- (7) That the parcels are at least 80 gross acres where the soils are capable of cultivation and are irrigated, 160 gross acres where the soils are capable of cultivation but are not irrigated, and 320 gross acres where the soils are not capable of cultivation (including rangeland and lands which are not income producing).

The new parcels will consist each of 322 acres. The property has been historically used for irrigated row crop involving alfalfa hay, rice, and tomatoes. The parcels contain Class 2 soil - prime. The parcels have access to irrigation water through the Yolo Central Canal.



6.4 Presentation of Annual Compliance Report on off-channel gravel mining within the Cache Creek Area Plan, for the Cache Creek Aggregates, Granite Construction, Schwarzgruber and Sons, Solano Concrete, Syar Industries, Teichert Aggregates - Esparto, Teichert Aggregates - Woodland, and Yolo County sites. Off-channel gravel mining is general located one-half mile north and south of Cache Creek, between County Roads 85 and 96, near the communities of Capay, Esparto, Madison, Yolo, and the City of Woodland. Applicant: Yolo County Planning and Public Works Department (D. Morrison)

David Morrison presented the staff report and answered questions from the Commission. He said that, in general, production was up last year to about a total of 3.6 million tons over the previous year, which was about 2.85 million tons.

Commissioner Lang thanked David Morrison for a very accurate report and for keeping the Commission informed.

Commissioner Rodegerdts said he will not be participating in this discussion nor the ultimate vote.

Commissioner Gerber asked for a clarification about the Technical Advisory Committee. David Morrison explained that the Technical Advisory Committee was formed to oversee management of the creek resources associated with Cache Creek. He said that there are areas, however, where mining plans and creek management plans tend to overlap somewhat, specifically in the buffer areas for each of the mining sites. He said that any work that is done within the channel of Cache Creek requires oversight by the Technical Advisory Committee. He stated that the Technical Advisory Committee does not oversee mining operations, that is his domain.

Commissioner Stephens asked for the figure that David Morrison had stated for the total production. David Morrison said it's on Page 2, and it states that approximately 3.6 million tons were sold last year.

Commissioner Stephens asked why there is a delay in the ag. conservation easements. David Morrison said that Teichert leases quite a bit of its land so in order to obtain the conservation easements they have to negotiate with private agricultural land owners in order acquire those easements, and there has been some delays in acquiring those negotiations.

The public hearing was opened.

Lillie Noble, with Teichert Construction, said that at this point a Draft Conservation Easement is on the desk of Steven Basha to analyze it. She said they wanted to get the County Counsel's impression of this Agreement prior to going to the two land owners, and Counsel has been very busy with the Cache Creek Nature Preserve, and will be able to get to it in April. She stated at the conclusion of getting feedback from our representative, she will go directly to the property owners and seek to bring closure and signatures, and back before the Commission with closure. She said Teichert has a verbal with the property owners, but that they wanted to see the specificity of the contract.

The public hearing was closed.

Commission Action

- (1) **CERTIFIED** a Class 9 Categorical Exemption as the appropriate level of environmental review for this report (see Attachment "1").
- (2) **ADOPTED** Findings of Fact in support of determining that the mining operations described below are in conformance with their conditions of approval (see Exhibit 1).
- (3) **DETERMINED** that the following aggregate companies have complied with the Conditions of Approval established as part of their mining permit and reclamation plan, with the exception of those conditions specified in Exhibit 2 as requiring further review:
 - a. Cache Creek Aggregates
 - b. Granite Construction
 - c. Schwarzgruber and Sons
 - d. Syar Industries
 - e. Solano Concrete
 - f. Teichert Aggregates
- (4) **DETERMINED** that the following aggregate companies have not complied with the Conditions of Approval established as part of their initial Use Permit:
 - a. Yolo County
- (5) **DIRECTED** staff to report back in six months time on the progress of those conditions of approval requiring further review and on the status of reclamation for the Yolo County site.

MOTION: Heringer SECOND: Walker
 AYES: Walker, Woo, Stephens, Heringer, Lang, and Gerber
 NOES: None
 ABSTAIN: Rodegerdts
 ABSENT: None

Following presentation of the application and the recommended action, a public hearing was held at which one person from the public appeared, followed by a brief deliberation of the Planning Commission.



6.5 Consideration/discussion regarding the status of Agricultural Buildings exemptions (J. Bencomo)

John Bencomo gave the staff report, and introduced Marshall Drack, Yolo County Economic Development Coordinator, who gave an overview of the item. John said that this was presented to the Board of Supervisors a short time ago, and was then referred back, by direction of the Board, for input from the Yolo County Economic Development Council. He said the purpose

today is to provide a foundation for some discussion and to try to garner comments of this Commission with respect to this issue.

Marshall Drack distributed and explained a handout (matrix) showing comparisons of different unoccupied agricultural storage building options for possible permit exemptions, which identifies where we are today. He stated that we are an agriculturally based county, but we also are regulated by state and federal laws that regulate buildings, construction, flood plains, fire safety, health, chemicals, etc.. He said that in general those fall to Brett Hale, our Building Official, who is here to answer questions.

Marshall Drack stated that the Economic Development Council made a motion that the County staff take a look at a process by which they could find some agricultural building exemptions, and develop a checklist.

Commissioner Walker asked for the definition of an unoccupied storage building. Marshall Drack said this needs to be defined.

Commissioner Rodegerdts said there are two phrases shown in this Agreement -- agricultural building and unoccupied agricultural storage building. He asked if they are the same. Marshall Drack said Commissioner Rodegerdts is correct, that there is an inconsistency on this page, but this document only describes one building, and that will be clarified.

Commissioner Lang asked for a clarification on Issue No. 4 regarding if the County issued a building permit, and a building fell down, or something happened to the building, that they could come back and sue the County.

Marshall Drack explained that it's County Counsel Charles Mack's understanding that if a permit is not issued, to the level of inspecting the plans, issuing the permit, and then inspecting the building, then that reduces the liability, or eliminates the liability to the County, and that is the way an exemption can be structured. Marshall said that if we have a general policy statement that these kinds of structures for these kinds of purposes can be exempt from a building permit, then we don't fall under the building permit chain of events. He stated that if we have a policy that substantiates an exemption process, a person can come in and say they believe they are exempt, then whatever we decide as we work through this, they fill out the checklist for determining whether the building is exempt from a permit process, they issue the declaration or file the bond. Marshall thinks there are people in the audience that can address some things that are of particular concern to them, and that this workshop is being held for a recommendation of comments.

Commissioner Lang stated that the buildings we need in Yolo County, because of the crops we grow, are year-round storage of alfalfa and wheat straw, so the products can be shipped out.

Commissioner Heringer discussed the economics. He asked how much a permit costs for a hay barn.

Commissioner Rodegerdts said that the economics may not be what the County charges, the economics may be all of the backup reports and surveys that the County requires before it will issue the permit.

Commissioner Rodegerdts asked for a clarification of the definition of an unoccupied agricultural storage building, as shown on the last page of Exhibit A. He thinks some discussion is needed and a further exposition of phrases, like “nor a place of employment”, “place used by the public”, what we mean by commercial storage. He zeroed in on the wording in the third line of the bottom of that definition, “that these facilities will not be used for the storage for products not grown on the premises unless grown by the owner of the site where the exempt building is located”. He said that a use of these barns, is that he goes out and pays a landowner for the right to come in and bale his wheat stubble and then put it in his unoccupied agricultural storage building, he would be prohibited from doing that under this definition, because he, the owner of the unoccupied building, has not grown that wheat stubble, so he would be prohibited from putting wheat stubble in that barn. He said the problem with this is that our landscape in this County is covered with huge barns in which wheat stubble is stored, and that’s what he thinks the majority of these barns, that have brought this to everyone’s attention, are going to be used for, and if we are attempting to facilitate economic development in that particular agricultural arena, we’re not doing it with this definition. Marshall said that Commissioner Rodegerdts is correct in the reading of that definition. He stated that there was substantial discussion of that at the Economic Development Council, and that this was their consensus also, that it didn’t make much sense to try to regulate whose wheat it is or whose rice straw it is, and it doesn’t make sense from an internal standpoint, to try to go out there and determine whose it is either.

Chairman Rodegerdts said that if we couple that desire to facilitate the exemption program with a definition like this, if everyone is playing it above board, you won’t find anyone who qualifies for the exemption. Marshall Drack agreed, but he said the thought that went into this was that if we get too far into storing other people’s commodities, we’re into a warehouse situation, which is a different category.

Commissioner Lang asked Brett Hale if a hay storage is put up, if it would qualify as a shop or anything else. Brett said it would not. He stated that the County is run under the California Building Code, which is mandated through the State. He said we also have adopted some the least restrictive provisions available in the Building Code, and one of them is the Appendix for Agricultural Buildings. Under that Appendix, it allows these buildings to be built in unlimited area with minimum exiting. Under the structural provisions the Code already provides for reduced wind loading in the buildings and a reduced roof load requirement for the engineered design. Also, under our local requirements, we categorically exempt these buildings from fire sprinkler systems and from County Impact Fees. At that point we’ve adopted all the provisions of the Building Code that we can adopt that are in there. As far as exempting them, all of our local requirements, they’re exempt from those too. Where it changes is where we have a shop. A shop is no longer, by definition, an agricultural building, it’s not unoccupied, it’s where people work, or maintenance is done, things like that. Under the Building Code the definition automatically changes when you start doing repair work, it becomes, what we call, as an S3, or a repair building, and the categories change under the Building Code. There’s 20+ different occupancy classifications, so when someone comes in for a project, the first thing that needs to be done is to define where it’s going to go under the Building Code, then we go from there. The bottom line is that an agricultural building is not a shop, because it’s not just storage, people are working in there.

Brett Hale said that under the standard code there’s only an exemption for a 120 sq. foot like storage building (playhouse, things like that). Where the engineering requirements come from is the Business and Professions Code. He said there’s an Architect and an Engineer’s Act which says that when a building permit is issued, engineering is required to make sure that building is designed by a licensed professional if it does not meet the conventional provisions of the Building Code, the wood frame construction provisions, so when someone comes in and they don’t meet those requirements, that’s where the mandate for engineering comes in. He

stated an example: If a garage comes in, and it's a wood frame, conventionally built garage, it doesn't need an engineer or an architect, but as soon as you go to a steel building (steel garage), by definition under the Business and Professions Code, they are not exempt and require an engineer or an architect to design them. He said the problem with the conventional provisions is that it limits the height to 10' of the walls, and then it requires recurring wall lines and you can put conventional bracing in these wall lines to provide structural stability for the building. He said that under the current provisions we have to have a braced wall line, and also it basically calls for repetitive members, so you have a lightly loaded wood frame building, which performs very well in wind and seismic events.

Commissioner Heringer asked if the steel and cement silos grain storage is permitted. Brett said they permit they are required to be permitted. Commissioner Heringer said that they're probably the only unoccupied buildings that we have, because you store grain in them with an elevator, and he said even the hay barn is occupied. Brett said it becomes that fine line, he agrees that when we say unoccupied, by definition in the Building Code, it says greenhouses, but we know that employees go in and out of there, and we know that in hay barns, people take hay in, take hay out. He stated that he thinks the intent of the agricultural provisions is that the amount, or frequency, of people going in there is very limited, it's not in there all the time like we have in a shop or commercial building, that's why the reduced provisions are there.

Commissioner Heringer expressed that he thinks that by trying to redefine, it's confusing the issue.

Commissioner Walker asked if it's OK, in flood prone areas, if the structure is built on a pad, like you find in many Counties. Brett Hale said the reason we have the FEMA flood zone requirements in the Counties is that the County participates in the National Flood Insurance Program. He said that by participating in that it allow the residents of the County to buy flood insurance on the National Program, so that's why we have to enforce the flood zone requirements. Brett stated that, under the current standards, we require all buildings that are constructed within the 100 year, the special flood hazard zone, to be elevated, but the recent amendment to the flood requirements was done last specifically for agricultural buildings, which we allow a minor variance now, and this was done in conjunction with FEMA, and they're aware of it. He said the agricultural building, if it needs certain conditions, does not have to be elevated as soon as it meets certain construction requirements, that is, the material is approved for wet proofing.

Commissioner Walker stated that his interpretation of what he is hearing is that if a farmer or a rancher builds a hay barn in a flood prone area and builds it on a pad, it's acceptable. Brett answered, yes.

Commissioner Walker asked what limiting the electrical service to 100 amp, 110 volts is based on. Brett Hale said they're trying to put a number in there, to get away from 220 volt which is what usually provides the more processing equipment, welders, compressors, etc., that would not normally be in an agricultural building, but they wanted to allow something like battery chargers, vent fans (110v usually) in there. He said that 100 amps is quite a bit. Commissioner Walker said he understands that, but that all motors on large ventilating fans (routine equipment used in ag.) operate much better on 220, they're more efficient and the motors are less costly, so he thinks that limiting it to 110 is a disservice to the farmer, and places him at a disadvantage. He said that when we talk about one service being allowed per structure, or per span, we're talking about if you have 8 of these 25 foot spans, are we allowed one electrical service in each span, or if you have 8 buildings put together, do you have one service for all 8 spans? Brett Hale said they didn't get into that kind of defining. Commissioner Walker said he thinks they should. He said that, first of all, he really questions the 110 limitation

for economics, and he thinks there should be a clarification as to how what service restrictions apply to a structure, what is a structure, one-span, ten spans, or whatever. He said that, as he goes through this, he feels it was designed to protect the status-quo, because some of the things don't make very much sense to him. For example, on these recommended actions, in the first paragraph, he doesn't see what public interest has to do with the interests of the individual, and that he questions that kind of a statement, since the public is not going to be in there and it's the farmer's investment, and he's the one responsible for caring for it, etc.

Commissioner Woo asked if all of the four alternatives are legal as far as the CBC. Brett Hale said he would have to defer to Counsel on that. Steven Basha, County Counsel, said apparently so, since that is the recommendation that has gone through County Counsel Charles Mack.

Commissioner Woo asked (on Alternative B-3) who would check to make sure that they did have a structural engineer, and that it was properly engineered if they didn't have a permit. Brett said that's why the workshop today is being held, that we could go anywhere from not having anything or to maybe having the applicant turn in a set of plans that has an engineer's stamp on it, that can be put in the exempt file where the setbacks are checked, and it's just in there. Brett said that without performing inspections, there's no way to tell if the building is built to the Code.

Commissioner Woo asked (on Alternative B-2) asked if there is any limit as to total square footage. Brett Hale said that the 25 foot span is contained within the conventional roof framing provisions of the Building Code, and that at about 25-26 ft. it stops, because after that it could become engineered products. He said it's a 20 ft. height, which came out of the original provisions when the codes were changed in 1976 for allowing some reduced wind loading requirements for ag. buildings, it talks the 20 ft. height, and that's where the 20 ft. height comes from, that's when the reduced loading was provided in the engineering requirements. He said that when he was asked to put his input there, the idea of that was, yes, it could become a repetitive, multiple section, so you could have a quite large building, and we're back to the idea, under that provision, of lower loaded sections with repetitive framing or structural lines, so we don't have these enormous loads concentrated in one spot without engineering. Brett said we could go 100' wide and go another 100' this way, we're still having these lines to the exposure for the wind loading on that wall, that's say 100'x20', so if you keep going the wind load isn't that much higher with the pitch of the roof adding a little bit to it. He said it doesn't increase that much. Commissioner Woo said that, conceivably under Alternative B-2, the farmer could have a pretty sizeable barn unit that he wants to make and still be able to do it without a permit. Brett said without the full review and everything, sure.

Commissioner Woo said there's a question about whether farm workers are the public or not and if farm workers are entitled to our protection -- it's not necessarily that they're going to have a Saturday Night Barn Dance and have the whole neighborhood out there in the barn, although it may happen, but the farm workers are still the public, in her opinion and still deserve protection. She said she's not in favor of letting the farmers go out and do whatever they want in there, and say it's no skin off their noses if they only kill their own farm workers, but on the other hand, in the old days, when they did build barns without permits, and everybody did, they were using a different model than we're using now. She said, in the old days when they built a barn, historically speaking, they used a model that was kind of proportioned based on the horses and the cows, and those old barns withstood for a long time under all kinds of conditions, but if you looked at them, they did have a natural proportion that was way greater than what was required. She said that nowadays, with engineering, people know that a lot can be done with a 4x4, or a 6x6 that they would never have dreamed of doing in the old days when they were building barns without permits, and nowadays people are used to going out and using

tall, thin members which really don't supply you with the kind of protection that they did in the old days when no one was certifying or inspecting. She said she doesn't think that history in our case is going to work for either a steel building or even a pre-manufactured wood building, so it's very legitimate for us to be looking out for the interests of their farm workers and themselves, especially in a steel building. She said you can't really, intuitively, put up a steel building and say I think the beam ought to be so big, so tall, and so wide, like they could in the old days, that there has to be some expertise involved in this kind of manufacturing. She said that, on the other hand, if they're going to go to the old style, and they're going to do it out of wood, and they're going to use the logs, or whatever, then she's all for it, and we should let them do it. She stated that if they are going to be limited to the 20 foot spans, and they're going to use a reasonable amount of repetitive wood framing, even in a traditional barn sense, then she wouldn't argue with it because hundreds of years have shown that it's effective. She said that if that's what they're arguing, that they want to do what their grandfathers have done, then she's all for it, but if they're saying that now I want to use technology, and I don't have the expertise to use the technology, but I want to use it anyway, then she definitely doesn't agree with them. She said we need to have some engineering done and we need some proof that whoever's doing it knows what they're doing and that the safety of the workers is going to be taken into consideration.

Commissioner Walker said that the structures in the old days were limited by the size and the length of the timbers available to them, so they were self limiting, but getting back to the sanctification of the structures, just because an engineer puts a stamp on them, doesn't mean that they're safe. He said that when a tornado goes through an area, mobile homes which are approved by engineers, are scattered around like hay straw. He said he has quite a lot of confidence in these fellows who are self-educated engineers – Thomas Edison, for one, people who didn't have a lot of fancy degrees, and did very well, so he's saying that somewhere in here there's an element of common sense and judgment. He stated that the ranchers and farmers who build these structures for their own uses know what they need and if they are poorly designed and engineered, they, themselves, bear the consequences of those inadequacies. He said some of the responsibility, as well as opportunity, should be placed on the individuals involved in these processes.

The public hearing was opened.

Mr. Konwinski, Attorney representing Joe Heidrick Enterprises, Inc., stated that he's here on behalf of the entire Yolo County agricultural community, and expressed the following.

He said the first thing we have to look at is what kind of buildings we're talking about, and that he went before the Board of Supervisors to talk about it, and that he believes they voted that we should look at it. Regarding Alternative B-4, he said that definition of agricultural building comes from the Uniform Building Code, Section 202, where it says agricultural building is a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, etc., he said it's not to be a place for human habitation nor a place for employment or agricultural products or processed, treated or packaged, nor shall it be a place used by the public. He said that this comes from the Uniform Building Code, so we're not trying to create a new definition, that it's a very specific definition that covers those type of buildings. Dairies, horse boarding facilities where the public comes in, are not included in this definition. He stated that what we're looking at is basically storage facilities, things that have limited in and out activity, as far as the quantity of people and parties. Also, he said what we're looking at here is if there is any plumbing, any electrical, etc., those all require separate permitting, so those criteria have to be met in order to add any of those elements, so basically we're looking at buildings without any services that are highly limited.

He said he hopes Alternative B-1 is being ignored since that was the initial staff recommendation which was rejected by the Board of Supervisors. He stated that Alternative B-2 puts some real strict restrictions on the size and the type of buildings. He said, however we deal with the flood zone, the way this particular proposal is worded it's absolute, it says not in a flood zone. He said he submits that the requirements for an exempt building shouldn't be any tougher than they are for any other building, that we should be looking at the minimal requirements for a flood zone, not prohibiting it in a flood zone, and that if the hay gets flooded, that's the farmer's problem. He said that as far as the "grown on the premises", he thinks that Commissioner Rodegerdts has very capably described the difficulties with that, that they're people who cut and bale hay, they don't necessarily grow it, the people who store rice straw, they don't necessarily grow it; with that restriction, we wouldn't be providing any benefit to anyone in the agricultural community.

Regarding Exhibit B-4 (last page of staff report): He stated that basically this is patterned after the Sacramento County Ordinance, and that 26 other counties already have some kind of exemption for agricultural buildings, so we're not reinventing or creating anything unusual. He said he thinks we should get rid of the word "unoccupied" and coordinate that with the Uniform Building Code description of that agricultural building, he thinks that takes care of some of the confusion we had in our earlier discussion.

In Item (a), you have to go through a process to show that you're applying for it, and he thinks (b) covers some of the concerns that people had about whether it would be in the right location. He said a plot plan has to be submitted. In (c) it says the Building Official determines that the location of the proposed buildings are permitted within the zoning of Yolo County, so what we have is a process where you submit a plot plan and they determine that it's in the proper zoning, and that would include the setbacks and all those issues.

He said that (d) is not from the Sacramento Ordinance, and he has no problem with the involvement of the Fire Chief, although he would submit that it would be similar to what's currently involved in the building permit process, he doesn't believe it's an express requirement the Chief sign off, he believes it's just referred to them for their review. He thinks that ultimately, without having some real strict criteria, we've just changed the scope of who makes the decision if we put that kind of role on the Fire Chief. He said he's not saying that we don't make sure that it does have access, he thinks when we look at it any of these buildings, given the fact that we're going to be hauling hay in and out in those things, that will certainly prove that we'll have sufficient access for fire and emergency facilities. He stated that most of these buildings, by their nature, are going to be far away from human habitation and situation so he thinks the dangers are very limited in that regard, and even if they do burn, he thinks they'll basically just burn themselves out, but from that standpoint, he thinks the fire issue should be considered. He said he's concerned with anything that says you can't proceed until you get a signature from a Fire Chief, without having some real strict criteria on what that person can make his decision on.

He said that (e) comes from the Sacramento Ordinance, but he's not sure what does require a minimum floor certificate means, so he thinks everybody is going to need to figure out what that is before we all bring it over from Sacramento and say it's great – that's not what he's looking for here.

Definition of Buildings: The thing to remember is that these buildings are required to be subject to the Uniform Building Code as it applies. He said the issue is who decides whether they are. He said you're still responsible as a builder and as a owner that these comply with the Building Code, it's just a matter of not having to have that inspected and determined by the County. He said when we talk about whether or not they're responsible, he thinks when we talk about the

old days, we have to look to see when these current requirements came into place. He said the farmer is the one who has to be concerned, it's his workers going in and out, if it's his equipment, it's his equipment at risk, if this thing falls down, if this collapses on a crop, it's the farmer's problem, and that's the incentive, they want to build them to a degree that they will stand up.

He said when we look back to the B-3 that says these height restrictions can be eliminated if you have a stamp from a certified engineer, that might work on an originally bought building, that's a brand new building, the problem is some of the buildings we're looking at are acquired used, from West Sacramento or somewhere like that, these buildings that stand for a number of years are taken down, and if they're put up the same way they were taken down, everything should work fine. The problem is to get an engineer to bless that building, as required by the Building and Professions Code, that at times can exceed the cost of the building, much less the cost of a building permit. So when you talk about the costs here, they're not just the permit process, that's minor compared to having an old building being re-engineered by an engineer, which will cost a fortune.

He said when we're looking at hay storage, commodity storage, the key is being able to build an economic building that will work. In order to have a market for rice straw, it has to be available year round. In order to build facilities, they need to be built at a low cost, and if they're required to be built with all these requirements, that are basically government on top of government, they just don't get built or they get built in Sacramento instead of Yolo County, and that's what we're looking at. He stated that in this instance we have to look to see what we're competing with, we're competing with counties like Sacramento. Our agricultural community is competing with them, and we've got to give them a fair chance to do that competition and all we're asking is something comparable to what they have.

Declaration: He's concerned with words that start (in bold) with **I also understand and agree**. He said what that does is provide for an indemnity to the County and then it says that the County may require that you post a bond in order to protect against these indemnity obligations.

On Page 2, Item 6 of the Staff Report, it says: County Counsel has reviewed the issues associated with some kind of permit exemption, and has opined that liability to Yolo County should not attach if a reasonable process is followed to first determine if a building permit exemption can be established; and second, that if because of that reasonable exemption, no building permit is required... He would like to see the indemnification narrowed – right now the way it's worded it says if you're in the process of seeking an exemption you'll indemnify the County. It doesn't say from what. As long as it's restricted to the basic constructions related to this particular building. He said as far as the bond requirement, he submits that it is unreasonable – how can anyone determine today what sort of liability a building might create.

Steven Basha, County Counsel, said he thinks the purpose of the bond requirement would be, we know that an indemnification is only as good as the assets of the one that's making that indemnification, the concern being that somebody may put up a barn and have the indemnification, but really not have the financial resources, and it falls down and somebody gets hurt, there's a lawsuit, we both know that governmental entities are easy targets for liability losses, and there's no financial resources that the indemnitor has to carry out the indemnification. He thinks that this may be part of the purpose for the bond. Mr. Konwinski submitted that the same problem occurs in a permitted building, it would be of the same issues, and you don't require anybody seeking a permit to go out and get a bond. Steve Basha said he thinks the difference may be that there's some inspection involved, there may be some more opportunity for a closer scrutiny, and here we're basically accepting the word of somebody.

Commissioner Rodegerdts stated that there's going to be an annual premium for that bond. He asked what happens when the evidence of the bond's continuing validity is not presented to the County, what's going to be the penalty? Steve Basha said he doesn't know that, all he's trying to suggest is that there was a rationale behind that requirement, whether or not that's a rationale that's acceptable to this Commission or to the Board of Supervisors, or whether that rationale has been thought out to deal with issues just as have been raised. Commissioner Rodegerdts said he thinks that bonds are more appropriate for short term projects to ensure that the project is completed. He thinks a more appropriate requirement here would be proof of the ongoing policy of insurance which adds the County as an added insured, but he doesn't think that's appropriate either.

Mr. Konwinski said that getting a bond like this is cheaper going through the permit process.

Commissioner Rodegerdts said that no one can afford to buy a bond like this, it's nearly impossible.

Steve Basha, County Counsel, said the only point that he's trying to make is that he thinks is the concern about the value of the indemnity, if that concern can be addressed some way, that's fine. He thinks another concern is that somehow the County is going to be tagged with liability, because even though the County Counsel has a fine, that it's up to what a judge says. He says that if the County has some process where somebody can come in and say we meet all these requirements, but how do we protect the County and the public dollars, which is also a very real concern, and if something happens to that building for which the waiver was given, and the County somehow gets brought into the lawsuit.

Mr. Konwinski said he understands County Counsel's concern with the liability of the County, but frankly he said he'd feel a lot safer in one of these barns than he would out on the roads, and he thinks that's a place where the County has a whole lot of liability as well, and he has no assurance that the driver in front of him or behind him has a bond, or insurance for that matter.

Mr. Chamberlain, President of the Yolo County Farm Bureau, representing himself, said he has one of these barns, and they endorsed at the Farm Bureau Meeting to get this exemption through somehow so they can get back to building barns. He said, from about 1969, till about 1985, he has built about 160,000 sq. ft. of barns on his ranches. He said that for the County everything has to be re-engineered, and every time they come out there's something else that's inspected, there's more on a list to be done, which is very costly, and it's just not worth it. He said the 20' span and the 20' height is absolutely ridiculous, that these barns at the lowest point have to be at least 20' feet high to compensate two blocks high of straw or hay, because the blocks are 10' feet high, they're 8' x 8', they put one on each other, and as they go to the center of the barns, they lots of times go higher, with straw they go 3 blocks high, so they're 30 feet high. He said the minimum height of the barn on the outside would be probably 20'-22', which he did with the buildings he got from Fresno. He said the biggest barn he ever built was 150' wide, 300' long, and 42' high in the center, and it holds 115,000 bales. He said when we're talking straw, we're talking huge massive quantities and you have to keep the costs very cheap to store it. He said he built that barn in about 1985 for about \$80,000, and this building has twice as much money in it and it doesn't hold near as much. He said restrictions should not be put on the dimensions. He said that any time you buy a building it's engineered, and they don't buy a pile of steel and build a building. He said when you buy a barn that's in a kit, which he put together. He said that when he had Cranston put together a building, and when it was finished he had to hire a bolt inspector to come out and re-torque all the bolts. He said they can take care of this stuff themselves by using common sense.

Mr. Chamberlain said, regarding grown on the premises, that he doesn't grow rice, and that he bales 100,000 - 200,000 bales of rice straw a year on various ranches around there, and he brings it into his barn, so you can't restrict them to growing things on the premises, it's not like it was 100 years ago. He said he thinks the old barns are incredible, that he has two old barns on ranches, one in Glenn County and one out here, and as soon as he bought the ranches, he stabilizes these barns because on the old barns nothing went into the ground, they usually sat on top of a flat rock, and they built up. He stated that they were great buildings but they are almost not useful today because of the big machines they use to carry the blocks of hay around, they need big, open spans, and they store tractors, or something, in them during the winter. He said that the old buildings are very difficult to use for hay storage.

Mr. Chamberlain said he carries insurance on all his ranches, he'd be foolish not to insure a barn. He stated that his insurance companies come around and look at things and if they don't like something, they tell him to do something different. He said he doesn't think the bonding is a good idea at all. He said the Commissioners have brought up some good points.

Commissioner Walker asked Mr. Chamberlain if he has a list of preferred actions to provide to staff. Mr. Chamberlain said that the main thing is that he'd like to get exemption as much as he can. He said that the three main things were the flood zone, the 25' and the 20' item, and not growing on premises, which are very critical. He said he will submit a list.

Commissioner Walker said that he really believes that if the Farm Bureau, Mr. Chamberlain, Joe Heidrick, and others who are involved, make a conscientious effort to make them aware of their concerns, the structures we're talking about today, that the Board will give it a reasoned decision, deliberation, and probably take some corrective action, an answer that will be reasonable and responsible.

Commissioner Stephens asked Mr. Chamberlain if he has any objection to the form proposed requesting an exemption. Mr. Chamberlain said they don't mind something, that he has nothing against going in and putting a plot plan in so we know where it's at, it's all the inspections and redoing everything continuously that they mind. He said the torque tests, etc., are what drives them nuts, they don't need certified welders – his ranch welder guy can fix things very well, and that if he gets his welder certified, he'll go down the road and work for somebody else.

Steven Basha, County Counsel, asked Mr. Chamberlain if he agrees with Exhibit B-4, except regarding the bonds, and then the tightening of that indemnification.

Mr. Chamberlain said Mr. Konwinski can address that question. Mr. Chamberlain said he wants to keep it as simple as possible. Mr. Konwinski stated that he thinks that's accurate, if the indemnity is made specific to the actual project, and the bond language is eliminated, he believes that is correct.

Steven Basha suggested the following language on the indemnification: Right after the word employees in that first sentence, if we add "any personal injury or property damage related to the agricultural building that is the subject of this permit". Mr. Konwinski said that sounds like something that would be reasonable, he'd like to see it again before he is held to it. Steven Basha clarified other concerns re: Exhibit B-4: (d) about Fire Chief having some legal power over this. Mr. Konwinski said he doesn't have any problem with review. Another concern is the clarification of the definition of an unoccupied storage building.

Commissioner Stephens asked if the wording about minimum processing fee is acceptable. Mr. Chamberlain said yes. Mr. Konwinski said the processing fee should be defined carefully.

Commissioner Stephens asked if they agree to a much larger size building limitation, or are they adamantly opposed to any kind of limitation on the size of the structure. Mr. Chamberlain and Mr. Konwinski both said they're uncertain on this, but Mr. Konwinski stated that he'd like to have a procedure put in that's easier than the one they've had to go through when they go through that step again. Commissioner Stephens said she doesn't know that square footage has anything to do with safety, it's more the height and the span.

Short Parker, Fire Chief, Yolo Fire Protection District, expressed that his main concern is reviewing the plot plans and signing off the letter. He said it takes just a few minutes, but this way they know where's it's being built because they are not only fire protection, but also first responder, so if there's any accident or injury, they have to know where they're going. He said there has been buildings built without the Fire Department being aware, and they got a call for medical aid, and they couldn't find it, so this way they are aware where it's being built before the address is put on the map. He said he disagrees with waiving the Fire Chief's privilege to review the plot plan and signing it off.

Commissioner Lang clarified that the things that should be on the plot map are the location, also whether they could turn their rigs around in there, and water supply.

Short Parker said the main thing would be the availability of getting their equipment in, and on the majority of these barns they have the adequate roads because they have large trucks that go in there also. He said that if it's too large of a barn, there's not enough tankers in the County to supply water to them, so they have to have extra water on site.

Commissioner Lang asked normally on a hay, straw barn fire, what is the position of the Fire Department. Short Parker said they'd go on the defense, they'd let that one burn and protect everything else around it, because the only way to put out a stack of hay is to dip it in the ocean.

Short Parker said it doesn't make any difference to him how big the facility should be, because whatever is built in their district, they're going to try to protect.

Commissioner Heringer asked what they will do when they have a barn that's a mile long and 3/4 mile wide. Short Parker said that if it starts on one end then they go in and split where they feel they can get ahead of the fire and split the hay and save the rest of it.

Marshall Drack clarified that the Board did not reject the status quo, they accepted a substitute motion. The substitute motion was to have the Economic Development Council look at it, and then bring it before this Commission, and then bring it back to the Board. He said they saw the wisdom in a workshop approach to this question that was put before them. He said that County Counsel is not to be taken on in the person of Charles Mack, under Item 6 in the Staff Report, in a point by point controversy between this workshop. The County Counsel has suggested, based on historical data and approach, that if there is some kind of policy reason for a reasonable process, then there may be a permit exemption, so we have to have a policy reason and we have to have a reasonable process. He said we've heard a lot of information today, but we still have to find that policy reason, and we still have to establish the reasonable process, and that's the intent of his comment here, but he's not to be challenged because that's a couple of weeks old and we've had more information to date before us, and speaking on behalf of Mr. Charles Mack, not Mr. Basha who is here. In that reasonable process that we're alluding to, there's got to be some parameters, some guidelines, some checklists, and to the extent staff needs to continue to work on that, staff should not be precluded from inclusion in the Commission's thoughts today from taking all your comments, all of our concerns, and what we've heard from the public, and then moving it to the next level for review.

Commissioner Lang asked Marshall Drack if we can come back to our Planning Commission for one more workshop after talking with the Farm Bureau and the people today, with some of the issues that have been brought up.

Commissioner Heringer said there has to be some engineering background for these buildings, and if we don't do some kind of restriction here, they're going to have this happening. There won't be any engineering, somebody will go out and put a couple of poles in the ground and put a shed on it.

Marshall said that is truly the concern of the public safety issue on behalf of staff, there has to be a checks and balances.

Brett Hale said he has presented part of this to the Fire Chief's Association, and he wanted to clarify that their concerns were access to the facility, regarding responding, they wanted to know the buildings are there, the other issue was the setback issue, it needed to be covered somewhere, distance between buildings or the property lines. He said if we take it out of the Fire Chief's underlying D, then it's nowhere in here, because underlying C, it only talks about the zoning code, not minimum setbacks per the Fire Code or the Building Code, where we provide minimum distances to property lines or to adjacent buildings to limit the spread of fire. He stated that the other point is that on the minimum floor certificate, the way it reads in Sacramento County, just for clarification, is you're in a special hazard zone, then you have to show that you're at the minimum elevation.

Commissioner Lang said he'd like to have something come back to us.

Steven Basha, County Counsel, said his understanding, the reasons for deferring this to the Economic Development Council and to this Commission, were to get precisely what has happened today, your thoughts, and that John Bencomo and he have discussed this, and that a verbatim transcript to the Board would be the best way to transmit the comments.

Commissioner Lang said the only thinking today is trying to figure out what the farmers mean and what the County means. He said he doesn't object to certain things, they want to have a building on the ranch that is effective for their farming operation that doesn't bring unnecessary risks to their farming operation, but they pay insurance, so, as farmers, some of the issues that have been brought up, they could agree to as farmers. He said he does not think with the farming of today, with the corporate structure and the assets and liabilities they have today, they want to put anything out there that's not safe for children, etc. He stated they want a good structure that can handle their hay, can move in and out, and can make money for them. He said there's things they can agree on, and whether they come back to the Commission or go straight to the Board of Supervisors, there has to be some paperwork done so it's well representative.

Commissioner Stephens gave her notes as to what has been agreed on: That the flood zone restrictions are too restrictive, the height and the size limitations were unrealistic, and the question of the storage requirements.

Commissioner Woo said the buildings should be certified for the wind loading, etc., so the building doesn't have to be re-engineered.

Brett Hale said the building needs to be redesigned for where it's being built. He said that many pre-engineered structures are designed at a higher limit, they do all the time now. He stated that buildings come in all the time with all low strength bolting, that don't require a special

inspection, certain buildings at the peak of this 140 ft. frame, that's 45' in the air, is an enormous load, and they're required to be torqued out. When they hired a special inspector to inspect some of these buildings, routinely they found a lot of them loose that had to be re-torqued. When these main frames are raised 6' it's not just going in and tack welding, these are full penetration welds which means they're basically fusing the metal to be one unit again, it's a difficult weld to do, but we don't know, it was never checked, they're highly loaded frames. Brett Hale said that routinely what they see are the steel buildings that come in, they're pre-engineered and they are just turned over, they move right out, and they're built, but if the building does not match the plans, they're going to get a punch list from him.

The public hearing was closed.

Commission Action

Directed staff to summarize the comments expressed by the Commissioners during their deliberations on this matter (Unoccupied Agricultural Storage Buildings) and to forward those comments to the Board of Supervisors for further consideration of this matter.



6.6 Consideration/discussion of a report regarding Conservation and Agricultural Easements (J. Bencomo)

John Bencomo gave the staff report, which indicates that the Board of Supervisors has been interested for some time in conducting a policy formation discussion, and before doing so they are very interested in having comments presented by the Planning Commission. He stated that this a topic that the Planning Commission had discussed on October 7, 1998, and that various aspects of this have been discussed relating to the Williamson Act. He said the purpose of the memorandum before them is to introduce the item and to identify various issues for consideration although were not presented as being completely inclusive but just to identify a number of the related areas such as the Williamson Act as well as the habitat easements and other things that come in to play in looking at this who notion of ag. preservation and the use of agricultural easements as one of the primary tools in that effort. He stated that attached to the memorandum is a brief report which he terms as the ABC's of conservation easements, which also identifies some of the specific agencies that are more closely involved in the development and procurement of easements, such as the land trust and other non-profits, and presents a brief look at what other jurisdictions, particularly in this area, are doing in this effort, how they are utilizing conservation easements, and it provides case studies for areas such as Marin County and County of Ventura. It also includes a map of the existing easements known to us. He stated he'd like to present this before the Board, to suggest, as part of the staff recommendation, that they consider identifying two subsequent dates for workshops where we could break apart the issues and get into more depth in this area.

John Bencomo said he is working currently with Kathryn Kelly, from the Yolo Land Trust, and they are applying for a grant that will also provide some funding for that effort, and that includes two phases, conducting the two workshops and developing the policy framework for the County in terms of how we will utilize agricultural conservation easements in our ag. preservation efforts. The second part of that will be to provide the funding from this grant that would enable us to actually implement some agricultural easements as a follow up of that effort, and in that respect it's very exciting because it would take the policy discussion to a practical level in terms of the actual implementation.

Commissioner Lang asked how come the lighthouse marina easement along the river is not included in the map. John Bencomo said it will be included, it needs to be put on there, it's probably one of the most important easements that needs to be identified. Commissioner Lang said that easement could be a good case study.

John Bencomo said that although the report before the Commission speaks in very general terms about conservation easements, and that in his opinion there are two very distinct types which are: the agricultural conservation easements, which is one form and has its set of restrictions, and for the most part that allows the continued viability of farming, and habitat easements on the other hand are much more restrictive and they have a different means as well as a different goal in the purpose of those, and there are more factors to consider. He said the different forms of easements, in some situations, have overlapped. He stated that the primary effort in regards to the grant, as well as the effort of the County, is with regard to agricultural easements.

Commissioner Lang said he breaks the easements as follows: the ag easement that you farm the ground and it won't be developed, then you have the ag. habitat, where as a farmer you'd have to leave certain acreage out on a corner, ditch beds, etc., and the other one would be the habitat. He doesn't think you can say habitat without saying maintenance.

Commissioner Rodegerdts expressed to Commissioner Lang that the topic today is agricultural conservation easements, and he would like to see this dialog confined to that issue for the reasons he just stated, because if we just talk about the generic phrase in this County, conservation easements, immediately the loadstone becomes a habitat conservation easement, because we have the habitat conservation plan, the Natomas Threat, we have the Lighthouse, we are surrounded by failures or we are looking at something that will severely impact agriculture, in his opinion. He said that an agricultural conservation easement focuses on what he's talking about – preserving the viability of agricultural production to the exclusion of everything else – and this particular movement, which is national in scope, has not reached a focal point in this County because we have done such a good job of preserving our agricultural production enterprises. He said that every two years the State does a survey of the amount of land that is in under Williamson Act Contracts in the various counties, and in one of the surveys, about a decade ago, and he's not sure that it still holds true today, that fully 70% of the production ground in Yolo County was under Williamson Act Contract, which made it the highest percentage by far of any county in the State; and therefore, the very significant threat to production agriculture has not really visited itself in this County, and so the agricultural conservation easement has been somewhat more abundant in this County even though we have had a land trust whose primary goal is to shepherd and promote the development of agricultural conservation easements, it's been around for over a decade, but it has not been particularly active in this County, as shown on the map. He said that some of the other Central Valley Counties should have been concerned about this for a long time, because they have done a bad job of preserving their prime agricultural land, most of them don't even have land trusts, or don't even have organizations that are concerned about this issue. He said his major concern is to keep habitat conservation out of the discussion, they are separate and apart, and the cause will be damaged by mixing them.

Kathryn Kelly, Executive Director with the Yolo Land Trust, gave an overview on the movement as Commissioner Rodegerdts alluded to. She said the use of land trusts and conservation easements is common practice throughout the United States; in fact there are over 1,200 land trusts in the United States right now. There are 119 in California, and of that amount 14 of them do only ag. conservation.

She stated that the Yolo Land Trust is one of four ag. conservation easements organizations that are working in the Central Area of California. She described conservation easements as a common and simple tool that are used throughout the nation, and that nationally there are over 600,000 acres protected by agricultural conservation easements, in California over 100,000 acres are protected by agricultural conservation easements, and in Yolo County a little over 1,600 acres in agricultural easements. It's a common and simple, useful tool, so what we're talking about here today is not an innovative technique, or something new or different, it's just something that hasn't been used as often here in Yolo County, largely because of our legacy of the Williamson Act and the use of strong local planning practices to preserve and protect agricultural land. However, she said there still is a very desperate need to protect that agricultural land in Yolo County. She said this region has been identified as the most endangered for urbanization of agricultural lands, so we do have a challenge in front of us. She stated that in Yolo County we have a real interesting challenge because the very things that make this an agricultural power house: our soils, climate, water, infrastructure and transportation system, are the same things that grows people very well, and for those reasons we need to be diligent in using all the tools that we have, not just conservation easements, but every tool we have available to us to protect our agricultural industry. She said that between 1994 and 1996, the Department of Conservation, in their farmland mapping and monitoring program, analyzed counties throughout the state, and in their analysis of Yolo County in that two year period, we lost over 1,261 acres of agricultural land here in the County, about 1.7 acres a day that was either urbanized or put to another use. Of that total ag., we also lost about 1,900 acres of important farmlands, 2.6 acres of agricultural land a day. In prime lands, our very most precious resource, which is a non-renewable resource, we lost 1,254 acres of prime agricultural land between 1994 and 1996 (1.6 acres a day, every day for two years). She said we need to look at each of these tools we have available to us, the use of conservation easements, Williamson Act, Farmland Protection Zones, strong General Plans, Zoning Protection, Community Awareness, all of those tools need to be used daily to preserve and protect our agricultural industry. She said she'd like to be considered as a resource for today's workshop.

Kathryn Kelly said that the difference between conservation easement and a Williamson Act Contract is that a Williamson Act Contract can be non-renewed, you can roll out of it, you can rescind it, and in some cases you can do a cancellation, so it's not a permanent conservation tool, nor was it designed to be, it really was a tax relief tool, it's just functioned very well as a preservation tool in California. Conservation easements are hold in perpetuity, they're designed and expected to last forever. When we do a purchase of conservation easements, it's based on an appraisal value, so naturally the step that's right up on the urban edges has a higher value than things that are what we call the second tier properties, that are the next bounce over, like the stuff we have between 25 and 29. She said there is some discussion as to the value of first-tier properties vs. second-tier properties. She said when you have a first-tier property it's under development pressure now and will continue to be under development pressure, that also means that you have an effort and long-term responsibility of having to defend that, from the day you get it, which is why they ask for endowments to help maintain and be able to defend their easements. She stated that the second-tier properties, as development grows out to them is when the impessure increases, so they're not under threat instantly, and it also provides a line that the community is aware of, everyone knows there is a block of easements building between Woodland and Davis, there's that understanding, and development patterns take that into consideration.

Kathryn Kelly said that conservation easements not only provide an immediate solution for preserving that land, they work at in perpetuity, but one of the big challenges, and sort of the sleeping, unseen giant of ag. land preservation, is that the bulk of the agricultural land is held by people over the age of 55, the bulk of the ag. land is going to roll through an estate process in the next 30 years, so they need to do their estate planning and get those values down so they

can roll that property to their next generation or to a buyer that they are comfortable with, rather than having to, as part of that estate taxation, sell it to a developer, so it's a very strong tool for them.

Lillie Noble, with Teichert, said they're in the process, through the mining entitlements, that if we had conditions to do habitat conservation easements and ag. easements, and the industry in good faith has been going forward with these since they got the go in 1996. She stated that she has been working in good faith with the families involved and she was really pleased to hear that she did something correct, because Teichert separated their agricultural conservation easement from the habitat one – some of their other colleagues chose not to do so, but as you have this very important discussion in this County, please remember that there are some of us out there that over the course of X years have been working to bring resolution to secure agricultural conservation easements and working to an end goal to who is going to hold those easements, whether it be the Land Trust, the Cache Creek Conservancy, whether it be the County, whether that format at X point in the future changes, so encourages that, as we go through this workshop, to remember them sort of as in the middle and to provide them that flexibility that they may need to get through the process to add to your conservation easements, to build the colored blocks on the chart. She stated that what they have delivered, what the County has accepted, what Fish and Game has accepted is viable, proven habitat that has maintained itself, but each situation will have some uniqueness, and that's important within the parameters of however you all end up with this discussion and this policy. She said their ag., as it is structured right now, says agricultural open space conservation easement, it is prime soils, they are viable soils, and they will be delivering that hopefully this year. She said a conservation easement has an end holder, it runs with the land, maybe you can put it into the deed and that's a sufficient tool to tie down the intent, or it can go to Yolo County, or to the Conservancy, or to the Trust, or it could go to Fish and Game, or other entities that could receive these easements, whether they be agricultural or habitat. She said she applauds this effort, and that they deal with a resource that

often has emotional connotations, and they seek to protect that also, so they understand this dialog. She stated that they have begone a process, and what we are doing is slightly fluid and they would like to bring closure and good faith with what they thought the original mandate and charge of their EIRs and that dialog and how it was going to go.

Commissioner Rodegerdts said that Teichert is taking their direction from the County, they have a set of Agreements that are in place now, and he can't see that this policy discussion, or any policy that would come out of this discussion ultimately, would have any impact of that which is already in place, and he does not see the current plan, as it's being worked out amongst the gravel industry and the County, as far as these habitat easements and the agricultural conservation easements, as being particularly out of line with what he had said earlier. He said that his opening parameter was to set the discussion which is an agricultural easement discussion only, and not adding the dimension of the habitat overlay which is a divisive issue in this County, and he is concerned about making this easement concept attractive to the agrarians in the County who have not yet come to a resolution with the habitat conservation aspect of some of these things, and making it clear to them that they are two separate issues that can be separated. Ms. Noble said she agrees with that.

Mr. Fernandez, President of Yolo Land Trust, a local farmer in the Woodland area, a long time citizen of this area, as well as a past Planning Commissioner of the City of Woodland, spoke representing the Yolo Land Trust Board in saying that they support the Commission's and the County's efforts and they realize that in order for an idea like a conservation easement to work in this County as part of the tools of the whole package in land use planning, the Land Trust as well as the County, have to work together. He said that it's been his experience that this

County, the Board of Supervisors, and past Planning Commissions, have always supported the ideals of ag. land preservation, and he believes that will continue to be the case, and that this is just the next step in preservation of agricultural land. He said it's a viable tool and it does work, and they stand ready to assist in any way they can, to work towards a common tool of ag. land preservation.

Commissioner Stephens asked if the Cities and the County routinely consult with him as to where easements should go. Mr. Fernandez stated that their policy, which they're formulating, as well as we're formulating our policy on easements and where land preservation go, has to work hand in hand with the Cities and the County. They said they are not in a position to lead the way, they are not the Planning Agencies for the County, they have ideas of where they think they are appropriate, and have taken hints from City and County discussions, and they are focusing on these areas, but they prefer that the County and the individual entities lead in the direction and tell them where they feel they're appropriate, because they are not a land use planning agency, they're a non-profit easement holder. He said that obviously they will take advantage if a landowner approaches them, and is interested in putting a conservation easement on their property, but they have already come up against this where a particular piece of property would not lend itself to placing an easement on it because it was too close to urbanization or development, and they think long and hard as to where they place those easements so they don't end up defending those easements 5-10 years down the road because they're right in the path of obvious urban development.

Mr. Fernandez answered Commissioner Stephens by saying that right now they are in an education mode, educating landowners as to the policies of conservation easements in the sense of donations or out and out purchase of those easements. He stated that it's not an easy sell for a lot of landowners, there's a lot of skepticism, a lot of landowners are not real sure of what an easement is. He said that a list is beginning to form, and more interest is being shown, and as this outreach continues, he believes that more people will be convinced that this is something that they want to do with their property. He said that if the County came to them and said they have to mitigate for whatever, find us a potential project, they could do that – they do the same for the state and other organizations that they're seeking grants from, and they have the capability to go out and find projects.

In answer to Commissioner Gerber's question, Mr. Fernandez said that all the people on their Board are concerned with ag. preservation first and foremost, and the vast majority are farmers (7 or 8 out of the 13 on the Board). He said that teachers, landscape designers, engineers, real estate appraisers are also on the Board, so it covers a spectrum. He stated that the Commission is invited to their meetings, they're held the fourth Monday of each month, at 5pm at the Farm Bureau Office. He said he was pleased to be appointed to that group because it's a very passionate group when it comes to ag. land preservation, and their discussions are far ranging. He said the Board also has an attorney.

The public hearing was closed.

Commissioner Rodegerdts suggested that it might be important to point out in the summary to the Board of Supervisors that we have discussed this thoroughly as an agenda item several times over the last several years, so a message will be sent to the Board of Supervisors that the Commission is not particularly lacking concern, or that the constituency out there in the County is not concerned about this issue by reason of the lack of attendance and comment that might appear on the record as a result of the item today. John Bencomo said that he will draw from the previous Planning Commission Minutes also.

John Bencomo answered Commissioner Stephens questions regarding the map by saying that he wants to be careful that in staff's effort to preserve agriculture, he also wants to be concerned about preserving the County in terms of its future land use options; therefore he would refrain from identifying specific locations, where to put them, but rather where not to put them, but he's open to other suggestions.

Commissioner Rodegerdts said that before the map is published, there are some spots on the map that should be excised as points of potential growth for the County since it's very much outdated, and if we start broadcasting that, some well intentioned folks of good faith might get the wrong idea as to where they might decide to plan their subdivision, industrial development, agribusiness, or whatever. John Bencomo said that's very true, and that as part of that process there would have to be a revisiting of that map to update it and then reaffirm it, and that would be one of the tools he will use.

Commissioner Stephens asked if the County has done any revenue analysis of how this might affect the County long term. John Bencomo said that nothing in a formal sense has been done, and he said his concern was that if we get blanketed with these easements, the value of the property has diminished, because you now have an overlay, the potential has been reduced or restricted. He said that Alan Flory, the former County Assessor, said that he didn't think it would be a significant evaluation in terms of countywide. John Bencomo agrees that this would be an important part of this as well. He stated that although he hasn't had any applications, he has had a number of parties come in that were interested, and for whatever reason, maybe it just didn't suit their needs, have not returned. He thinks those individuals took a closer look at it.

Commission Action

Directed staff to summarize the comments expressed by the Commissioners during their deliberations on this topic of Agricultural Conservation Easements, and to forward those comments to the Board of Supervisors for further consideration of this matter.



7. ASSISTANT DIRECTOR'S REPORT

A report by the Assistant Director on the recent Board of Supervisor's meetings on items relevant to the Planning Commission. An update of the Planning and Public Works Department activity 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.

Assistant Director Bencomo brought the Commission up to date on the following:

- (2) Knights Landing General Plan Approval
- (3) Winery Ordinance Amendment
- (4) Agricultural Buildings Exemption
- (5) Adoption of the 1997 Edition of the State Uniform Building Code



8. 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. The Commission or an individual Commissioner can request that an item be placed on a future agenda for discussion.

- (1) Commissioner Rodegerdts said what a privilege and honor it's been to be a part of this group, that it's been a great joy, and having Mr. Basha oversee it all has been splendid. He expressed to John Bencomo, and to his staff, and to Carole Kjar for her fine work, that it's been a great experience and the County and the State are indeed fortunate in having him and his group shepherding the Planning Commission.
- (2) Commissioner Woo said she met with Tom Moran and John Taglio and they showed her their new plan and talked about the improvements.



9. ADJOURNMENT

The Regular Meeting of the Yolo County Planning Commission was adjourned at 3:30 p.m. The next Regular Meeting of the Yolo County Planning Commission will be held on Thursday, May 13, 1999, at 8:30 a.m., in the Planning Commission Chamber.

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 that 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,

John Bencomo, Assistant Director
Yolo County Planning and Public Works Department

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