

MINUTES

YOLO COUNTY PLANNING COMMISSION

May 13, 1999

1. CALL TO ORDER

Chairman Lang called the meeting to order at 8:35 a.m.

MEMBERS PRESENT: Walker, Woo, Stephens, Heringer, Lang, and Gerber

MEMBERS ABSENT: None

STAFF PRESENT: John Bencomo, Assistant Director
Dave Daly, Senior Planner
Mark Hamblin, Associate Planner
Lance Lowe, Assistant Planner
David Morrison, Resource Manager
Steven Basha, County Counsel
Carole Kjar, Secretary to the Director



2. ADOPTION OF THE MINUTES FOR THE PREVIOUS MEETINGS

Commission Action

The Minutes of the April 7, 1999 meeting were approved with no corrections. Commissioner Walker expressed appreciation to Carole Kjar for preparing the voluminous Minutes with accuracy.

MOTION: Heringer SECOND: Walker
AYES: Walker, Woo, Stephens, Heringer, Lang, 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 receipt of all correspondence sent with the packet and items 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 **99-022** - A request for a Conditional Use Permit to convert a garage to a second dwelling unit. Subject parcel is located at 27278 Willowbank Road near Davis in the Residential Suburban (RS) zone. This project has been deemed Categorically Exempt. APN: 069-150-47. Owner/Applicant: Fred & Kristy Bagood (L. E. Lowe)

Commission Action

- (1) **CERTIFIED** the Categorical Exemption, Class 3, as the appropriate level of environmental review prepared for the project, in accordance with the California Environmental Quality Act (CEQA) Guideline (**Exhibit "5"**);
- (2) **ADOPTED** the "Findings of Approval" for this project as presented in the staff report;
- (3) **APPROVED** the Conditional Use Permit in accordance with the "Conditions of Approval" as presented in the staff report.

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

CONDITIONS OF APPROVAL

Planning and Public Works Department

1. The Conditional Use Permit shall commence within one (1) year from the date of the Planning Commission approval, or shall be deemed null and void.
2. If, after approval of the Conditional Use Permit, any changes are proposed to the project by the applicant, they shall be reviewed and approved by the Zoning Administrator, who may defer to the Planning Commission if he/she interprets the changes to be more than minor.
3. Prior to construction of the project the applicant shall contact the Yolo County Planning and Public Works Department, Environmental Health Department, and Pacific gas & Electric Company for necessary Encroachment/Building/Health Permits.
4. An additional on-site parking place shall be provided for the second unit. Said parking place shall be shown on the plot plan to be included in the building permit submittal.
5. The unit shall not be sold separately and may be rented.

Building Division:

6. A fire suppression system shall be installed in the unit due to the change of occupancy from a U-1 (garage) to a R-3 (residential single-family dwelling) as required by County Ordinance.
7. The second unit shall meet the requirements for an efficiency dwelling unit as required by the Uniform Building Code.

County Counsel

8. (a) In accordance with Yolo County Code Section 8-2.2415, the applicants, owners, their successor's or assignees 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.
- (b) 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 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 the 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.

FINDINGS FOR APPROVAL

(Evidence to support the required findings is shown in italics)

Conditional Use Permit

In granting a use permit, The Planning Commission, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the structures and uses are located, and the General Plan, shall find the following general conditions to be fulfilled:

(a) The requested use is listed as a Conditional Use in the Zone regulations under Conditional uses in the Residential Suburban (RS) Zone;

The subject property is located within a Residential Suburban (RS) zone. Second units are not listed as permitted, conditional or accessory uses pursuant to the zone regulations or elsewhere in the chapter. However, Section 65852.2 of State Planning Law authorizes a county to issue a conditional use permit for the construction of second units in single family residential zones provided the criteria in Section 65852.2 subsection (A) through (I) has been met: The application as conditioned, complies with all of the following provisions of State Planning and Zoning Law.

(b) The requested use is essential or desirable to the public comfort and convenience;

The conversion of the garage into a second unit allows the applicant to expand the existing residence for affordable housing. Providing affordable housing at the local level has been a priority of the State due to the increasing demand of housing and the relative shortage of supply. As such, the state has implemented planning policies to require local governments to provide second units in residential zones. According to the State of California, "The legislation finds and declares that second unit are a valuable form of housing in California. Second units provide housing for family members, students, the elderly, in home health care providers, the disabled, and others, at below market prices within existing neighborhoods". Due to the increasing need for housing for special population groups the requested use is essential and desirable to the public comfort and convenience.

(c) The request will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare;

The project's compliance with the requirements of applicable responsible agencies (Planning, Environmental Health, Fire, and Building regulations) will avoid detrimental impacts to the public health, safety, or general welfare of the property or area.

(d) The request will be in conformity with the Yolo County General Plan;

Pursuant to the Government Code Section 65030.1 all General Plans are guided by a framework of officially approved statewide goals. Affordable housing has been included as part of those statewide goals. Hence, the proposal is consistent with the Davis General Plan and Yolo County General Plan policies regarding housing for a special population groups.

(e) Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities will be provided;

Utilities will be provided by Pacific Gas and Electric Company. Access to the property will be provided by Willowbank road via an existing driveway. Adequate safety/sanitation standards will be provided by the Yolo County Building Division and Environmental Health Departments.

State of California Planning and Zoning Law

Notwithstanding section 65901, every local agency shall grant a special use or a conditional use permit for the creation of a second unit if the second unit complies with all of the following:

- (a) The unit is not intended for sale and may be rented;

This provision has been included as part of the Conditions of Approval and has been acknowledged by the applicant.

- (b) The lot is zoned for single-family or multifamily use;

The Yolo County Zoning Ordinance has designated the property as Residential Suburban (RS) Zone which allows one single family dwelling per lot.

- (c) The lot contains an existing single-family dwelling;

An existing single family dwelling is located on the property and is owned by the applicants, Fred and Kristy Bagood.

- (d) The second unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling;

The proposed unit is detached from the main single family dwelling unit on the property.

- (e) The increased floor are of an attached second unit shall not exceed 30 percent of the existing living area.

As discussed, the proposed second unit will be converted from the existing detached 3 car garage located on the property. The existing single-family dwelling is 2,000 square feet. The 700 square foot second unit will encompass 35 percent of the existing structure. However, the 30 percent provision is for attached second units. Therefore, this finding is inapplicable to the project.

- (f) The total area of floor space for a detached second unit shall not exceed 1,200 square feet; *As noted, the total floor area will be 700 square feet which will comply with the size requirements.*

- (g) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located;

As part of the building permit process, the project will comply with all of the aforementioned items.

- (h) Local building code requirements which apply to detached dwellings, as appropriate;

The change in occupancy will be done in accordance with the Uniform Building Code and Yolo County Zoning Ordinance.

- (l) Approval by the local health officer where a private sewage disposal system in being used.

The project has been sent to Environmental Health Department with no concerns noted. Approval by the Environmental Health Department for the unit is required prior to Building permit issuance.

California Environmental Quality Act & Guidelines (CEQA)

In certifying the proposed Categorical Exemption as the appropriate level of environmental review for this project, the Yolo County Planning Commission finds:

The project is Categorically Exempt under the California Environmental Quality Act and Guidelines (CEQA) Class 3, Section 15303 (a)

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel or to be associated with a project within a two-year period.

(a) Single-family residences not in conjunction with the building of two or more such units. In urbanized areas, up to three (3) single-family residences may be constructed or converted under this exception.



5.2 **99-031** - A request for a 3-year extension of time to file a Tentative Subdivision Map for the Wildwing Country Club Subdivision. Subject property is located on the north side of State Highway 16, 5 miles west of Woodland in the Residential/PD-45 zone. An EIR was previously certified for this project. APN: 025-440-17,43 and 025-190-61. Applicant/Owner: Milton Watts (M. Hamblin)

Commission Action

(1) **DIRECTED** staff to continue this item at the June 1999 Planning Commission Meeting.

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



6. REGULAR AGENDA

6.1 **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 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, stating that this is the third time this item has come before the Planning Commission. He said that at the April 7 meeting it was referred back to the Esparto Citizens Advisory Committee for further consideration of the timing and costs of infrastructural improvements, and that pursuant to the Commission's directions, the applicant sent a letter to the Esparto Community Services District, who in turn sent a letter in reply, and both those letters and a staff summary are provided in a memo for today's Planning Commission Meeting. He also explained the Minutes for the Esparto Citizens Advisory Committee Meeting of May 4, 1999, which he distributed to the Planning Commission, stating that, at that time, the Committee was fully in support of the letters as drafted. He said the Planning Commission has also received previous staff reports from March 3 and April 7. March 3 contained the actions that staff continues to recommend, and April 7 contains some recommendations for modifications of some of the conditions. He stated that staff is in support of the letters from the applicant and the Esparto Community Services District regarding infrastructural improvements.

Commissioner Stephens said in Item 50 of the Conditions of Approval it still says the cost of developing the basin as a recreational open space may be offset against the parkland in lieu fees. David Morrison answered that she is correct, that should have been excluded, and that should the Commission choose to approve this item today, staff would support that change in the Condition.

Commissioner Heringer asked how many units are called for in the Long Range Plan, for Esparto to grow. David Morrison said he believe it calls for approximately 500, and that the two subdivisions together (Country West II and Parker Place) would be 130.

Commissioner Heringer asked if the \$850,000 in infrastructure fees covers all 500 units. David Morrison answered that there wouldn't be legal justification to require these developers to pay for future developments, however, it is adequate to cover the cost of providing the services for the 130 units being proposed.

Commissioner Heringer asked if the District anticipates having room to expand the water and sewer to accommodate the 500. David Morrison stated that the sewer ponds that are currently being developed are being predicated on the ultimate buildout envisioned in the Esparto General Plan.

Commissioner Gerber asked if there is any further information, after this, regarding any communication with Country West II. David Morrison answered that Country West II has been involved in the discussions throughout the drafting of these two letters. He said that both subdivisions are necessary for this to go forward, and, as a result, all three have been closely working together to determine the extent and timing of the improvements, and the costs that would be needed, and that Country West II concurs with the costs raised in these letters.

Commissioner Stephens asked for clarification regarding the comment stating that they have not agreed in writing. David Morrison said that they will be required to complete an Agreement with the Community Services District probably later this summer, at the same time as the Parker Place Subdivision, and they won't get a final map until this agreement in writing takes place. Commissioner Stephens asked if Country West does not agree in writing, what happens with the C&J development.

John Bencomo stated that the leverage is with the Service District, and that if, for example, something would occur that Country West would not agree to these terms, and C&J wanted to continue to move forward, then C&J would have to renegotiate with the District to ensure that there's an adequate system available for the single development. He said that, as David noted, the final maps are all contingent on those agreements.

Commissioner Walker asked how much prepayment of funding is due, if it will be the full \$6,400 per unit? David Morrison said no. Commissioner Walker also asked if the funding will be appropriate to the building that they're going to do for the District, and whether it is adequate. David Morrison said yes.

The public hearing was opened.

Tom Moran, of C&J Properties, expressed that he thinks that staff has adequately addressed the issues raised at the last Planning Commission Meeting. He reiterated that they (C&J and Country West) have spent considerable time with the Services District in the preparation of the letter and time outline and going over the numbers, so there is consensus and agreement. He stated that, with respect to the issue of prepayment of funds, this is an issue that will be negotiated and executed pursuant to the improvement agreement that C&J and Country West would execute with the Services District sometime this summer as they get further along the improvement plan track.

Steven Basha, County Counsel, cleared up a point raised by Commissioner Stephens on Condition 50, which has to do with the offsets against parkland in lieu fees for the drainage basin. He said he recalls that Mr. Moran offered not to give credits for that. Tom Moran said that is correct, that he offered at the first meeting that they would install the turf and the irrigation in the basin and would not claim those costs as part of the credit. Steven Basha asked if he agrees with stating that the landscaping costs and irrigation costs of the basin may not be offset. Mr. Moran said that is acceptable.

Commissioner Stephens said that at the last meeting a definitive decision was made that detention basins would not be considered as recreation areas, and she would like that included in addition to that language regarding the offset fees, so there's no question about the fact that this is not a recreation facility.

John Bencomo clarified that where we deal with the costs, we're not going to be associating this with recreational amenities or uses, and that if per chance they do provide that mutual use, then that's fine. He said he thinks that what Commissioner Stephens is concerned about is to identify them as recreational uses, because long term we hope to get a community park, and that this in no way will detract from that. Commissioner Stephens agreed. Steven Basha suggested also revising the last sentence to take out the words "developing the recreational open space" so that it reads "A landscaping plan and cost estimates for the landscaping and irrigation for the detention basin shall be submitted to and approved by the Yolo County Planning and Public Works Director prior to approval of the final subdivision map", then we don't have any mention in that Condition at all of recreational open space. Commissioner Stephens and Mr. Moran said they agree with this wording. Mr. Moran said he also does not have a problem with the language in all of the other Conditions of Approval.

Ron Voss, Esparto resident and Chair of the Esparto Citizens Advisory Committee, thanked the Commission for their diligence and time, effort and patience in discussing the development of Esparto, and this particular proposal specifically. He also again thanked C&J Properties for their cooperation in discussing with them, and the County Staff as well. He said he thinks the necessary progress has been made in dealing with the issues that have been presented, and it is his sense that the Citizens Advisory Committee is satisfied. He said he appreciates Commissioner Stephens' getting clarification on the issue of the detention ponds. He said he hopes Country West II will come on board soon with the same commitment with the Service District. He stated that he, as an individual, now supports the proposal as made by C&J.

Tammy Fullerton, a member of the Esparto Citizens Advisory Committee, said she's here to answer questions. She also expressed that their big concern was about the infrastructure being in place before development started. They got to see some ball park figures about what the infrastructure will cost, and that they were pleased with what was presented, which was much comprehensive than what was previously seen. She stated that they were in agreement about the open fences along the detention pond area for the backs of the homes, and that they also agreed with the addition of the way the direction of the homes were placed in the cul-de-sac area that were in the southeast corner of the subdivision. She said that the majority of the meeting was about the overall problem of the flood and drainage issues for the Community of Esparto, and where the County was at with the study for the flood prevention recommendations. She said that they're hoping, through the study, that they'll come up with a recommendation to soon alleviate the problem as far as Lamb Valley Slough and the direction that the drainage goes and floods the areas of town. She stated that the community is in agreement, they would like to see C&J and Country West move forward, once the infrastructure is in place. They also want to see house elevations, samples, landscape plans, etc. to see what is going into the subdivision when the plan is finalized.

Commissioner Woo asked Tammy Fullerton if they got to look at the Conditions of Approval and that those were part of the discussion, and if they were happy with them. Ms. Fullerton answered yes. Commissioner Woo also asked if crushed granite for the bike path and pedestrian area is what the Advisory Committee recommends. She said that is what the community seemed to prefer, more of a rural look.

Commissioner Walker asked who is responsible to maintain this crushed granite path. Tommy Fullerton said she understands that there will be a special assessment district set up to maintain those landscape and bike path areas, and that the developer was going to come up with some kind of plan to set up this assessment or work with the proper entities to make this happen.

David Morrison clarified further that there would be a landscaping and lighting district that's required to be established. This is provided for in the Conditions of Approval. In Condition 12 there would be a property tax assessment against all lots within the landscaping and lighting district that would go for maintenance of common areas including the bicycle pedestrian path.

Commissioner Walker said that his interpretation of all the deliberations that have taken place is that most of the citizens in Esparto appear to be happy with the results of what has occurred in the last couple of years working on this effort. He asked Tommy Fullerton if she thinks that is correct. She answered yes. Commissioner Walker expressed that the people of Esparto can really be commended for their persistence in helping to develop the kind of Community they feel they want.

Tammy Fullerton thanked the Commission for supporting them and considering them a viable entity in the County and they appreciate that their comments are not falling on deaf ears.

Tom Moran commented on the issue of decomposed granite vs. asphalt. He said that he thinks it is the desire of the Advisory Committee to go with decomposed granite and certainly they are prepared to accommodate that recommendation. He also thanked Ron Voss and Tammy Fullerton for their positive contributions today. He said it has been a long process, but he thinks, in retrospect, everybody has been a beneficiary of that. He thanked them for giving them some good solid direction and they look forward to providing the Community of Esparto with a very positive contribution consistent with their General Plan desires.

The public hearing was closed.

John Bencomo stated, that given that this has been such a long series of meetings, he wanted to remind the Commission that the action today is, in effect, a recommendation to the Board, and that this item has to go before the Board for a final action, particularly on the zoning matter.

David Morrison summarized the following, which are what he believes are some of the concerns that the Commission has expressed and how they would affect the Conditions of Approval.

- Modify Condition 9 to require the Ag. Commissioner to approve any agricultural trees that are included in landscaping plan, as was spelled out in the April 7 Memo.
- Modify Condition 16 to read: The costs of developing the bicycle/pedestrian path on Parcels A, D and E may be offset against required....., which would exclude the detention basin from those fee considerations.
- Amend Condition 22 to include a sentence stating to the effect that open fencing should be installed along the rear property lines of Parcels 34 through 38, as was discussed by the applicant and at the last meeting.
- Change the bicycle path in Condition 24 from asphalt to decomposed granite.
- Add in Condition 24.5 to require additional design options to emphasize the porches and courtyards and landscaping rather than the garages.
- In Condition 47, staff recommends going back to the original wording which read: The detention basin shall be appropriately designed to ensure that the maximum depth of water expected does not exceed three feet in order to minimum the potential for accidental drowning.
- Change Condition 50, as recommended by Steven Basha earlier, regarding the development of the detention basin irrigation and landscaping (in lieu park fees), and the concerns expressed by Commissioner Stephens regarding the recreational use.
- Staff recommends all other conditions at this point as written.

Steven Basha asked Mr. Moran if this is his understanding of those changes. Mr. Moran answered that this is his understanding and those are acceptable. Mr. Moran asked for clarification regarding the fencing issue at the basin trail. David Morrison clarified that there will be perimeter fencing along the highway, but there will not be fencing between the basin and the trail. Mr. Moran agreed with this clarification.

Commissioner Woo stated that the detention pond, as it sits now, would be a maximum of 3.2 feet, and the original wording on the detention pond was that it would be no more than 3 feet. She thinks it should back to the original wording, but that it should be amended to 3.2 feet. David Morrison said if that is the Commission's desire, staff will support that and make that recommendation to the Board.

Commissioner Gerber asked David Morrison for his feeling on the estimated costs of the infrastructure improvements, both the sewage and water system. David Morrison said they're satisfied with the information that has been presented by the Community Services District, that they think it will be appropriate.

The public hearing was reopened.

Stan Rooney, Chairman of the Esparto Community Services District, said that all these prices are figured on C&J and Country West's share only for those amount of houses. He said that what happens here is that they've bought sewer land property for the ultimate buildout and beyond. He stated that the developers will pay their share of that 750,000 gallon tank. The District has deficiencies right now on fire flow and pressure, and the only way they can get pressure is to have these new tanks. He said they have agreed with the developers that if one of them backs out, it's no good, and they will not vary from their plan, they can't afford to.

Commissioner Woo clarified that the pressure pumping station is not going to cost \$60,000, it's going to cost more than that, but the \$60,000 is the ratio of the 130 units to the 500. She asked that since the developers are only going to be providing the funding for their 130 unit portion, where's the rest of this funding coming from? She asked if the rest of the citizens are coming up with this. Mr. Rooney said that's right. Commissioner Woo asked Mr. Rooney if they're comfortable with the figures so they can manage the buildout. He said yes, very much.

Commissioner Walker asked if the tanks are constructed of steel or concrete. Mr. Rooney answered, steel. Commissioner Walker asked what procedure they are going to use to minimize corrosion. Mr. Rooney said there's a life expectancy of about 40 years, and that if there's a problem they can cut the floor out and re-weld it back in.

The public hearing was re-closed.

Commission Action

Recommend that the Board of Supervisors:

- (1) **CERTIFY** that the proposed Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act and Guidelines (CEQA);
- (2) **ADOPT** the proposed Mitigation Monitoring Plan, implementing and monitoring all mitigation measures as modified and adopted, in accordance with CEQA;
- (3) **APPROVE** the Preliminary Subdivision Map for 72 Units, subject to the attached conditions of approval as modified and adopted; and
- (4) **ADOPT** Ordinance No. _____ rezoning the 22-acre subject site from the R-1-PD (Single Family Residential - Planned Development) Zone to the R-1-PD-49 (Single Family Residential - Planned Development Number 49) Zone.

MOTION: Stephens SECOND: Walker
AYES: Walker, Woo, Stephens, Heringer, Lang, 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.

CONDITIONS OF APPROVAL

The following conditions of approval include all mitigation measures contained within the

Mitigated Negative Declaration. Modification to mitigation measures can only occur if: 1) the effectiveness of the measure in reducing the applicable environmental impact is not affected; or, 2) subsequent environmental analysis is performed to examine the new proposed measure and associated environmental impact.

MISCELLANEOUS CONDITIONS

1. 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's 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 is required to promptly notify the operator of any claim, action, or proceeding, and must 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 operators shall not thereafter be responsible to defend, indemnify, or hold the County harmless as to that action. The County may

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

2. The applicant shall be responsible for all costs associated with implementing these conditions of approval.
3. The applicant shall comply with both the spirit and the intent of all applicable requirements of the County Code and all conditions of approval. The Final Subdivision Map shall be consistent with the spirit and intent of the Esparto General Plan.
4. The project to which these conditions are applicable is as described in the Yolo County Planning Commission Staff Report dated March 3, 1999, as modified by the Board of Supervisors. Any subsequent substantive changes in the project (as determined by Yolo County) may only occur subject to appropriate County review and approval.
5. The applicant shall provide seven (7) residential dwellings for rent or sale at a price such that the monthly housing cost is affordable to households at or below 50 percent of the County median income as established by the Housing and Urban Development Department (HUD). Down payments in excess of five percent (5%) shall not be required to purchase any attached residential dwelling. A permanent deed restriction shall be recorded for each of the seven residential dwellings limiting the occupancy of the dwelling to a household at or below the County median income and limiting the price of each residential dwelling so that the monthly rent or mortgage payment is no more than thirty to fifty percent (30% to 50%) of the County median income. The deed restriction shall also allow for monitoring of this condition by the County or its designee.
6. Each residential dwelling shall display address numbers in accordance with Section 8.1706 of the County Code prior to the issuance of final occupancy permits.
7. Street lights shall be installed in coordination with Pacific Gas and Electric (PG&E) and in accordance with the Yolo County Sheriff's Department minimum requirements. Street light locations and specifications shall be submitted to the Planning and Public Works Department with the Final Subdivision Map.

8. The Final Subdivision Map shall include a 'Right-to-Farm Easement' covering all residential lots. The Right-to-Farm Easement shall be approved to form by the County Counsel and shall be recorded in a manner to the satisfaction of the Planning and Public Works Director.
9. A landscaping plan shall be approved by the Planning and Public Works Director prior to the approval of the Final Subdivision Map. The landscaping plan shall provide for a minimum of one (1) fifteen (15) gallon tree in the front yard of each residential dwelling. Landscaping and appropriate irrigation systems for the front yard of residential lots (including the area between the sidewalk and the curb) shall be installed prior to the issuance of occupancy permits. The landscaping plan shall also include details regarding the commonly owned areas, including the storm detention basin on Parcel E and the pedestrian/bicycle path located on Parcels A and D. Landscaping and appropriate irrigation systems in Parcels A, D, and E shall be installed within one (1) year of Final Subdivision Map approval. The landscaping plan shall emphasize the use of low-maintenance, drought-tolerant species and shall conform with the County landscaping standards. The landscaping plan for Parcels A, D, and E shall also include agricultural trees appropriate to the Esparto area. The choice of agricultural trees shall be reviewed and approved by the County Agricultural Commissioner prior to approval of the Final Subdivision Map. Landscaping at street intersections shall be limited to low-height species to provide visual safety.
10. Natural gas, electricity, cable TV, and telephone services shall be installed in a common utility trench, as specified by the Planning and Public Works Director, in cooperation with affected service providers. A twelve and one-half foot (12.5') wide Public Utility Easement shall be granted back of the right-of-way for all streets within the subdivision.
11. The applicant shall receive approval from the Local Agency Formation Commission (LAFCO) for annexation of the subject property into the Esparto Community Service District (ECSA) prior to recordation of the Final Subdivision Map.
12. The applicant shall receive approval from the LAFCO for the establishment of a Landscape and Lighting District for the subject property prior to recordation of the Final Subdivision Map. The Landscape and Lighting District shall be responsible for the following: (a) maintenance of the drainage facilities on Parcel E; (b) maintenance of the pedestrian/bicycle path located on Parcels A and D; (c) maintenance of all street lights located within the subdivision; (d) maintenance of the common landscaped areas on Parcels A and D; and (e) maintenance of the landscaping for the detention basin on Parcel E. Fee title dedication of Parcels A, D, and E shall be provided to the County as a part of the Final Subdivision Map.
13. The Final Subdivision Map and construction plans shall comply with the Planned Development Ordinance No. ___ as adopted by the Yolo County Board of Supervisors.
14. Site plans for all attached residential dwellings shall be approved by the Planning and Public Works Department prior to the issuance of Building Permits.
15. If any cultural resources, such as chipped or ground stone, historic debris, building foundations, or paleontological materials are encountered during excavation, then all work within seventy-five feet (75') shall immediately stop and the Planning and Public Works Director shall be immediately notified. Any cultural resources found on the site

shall be recorded by a qualified archaeologist and the information shall be submitted to the Planning and Public Works Department. If human skeletal remains are encountered during construction, all work within seventy-five feet (75') shall immediately stop and the County Coroner shall be notified within twenty-four (24) hours. If the remains are of Native American origin, the appropriate Native American community as identified by the Native American Heritage Commission shall be contacted and an agreement for relocating the remains and associated grave goods shall be developed.

16. The applicant shall pay all appropriate fees prior to the issuance of Building Permits, including but not limited to Esparto School District fees, Esparto Fire Protection District fees, County Facility fees, and Esparto Community Service District fees. In addition, the applicant shall pay a park development impact fee of \$2,150 per residential dwelling, as described in the Esparto General Plan. The costs of developing the pedestrian/bicycle path on Parcels A, D, and E may be offset against required park development impact fees. Cost estimates for developing the recreational open space shall be submitted to and approved by the Yolo County Planning and Public Works Director prior to approval of the Final Subdivision Map.
17. The Final Subdivision Map shall be prepared and recorded within two (2) years of approval of the preliminary subdivision map, unless an extension of time is approved by the Planning Commission.
18. The Final Subdivision Map shall be submitted for review by the Planning and Public Works Department, prior to approval, and shall be accompanied by all necessary information (including a bond or other guarantee for the cost of public improvements), in accordance with Sections 8-1.903 and 8-1.1002 of the County Code.
19. Grading, excavation, and trenching activities shall be completed prior to November 1 of each year to prevent erosion. A drought-tolerant, weed-free mix of native and non-native grasses or alternate erosion control measure approved by the Planning and Public Works Director shall be established on all disturbed soils prior to November 1 of each year. Engineered grading plans shall be submitted to the Planning and Public Works Department with the Final Subdivision Map.
20. Construction activities shall be limited from 6:00 am to 6:00 pm, Monday through Friday.
21. During construction, all disturbed soils and unpaved roads shall be adequately watered to keep soil moist to provide dust control.
22. All interior and exterior fencing shall be installed by the applicant prior to the issuance of final occupancy permits. Exterior wooden fences located along the north, west, and east boundaries of the subdivision shall not be located within Parcels A, D, or E. The maintenance of the exterior wooden fences shall be the responsibility of individual residential landowners adjoining Parcels A, D, and E. Open fencing shall be installed along the rear property lines of Lots 34 - 38 to provide greater visual access to the detention basin.
23. Landscaped areas within the right-of-way along sidewalks shall vary in elevation, including small berms and swales.
24. All sidewalks shall be constructed of concrete and shall meander, with the maximum possible area allowed for landscaping between the sidewalk and curb. The

pedestrian/bicycle path on Parcels A, D, and E shall be constructed of decomposed granite and shall also meander. Where the pedestrian/bicycle path is near the curb along State Highway 16 and/or Bruno Court, a minimum of one foot (1') of landscaping shall be installed between the curb and path.

25. The applicant shall submit with the Final Subdivision Map additional residential design options to improve neighborhood aesthetics including, but not limited to:

prominent porches, courtyards, and/or landscaping for approval by the Planning and Public Works Director.
26. The applicant shall submit a copy of the recorded agricultural buffer easement covering the eastern fifty feet (50') of the Orciuli property (APN: 049-150-40), immediately adjoining the project site, with the Final Subdivision Map. The easement shall be in a form acceptable to County Counsel.

YOLO COUNTY BUILDING DIVISION

27. All building plans shall be submitted to the Planning and Public Works Department for review and approval in accordance with County Building Standards prior to the commencement of any construction.
28. In accordance with Section 8-1.1501 of the County Code, no Building Permits shall be issued for the subdivision until the following have occurred: (1) street dedications have been completed; (2) road improvements have been assured to the satisfaction of the Planning and Public Works Director; and (3) drainage fees, if any, have been paid.
29. Fire hydrants and fire flow requirements shall be provided in conformance with the Uniform Fire Code and shall be approved the Esparto Fire Protection District chief prior to the issuance of Building Permits.
30. Each residential dwelling shall be provided with a fire sprinkler system. Public water line connections for each residential dwelling shall be sized to accommodate residential fire sprinkler systems, with a minimum pipe diameter of either one-and-a-quarter inches (1.25") or one-and-a-half inches (1.5"), as needed. All residential dwellings shall be provided with a Class A fire rated roof.
31. Complete plans detailing site drainage and the detention pond shall be approved by the Planning and Public Works Director prior to the approval of the Final Subdivision Map. The plans shall specify minimum building pad elevations and minimum finish slab floor elevations. At a minimum, the finish slabs shall be no less than twelve inches (12") and two percent (2%) above the top of the back of the sidewalk or curb, where applicable.
32. In accordance with Section 8-1.709 of the County Code, a preliminary soil report for the project site shall be prepared by a registered civil engineer and accepted by the County Building Official prior to the approval of the Final Subdivision Map. The soil report may be waived by the Chief Building Official, where sufficient existing information is available. If indicated by the soil report, a soil investigation for each lot shall be prepared by a registered civil engineer and accepted by the Chief Building Official prior to the approval of the Final Subdivision Map.

YOLO COUNTY PUBLIC WORKS

33. Stormwater drainage and control features shall be designed so that the incremental stormwater flows from the one-hundred (100) year, twenty-four (24) hour event are detained within the subdivision. The incremental flow is the difference between pre-development and post-development stormwater design flows. An engineered drainage plan shall be submitted to the Planning and Public Works Department with the Final Subdivision Map. The project shall maintain existing highway drainage patterns.
34. All internal roads shown on the Final Subdivision Map shall be dedicated to Yolo County, in accordance with Article 9 of Title 8 of the County Code.
35. All improvements shall be constructed to Yolo County Standards.
36. Lots shall be graded to drain to the street. A complete hydrology/hydraulic report shall be prepared by a registered civil engineer and approved by the Planning and Public Works Director prior to the approval of the Final Subdivision Map. The report shall specify the starting water surface where connection to the existing drainage swale is proposed. The report shall include specific verification that the existing drainage swale to which stormwater from this subdivision will be added has the capacity to contain the additional stormwater flows from the subdivision during a one-hundred (100) year, twenty-four (24) hour storm event, without adversely affecting other properties served by the existing drainage swale. If the hydrology report concludes that the existing drainage swale does not have sufficient capacity to accommodate the additional stormwater generated by the subdivision, then the applicant shall implement appropriate measures to ensure that stormwater drainage can be adequately accommodated. Such measures shall be constructed to County standards as determined by the Planning and Public Works Director and may include, but are not limited to: acquisition of an off-site easement along the existing drainage swale and capacity improvements; and/or drainage into the existing Esparto stormwater drainage system.
37. Surface drainage shall be designed to accommodate a ten (10) year, one (1) hour storm event. All drainage conveyances shall be designed to provide positive drainage. Surface drainage shall be designed to prevent flooding on surrounding properties and County rights-of-way.
38. A twenty foot (20') wide surface drainage easement and fifty foot (50') wide County right-of-way shall be dedicated to the County on the southeastern portion of Lot 10 and the northwestern portion of Lot 9 in the Final Subdivision Map. The drainage easement may overlap or be contained within the County right-of-way. A twenty foot (20') wide surface drainage easement shall also be dedicated centered on the boundary line between Lots 30 and 31, extending between Omega Street and Parcel E.
39. A catchment basin shall be constructed between Lots 9/10 and the street, where surface water drains from the adjoining agricultural fields and discharges to Parker and Bruno Streets. The catchment basin shall prevent silt from depositing on the streets and/or being transported into the underground stormwater drainage system. Engineered designs for the catchment basin shall be submitted to the Planning and Public Works Department with the Final Subdivision Map.
40. A cyclone fence six feet (6') in height shall be constructed along the eastern boundary of Parcel E, from the southern property line to the northeast corner of Parcel D. Fencing

construction details shall be approved by the Planning and Public

Works Director prior to construction. The fencing shall be installed by the applicant prior to the issuance of final occupancy permits.

41. Road improvements shall be to collector street standards with a curb-to-curb pavement distance of forty feet (40') and a fifty foot (50') right-of-way. Curbs shall be vertical for all lots within the subdivision. Street sign locations and striping plans shall be submitted to the Planning and Public Works Department with the Final Subdivision Map.
42. Encroachment permits shall be obtained from the Planning and Public Works Department prior to any work within the County right-of-way.
43. Where sidewalks transition to the curb, a standard sidewalk ramp shall be constructed in accordance with Yolo County Standards.

CALTRANS

44. Parcels B, C, and F shall be dedicated to the California Department of Transportation as a part of the Final Subdivision Map.
45. An Encroachment Permit shall be obtained from Caltrans for access to State Highway 16 prior to the construction of Parker Street. Access from Parker Street to State Highway 16 shall be built to Public Road Approach standards in compliance with the Caltrans Highway Design Manual.
46. A complete hydrology/hydraulic report shall be prepared by a registered civil engineer and approved by Caltrans prior to the approval of the Final Subdivision Map. The report shall be prepared in accordance with the design criteria established by the Caltrans Highway Design Manual. Analysis shall be provided of pre-development and post-development conditions and the potential impacts to roadside gutters, side or driveway culverts, and highway cross culverts, as applicable. The hydrology report shall include recommendations for any project revisions necessary to ensure that existing drainage facilities associated with State Highway 16 would not be affected by the subdivision.
47. The applicant shall provide a report to Caltrans describing the following information: (a) the depth and overall dimensions of the detention pond located on Parcel E; (b) the setback distance from the easternmost edge of the detention pond to the centerline of State Highway 16; and (c) proposed design measures, if any, necessary to prevent percolating stormwater in the detention basin from adversely affecting the subgrade structure of State Highway 16. The applicant shall submit a letter from Caltrans with the Final Subdivision Map indicating that the above issues have been adequately addressed.

MITIGATION MEASURES

Water Resources

48. A storm water management plan shall be prepared by a registered civil engineer or registered hydrologist for approval by the Yolo County Planning and Public Works Director prior to approval of the Final Subdivision Map. The management plan shall be designed to protect water resources from the impacts of storm water runoff and contaminants generated by the project during construction, to the maximum extent

practicable. Best Management Practices shall be identified and implemented throughout construction of the proposed project.

Transportation/Circulation

49. The applicant shall pay its fair share toward the improvement of the intersection of Grafton Street and Omega Street, including widening of the intersection to full County standard and the provision of an asphalt concrete overlay, to provide adequate traffic safety. The intersection improvement shall be constructed simultaneously with the road improvements required of the subdivision. The applicant shall enter into an agreement with the County to pay for the full cost of the improvements at the time of construction, with subsequent reimbursement of the applicant by any future developers for that portion of the improvement costs not assigned to the applicant's fair share.

Hazards

50. The detention basin shall be appropriately designed to ensure that the maximum depth of water expected does not exceed three feet, two and four-tenths inches (3.2'), in order to minimize the potential for accidental drowning.

Utilities and Service Systems

51. The applicant shall provide evidence to the Yolo County Planning and Public Works Director that the Esparto Community Services District will provide sewage disposal service to all parcels located within the proposed project, prior to approval of the Final Subdivision Map.
52. The applicant shall provide evidence to the Yolo County Planning and Public Works Director that the Esparto Community Services District will provide domestic water service to all parcels located within the proposed project, prior to approval of the Final Subdivision Map.

Recreation

53. The drainage basin located along the eastern boundary of the subject site shall be developed so that it may serve as open space when not in use for flood detention. The basin shall be appropriately landscaped with grass and trees, and shall include a pedestrian/bicycle path along an alignment consistent with the Esparto General Plan. The costs of developing the pedestrian/bicycle path may be offset against any parkland in-lieu fees otherwise collected by the County for this project. The costs to install landscaping and irrigation for the detention basin (excepting the area associated with the pedestrian/bicycle path) shall not be offset against any parkland in-lieu fees. A landscaping plan and cost estimates for developing the pedestrian/bicycle path shall be submitted to and approved by the Yolo County Planning and Public Works Director prior to approval of the Final Subdivision Map.



- 6.2 **99-002** - A request for an Agricultural Preserve Contract Division of an existing 40 acre Williamson Act Contract into two 20 acre contracts to

conform with lots created by a subdivision map filed in 1906. Subject property is located on the east side of County Road 97D, north of County Road 32, west of Davis in the Agricultural Preserve (A-P) zone. This project has been deemed Categorically Exempt. APN: 037-140-04. Owner/Applicant: McDonald/Kelly (M. Hamblin)

Mark Hamblin gave the staff report, stating that the contract is being divided less than the 80 acre minimum, subject to the truck farm provision. He stated that the applicant is conducting a farming operation that has been identified by staff visit, and staff has presented information that the application meets the technical merits of the provisions that were put forth by the Board of Supervisors for the A-P zone.

Commissioner Lang asked what the process would be if this had been an 80-acre contract piece. Mark Hamblin said that at the 80 acres, if it was just a contract division, it would go to the Director for approval, and the surrounding property owners would be notified after the fact that the Director has made the decision to approve this contract division, and that they now have 15 days to appeal the action to the Planning Commission.

Commissioner Lang asked if there's been a lot of 80 acre and above contracts pulled out. Mark Hamblin said the property remains under an A-P zone, it remains an A-P contract, but we now have a different ownership situation occurring, so that in order to document that, a Successor-In-Interest Agreement goes forward. He said that what we've seen recently is that individuals who were multiple parties to a particular preserve are now wishing to separate out their interests within that particular preserve so that they are not encumbered by what's going on in the next person's property, such as when we have a housing situation. He said that right now, the way our ordinance reads, it's one house per contract, so if there is an individual in a thousand acre contract, and there are multiple parties, and somebody else wants to build a house on his own land ownership, but it's within the contract, then they would have to come in and do sort of a successor-in-interest or division of the contract in order to build that house. He stated that if there is ownership change, then some sort of method is needed for identifying that there has been a change from the original owners. He said that through the successor-in-interest process, we have been able to document what has taken place on those properties over their life span. He said it is the recommendations of the Blue Ribbon Committee, the original founding group that established the A-P Ordinance that is now codified, so we just identified as our A-P Zone, which went into effect in 1992. He stated that it is the recommendations of that Committee that were put forth through the Planning Commission at that time and then went through the Board of Supervisors. Commissioner Lang asked if that's the one the Planning Commission and the Board, since 1992, have pretty well tried to stick with. Mark Hamblin answered, yes.

Commissioner Stephens referenced Page 1 of the Staff Report, Reasons for Recommended Action, where it cites that the first reason for recommending this action was that it was part of a subdivision map filed in 1906. She stated this is what is called an antiquated subdivision, and that was prior to the Subdivision Map Act, so it could not have been filed. She said they're called paper laws, basically, in common land use. Mark Hamblin agreed, but he stated that one method that has been identified in situations where lots were actually sold off, if the subdivision map was filed and then no lots were sold off, is that it has been treated as a paper subdivision. He said that the question is, when did the subdivision map, in situations prior to the state subdivision map, go into effect – did it become effective or antiquated?

Commissioner Stephens asked for a rough approximation of how many of the 880 acres on the subdivision map adopted in 1906 have already been subdivided into twenty acre parcels. Mark Hamblin stated that he does not know.

Commissioner Lang asked if we stuck with one house per contract. Mark Hamblin answered that we have two houses under the current contract that are on the property at this time. He said that through this division, if it goes forward, then we would end up having the one house per Successor-In-Interest Agreement. He added that our A-P zone does allow, in situations if the individuals come forth with Conditional Use Permits, for additional housing (single family dwellings) in the A-P zone.

Commissioner Walker asked Mark Hamblin if there are any circumstances or conditions that exist presently which would preclude the Commission's acting positively on this division request. Mark Hamblin answered that at this time staff is not aware of any, and that's why staff made the recommendation to go forward with the approval.

John Bencomo said he thinks the response Mark Hamblin gave was accurate in that, from the staff's perspective, which is a more technical perspective in terms of our ordinance and the specific language in the General Plan, we have less latitude to make broader interpretations than the Commission. He added that if their particular body makes a different interpretation that they see this particular application as being somewhat of a detriment to the agricultural interests of the County overall, then they have that latitude to make a differing position. Mark Hamblin agreed that the Commission possesses more of a policy discretion as opposed to staff who views the application from a more technical perspective.

John Bencomo announced that he will be going before the Board of Supervisors on May 18, 1999 to present an Ag. Preservation Plan in which he's outlined some specific implementation tools, one of which is to revisit the current minimums. He stated that there will be, in the coming months, if he's so directed, some changes to these kinds of issues which may limit, in the future, the notion of the antiquated lots.

Commissioner Woo asked if the 20 acres is OK in this case, instead of 80, because it's a truck farm. Mark Hamblin said that there are provisions within the ordinance that allow less than the 80 acres if it was a new parcel or new contract creation. He stated that in situations where it can be demonstrated that agriculture is being conducted, then it would be permitted subject to the review of the Planning Commission.

The public hearing was opened.

Craig McDonald, one of the applicants, stated that he believes this contract division is an appropriate decision, both legally in terms of the existing A-P zone regulations, but also philosophically in terms of preserving the land as prime agricultural land in optimizing the farming operation "Impossible Acres" which is run by their family. He provided some brief history of the purchase of the property and explained the objectives which are achieved by division of this A-P contract into two 20-acre contracts, which are critical in maintaining "Impossible Acres" as an economically viable farming business.

Katherine Kelley, one of the applicants, who farms "Impossible Acres" with her husband, said they are pouring their life and putting everything they have into this operation to make it viable. She said "Impossible Acres" is a very community-involved farm, and that

they have an internship set up with UCD, which makes it possible for a student to work for them to learn a lot about farming a wide variety of crops.

Commissioner Stephens asked Katherine Kelley what her plans are for expanding the agricultural operation. Ms. Kelley described the types of crops they will be planting. She also said that one of their visions is to get the community more involved in the farm so they won't feel alienated from people who do farming in the country. Bridging this gap can happen through more people coming out, more connections with schools, more field trips, etc.

Commissioner Stephens asked Katherine Kelley why she is saying that if they don't get the split this operation will no longer be financially feasible. Ms. Kelley said she is not trying to say that if they don't get the split, they will stop farming, because they are very committed to this farm. She said she is trying to say that the Williamson Act is there to preserve people like them who are doing agriculture, it's not there to preserve only large farms, it's there for people who are doing small things like them also. She said they would like to remain in the Williamson Act, and because they have ties with the town and the community in general, it's good public relations to be able to say beneficial things about the Williamson Act.

Commissioner Woo asked if they are farming the 120 acres to the north of them. Katherine Kelley said they are farming 20 acres of it because the Heidrick's didn't want to farm it since it's slanted the wrong way for their irrigation.

Commissioner Woo asked how they do their marketing. Ms. Kelley answered that word of mouth advertising has been successful and that they handed out questionnaires outside Safeway, asking people if they are interested in this kind of "pick-your-own" farm and what they want planted on this farm. The responses were then used to send postcards notifying when the berries, etc. were ready, and an ad with the same type of information was also placed in the Davis Enterprise. She said that during pumpkin season flyers were sent out to the schools asking if children would like to come out for pumpkin picking.

Commissioner Walker asked how they came by the name "Impossible Acres". She said that when talking to people at UCD and the Ag. Commissioner's Office, they told them they can't do that, it's impossible to grow these kinds of crops. Commissioner Walker also asked how deep the well is. She answered that it is about 1,200 gallons per minute, and about 520 feet deep. Commissioner Walker expressed that he admires their enthusiasm and he thinks they will succeed.

Ernie Pfanner, property owner, and member of the Yolo County Taxpayer's Association, distributed and read an article from the Democrat on the strong stand by the some of the Board Members on ag. preserves and presented his concerns regarding the agricultural contract division. He said that when the acreage is reduced in the Williamson Act, it will cause people some big problems, and that when a decision is made for some people, somebody else shouldn't be hurt.

Commissioner Lang asked Craig McDonald about the ownership details of the property. Mr. McDonald answered that it's currently an undivided interest which was set up between the two families.

Mark Hamblin further clarified that there are two issues: one is what they've structured (the undivided interest) and the other is a contract on 40 acres. He stated that what they will end up establishing are two Successor-In-Interest Agreements, one on 20 acres and the other on 20 acres, so each lot would stand alone.

John Bencomo added that, in other jurisdictions the Williamson Act is not interwoven into the zoning ordinance as it is in this County, and that's where the dilemma really presents itself, since it's a separate contract and it's much easier and more manageable in this respect. He stated, in response to Mr. Pfanner's concerns, that's why this County has been much more effective in many ways in terms of ag. preservation because it makes it much more difficult, and that's why ag. contract split cases always have to come before the Planning Commission. He said that he feels most of the population that are in ag. preserves are not aware of these various subtleties in the code, like many other laws we're not aware of.

Commissioner Heringer asked what this will cost the parties involved if this passes. Mark Hamblin and Craig McDonald agreed that the application fee is approximately \$1,500.

Craig McDonald responded to the comments made by Mr. Pfanner alluding to prior history of splits and illegal activities, by saying that this really is not related in any way to their families, it occurred before they bought the property. He said the reason they're here today is because they're trying to be open and honest in trying to do this through the existing regulations. He explained why the proposed division is not an improper one, that it does serve to preserve agricultural-rural farmland, and that they're not doing it in a big farming business conventional method, but in a different method.

Ernie Pfanner clarified that it was documented very specifically that there were two illegal splits before it came to be sold to the McDonald's.

The public hearing was closed.

Commissioner Stephens said she feels strongly that this is an issue of the future history of Yolo County, the Central Valley and California. She commended the applicants' enthusiasm, but she believes that if this is approved today, a precedent will be set and everybody else will get in line for splits, which she believes is a threat to the Yolo County agricultural community. She stated that she doesn't see why allowing this division is going to promote agriculture. She feels it would be irresponsible for this to be approved today when sometime in the near future they're probably going to make this never possible again. She thinks the applicants should go for a non-renewal.

Commissioner Walker said he's always troubled when they get into deliberations involving assumed actions based on previous actions by others. What he sees, listening to Commissioner Stephens, is that these people are guilty without benefit of any hearing, just based on what other people have done. He said he feels there are some clearly defined principles, so he is supportive of this request. He expressed that he believes that individual rights, property owners, other rights, have a clearly defined superior position relative to statutes, policies, etc. established by man. He stated that, as far as he's concerned, the primary reason for requesting this has to do with estate planning, and cleaning up the legal niceties of trying to anticipate the eventual disposition of properties.

Commissioner Heringer said he concurs with Commissioner Walker, and he thinks the individual rights of ownership outweigh the ordinances in this case. He said the land is not being taken out of ag. production, it's being put into a smaller unit; therefore he supports the request.

Commissioner Gerber expressed that he sees this request as the property rights on one hand, and the County goal on the other, and that if they agree to this, there is a little slippage away from the County goal. He said that he was impressed with the Kelley's enthusiasm, and that, at this point, he leans in favor of the families who are coming forward with their request.

Commissioner Woo said she is very enthusiastic about what the Kelley's are doing. She, like Commissioner Stephens, is also concerned about setting a precedent for all of the other farms around there, since it chops up everything into 20-acre parcels. She said she is conflicted, but she is leaning toward approving the request, since the applicants are doing something unusual, and that it is agriculture.

As a rebuttal to Commissioner Walker's concerns, Commissioner Stephens expressed that her decision has nothing to do with past history. She said she doesn't think they're talking about private property rights here, but about the rights of Yolo County to preserve agriculture.

Commissioner Lang asked if it would be advisable to see what the Board of Supervisors is feeling about this type of a lot split before a decision is made.

John Bencomo stated that staff's decision is based on what our current ordinances spell out for us today, and that he will be making some specific recommendations in terms of ordinance changes to the Board on May 18. He said that, on May 18, if he is given the green light by the Board of Supervisors, those changes would not be completed for at least three months. He stated that it's clearly at the Commission's discretion regarding the continuation.

Commissioner Lang said he is in favor of the split since the land is not being taken out of farming. Mr. Lang also stated that he believed this type of farm was the farm of the future and that it was ideal for the Davis area.

John Bencomo commended the applicants for coming forward and making things right, since the changing of deeds is not required to come through the Planning and Public Works Department and we are not always aware of ag. splits.

Commission Action

- (1) **DETERMINED** the project as Categorical Exempt, in accordance to Section 15317, Class 17 of the California Environmental Quality Act and Guidelines;
- (2) **ADOPTED** the proposed FINDINGS for this project as presented in the staff report;
- (3) **APPROVED** the agricultural contract division subject to the conditions listed under CONDITIONS OF APPROVAL presented in the staff report.

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

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

CONDITIONS OF APPROVAL

Yolo County Planning & Public Works Department

Planning Division

1. The property owner(s) shall execute separate Williamson Act Successor-In-Interest Contracts for each separate legal parcel approved by this agricultural contract division 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 and within one (1) year from the date of the approval by the Yolo County Planning Commission or this action shall be null and void.
2. The applicant's shall file with the County Assessor not later than April 1 of each year annually a Williamson Act Questionnaire which demonstrates that, except for a homesite no larger than a single acre, the remainder of the acreage is being used for the commercial production of agricultural products or is planted with immature fruit or nut trees, or vines, or is used partly for storage of commodities obtained from the owner's owned or leased land elsewhere or for equipment used to farm the owner's other owned or leased land.

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 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 Categorical Exemption has been prepared as the environmental assessment for the project in accordance to the California Environmental Quality Act and Guidelines.

Yolo County Zoning Regulations

In accordance with Section 8-2.408. 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 agricultural contract configuration meets the minimum 20 acre requirement established for certain circumstances by the County's AP Zone (Section 8-2.408 (e)). The applicants operate a commercial farm operation and u-pick business. The acreage is being used for the commercial production of agricultural products and is planted with immature fruit trees and berry bushes.

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

The property has been historically farmed and a portion of the property is currently being farmed in immature fruit trees. The subject property contains Meyers Clay (Class 2 soil - prime). An new agricultural well provides irrigation to the property. The applicants have conducted a farming u-pick business named "Impossible Acres" since 1995.

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

The new parcels will consist each of 20 acres. The property is farmed and has historically been farmed. The parcels contain Meyers Clay a Class 2 soil (prime). The parcels are irrigated by agricultural wells.

The applicant's have operated as a commercial farming operation and u-pick business named "Impossible Acres" since 1995.

Improvements to the property have included 20 acres of apples and the installation of an overhead irrigation system, 2 acres of cherries, 4 acres of bush berries with the installation of a drip irrigation. The

establishment of an 800,000 gallon irrigation reservoir, and the installation of a new 1200 gallon per minute (g.p.m.) agricultural well.

- (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. The subject property has been planted agricultural products and has had agricultural infrastructure installed on it.

- (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. The applicant's have operated as a commercial farming operation and u-pick business named "Impossible Acres" since 1995.

- (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 proposed agricultural preserve contract division of the existing 40 acre Williamson Act Contract will conform with the existing parcel lines for Lot 26 and Lot 29 of the M. Diggs Subdivision Map filed January 3, 1906.

- (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 20 acres. The property has been historically used for irrigated row crop involving alfalfa. The parcels contain Class 2 soil - prime. The parcels have access to irrigation water by agricultural wells.

The criteria established in Section 8-2.408 (e) of the County A-P Zone states:

The parcels are legal parcels under the Subdivision Map Act (Government Code Section 66410 et. seq.) and Chapter 1 of this Title 8.

The proposed agricultural preserve contract division of the existing 40 acre Williamson Act Contract will conform with the existing parcel lines for Lot 26 and Lot 29 of the M. Diggs Subdivision Map filed January 3, 1906. Both of the new agricultural contract parcels will consist of 20 acres.

Section 8-2.408 (e) goes on to state that if the parcels are less than the minimum sizes specified in Subsection 8-2.406 (a) of this Chapter, at least 20 acres for irrigated land or 40 acres for non-irrigated land, provided that the

owner annually demonstrates that, except for a homesite no larger than a single acre, the remainder of the acreage is being used for the commercial production of agricultural products or is planted with immature fruit or nut trees, or vines, or is used partly for storage of commodities obtained from the owner's owned or leased land elsewhere or for equipment used to farm the owner's other owned or leased land, which demonstration shall be made by filing a declaration or a Williamson Act questionnaire with the County Assessor not later than April 1 of each year.

The applicants own the 40 acre subject property which is farmed in row crop (alfalfa) and an adjoining 120 acres which has been planted in apples and cherry trees, and bush berries within the past 5 years.

The applicant have installed an 800,000 gallon irrigation

*reservoir,
and a
new
1200
gallon
per
minute
(g.p.m.)
) agricultural
well.
The 40
acre
property has
an
agricultural
well
which
provides
400
g.p.m.*

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A ten minute recess was called.

- 6.3 **99-018** - A request for a change in zoning increasing the acreage of Agricultural Preserve (A-P) zoned land and decreasing Agricultural General (A-1) zoned property, a corresponding Amendment of Agricultural Preserve Contract #72-311; a minor Lot Line Adjustment, and a Conditional Use Permit to allow the construction of a single-family dwelling on the remaining A-1 property. Subject property is located on the corner of Tule Road and Clarksburg Road in

Clarksburg. A Negative Declaration has been prepared for this item. APN: 043-210-07,08,09,10. Owner/Applicant: Merwin/Hunn/Eyster (D. Daly)

Dave Daly gave the staff report. He stated that staff has spent considerable time reviewing the proposal, working with the applicants, and has found that the proposal is consistent with general plan policy in terms of ag. preservation and conservation, given that the applicants are willing to put 23 acres into contract. He also said staff feels that the proposal is consistent with the requirements and standards of the A-1 zoning in terms of the A-1 parcel size and also the requirements and provisions of the Williamson Act. He concluded that staff is in support of the proposal.

Commissioner Lang asked if this is one A-P contract. David Daly answered, yes.

Commissioner Gerber asked if the proposal has unanimous support of the Clarksburg General Plan Advisory Committee. David Daly said that is correct, it reflected in their minutes.

Commissioner Walker asked why the parcel for a homesite really needs to be as large as five acres. Dave Daly said the minimum size parcel in the A-1 Ag. General Zoning District is five acres.

John Bencomo added that, as Dave has identified, five acres is a minimum, and that the Planning Commission could reduce that to less than five acres provided the variance findings are met. He stated that from his perception, since the findings that are required now for variance are much stiffer than they were years ago and require some pretty objective information, and given the size of the properties that we have to work here, he doesn't see how those findings can be made.

The public hearing was opened.

Alison Merwin-Eyster, applicant, representing Hunn/Merwin and Merwin Incorporated out of Clarksburg, explained that this is a very busy family operation. She said the Merwins have been in the Clarksburg area a very long time. She expressed that they want to continue the farming operation and they feel they need to live on the ranch so they and their children have the opportunity to learn what farming is all about. She distributed handouts showing what the property actually looks like in a photograph rather than on a flat piece of paper. She explained the farming operation and the reasons why they chose to build their home on their own land.

Tim Eyster, the other applicant, explained some of the history of the request, described the land on the displayed plot plans, and stated that their intent is to do things right.

Commissioner Walker asked where the water comes from. Tim Eyster said it comes from wells.

Commissioner Gerber said there's logic to the request.

Commissioner Stephens asked questions about taking land out of the Williamson Act and rezoning without going through any other legal process. John Bencomo clarified that this needs to go to the Board for the zoning. He said changes need to be made to the property lines, and that it's a very complicated web of technical actions.

Commissioner Woo said she supports the project.

Commissioner Heringer said he totally concurs with the project, and that they'll be a welcomed addition to Clarksburg for many reasons.

Steven Basha, County Counsel, asked the applicants if they have read and agree to the Conditions of Approval. They stated, yes.

The public hearing was closed.

Commission Action

Recommend that the Board of Supervisors:

- (1) **CERTIFY** that the proposed Negative Declaration was prepared pursuant to the California Environmental Quality Act (CEQA) Guidelines;
- (1) **ADOPT** the proposed **FINDINGS** contained in the staff report in support of the proposed actions;
- (4) **ADOPT** an ordinance **APPROVING** the requested Zone Change involving Agricultural Preserve (A-P) and Agricultural General (A-1) land;
- (5) **APPROVE** an amendment to Agricultural Preserve Contract #72-311 incorporating the resulting Agricultural Preserve (A-P) land;
- (6) **APPROVE** a lot line adjustment for amended Agricultural Preserve (A-P) Contract #72-311, and a 5 acre Agricultural General (A-1) zoned parcel; and,
- (7) **APPROVE** a conditional use permit for development of a single-family residence on a 5 acre Agricultural General (A-1) zoned parcel.

MOTION: Heringer SECOND: Woo
AYES: Walker, Woo, Stephens, Heringer, Lang, 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 five minutes.

CONDITIONS OF APPROVAL

Planning

1. Improvements to Parcel 4 (A-1/5 ac. Parcel), shall comply with the following requirements:

- a. The deed of Parcel 4 shall contain disclosures of, and a “Right to Farm” provision for, adjacent and surrounding agricultural operations.
 - b. The property owner(s) shall execute a Williamson Act Successor Agreement for the subject Agricultural Preserve properties in a form approved by the Office of the County Counsel of Yolo County. Said contract shall be recorded at property owner’s expense in the Office of the Yolo County Clerk/Recorder. A copy of the recorded contract shall be returned to the Planning and Public Works Department prior to the issuance of any permits on the affected properties.
 - c. Final placement of the proposed single-family residence on Parcel 4 shall be reviewed and approved prior to building permit plan check submittal.
2. Within sixty (60) days of the approval of the contract division, the applicant shall submit for review and approval to the Planning and Public Works Department revised agricultural preserve legal descriptions to be incorporated into the revised Agricultural Preserve Contracts. Following final approval by the Board of Supervisors, the property owner shall record/execute the new Agricultural Preserve Contracts at the property owners expense in the Office of the Yolo County Clerk/Recorder.

Building

- 3. As part of building permit application submittal the applicant shall provide a site drainage plan showing the finish grade and floor elevation for Parcel 4. This can be a surveyed plan or based on reference elevation points on the site.
- 4. A soils report shall be prepared for any raised building pad area and be submitted with building plan check application. The soils report shall be prepared by a qualified geotechnical engineer.

Fire District

- 5. Incoming electrical power shall be initially connected to the on-site water well pump for Parcel 4, and subsequently to the proposed residence and/or other structures.
- 6. A Fire Department water supply connection of 1 1/2 inch (minimum), shall be placed between the water well pump or water tank, and any proposed dwelling on Parcel 4, and include a shut-off valve. The proposed residence shall include a fire sprinkler suppression system. Appropriate information demonstrating the adequacy of water pressure for fire flow protection shall be submitted to the County Building Division for review and approval at the building permit plan check stage.

Public Utilities

7. The property owner(s) of Parcel 4 shall call Pacific Bell's Underground Service Alert (USA), two days prior to the commencement of underground work.
8. The applicant shall be responsible for installation and/or relocation costs of any public utilities required to service the construction and placement of a residence or other building on Parcel 4. Public utilities shall be installed in accordance with UBC requirements and are subject to review and approval by the Yolo County Building Division. Any utility easements required for the purpose of serving the proposed dwelling shall be the responsibility of the applicant (documentation, recordation, etc.).
9. Deeds shall expressly reserve any utility easement of record on all affected parcels.

Fish & Game

10. Prior to issuance of a building permit for Parcel 4 the applicant shall mitigate for the loss of Swainson's Hawk habitat according to the California Department of Fish & Game Swainson's Hawk Guidelines, or by participation in the preparation of the Yolo County Habitat Management Plan. Mitigation for the project shall be to the satisfaction of the California Department of Fish & Game.

County Counsel

11. In accordance with Yolo County Code Section 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 attach, 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 cooperates 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.

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

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #99-018, the Yolo County Planning Commission finds the following:

California Environmental Quality Act (CEQA) Guidelines

- (1) That the proposed Negative Declaration and Initial Study prepared for the project is the appropriate environmental documentation.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Article 6 (Negative Declaration Process), an environmental evaluation has been prepared and circulated for public review and comment in accordance with CEQA, and no significant

effects are expected to occur as a result of the project.

General Plan

- (2) That it is the policy of Yolo County to vigorously conserve and preserve the agricultural lands in Yolo County especially in areas presently farmed or having prime agricultural soils and outside of existing planned urban communities and outside of city limits. (*General Plan Policy LU 6 - Protect and Conserve*)

The Yolo County General Plan speaks to the preservation of agricultural land uses. The General Plan further supports the maintenance of land currently under Williamson Act contract to promote this preservation. The applicant's request is consistent with these policies.

Further, the applicant has stated that the intent of the property owners is to continue farming the subject land. The proposed contract amendment will encourage this effort and give assurance of continued long-term agricultural operations on the land.

Zone Change and Agricultural Preserve Contract Amendment

Zoning Code - Title 8, Chapter 2

Agricultural Preserve (A-P)

- (3) That the proposal meets the requirements for amendment of Agricultural Preserve (A-P) contract #72-311.

The properties involved are legal parcels under the Subdivision Map Act. The proposed A-P contract amendment is consistent with the minimum acreage exceptions (20 acres for irrigated land), provided for by the Yolo County Code. The proposed contract amendment is consistent with the Yolo County General Plan with respect to the continued preservation of agriculture.

- (4) That the amended contract is consistent with the A-P zoning district, and preserves the current agricultural land use from the encroachment of nonagricultural uses.

Lands surrounding the subject parcels are predominantly under A-P contract promoting the prevention of encroachment of nonagricultural uses into the area.

- (5) That the proposed amended contract, and existing agricultural operations, tend to maintain the agricultural economy.

The parcels are currently being farmed. The applicant has stated that the parcels will continue in agricultural production as row crop farming. This statement, and the fact that surrounding lands are currently under contract, supports the finding that the existing agricultural operations tend to maintain the agricultural economy.

- (6) That the parcels covered under the proposed contract assure assistance in the preservation of important agricultural lands with public value as open space.

The proposed contract division promotes the continuation of agricultural production on the subject parcels, and therefore will further the preservation of agricultural lands. In addition, the existing properties are being utilized as open space and agricultural purposes.

Agricultural General (A-1)

- (7) That the proposed zone change is consistent with A-1 zoning requirements, and the lot area minimums as required by the zone have been satisfied by the proposal.

Code Section 8-2.604(s) requires conditional use permit review and approval by the Planning Commission for the placement of a single-family dwelling on a 5 acre A-1 parcel. Five acre parcels are allowed within the A-1 zoning district. Consistent with these provisions, the proposal includes the creation of a 5 acre parcel and a request for a conditional use permit.

Lot Line Adjustment

- (8) That the lot line adjustment will not result in the abandonment of any street or utility

easement of record.

The project does not include abandonment of street or utility easements. Further, any need for utility easements as a result of construction of the proposed single-family residence has been conditioned accordingly.

- (9) That the lot line adjustment will not result in the elimination or reduction of access to any resulting parcel.

The proposed lot line adjustment results in each parcel having frontage of Clarksburg Road (County Road 152). There is no proposed elimination or reduction in access to any parcel.

- (10) That the design of the resulting parcels comply with existing requirements as to area, improvements and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and all other requirements of State laws and this Code, are in conformity with the purpose and intent of the Yolo County General Plan and zoning provisions.

The proposed lot line adjustment will result in parcels that meet the requirements of the affected zoning districts. Further, details as stipulated in the above finding are conditioned to be addressed at the building permit and construction stage of the proposed single-family dwelling.

Conditional Use Permit

- (11) That the proposed A-1 parcel and single-family residence will be properly sited with respect to adjoining A-P parcels and adjacent Clarksburg Road, and as a result will be suitably integrated to minimize effects on the surrounding agricultural operations and uses.

The proposed A-1 parcel is located at the southeast corner of the subject properties. The dwelling construction envelope is conditioned to site the proposed residence toward the south end of the A-1 parcel.



- 6.4 **99-012** - A request for a division of Agricultural Preserve Contract #69-307 into three separate contracts of 35.75 acres, 100.69 acres and 46.6 acres. Subject parcel is located on the north and south side of County Road 93A, east of State Highway 16, west of Davis in the Agricultural Preserve (A-P) zone. This project has been deemed Categorical Exempt. APN: 038-060-13, 038-080-10 & 12, 038-090-02, 038-100-07. Owner/Applicant: Carmelo Ramos Family Partnership (D. Daly)

Dave Daly gave the staff report.

Commissioner Lang asked if there is a house on each parcel. Dave Daly said that there is an approved dwelling on only one of the three parcels.

Commissioner Stephens asked for a clarification regarding the applicant's renewal status. Dave Daly answered that they presently want to retain the non-renewal status but by the end of the year they must decide if they want to let the contracts non-renew. He stated that this allows the partnership to get separate contracts and distribute the properties to the partners now vs. waiting until the end of the year.

John Bencomo added that these are all in a single contract, so by creating separate contracts they will be free to deed them accordingly to dissolve the partnership, to take care of their estate issues.

Commissioner Woo asked if the applicants said they wanted to do this so they could split it up because of the ailing relative. Dave Daley said that is correct, to avoid complications of probate and things of that nature.

The public hearing was opened.

Dave Calfee, representing the applicant, said the applicant wanted to do this right instead of just deeding it out. He explained some of the history and reasoning behind the request. He stated that this is a partnership that has been in farming since the 1970's and that the properties were aggregated by Carmelo Ramos, who is now deceased, and were first put in during the late 1960's. His children, who are now in their 60's, have farmed as a partnership for the last twenty years, and some of their properties were under contract, some were out of contract, and some were in Solano.

Commissioner Heringer asked what it costs to renew the Williamson Act Contract. John stated that to initiate a new contract is around \$600-\$800, and there would be no cost to rescind the contract, other than the graduated costs that would accrue due to a slight change in property tax.

Steven Basha, County Counsel, commented on the Williamson Act non-renewal process, and discussion was held.

John Bencomo clarified that right now, as a non-renewal, it's a blanket all or nothing since they're under one contract, so if this split is approved for the three contracts, they could individually either continue with the non-renewal as it is, or withdraw the non-renewal on just some of them, thereby being able to elongate their A-P benefits.

Steven Basha, County Counsel summarized that their issue today is whether they approve the split of the one Williamson Act Contract into three.

The public hearing was closed.

Commissioner Walker stated that they should adhere to the recommendations offered by staff.

Commission Action

- (1) **CERTIFIED** a Categorical Exemption pursuant to Section 15317, Class 17, of the California Environmental Quality Act (CEQA) Guidelines; and,
- (2) **ADOPTED** the **FINDINGS** as presented in the staff report, and **APPROVED** the division of Agricultural Preserve Contract #69-307.

MOTION: Walker SECOND: Woo
AYES: Walker, Woo, Stephens, Heringer, Lang, 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.

Commissioner Walker suggested that, when the schedule permits in the next couple of months, a fifteen or twenty minute history of intent, advantages, and disadvantages of Williamson Act participation would be helpful, so incorrect interpretations won't be applied. John Bencomo thinks this is a very good point, and that he'll ask someone from the Assessor's Office to give the presentation.

CONDITIONS OF APPROVAL

Planning and Public Works

1. Within sixty (60) days of the approval of the contract division, the applicant shall submit for review and approval to the Planning and Public Works Department revised agricultural preserve legal descriptions to be incorporated into the revised Agricultural

Preserve Contracts. Following final approval by the Board of Supervisors, the property owner shall record/execute the new Agricultural Preserve Contracts at the property owners expense in the Office of the Yolo County Clerk/Recorder.

County Counsel

2. 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 cooperates 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.

FINDINGS

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

California Environmental Quality Act (CEQA) Guidelines

In certifying the proposed Categorical Exemption for this project as the appropriate level of environmental review under California Environmental Quality Act (CEQA) Guidelines, the Yolo County Planning Commission finds that pursuant CEQA ?15317, Class 17, (Open Space Contracts or Easements), the project is exempt from CEQA, and therefore, from further environmental review.

Categorical Exemption Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act.

Agricultural Preserve Contract Division

In accordance with Yolo County General Plan Policy LU 6, Section 8-2.408 of the Yolo County Code, and Section 51243(b) of the Williamson Act, the Planning Commission finds the following:

General Plan

- (1) That the historical and current agricultural operations of the subject parcels are consistent with the Yolo County General Plan.

The applicant has stated that the intent of the subsequent individual parcel owners is to continue to farm the land. Given the relatively short-term of the proposed contracts there is no assurance to the County of the long-term preservation of the existing agricultural operations, however, the existing orchards annually produce commercial agricultural crops. Further, the subject parcels will remain in Agricultural Preserve (A-P) zoning (County Code ?8-2.4), and be subject to the agricultural land use restrictions therein.

Zoning Code ? Agricultural Preserve (A-P)

- (2) That the contracts created are consistent with the zone and assist in the current agricultural land use from the encroachment of non-agricultural uses.

The proposed A-P contract division is consistent with the minimum acreage exceptions provided for by the above referenced code section in Finding 1. The subject parcels, and the surrounding lands, are zoned A-P which promotes the prevention of the

encroachment of non-agricultural uses into the area.

- (3) That the parcels covered under the proposed contracts tend to maintain the agricultural economy.

The parcels are currently being farmed. The applicant has stated that the parcels will continue in agricultural production as orchard farming. This statement, and the fact that surrounding lands are currently zoned A-P, supports a finding that the existing agricultural operations tend to help maintain the agricultural economy. However, given the duration of the proposed contracts, it is inconclusive as to the long-term use of the parcels and whether the existing operations will continue to support the agricultural economy in the long-term.

- (4) That the parcels covered under the proposed contracts assist in the preservation of prime agricultural lands with public value as open space.

The proposed contract division will not affect current agricultural production on the subject parcels, and therefore would continue the preservation of agricultural lands. The existing separate legal properties are currently being utilized for open space and agricultural purposes.

Williamson Act

- (5) That the proposed successor agreements are consistent with Williamson Act provisions.

Section 51243(b) of the Williamson Act allows all successors in interest to exercise the rights of the owner in the original contract including non-renewal status.

- (6) That the proposed contract division facilitates individual ownership of the subject parcels.

Agricultural Preserve (A-P) Contract #69-307 expires effective January 1, 2000 (approximately 8 months), at which time the subject parcels can be individually owned.

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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:

- (1) Application Fees
- (2) Implementation Procedures (Agriculture Conservation Program)
- (3) Turn of the Century Recision Action
- (4) Donald Peart – New Planning Commissioner
- (5) Election of Vice Chair (June 10 Agenda)

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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 Gerber said that he had a discussion on Monday with Mr. Pfanner, and he received a telephone call from Mrs. Kelley on Tuesday. They both offered background information.

(2) Commissioner Stephens stated that she heard from Mr. Pfanner, but she didn't hear from Mrs. Kelley. She announced that she won't be able to attend the June 10 Planning Commission Meeting, she'll be in Colorado doing important business.

(3) Commissioner Woo expressed that she heard from Mr. Pfanner and Mrs.

Kelley also. She announced that she went to the CSI product show for contractors and designers, where she picked up an interesting brochure about building products made of rice straw

which
she'll
bring
to the
next
meeting.

- (4) Commissioner Heringer said he talked with Ernie Pfanner.
- (5) Commissioner Lang stated that he talked with Ernie Pfanner. He also welcomed Dave Daly, Senior Planner, and Lance Lowe, Assistant Planner, aboard today.
- (6) Commissioner Walker said he believes the Commission will enjoy Don Peart, the new commissioner, who is a very capable, enjoyable and thoughtful individual. He also stated that he met with Ernie Pfanner the first of this week.
- (7) Commissioner Walker said that he thinks the staff here is exceptional, and that he believes it would be appropriate for Chairman Lang to prepare a letter directed to the Board of Supervisors extolling their perception of the quality of the people with whom they work.



9. ADJOURNMENT

The Regular Meeting of the Yolo County Planning Commission was adjourned at 12:40 p.m. The next Regular Meeting of the Yolo County Planning Commission will be held on Thursday, June 10, 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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