



County of Yolo

PLANNING AND PUBLIC WORKS DEPARTMENT

John Bencomo
DIRECTOR

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YOLO COUNTY PLANNING COMMISSION

CHAIR: Don Peart
VICE-CHAIR: Leroy Bertolero
MEMBERS: Mary Kimball; Mary Liu; Jeff Merwin; Don Winters, Vacant

AGENDA

THURSDAY, JANUARY 24, 2008

Board of Supervisors Chambers
625 Court Street, Room 206
Woodland, CA. 95695

Please refer to the last page of this agenda for notices regarding accommodations for persons with disabilities and for appeals of Planning Commission actions.

ADMINISTRATIVE AGENDA

8:30 a.m.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ELECTION OF OFFICERS**
 - 3.1.1 Election of Chair.
 - 3.1.2 Election of Vice-Chair.
4. **APPROVAL OF MINUTES**
 - 4.1 Minutes of December 13, 2007.
5. **PUBLIC REQUESTS**

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

6. CORRESPONDENCE

- 6.1 Letter from Eric Linze regarding the proposed Accessory Structure Ordinance.

CONSENT AGENDA

8:40 a.m.

- 7.1 None

TIME SET AGENDA

8:45 a.m.

- 8.1 Annual review of mining permits compliance within the Cache Creek Area Plan (K. Reeves/Parks).

9:00 a.m.

- 8.2 **2002-001:** Third Extension of Time of one year for Tentative Parcel Map #4565 to divide a 100-acre parcel into four parcels with a remainder parcel in the Highway Services Commercial-Planned Development (CH-PD) Zone. The site is located at the southwest corner of I-5 and County Road 8 in Dunnigan (APN: 052-060-11). A Categorical Exemption has been prepared for this project. Owner/Applicant: Berger/Grant Park Development (E. Parfrey)

9:15 a.m.

- 8.3 **2002-075:** Consider recommendations to the Board of Supervisors for the revised Old Sugar Mill Specific Plan and associated approvals, including revisions to the Development Agreement and Design Guidelines and Standards, pursuant to the remand from the Delta Protection Commission. The 105.4-acre subject site is currently zoned as M-2 (Heavy Industrial) and designated as Specific Plan. The site is bounded by South River Road/Sacramento River on the east, Winchester Lake on the north, Willow Avenue on the west, and the Town of Clarksburg to the south (APNs: 043-240-06, -07, -09, and -10). An Addendum Environmental Impact Report and revised Mitigation Monitoring Plan have been prepared for this project (SCH# 2003022104). Owner/Applicant: Clarksburg Investment Partners (David Morrison)

9:45 a.m. WORKSHOP

- 8.4 **2007-058:** Adoption of proposed amendments to the Yolo County Zoning Ordinance (Article 2 of Title 8 of the County Code) pertaining to the review and permitting of accessory structures in the agricultural and residential zone districts. The recommended changes would apply to all such-zoned properties in the unincorporated area of Yolo County. Owner/Applicant: Yolo County (E. Parfrey)

REGULAR AGENDA

9. DISCUSSION ITEMS

- 9.1 Overview of discretionary applications in agricultural zones (D. Morrison).
- 9.2 Resolution for Amy Cameron.

10. DIRECTOR'S REPORT

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

11. 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.

12. FUTURE AGENDA ITEMS

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

13. ADJOURNMENT

The next scheduled meeting of the Yolo County Planning Commission is March 13, 2008.

Respectfully submitted by,

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

***** NOTICE *****

If requested, this agenda can be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact David Morrison, Assistant Director for further information. In addition, a person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting should telephone or otherwise contact David Morrison, Assistant Director as soon as possible and preferably at least 24 hours prior to the meeting. David Morrison, Assistant Director may be reached at 530-666-8041, or at e-mail david.morrison@yolocounty.org, or at the following address: Yolo County Planning and Public Works Department, 292 West Beamer Street, Woodland, CA 95695.

***** NOTICE *****

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.



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PLANNING COMMISSION STAFF REPORT

January 24, 2008

<p>FILE: Consideration of the 2006 Annual Compliance Report summaries for Off-Channel Gravel Mining within the Cache Creek Area Plan for the Granite Construction-Capay, Granite Construction-Woodland, Schwarzgruber and Sons, Rinker Materials, Syar Industries, Teichert Aggregate-Esparto, and Teichert Aggregate-Woodland sites.</p>	
<p>APPLICANT: Yolo County Parks & Resources Department 120 West Main Street Suite C Woodland, CA 95695</p>	
<p>LOCATION: Immediately north and south of lower Cache Creek, between County Roads 85 and 96, within the boundaries of the Cache Creek Area Plan (Attachment A)</p>	<p>ZONING: Agricultural Preserve (A-P) and Agricultural General (A-1) with Special Sand and Gravel Combining Zone (S-G) FLOOD ZONE: Various SOIL TYPE: Various</p>
<p>ENVIRONMENTAL DETERMINATION: Categorical Exemption</p>	
<p>REPORT PREPARED BY:</p> <p>_____</p> <p>Kent Reeves, Principal Natural Resource Planner</p>	<p>REVIEWED BY:</p> <p>_____</p> <p>Warren Westrup, Director of Parks & Resources</p>

RECOMMENDED ACTIONS

That the Yolo County Planning Commission take the following actions:

1. **DETERMINE** that Granite Construction (two sites), Rinker Materials, Schwarzgruber and Sons, Syar Industries, and Teichert Aggregates (two sites) have complied with the Conditions of Approval established under approved mining permits and reclamation plans;
2. **ADOPT** the Findings (**Attachment C**) in support of determining that the mining operations are in compliance with all Conditions of Approval; and
3. **ADOPT** the Categorical Exemption pursuant to the California Environmental Quality Act and Guidelines (**Attachment D**).

REASONS FOR RECOMMENDED ACTIONS

Pursuant to Article 7 of the County's Off-Channel Surface Mining Ordinance, the aggregate industry is required to provide annual reporting on their operations along lower Cache Creek to the Yolo County Planning Commission. Based on staff's review of the subject aggregate operations in 2006, it has been determined that all of the operations are in compliance with the provisions of the County Surface Mining and Reclamation Ordinances, Mitigation Monitoring Plans, Development Agreements, and the California Surface Mining and Reclamation Act.

BACKGROUND AND ANALYSIS

The Off-Channel Mining Plan and implementing ordinances that provide the regulatory framework for mining and reclamation within the Cache Creek Area Plan were adopted by the County Board of Supervisors on July 30, 1996.

As required by the State Mining and Reclamation Act (SMARA), an Annual Compliance Report documenting the status of mining and reclamation activities at each of the approved mining operation sites has been prepared by the County for submittal to the State Department of Conservation, Office of Mine Reclamation. All of the operations located along lower Cache Creek have been found to be in compliance with the approved permits.

Each report is based on staff's independent analysis of aerial photographs, field inspections, and information submitted by the mining operators in order to establish whether the mining is being conducted in a manner that is in conformance with the requirements of the Yolo County Surface Mining and Reclamation Ordinance, permit conditions of approval, California SMARA, mitigation monitoring plans, and the approved Development Agreements. The reports, which contain a detailed description of the compliance status of each operation, are on file and available for public review at the Parks and Resources Department office. A summary of each of the detailed compliance reports is attached to this staff report (**Attachment B**).

Production figures for individual operators are proprietary information and may not be included in this staff report. However, a review of the production data provided to staff indicates that the volume of sold material mined in 2006 was 4.69 million tons as compared to 4.7 million tons in 2005, 4.9 million tons in 2004, and 5.7 million tons in 2001. Only one of the operator's (Teichert Woodland facility) exceeded the allowed one million tons sold limit per year. The facility did not exceed the 20% allowance over 1 million tons.

PUBLIC AND AGENCY COMMENTS

The Annual Compliance Report has not been circulated for public review prior to this public hearing at the Planning Commission.

The requirements of the Department of Conservation, Office of Mine Reclamation have been taken into consideration in the preparation of the Annual Compliance Report.

Pursuant to the requirements of the California Environmental Quality Act, the Annual Report to the Planning Commission is Categorically Exempt under Section 15307, Class 7 of the CEQA Guidelines as an action taken by a regulatory agency to assure the restoration, maintenance, and enhancement of natural resources.

APPEALS

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 the 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.

ATTACHMENTS

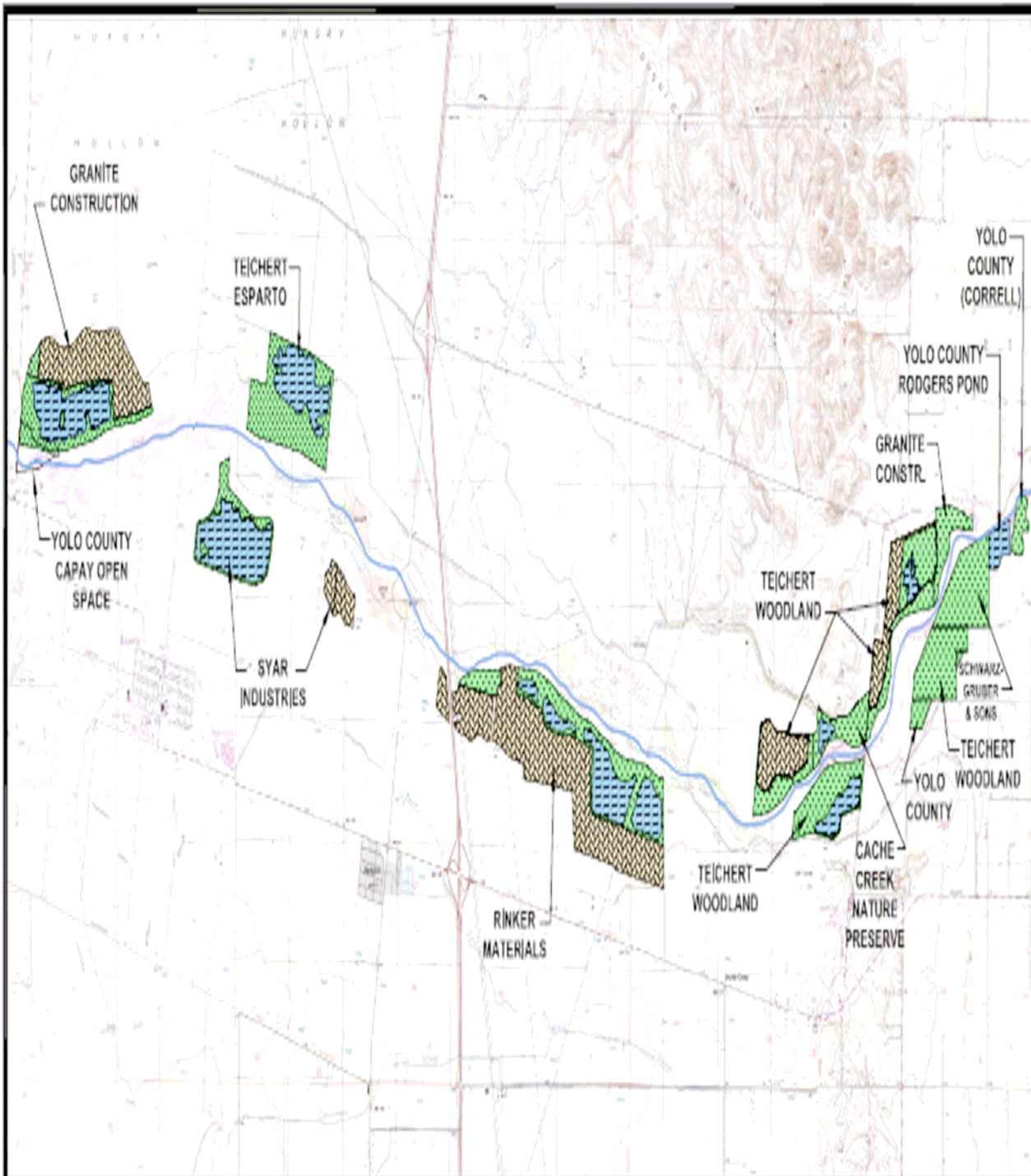
Attachment A: Map of Gravel Mines along Cache Creek

Attachment B: Gravel Mine Compliance Report Summaries

Attachment C: Findings

Attachment D: Notice of Exemption

ATTACHMENT A MAP OF GRAVEL MINES LOCATED ALONG CACHE CREEK



- HABITAT
- AGRICULTURE
- OPEN WATER



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JANUARY 31, 2005

CACHE CREEK
**CONCEPTUAL RECLAMATION
AND RESTORATION VISION
(APPROX. 2032)**

ATTACHMENT B
GRANITE CONSTRUCTION
CAPAY FACILITY

2006 OFF CHANNEL ANNUAL MINING PERMIT COMPLIANCE SUMMARY

INTRODUCTION

Granite's 400-acre Capay facility is located approximately 2 miles north of the town of Esparto (accessed off CR 87). Yolo County Parks & Resources Department Staff performed a field inspection of the operation in December 2006, and found the operation to be in compliance with the Development Agreement.

DEVELOPMENT AGREEMENT IN PLACE

As required by County Ordinance 1190, Article 7 and under Section 7.1. Development Agreement No. 96-289 and Permit # ZF95-078 are active and cover the gravel mining operation currently in production.

PRODUCTION, FEES, AND GENERAL OPERATIONS

The operator did not exceed the allowed 1 million tons (sold weight) in the last production year. The maximum ten-year average has also not been exceeded. The operator paid all fees on a quarterly basis as required by the development agreement. Staff found the operator to be in compliance with the general operations such as stockpile management, setback requirements, and plant operations.

BONDS

The operator has a current bond of \$843,723 on file with Yolo County, and is in compliance with the Surface Mining Reclamation Ordinance and the State Surface Mining and Reclamation Act (SMARA). The county is listed as the certificate holder on the bonds.

PROCESSING OF MATERIALS

Staff found the operator to be in compliance with the requirements of the development agreement for general operations such as stockpile management, setback requirements, fencing, and plant operations. The new plant, electric dredge, and conveyor belt systems are in place, and have facilitated operations that are more efficient.

LEVEE STABILITY AND EROSION CONTROL

The operator submitted a comprehensive levee report prepared by Cunningham Engineering. The report evaluated the condition, slope, stability, and the erosion potential of the existing levees and banks. Staff inspected the site in December 2006 and concur with the findings of the report. The operator continues to monitor and maintain the levees to an acceptable level in compliance with the development agreement.

WATER QUALITY AND GROUNDWATER

The operator performs ongoing semi annual groundwater monitoring of the (non-potable) monitoring well network throughout the site. A groundwater study was prepared by Wallace-Kuhl & Associates for the operator, and the following were notable aspects of the report:

- Petroleum hydrocarbons, pesticides, and herbicides was found to be above laboratory detection limits.
- The pH of the open water ponds was slightly higher (8.6) than the maximum allowed containment level of 8.5 but is within acceptable tolerance.
- Nitrate levels were slightly elevated, and may be due to a perched water table.
- Iron levels in one of the wells and the open water ponds were higher.
- Coliform values in one of the monitoring wells and the open water pond were slightly elevated (possibly attributed to the proximity with the West Adams canal).
- All other constituents of concern show similar concentrations to pre-mining conditions.

RECLAMATION AND HABITAT

The reclamation plans and operations are in compliance with the original development agreement and all subsequent amendments approved by the Board of Supervisors. Overburden and topsoil has been stockpiled for future reclamation activities. The open water ponds provide good habitat for waterfowl throughout the year, and the creek edges near the plant are vegetated to an acceptable level. Berms, levees, and un-mined areas are covered with a good mix of native and non-native vegetation.

ROADS AND TRAFFIC

The operator continues to participate in the joint management/maintenance requirements for CR 87 (northbound from the plant entrance), CR 19 (east to the Teichert Esparto plant), and joint maintenance of CR 19 with Teichert to the intersection with I-505. An inspection of the roads was conducted in the fall of 2006 by the county roads superintendent, and the roads were found by the superintendent to be in fair condition.

AIR QUALITY & NOISE

The operator submitted documentation verifying that they achieved a 20% reduction in emissions as of 2005. The electric dredge and associated conveyor system has helped to improved the efficiency of the operations reduce emissions, and the re-location of the plant closer to the entrance has reduced truck traffic. Berms, stockpiles, and vegetated buffers are being maintained to help reduce the impacts of noise on the surrounding areas. No noise complaints were filed with the county in 2006 by any of the surrounding residents.

CONCLUSION

The operator has complied with the requirements of the development agreement and SMARA.

ATTACHMENT B

GRANITE CONSTRUCTION

WOODLAND FACILITY (IDLE)

2006 OFF CHANNEL ANNUAL MINING PERMIT COMPLIANCE SUMMARY

INTRODUCTION

Granite's 110 acre IDLE Woodland facility is located approximately four miles northwest of Woodland (accessed off CR 18A). Yolo County Parks & Resources Department staff performed a field inspection of the operation in December 2006, and found the operation to be in compliance with the permit.

DEVELOPMENT AGREEMENT IN PLACE

As required by County Ordinance 1190, Article 7 and under Section 7.1. Permit #ZF 2001-096 relates to this idle gravel mine.

PRODUCTION, FEES, AND GENERAL OPERATIONS

The operator designated the mine as Idle in 1999. Section § 2727.1 of the State Surface Mining and Reclamation Act (SMARA) describes an idle mine as:

“Idle means to curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date”.

No mining and/or production has been performed at the site since 1999.

BONDS

The operator has a current bond of \$20,775 on file with Yolo County. The county is listed as the certificate holder on the bond.

PROCESSING OF MATERIALS

Does not apply. Mine is idle.

LEVEE STABILITY AND EROSION CONTROL

Field inspection by county staff revealed no noticeable difference in the condition of the levees since the last inspection in 2005. An established breach in the levee, which spills only into this site during periods of extremely high water, is stable, and is in an acceptable condition.

WATER QUALITY AND GROUNDWATER

Does not apply. Mine is idle.

RECLAMATION AND HABITAT

Does not apply. Mine is idle.

ROADS AND TRAFFIC

Does not apply. Mine is idle.

AIR QUALITY & NOISE

Does not apply. Mine is idle.

CONCLUSION

Mine is idle.

ATTACHMENT B

SCHWARZGRUBER & SONS

2006 OFF CHANNEL ANNUAL MINING PERMIT COMPLIANCE SUMMARY

INTRODUCTION

Schwarzgruber's 99-acre facility is located approximately 4.3 miles northwest of Woodland (accessed off CR 96). Yolo County Parks & Resources Department staff performed a field inspection of the operation in December 2006, and found the operation to be in compliance with the conditions of the zone file.

DEVELOPMENT AGREEMENT IN PLACE

As required by County Ordinance 1190, Article 7 and under Section 7.1. Zone File No. G-6 (October 29, 1980) covers the gravel mining operation currently in production.

PRODUCTION, FEES, AND GENERAL OPERATIONS

The operator did not exceed the allowed 114,000 tons per year in the last production year. The maximum ten-year average has also not been exceeded. The operator is not required to pay quarterly fees. The operator has complied with the conditions of approval regarding the moving, processing, and stockpiling of material throughout the site.

BONDS

The operator has a current bond of \$200,000 on file with Yolo County, and complies with the Surface Mining Reclamation Ordinance and the State Surface Mining and Reclamation Act (SMARA). The county is listed as the certificate holder on the bond.

PROCESSING OF MATERIALS

Staff found the operator to be in compliance with the requirements for general operations such as stockpile management, setback requirements, and plant operations.

LEVEE STABILITY AND EROSION CONTROL

The operator is not required to submit a levee report. Staff inspected the site in December 2006 and found no visual evidence of instability, erosion, or other hazardous conditions along the creek levees or embankments within the mine.

WATER QUALITY AND GROUNDWATER

The operator is not required to perform groundwater monitoring.

RECLAMATION AND HABITAT

The operator is not required to submit reclamation plans until their mining operation closes.

ROADS AND TRAFFIC

The operator is not required to maintain the roads leading into the facility.

AIR QUALITY & NOISE

The operator is not required to submit any reports regarding air quality or noise. No noise complaints were filed with the county in 2006 by any of the surrounding residents.

CONCLUSION

The operator has complied with the requirements of the zone file and SMARA.

ATTACHMENT B

RINKER MATERIALS

2006 OFF CHANNEL ANNUAL MINING PERMIT COMPLIANCE SUMMARY

INTRODUCTION

Rinker's 586-acre facility is located approximately 10 miles west of Woodland (accessed off State HWY 16). Yolo County Parks & Resources Department staff performed a field inspection of the operation in December 2006, and found the operation to be in compliance with the Development Agreement.

DEVELOPMENT AGREEMENT IN PLACE

As required by County Ordinance 1190, Article 7 and under Section 7.1. Development agreement # 96-287 and Zone File No. 95-093 covers the gravel mining operation currently in production.

PRODUCTION, FEES, AND GENERAL OPERATIONS

The operator did not exceed the allowed 1 million tons (sold weight) in the last production year. The maximum ten-year average has also not been exceeded. The operator paid all fees on a quarterly basis as required by the development agreement. The operator has complied with the conditions of approval regarding the moving, processing, and stockpiling of material throughout the site.

BONDS

The operator has a current bond of \$2,399,233 on file with Yolo County, and complies with the Surface Mining Reclamation Ordinance and the State Surface Mining and Reclamation Act (SMARA). The county is listed as the certificate holder on the bonds.

PROCESSING OF MATERIALS

Staff found the operator to be in compliance with the requirements of the development agreement requirements for general operations such as stockpile management, setback requirements, fencing, and plant operations.

LEVEE STABILITY AND EROSION CONTROL

The operator submitted a comprehensive levee report prepared by Cunningham Engineering. The report evaluated the condition, slope, stability, and the erosion potential of the existing levees and banks of Cache Creek. Staff inspected the site in December 2006 and concurs with the findings of the report. The operator continues to monitor and maintain the levees to an acceptable level in compliance with the development agreement. The operator is working to prepare a bank protection plan for approximately 450 feet of embankment on the south bank of Cache Creek that is in need of stabilization. The operator anticipates the bank stabilization to be completed in late 2007.

WATER QUALITY AND GROUNDWATER

The operator performs on going semi annual groundwater monitoring of the monitoring (non-potable) well network throughout the site. A groundwater study was prepared by Luhdorff & Scalmanini Consulting Engineers for the operator, and the following were notable aspects of the report:

- The site has experienced stable water level conditions over the last fifty years with temporary declines due to drought.
- Groundwater quality at the site is consistent with conditions reported outside the gravel mine.
- Pesticides and herbicides were not detected in any of the groundwater or pond samples.

- Coliform organisms were detected in one of the well samples collected in 2006. There was no detection of fecal coliform. None of the wells where coliform was detected are used for potable water.
- Coliform bacteria were present on one of the pond samples, a condition that can be expected in open water ponds.

Rinker Materials

2006 Annual Gravel Mining Report Summary

- Nitrates were found present in monitoring wells adjacent to areas currently being farmed.

RECLAMATION AND HABITAT

The reclamation plans and habitat restoration activities are in compliance with the original development agreement and all subsequent amendments approved by the Board of Supervisors. Overburden and topsoil has been stockpiled for future reclamation activities (which includes farming) and/or the soil has been effectively re-deposited as topsoil at reclamation sites. The open water ponds provide good habitat for waterfowl throughout the year, and the creek edges near the plant are vegetated to an acceptable level. Berms and embankments not associated with the levee along the creek are covered with native vegetation. The operator continues to perform ongoing maintenance of the planted areas.

ROADS AND TRAFFIC

The operator continues to maintain their access road from HWY 16 into the plant at an acceptable level. The roadway is considered a private road and is not inspected by the county. Staff performed a visual inspection on the roadway in December 2006 and found the roadway to be free of major cracks, potholes, and other serious deformations.

AIR QUALITY & NOISE

The operator submitted documentation claiming that the facility met their voluntary emission goals in the past reporting year. Continued use of the conveyor system, upgrading of their trucking equipment, and replacement of older equipment have all contributed to the reduction in emissions. No noise complaints were filed with the county in 2006 by any of the surrounding residents.

CONCLUSION

The operator has complied with the requirements of the development agreement and SMARA.

ATTACHMENT B

SYAR INDUSTRIES

2006 OFF CHANNEL ANNUAL MINING PERMIT COMPLIANCE SUMMARY

INTRODUCTION

Syar's 734-acre facility is located approximately 1.7 miles north of the town of Madison (accessed off CR 89). Yolo County Parks & Resources Department staff performed a field inspection of the operation in December 2006, and found the operation to be in compliance with the Development Agreement.

DEVELOPMENT AGREEMENT IN PLACE

As required by County Ordinance 1190, Article 7 and under Section 7.1. Development agreement # 96-287 and Zone File No. 98-010 covers the gravel mining operation currently in production.

PRODUCTION, FEES, AND GENERAL OPERATIONS

The operator did not exceed the allowed 1 million tons (sold weight) in the last production year. The maximum ten-year average has also not been exceeded. The operator paid all fees on a quarterly basis as required by the development agreement. Staff found the operator to comply with general requirements of the development agreement for operations such as stockpile management, setback requirements, and plant operations.

BONDS

The operator has current bonds totaling \$699,655 on file with Yolo County, and complies with the Surface Mining Reclamation Ordinance and the State Surface Mining and Reclamation Act (SMARA). The county is listed as the certificate holder on the bonds.

PROCESSING OF MATERIALS

The operator has complied with the conditions of approval regarding the moving, processing, and stockpiling of material throughout the site and during trucking operations on site. The newly mined site known as phase C1 is ongoing and is progressing as anticipated.

LEVEE STABILITY AND EROSION CONTROL

Field inspection by county staff in December 2006 revealed no noticeable difference in the condition of the levees since the last inspection in 2005. The operator has maintained the levees as required in the Development Agreement.

WATER QUALITY AND GROUNDWATER

The operator performs on going semi annual groundwater monitoring of the monitoring (non-potable) well network throughout the site. A groundwater study was prepared by Luhdorff & Scalmanini Consulting Engineers for the operator, and the following were notable aspects of the report:

- The site has experienced stable water level conditions over the last fifty years with temporary declines due to drought.
- Groundwater quality at the site is consistent with conditions reported outside the gravel mine.
- Pesticides and herbicides were not detected in any of the groundwater or pond samples.
- The quality of the water in both the monitoring wells and the open water ponds was similar.

- Nitrates were found present in monitoring wells on the site, and were at levels detected prior to commencement of mining on the site.

RECLAMATION AND HABITAT

The reclamation plans are in compliance with the original development agreement and all

Syar Industries

2006 Annual Gravel Mining Report Summary

subsequent amendments approved by the Board of Supervisors. Overburden and topsoil has been stockpiled for future reclamation activities and/or the soil has been effectively re-deposited as topsoil at reclamation sites. The open water ponds provide good habitat for waterfowl throughout the year, and the creek edges near the plant are vegetated to an acceptable level. Berms and embankments not associated with active gravel mining operations are covered with native and non-native vegetation. The operator continues to perform ongoing maintenance of planted areas.

ROADS AND TRAFFIC

The operator continues to participate in the management/maintenance of CR 89 and the intersection of CR 89 & HWY 16. The county roads superintendent conducted an inspection of CR 89 in the fall of 2006, and the roads were found by the superintendent to be in good condition. Staff did not receive any complaints from residents along CR 89 regarding truck traffic.

AIR QUALITY & NOISE

The operator has continuously made progress in updating their fleet of vehicles in order to meet emissions goals established in 2000. A new overland conveyor was constructed in 2001 and haul truck usage was reduced. Emissions per ton of production dropped significantly in 2006 as compared to 2005. Syar advised staff that they will continue to update their equipment pool in order to reduce emissions next year. Staff did not receive any noise complaints from the landowners and residents surrounding the facility.

CONCLUSION

The operator has complied with the requirements of the development agreement and SMARA.

ATTACHMENT B

TEICHERT AGGREGATES ESPARTO FACILITY

2006 OFF CHANNEL ANNUAL MINING PERMIT COMPLIANCE SUMMARY

INTRODUCTION

Teichert's 279 acre Esparto Facility is located approximately 2.2 miles northeast of the town of Esparto (accessed off CR 19). Yolo County Parks & Resources Department staff performed a field inspection of the operation in December 2006, and found the operation to be in compliance with the Development Agreement.

DEVELOPMENT AGREEMENT IN PLACE

As required by County Ordinance 1190, Article 7 and under Section 7.1. Development agreement # 96-290 and Zone File No. 95-094 covers the gravel mining operation currently in production.

PRODUCTION, FEES, AND GENERAL OPERATIONS

The operator did not exceed the allowed 1 million tons (sold weight) in the last production year. The maximum ten-year average has also not been exceeded. The operator paid all fees on a quarterly basis as required by the development agreement. Staff found the operator to be in compliance with the requirements of the development agreement for general operations such as stockpile management, setback requirements, fencing, and plant operations.

BONDS

The operator has a current bond of \$308,801 on file with Yolo County, and is in compliance with the Surface Mining Reclamation Ordinance and the State Surface Mining and Reclamation Act (SMARA). The county is listed as the certificate holder on the bonds.

PROCESSING OF MATERIALS

The operator has complied with the conditions of approval regarding the moving, processing, and stockpiling of material throughout the site and during trucking operations. The new conveyor belt system serving the Mast-Reiff parcel is in place and serves to efficiently deliver product to the plant.

LEVEE STABILITY AND EROSION CONTROL

The operator submitted a comprehensive levee report prepared by MBK Engineering for the levees along Cache Creek. The investigation concluded that the majority of the levees are stable, except for the 300-foot section near their stockpile area that was eroded by the creek. The emergency reconstruction of the levee was planned for late 2006. A flood hazard development was issued by the County in early October 2006 to the operator to enter the stream zone to rebuild a new levee at the damaged location. A notification was sent to the US Army corps of Engineers by the applicant's consultant on 10-3-06. County staff was not involved in the submittal of the USACOE notification, in the inspection of the levee, and was not advised by the operator when the work was finished. The remainder of the levees were visually inspected by county staff, and staff concurred with the MBK findings of the existing levee conditions.

WATER QUALITY AND GROUNDWATER

The operator performs on going semi annual groundwater monitoring of the monitoring (non-

potable) well network throughout the site. A groundwater study was prepared by Luhdorff & Scalmanini Consulting engineers for the operator, and the following were notable aspects of the report:

- Groundwater in the mined area fluctuates seasonally and fills the ponds depending on the time of year.
- Pumping causes fluctuations in the groundwater monitoring well levels.

*Teichert Aggregates – Esparto Facility
2006 Annual Gravel Mining Report Summary*

- Groundwater quality remained consistent with pre-mining conditions.
- Heavy metal concentrations remained at pre-mining levels.
- Fecal coliform was not detected in the groundwater monitoring wells.
- Water quality in the existing open ponds is of similar quality to the groundwater.

RECLAMATION AND HABITAT

The reclamation plans are in compliance with the original development agreement and all subsequent amendments approved by the Board of Supervisors. Overburden and topsoil has been stockpiled for future reclamation activities. The open water ponds provide good habitat for waterfowl throughout the year, and the creek edges near the plant are vegetated to an acceptable level. Berms, levees, and an acceptable number of the un-mined areas are covered with native and non-native vegetation.

ROADS AND TRAFFIC

The operator continues to participate in the joint management/maintenance requirements for CR 19 (eastbound from the plant to I-505) with Granite. The county roads superintendent conducted an inspection of the road in the fall of 2006, and the roads were found by the superintendent to be in good condition.

AIR QUALITY & NOISE

The operator submitted documentation claiming a 50%'s reduction in emissions as compared to the base year of 2000. Continued use of the conveyor system has helped to improved the efficiency of the operations and reduce emissions. No noise complaints were filed with the county in 2006 by any surrounding residents, including Mast, who resides adjacent to and northwest of the mine.

CONCLUSION

The operator has complied with the requirements of the development agreement and SMARA.

ATTACHMENT B

TEICHERT AGGREGATES

WOODLAND FACILITY

2006 OFF CHANNEL ANNUAL MINING PERMIT COMPLIANCE SUMMARY

INTRODUCTION

Teichert's 609 acre Woodland Facility is located approximately 5 miles northwest of Woodland (accessed off CR 20). Yolo County Parks & Resources Department staff performed a field inspection of the operation in December 2006, and found the operation to be in compliance with the Development Agreement.

DEVELOPMENT AGREEMENT IN PLACE

As required by County Ordinance 1190, Article 7 and under Section 7.1. Development agreement # 96-286 and Zone File No. 95-095 covers the gravel mining operation currently in production.

PRODUCTION, FEES, AND GENERAL OPERATIONS

The operator *did* exceed the allowed 1 million tons (sold weight) in the last production year at this facility. The maximum ten-year average was not exceeded. The operator paid all fees on a quarterly basis as required by the development agreement, including the excess fees for all sold tonnage over 1 million sold tons. Staff found the operator to be in compliance with the requirements of the development agreement for general operations such as stockpile management, setback requirements, fencing, and plant operations.

BONDS

The operator has a current bond of \$761,682 on file with Yolo County, and complies with the Surface Mining Reclamation Ordinance and the State Surface Mining and Reclamation Act (SMARA). The county is listed as the certificate holder on the bonds.

PROCESSING OF MATERIALS

The operator has complied with the conditions of approval regarding the moving, processing, and stockpiling of material throughout the site and during trucking operations on site. Mining operations at the newly mined area west of CR 94B (Coors) are progressing as anticipated, and the conveyor belt system over the creek and to the plant is operating as expected.

LEVEE STABILITY AND EROSION CONTROL

The operator submitted a comprehensive levee report prepared by MBK Engineering for the levee along the Muller site, but not the overall mining area. The investigation for the Muller area concluded that the levees at Muller are stable. The remainder of the creekside levees was visually inspected by county staff, and no visual evidence of subsidence or erosion was identified.

WATER QUALITY AND GROUNDWATER

The operator performs on going semi annual groundwater monitoring of the (non-potable) monitoring well network throughout the site. A groundwater study was prepared by Luhdorff & Scalmanini Consulting Engineers for the operator, and the following were notable aspects of the report:

- Short periods of localized increases and decreases in shallow groundwater levels occurred because of stream conditions, irrigation operations on the surrounding farms, and settling pond levels.
- Deep aquifer levels varied independently of the shallow aquifer conditions.
- Groundwater quality at the site is consistent with conditions reported outside the gravel mine.
- Planned setback distances between the wells and the planned wet pits appear to be sufficient for water quality protection based on modeling.

*Teichert Aggregates –Woodland Facility
2006 Annual Gravel Mining Report Summary*

- Fecal coliform was not detected in the groundwater monitoring wells at the site.
- Water quality in the existing open ponds is of similar quality to the groundwater.

RECLAMATION AND HABITAT

The reclamation plans are in compliance with the original development agreement and all subsequent amendments approved by the Board of Supervisors. Overburden and topsoil has been stockpiled for future reclamation activities and/or the soil has been effectively re-deposited as topsoil at reclamation sites. The open water ponds provide good habitat for waterfowl throughout the year, and the creek edges near the plant are vegetated to an acceptable level. Berms and embankments not associated with active gravel mining operations are covered with native and non-native vegetation. The operator continues to perform ongoing maintenance of planted areas.

ROADS AND TRAFFIC

The operator continues to participate in the management/maintenance of CR 20. The county roads superintendent conducted an inspection of the road in the fall of 2006, and the roads were found by the superintendent to be in good condition requiring only some crack sealing. Staff did not receive any complaints from residents along CR 20, CR 96, or CR 94B regarding truck traffic.

AIR QUALITY & NOISE

The operator submitted documentation claiming an overall reduction of 50% in emissions as compared to the base year of 2000. Continued use of the conveyor system has helped to improve the efficiency of the operations and reduce emissions. No noise complaints were filed with the county in 2006 by any surrounding residents or the air quality control district.

CONCLUSION

The operator has complied with the requirements of the development agreement and SMARA.

ATTACHMENT C
FINDINGS
2006 ANNUAL MINING COMPLIANCE SUMMARY REPORTS

(A summary of 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, the Yolo County Planning Commission finds the following:

California Environmental Quality Act (CEQA) and Guidelines

That the recommended Class 7 Categorical Exemption is the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines.

Pursuant to the requirements of the California Environmental Quality Act, the Annual Report to the Planning Commission is Categorically Exempt under Section 15307, Class 7 of the CEQA Guidelines as an action taken by a regulatory agency to assure the restoration, maintenance, and enhancement of natural resources.

Surface Mining and Reclamation Ordinances and Associated Approvals

That the individual mining operations are being operated in substantial compliance with the Yolo County Surface Mining and Reclamation Ordinances, individual mitigation monitoring plans, Development Agreements, the State Surface Mining and Reclamation Act, and Conditions of Approval of the mining permits issued to the producers.

Following review by staff, which was based upon on-site inspections, documentation provided by the operators, and aerial topographic maps, it is determined that the continuing mining and reclamation activities of Granite Construction (2 sites), Schwarzgruber and Sons, Rinker Materials, Syar Industries, and Teichert Aggregates (2 sites), are in substantial compliance with the County Surface Mining and Reclamation Ordinances, individual mitigation monitoring plans, Development Agreements, the State Surface Mining and Reclamation Act, and Conditions of Approval of the mining permits issued to the producers.

That the 2006 Annual Review complies with all applicable laws.

The review performed by staff, and public hearing before the Planning Commission, fulfill the requirements of Section 10-4.703 of the County Surface Mining Ordinance and 2774.b of the Surface Mining and Reclamation Act regarding the annual review of mining and reclamation compliance; Section 10-5.708 of the County Surface Mining Reclamation Ordinance and Section 2773.1 of the Surface Mining and Reclamation Act regarding annual review of financial assurances; Section 7.1 of Development Agreements 96-286 through 96-290 inclusive; and the California Environmental Quality Act regarding mitigation monitoring program implementation.

ATTACHMENT D

COUNTY RECORDER
Filing Requested by:

Yolo County Parks and Resources Department
Name
120 West Main Street Suite C
Address
Woodland, CA 95695
City, State, Zip

Notice of Exemption

To: Yolo County Clerk
625 Court Street
Woodland, CA 95695

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814



Project Title: 2006 Annual Mining Compliance Report State Clearinghouse Number: N/A

Applicant: Yolo Parks and Resources Department
Attn: Kent Reeves, Principal Natural Resource Planner
120 West Main Street Suite C
Woodland, CA. 95695

Project Location: Immediately north and south of lower Cache Creek, between County Roads 85 and 96, within the boundaries of the Cache Creek Area Plan.

Project Description: Annual monitoring review and inspection for the Granite Construction-Capay, Granite Construction-Woodland, Schwarzgruber and Sons, Rinker Materials, Syar Industries, Teichert Aggregates-Esparto, and Teichert Aggregates-Woodland gravel mining operations.

Exempt Status: Categorical Exemption, Article 19, Section 15307, Class 7 under the California Environmental Quality Act (CEQA) Guidelines.

Reasons why project is exempt: The project consists of inspections and other monitoring activities to ensure the performance of gravel mining operations in accordance with applicable County Ordinances, Use Permit Conditions of Approval, Mitigation Monitoring Plans, Development Agreements, and State Regulations. Class 7 of the CEQA Guidelines allows an exemption for actions taken by regulatory agencies to assure the maintenance, restoration and enhancement of natural resources where the regulatory process involves procedures for protection of the environment.

Lead Agency Contact Person: Kent Reeves, Principal Natural Resource Planner
Telephone Number: (530) 406-4888

Signature (Public Agency): _____ Date : _____

Date received for filing at OPR: _____

FILE # _____ FILE NAME _____ RECEIPT # _____

AUTHORIZED SIGNATURE _____ FEE STATUS _____



County of Yolo

PLANNING AND PUBLIC WORKS DEPARTMENT

John Bencomo
DIRECTOR

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

PLANNING COMMISSION STAFF REPORT

JANUARY 24, 2008

FILE #2002-001: Extension of time of one year for Tentative Parcel Map #4565 (Dunnigan Truck and Travel Center) approved on January 6, 2004 to divide a 100 acre parcel in Dunnigan into four parcels and a remainder parcel (**Attachment B**).

APPLICANT/OWNER: Mel Smith/Jerry Burger
Grant Park Development
P.O. Box 61
Paso Robles, CA 93447

LOCATION: Southwest corner of I-5 and County Road 8 in Dunnigan (APN: 052-060-11) (**Attachment A**)

ZONING: Highway Services Commercial-Planned Development (CH-PD)
FLOOD ZONE: A and C

ENVIRONMENTAL DETERMINATION: Categorical Exemption

REPORT PREPARED BY:

REVIEWED BY:

Eric Parfrey, Principal Planner

David Morrison, Assistant Director

RECOMMENDED ACTION

That the Planning Commission:

1. **HOLD** a public hearing and receive testimony on the proposed extension of Tentative Parcel Map #4565; and
2. **APPROVE** the third and final extension of time of one year for Tentative Parcel Map #4565 to January 6, 2009.

REASONS FOR RECOMMENDED ACTION

Under the Subdivision Map Act, the Planning Commission has considerable discretion in acting on an application for a tentative map extension. The Map Act does not provide any criteria for evaluating such applications. Accordingly, as with other types of agency actions, the Planning Commission may take any action that is not arbitrary or unreasonable.

This is a significant economic development project, with the potential to benefit both the community of Dunnigan and the County as a whole. The applicants have continued to make progress towards completion of the Final Parcel Map requirements over the past year. Staff recommends that a final, last extension be granted as allowed under State law to give the applicant additional time to complete the required actions for the Final Map before January 6, 2009.

BACKGROUND AND PROJECT DESCRIPTION

The proposed project is a third extension of time of one year for the Tentative Parcel Map (TPM) for the Dunnigan Truck and Travel Center project, originally approved by the Board of Supervisors on January 6, 2004. The TPM consists of 4 parcels, and remainder parcel, that are to be subdivided from a 100-acre parcel for the purpose of developing a highway commercial project (**Attachment B**). The four parcels consist of the first four phases of the project (45 acres), with the remainder parcel (Phase 5, 55 acres) to be developed at a later date. A Planned Development Master Plan was adopted for the project, which contemplated a phased development.

The objective of the project is “to enhance the local economy of the town of Dunnigan and Yolo County by developing approximately 45 acres for the highway services industry.” The original plan for the project envisioned Phase 1 (13 acres) being developed as a travel center providing truck, RV and auto fueling, a fast food restaurant, a convenience store, truck supplies, a truck drivers’ lounge, and overnight truck parking. Phase 2 (the next 12 acres) would include a tire store, a truck wash, travel oriented retail shops, a lounge and restaurant, and more overnight truck parking. The third phase (10 acres) would include another restaurant, a 60-room motel, and parking. The fourth phase (10 acres) would include a new and used truck dealership, parts, and repair services.

There are no development plans at this time for the remainder parcel (55 acres).

A Chevron truck stop is proposed for the first phase, which would be an average-sized truck stop smaller than the existing Pilot truck stop on the east side of the I-5 freeway. The Yolo County Economic Development Director estimates that the Chevron truck stop could generate approximately \$7.8 million in annual sales and employ 75 to 95 people. Annual sales tax receipts to the County would amount to about \$78,000, plus additional fuel and property taxes.

History

This is the third application for a one-year time extension that has been requested for this project. Under the Subdivision Map Act, a Tentative Parcel Map can be extended for one year increments, up to a total of five years, following the original approval. Thus, if the Planning Commission granted this third extension, and the applicant did not complete the conditions of approval to allow the County to accept the Final Subdivision Map by January 6, 2009, the Tentative Map would legally expire, with no ability for the applicant to request further extensions.

The Planning Commission granted the first one year extension on March 9, 2006.

The Planning Commission considered a second one-year year extension on March 9, 2007. At the conclusion of the hearing on March 9, 2007, the commission voted to continue the matter for a period of 60 days and directed the applicant to complete six actions. The actions included completion of fencing and signage at the existing wastewater treatment ponds; constructing monitoring wells; obtaining approval from the Regional Water Quality Control Board (RWQCB) of a Workplan to prepare a Report of Waste Discharge for the proposed Dunnigan Truck and Travel

Center and another related Grant Park development; submission of a Master Landscaping and Irrigation Plan to the county planning; and posting a performance bond with the County for the full amount of improvements for the first phase of the project.

On May 10, 2007, the Planning Commission again reviewed the progress that had been made. By May, the applicant had complied with most of the items. The applicant met with RWQCB staff on March 20, 2007; completed the installation of fencing and signage at the existing wastewater treatment ponds; submitted a Groundwater Monitoring Well Installation Workplan to the RWQCB staff and completed construction of the monitoring wells; and retained an engineer to begin preparation of the Report of Waste Discharge, as well as conceptual plans for the expansion and upgrade of the wastewater treatment system. A Master Landscaping and Irrigation Plan was also submitted to the County. Following the public hearing, the Planning Commission approved the second one-year extension until January 6, 2008.

Progress Since May 2007

To date, the applicant has not complied with the following conditions of approval (COA) for the Parcel Map, which require submittal of various plans and permits:

- COA C-2: Submit improvement bond, inspection fee, and enter into improvement agreement.
- COA C-2: Provide evidence of Caltrans approval of proposed work in state right of way shown on improvement plans. (A state encroachment permit would be acceptable evidence.)
- COA C-3: Enter into franchise agreement with County for installation and maintenance of private utility facilities (sewer and water) in County right of way.
- COA E-3: Submit construction plans for the wastewater treatment system.
- COA E-4: Submit water supply system designed by licensed engineer.
- COA B-12: Submit utility plans for street lights approved by PG&E.

During the past year, the applicant has submitted preliminary engineering plans for on- and off-site improvements for the entire 100-acre project. The engineering plans have been reviewed and revised by the applicant to address the County's concerns, however the developer has not submitted drawings to show how the underground 'dry' utilities (gas, electric, streetlight, and phone) will be installed, nor have the plans involving work in the state right of way been approved by Caltrans.

The first phase of the Dunnigan Truck and Travel Center is a proposed Chevron truck stop facility on 13 acres, to be constructed by Peter Sidhu. Mr. Sidhu has entered into escrow to purchase the 13-acre property from the applicant. The applicant has indicated to the Planning Commission and staff that Mr. Sidhu has also agreed to put up a security bond to cover the amount of the first phase on-site improvements, which is estimated at approximately \$3.4 million. To date, the specifics of this arrangement, and the form of the bond, have not been provided to staff. The applicant still needs to post the required performance bond for the first phase of the project, to ensure the improvements would be constructed, and complete negotiations regarding the Subdivision Improvement Agreement.

One of the most important conditions that remains outstanding is the requirement to submit plans for the wastewater treatment system. The Dunnigan Truck and Travel Center project proposes to receive wastewater treatment and disposal service from the existing private Dunnigan Water Works, which operates a series of evaporation ponds that serve the Country Fair Estates mobile home park on the east side of the I-5 freeway. The wastewater treatment system must be

upgraded to serve the project. The applicant must submit a complete Report of Waste Discharge (RWD) to the Regional Water Quality Control Board (RWQCB), to begin the State permitting process that would allow the expansion of the wastewater treatment plant to service the project, as well as a related Grant Park Development project on the other side of the I-5 freeway.

Since the action by the Planning Commission in May 2007 to approve the second extension of time, the applicant's engineer submitted a draft RWD to the RWQCB on August 1, 2007. The RWQCB staff responded back to the applicant in a letter of September 11, 2007 (**Attachment D**) indicating that the RWD failed to include all of the technical information that was requested in a previous letter, and therefore the report was incomplete. The RWQCB requested the applicant to resubmit the RWD with the additional information.

On January 9, 2008, County staff contacted RWQCB to determine if the applicant's engineer had followed through to submit a revised RWD. Anne Olson of the RWQCB staff verified that she had heard no word from the applicant's engineer since the September, 2007 letter was sent. Ms. Olson reiterated that it would take RWQCB staff and the board between six and eight months to process the RWD and schedule it before the State board for approval, once it had been submitted in a complete form.

Before the Final Map can be approved, the applicants will also have to pay remaining staff costs incurred regarding the project, which currently total \$14,780. It should be noted that the applicants have an outstanding invoice of \$10,093 for Public Works Division staff costs regarding their project at the corner of County Road 99W and County Road 8 (Zone File 99-082).

AGENCY COMMENTS

The time extension application was not circulated for comments from other agencies. The Dunnigan Advisory Committee voted 11-3-0 to recommend approval of the time extension at their meeting of January 15, 2008.

ATTACHMENTS

- A:** Vicinity Map
- B:** Tentative Parcel Map #4565
- C:** Original Conditions of Approval
- D:** Findings
- E:** Categorical Exemption
- F:** Letter from RWQCB staff to the applicant, September 11, 2007

ATTACHMENT A

Vicinity Map

ATTACHMENT B

Tentative Parcel Map #4565

ATTACHMENT C
ORIGINAL CONDITIONS OF APPROVAL
for
ZONE FILE #2002-001
(Parcel Map #4565)

ATTACHMENT D

FINDINGS FOR APPROVAL OF SUBDIVISION MAP TIME EXTENSION ZONE FILE #2002-001 (Parcel Map #4565)

FINDINGS *(A summary of 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 #2002-001, the Yolo County Planning Commission finds the following:

California Environmental Quality Act (CEQA) Guidelines

1. In determining that the proposed Categorical Exemption for this project is the appropriate level of environmental review under CEQA, the Planning Commission finds:

That on the basis of pertinent information in the public record and comments received, the ministerial project is exempt from further environmental review and that a Categorical Exemption has been prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines.

Additional Findings:

2. An extension of time shall be approved only when it is found that circumstances under which the subdivision map was granted have not changed.

The project as approved remains consistent with the current Dunnigan General Plan and the zoning of the property. There has been no change in the existing or proposed uses on the surrounding properties. In addition, no other information has been provided during the public hearing process that indicates any change in circumstances.

COUNTY RECORDER

Filing Requested by:

Yolo County Planning and Public Works

Name

292 West Beamer Street

Address

Woodland, CA 95695

City, State, Zip

Attention: Eric Parfrey

Notice of Exemption



To: Yolo County Clerk
625 Court Street
Woodland, CA 95695

Project Title: ZF# 2002-001

Mel Smith/Grant Park Development
P.O. Box 61
Paso Robles CA 93447

Project Location: Subject property is located at the southwest corner of I-5 and County Road 8 in Dunnigan (APN: 052-060-11)

Project Description: A third one-year time extension of a parcel map for 4 lots and a remainder parcel on 100 acres in the Highway Services Commercial-Planned Development (CH-PD).

Exempt Status: Ministerial Project

Reason why project is exempt:

Section 15300.1 of the CEQA Guidelines and Section 21080 of the Public Resources Code (CEQA Statutes) exempt projects over which a local agency exercises only ministerial authority such as time extensions of parcel or subdivision maps.

Lead Agency Contact Person: Eric Parfrey, Principal Planner
Telephone Number: (530) 666-8043

Signature (Public Agency): _____

Date:



County of Yolo

John Bencomo
DIRECTOR

PLANNING, RESOURCES AND PUBLIC WORKS DEPARTMENT

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PLANNING COMMISSION STAFF REPORT

JANUARY 24, 2008

FILE NO. 2002-075: Consider recommendations to the Board of Supervisors for the revised Old Sugar Mill Specific Plan and associated approvals, including revisions to the Development Agreement and Design Guidelines and Standards, pursuant to the remand from the Delta Protection Commission.

APPLICANT:

John Carvalho, Jr.
Carvalho-Stanich Properties, Inc.
35265 Willow Avenue
P.O. Box 278
Clarksburg, CA 95612

LOCATION: The site is bounded by South River Road/Sacramento River on the east, Winchester Lake on the north, Willow Avenue on the west, and the Town of Clarksburg to the south.

ZONING: M-2 (Heavy Industrial)
GENERAL PLAN: Specific Plan
FLOOD ZONE: B (500-year flood zone)

APN: 043-240-06, -07, -09, and -10.

ENVIRONMENTAL DETERMINATION: Addendum to previously certified Environmental Impact Report
(SCH# 2003022104)

REPORT PREPARED BY:

David Morrison, Assistant Director

RECOMMENDED ACTIONS

That the Planning Commission recommend the following actions to the Board of Supervisors:

1. **RECEIVE** a staff presentation, hold a public hearing, and accept public comments regarding revisions to the Old Sugar Mill Specific Plan and related approvals; and
2. **CERTIFY** the Addendum to the certified Environmental Impact Report as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and CEQA guidelines (Attachment A); and

3. **ADOPT** the revised Old Sugar Mill Specific Plan and Guidelines with specific modifications proposed by staff (Attachment B); and
4. **REZONE** the project site to appropriate zones consistent with the revised Specific Plan Land Use Diagram (Attachment C); and
5. **EXECUTE** a Development Agreement for the Old Sugar Mill Specific Plan project with substantially the same form and content as Attachment D.

REASONS FOR RECOMMENDED ACTIONS

The revised project fully addresses the concerns raised by the Delta Protection Commission in their remand to the County. As a result of these changes, flood-related risks to the health and safety of future residents will be reduced; agricultural land will enjoy greater protection from adjoining development; and there will be increased coordination and analysis regarding the need for and cost of future levee improvements. In addition, the number of homes has been reduced to a level in keeping with community expectations, bicycle/ pedestrian trails will be enhanced, more funds will be directed toward the local charter school, and there will be greater flexibility in the provision of affordable housing.

These changes further enhance the unique opportunity that the Old Sugar Mill Specific Plan represents for both the community of Clarksburg and Yolo County to create a showcase project within the Delta region. The Old Sugar Mill effectively uses smart growth community design principles, expanding its success as an anchor for the surrounding wine growing region through agri-tourism, and extensive recreational facilities and public river access, to create a truly unique and dynamic setting. It will not only provide jobs, but will create additional housing for local families and future employees. As such, the Old Sugar Mill provides new directions for redevelopment of small Delta towns that is complementary to their historical and cultural heritage.

- Development of a 2.0-acre community park.
- Reservation of a 0.35-acre site for a future public swimming pool.
- Construction of up to 300 feet of public dock space.
- Dedication of a 1.0-acre site for a future river overlook.
- Reservation of a 1.25-acre site for a fire station.
- Public access easements for over 0.5 miles of the Sacramento River.
- Landscaped bicycle/pedestrian trail within a 50-foot buffer along the levee and extending south of the project to connect with Clarksburg Road.
- Cooperation on acquisition and improvement of the Reclamation District 999 parcel along the river.
- Elevation of all new residences so that the livable space is above the elevation of a 100-year flood event.
- Preparation of a Flood Protection Plan to evaluate levee improvements and costs.
- Developer payment of the first two years of flood insurance for market rate homes and five years for affordable homes.
- Annual notice of flood risk provided to project residents.
- Preparation and implementation of a traffic calming plan for South River Road.
- Donation of \$10,000 to the Clarksburg library.
- Fee of \$1.25 per square foot on new residential construction for the local charter school.

- Protection and re-use of the existing historic buildings.
- Significant new economic development to bring new jobs and investment to Clarksburg.
- Increased winery production and agricultural tourism activities to promote local growers.
- Creation of up to 25 new affordable housing units.

ANALYSIS:

The Old Sugar Mill Specific Plan (OSMSP) has a long history. For more specific information regarding the approved project and its potential environmental impacts, please see the October 24, 2006 Staff Report to the Board of Supervisors, as well as Volumes 1-4 of the Environmental Impact Report. These documents are provided separately and are available at the Yolo County Planning and Public Works Department, located at 292 West Beamer Street in Woodland.

Project Description:

As revised, the proposed Old Sugar Mill Specific Plan would be a mixed use project covering 105.4 acres. Project components include the following:

- 23.6 acres of commercial/industrial uses, primarily focused on entertainment, lodging, and retail sales. These may include restaurants, wine tasting and sales, theaters, bars, shops, food sales, artists galleries, crafts, offices, and limited industrial uses.
- 22.2 acres of industrial/office uses. This designation includes a wide range of both light and heavy industrial uses, such as manufacturing, processing and storage.
- 21.3 acres of residential uses, including a total of 123 residential units. This is further broken down into three categories: 78 single family detached homes on lots averaging 5,500 square feet; 24 clustered residences (detached, duplex, triplex, or four-plex) on lots at least 2,450 square feet in size; and 21 cottage homes (detached, duplex, or half-plex) on lots at least 3,150 square feet in size.
- 19.9 acres of public facilities. This includes both existing and proposed roads, as well as the wastewater treatment plant.
- 10.1 acres of open space. This includes the community park, future public swimming pool, and levee buffer area which includes a bicycle/pedestrian trail.
- 7.4 acres of industrial/hospitality uses. Possible activities may include a bed and breakfast, lodge, conference and meeting facilities, entertainment, wineries, breweries, food, and outdoor sales.
- 0.9 acres of waterfront uses. This area would be focused on the river and would include docks, viewing areas, restaurants, food sales, bait shops, and other activities related to the river.

History:

The Clarksburg General Plan was last adopted by the County on March 19, 2002. Included within the plan was a designation of the former sugar mill processing facility at the north end of town as "Specific Plan." The purpose of this change was to allow for the historic industrial site

to be redeveloped in a manner compatible with the existing community and current regulatory standards, while providing flexibility and assurances for the developer. Subsequently, the application for the Old Sugar Mill Specific Plan was accepted for processing on July 22, 2002.

A Notice of Preparation for the Environmental Impact Report was issued on February 21, 2003, with a scoping meeting held on April 5th. The following year, the draft Old Sugar Mill Specific Plan and Draft EIR were released for a 60-day comment period beginning on August 24th. The Planning Commission held a hearing in the town of Clarksburg to receive comments on the Draft EIR on September 21, 2004. More than 100 people attended the meeting and many offered testimony. A revised draft Specific Plan was released on September 21, 2005.

The Draft EIR was recirculated and released for a 45-day public comment review period beginning on October 28, 2005. There were four primary reasons for the recirculation: 1) the Specific Plan had been revised on September 21, 2005; 2) the applicant proposed changes in the project infrastructure (primarily the proposed sewer system) that resulted in a lessening of previously identified project impacts; 3) the Hydrology, Water Quality, and Drainage section was modified to reflect additional information regarding the condition of the local and regional levee systems; and 4) CEQA Alternative #6 was eliminated from further study as it had been incorporated into the Project Description with the applicant's proposed changes. On December 8, 2005, the Planning Commission held a hearing to receive comments on the Recirculated EIR.

After 67 public meetings, the Clarksburg General Plan Advisory Committee made their final report and recommendation for approval of the project on March 1, 2006. By far, the greatest single issue with which the Committee grappled was the residential component of the project including how many units should be approved, on what size lot, subject to what development standards, and according to what design requirements. The Committee worked hard to find middle ground and ultimately voted 5:2 to support 87 single-family units, 21 cottage units, and 18 cluster units for a total of 126 units in the residential area, as compared to the 162 requested by the applicant.

On March 9, 2006, the Final EIR was released. The Planning Commission held its hearing on the OSMSP on March 30, 2006. The minutes are provided in Attachment E. The Commission voted 5:1 (Ayes: Bertolero, Cameron, Gerber, Peart, and Woo; Noes: Merwin; Absent: Cornejo) in favor of the project, with many specific recommendations including an increase in the total number of homes to 162.

The Board of Supervisors heard the project on September 12, 2006. At that time, they adopted Minute Order No. 06-285, which provided specific direction to staff regarding refinements and edits to the OSMSP, modifications to the Mitigation Measures, and changes to the Development Agreement, particularly with regards to: (a) requirements for the geotechnical study; (b) requirement for the developer to pay flood insurance for future homeowners; (c) timely construction of the boat docks and public access to dock spaces; and (d) increase in the level of school fees. The Board adopted Resolution No. 06-121 indicating their intent to consider certification of the EIR and approval of the Old Sugar Mill Specific Plan, subject to the successful resolution of the above issues.

On October 24, 2006, the Board of Supervisors approved the OSMSP, including the revisions directed at the September 12 meeting, on a 4:1 vote (Ayes: Chamberlain, McGowan, Seiferman, and Thomson; Noes: Yamada).

Delta Protection Commission:

The Delta Protection Commission (DPC) was created by the Delta Protection Act of 1992. The Commission has adopted a Land Use and Resource Management Plan for the Primary Zone of the Delta, and the County incorporated the plan into its General Plan in 1998. Pursuant to Section 29770 of the Delta Protection Act, any person who is aggrieved by an action taken by a local government to implement the Land Use and Resource Management Plan may file an appeal with the DPC.

Shortly after the Board of Supervisors' October 24, 2006 decision, it was appealed to the Delta Protection Commission by both the Natural Resources Defense Council and the Concerned Citizens of Clarksburg. On November 16, 2006, the DPC held a hearing to determine: (a) whether the OSMSP was within the DPC's jurisdiction; and (2) whether approval of the project raised any appealable issues. The DPC voted that the project was within its jurisdiction and that the appeals could go forward.

The appeal argued that the OSMSP was inconsistent with the Land Use and Resource Management Plan regarding eleven separate issues. The DPC considered the appeals at a hearing on January 25, 2007. The OSMSP was found to be consistent with eight of the issues raised in the appeal. Three aspects of the project were found to be inconsistent. A copy of the Findings and Analysis approved by the DPC on February 22, 2007, documenting their decision regarding each issue is provided in Attachment F. The three issues and the Findings/Analysis for each are described in detail in the following section of the staff report.

Following the discussion of the eleven issues during a lengthy January 25, 2007 meeting, the DPC directed that the matter of the Old Sugar Mill Specific Plan be remanded to the County of Yolo on the grounds that the project is inconsistent with the following policies of the Land Use and Resource Management Plan: Land Use Policy P-3, Land Use Policy P-4, and Levees Policy P-3. The remand was approved 12-3.

According to Section 29771 of the Delta Protection Act, upon remand, the local government may modify the appealed action and resubmit the matter for review back to the DPC. The OSMSP is not effective until the DPC has adopted written findings, based on substantial evidence in the record, that the project is consistent with the Land Use and Resource Management Plan, the portion of the Yolo County General Plan that implements the Land Use and Resource Management Plan, and the Delta Protection Act.

In response to the remand, the applicant submitted requested changes to the OSMSP in late October of 2007. These changes and the reasons why they bring the project into consistency with the three issues of concern are described in the following section.

Actions Determined to be Inconsistent with the Land Use and Resource Management Plan for the Primary Zone of the Delta

On February 22, 2007, the Delta Protection Commission (DPC) adopted Analysis and Findings regarding the Old Sugar Mill Specific Plan (OSMSP or Project) and the three policies of the Land Use and Resource Management Plan for the Primary Zone of the Delta with which it was found to be inconsistent. The three policies and the Analysis/Findings adopted by the DPC are provided in full below, followed by a brief description of the changes made to the OSMSP project description and the reasons why these changes bring the project into consistency with the Land Use and Resource Management Plan.

The proposed revisions refine what is a showcase opportunity that combines agri-tourism opportunities, significantly enhanced river access and recreational facilities (including up to 0.75 miles of bicycle/pedestrian paths that could be incorporated into the future Delta Trails system), along with smart-growth infill development within the Delta that will be built in accordance with standards that far exceed those required under existing legal and regulatory requirements. As such, the OSMSP successfully incorporates forward-looking land use design policies and safe construction standards into the historical and cultural heritage of Clarksburg.

The three policies, related findings of the DPC, and corresponding Project revisions are as follows:

Land Use Policy No. 3:

New residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing agricultural use. Buffers shall adequately protect integrity of land for existing and future agricultural uses. Buffers may include berms and vegetation, as well as setbacks of 500 to 1,000 feet. (Cal. Code Regs., tit. 14, §20060, subd. (c).)

Delta Protection Commission Finding:

Pursuant to testimony of the County Agricultural Commissioner, the 300-foot buffer was found to be adequate by the County based on facts associated with vineyard operations (current agricultural use of the adjacent parcel). However, Policy 3 states that buffers shall adequately protect integrity of land not only for *existing* but *future* agricultural uses. There is no certainty that wine grapes will continue to be planted on the adjoining parcel. In that the 300-foot buffer is based on farming practices associated with vineyard operations, including ground rather than aerial spraying, it does not provide assurance that such separation would be sufficient or satisfactory for farming practices that could be conducted on the parcel in the future and that could include aerial spraying. A new crop may require a larger buffer. Policy 3 clearly requires an adequate buffer to allow future agricultural uses unfettered by ag/urban conflicts.

Moreover, although presented as a 300-foot buffer in the OSMSP, in reality, the separation between the project area and the adjacent agricultural parcel is significantly less as 75 feet of the buffer is on the agricultural parcel for which the buffer is to be provided. To the extent that the 75-foot buffer on the agricultural parcel would prevent the use of any portion of that parcel for agricultural uses, it is not consistent with the Land Use Policy 3 requirement that land be protected “for existing and future agricultural uses.” No portion of the agricultural parcel subject to the buffer would be available for future agricultural uses.

Project Revision:

The OSMSP site adjoins existing industrial zoning to the northwest, Winchester Lake to the north, the Sacramento River to the east, residential zoning to the south and southwest, and an active vineyard to the west. The vineyard is already bordered by existing non-agricultural zoning along 66 percent of its perimeter, consisting of Heavy Industrial and Residential Suburban zoning. A range of sensitive uses could be placed (and to some extent, already have been placed) within any of these bordering non-agricultural zones without discretionary review,

which would affect the potential ability of the vineyard landowner to utilize aerial spraying. Assuming a 500-foot buffer from each these existing non-agricultural zones (to account for future potential development as currently allowed), aerial spraying would be prohibited on 74 percent of the vineyard. Presently, restrictions associated with existing occupied structures on nearby properties preclude the aerial application of regulated chemicals on about 16 percent of the vineyard.

As indicated in Development Standards DS 46, 52, and 53 in the amended Old Sugar Mill Specific Plan, as well as Mitigation Measure 4.1.2a, the agricultural buffer has been revised so that it begins at the western edge of the Willow Road public right-of-way, rather than the first vine on the adjoining agricultural property. This will allow the vineyard to expand (or other crops to be planted) up to the edge of the right-of-way. In addition, it will ensure that the Project does not result in any new restrictions on the application of regulated chemicals using ground application methods.

For at least these reasons, the use of this boundary as the beginning point for the 300-foot buffer adequately preserves the integrity of the vineyard property for both existing and/or future agricultural operations. In fact, approval of the Old Sugar Mill Specific Plan will create a 300-foot agricultural buffer where one does not currently exist, thereby increasing the protection for the adjoining vineyard and its future agricultural uses compared to the existing Heavy Industrial zoning for the project site.

Land Use Policy No. 4

New non-agricultural residential development, if needed, shall be located within the existing Primary Zone communities where support infrastructure and flood protection are already provided. (Cal. Code Regs., tit. 14, § 20060, subd. (d).)

Delta Protection Commission Finding:

The inconsistency with Land Use Policy 4 is reinforced by reading that Policy along with Public Resources Code section 29765 which lists findings that local governments were required to make prior to the Commission's approval of local government general plan amendments under the Act.

Although the section's provisions are not literally applicable, as the Commission has approved the County's amendments, they show legislative intent as to what the Resource Management Plan should achieve, and therefore provide assistance in understanding that Plan's provisions. One finding required under section 29765 is "(f) The development will not expose the public to increased flood hazards."

The OSMSP proposes to convert land zoned Heavy Industrial to a mixed use that includes up to 162 residences. These residences may be constructed even though levee improvements that may be required to provide adequate flood protection may not occur due to economic infeasibility.

The project proponent is only required to perform improvements pursuant to the outcome of required studies. However, if the outcome of such studies requires improvements that are economically infeasible there are no assurances that the project proponent or any other entity would perform the needed improvements.

Flood protection for the project area is uncertain and may be below a 100-year level based on the following information: flood protection for the project area is provided by levees on the Sacramento River and Elk Slough; in 1990, the Clarksburg levees were certified and the area was designated as Zone B (commonly referred to as an area having 100-year flood protection) under FEMA Flood Insurance Risk Maps; a re-evaluation conducted after the 1997 flood determined the 100-year flood to be larger than the flood upon which the 1990 determination was based; and the criteria for levee stability and seepage has become more stringent since 1990.

Allowing up to 162 residences to be built within the project area prior to the re-certification of the levees for 100-year protection reduces the level of public health and safety in the area by increasing the number of people at risk of flooding and is inconsistent with Land Use Policy 4. “Known” uncertainties should be taken into consideration relative to applicability over the life of the project. Although the project is located in an existing community, the adequacy of the flood protection for the community is in a state of uncertainty, ie., FEMA remapping initiative (levee documentation review/decertification of undocumented levees) and FEMA/Corps of Engineers Standards review; DWR mapping initiative (AB 142) and levee coring initiative (Propositions 1E/84); and pending flood protection legislation (SB 5, SB 6, SB 17, SB 59, AB 5, AB 236, AB 64, AB 70 and numerous spot bills).

Finally, there is insufficient evidence that 162 new residences in Clarksburg are needed. This number of units would more than double the size of Clarksburg. According to the August 2004 Draft Environmental Impact Report for this project, Clarksburg had 132 housing units as of 2001. (Draft OSMSP Program Environmental Impact Report, August 2004, p. 4.10-6.) Significantly, according to that report, “the General Plan Housing Element predicts that an additional 27 housing units will be needed to house an additional 68 people by the year 2020.” (Ibid.)

Project Revisions:

To address the DPC’s concerns, three changes to the Project are proposed.

First, all new residences will be built with living areas elevated one foot above the 100-year base flood elevation, assuming no levee protection. This change is reflected in revised Mitigation Measure 4.7.7a, and corresponding revisions also appear throughout the revised Specific Plan. Elevating the homes one foot above the 100-year base flood levels will result in the first floor of all new homes to be non-livable space dedicated to garages and personal items storage. Living quarters will occupy the second and third floors of new homes within the Old Sugar Mill Specific Plan. In this way, the revised project does not depend on the re-certification of levees to provide adequate flood protection, but instead relies on elevated living areas to protect future residents. It also provides greater assurance that the public health and safety of residents will be protected until such time as the levees are recertified for 100-year (or greater) protection.

Second, the number of homes built in connection with the Project is proposed to be reduced significantly—from 162 units to 123 units. This reduction brings the proposed number of housing units into line with the prior recommendation of the Clarksburg General Plan Advisory Committee for the Project, which recommended a maximum of 126 units after considerable debate and compromise. Accordingly, the number of homes built as part of the Project will be consistent with community desires.

In addition, the Old Sugar Mill Specific Plan at build-out is expected to generate 596 new jobs. The average for Yolo County is 1.2 jobs per household. At this rate, the Old Sugar Mill Specific Plan, as revised, will provide employment for 497 households. For comparison, there are currently about half that number employed in Clarksburg. The 123 new residential units proposed as a part of the revised Specific Plan will meet 24.7 percent of this new demand. A minimum of 20 percent of the new homes are required by the County to be provided to low- and moderate-income families. These 25 affordable homes will be readily available for local residents and employees of the new commercial/industrial development located within the Old Sugar Mill complex. As such, the new residences included within the Old Sugar Mill Specific Plan play an integral role in maintaining an appropriate jobs/balance within the Clarksburg community. This need was clearly recognized by the community when, after many public meetings, the Clarksburg General Plan Advisory Committee adopted its recommendation for 126 new homes as part of the proposed project.

Third, and finally, provisions of the Development Agreement relating to future geotechnical investigations have been revised to include new consultation and best evidence requirements, which will apply to any geotechnical work conducted by the applicant. Even though all residential units will now be elevated above the base flood elevation, a geotechnical investigation of the Sacramento River levee is required before any homes can be built as part of the Project, and before any other occupied structures can be built within the designated 250-foot levee protection area. Just as with the original Project, if the geotechnical investigation indicates that the Sacramento River levee is unlikely to be recertified as providing at least 100-year flood protection, the applicant is required to prepare a Flood Protection Plan that: (a) describes the improvements needed to ensure that the levee provides a minimum 200-year flood protection; (b) includes cost estimates of the improvements needed to achieve levee certification; and (c) a financing plan that identifies potential local, state, and federal agency financing and participation. Also, the applicant must implement any feasible improvements prior to building any homes or building other occupied structures within the levee protection area.

Levees Policy No. 3

Through flood ordinances based on Flood Emergency Management Act model ordinances, developed by the International Conference of Building Officials and included in the Uniform Building Code, local governments shall carefully and prudently carry out their responsibilities to regulate new construction within flood hazard areas to protect public health, safety, and welfare. Increased flood protection shall not result in densities beyond those allowed under zoning and general plan designations in place on January 1, 1992 for lands in the Primary Zone. (Cal. Code Regs., tit. 14, § 20100, subd. (c).)

Delta Protection Commission Finding:

This policy should be interpreted consistent with Public Resource Code sections 29763.5 and 29765. Although those sections are not literally applicable, the first lists findings that the Commission must make before determining that proposed general plan amendments are consistent with the Act, and they express legislative intent as to the purposes of the Act, the Resource Management Plan and conforming local general plan provisions. One of the findings required by section 29763.5 is as follows: "(g) The general plan, and any development approved or proposed that is consistent with the general plan, will not expose the public to increased flood hazard." Similarly, section 29765 lists findings that a local government must make where the Commission has adopted its resource management plan or amendments to that plan, but (1) a

local government has not yet, pursuant to section 29763, submitted to the Commission general plan amendments that would bring their plans into conformity with the Commission's plan, or (2) a local government has submitted those amendments to the Commission, but the Commission has not approved the amendments. (The Commission adopted its resource management plan on February 23, 1995. It has only adopted one amendment; that amendment became operative on February 27, 1997.) Section 29765 findings include the following: "(f) The development will not expose the public to increased flood hazards."

The OSMSP includes a change in zoning from Heavy Industrial to a residential use that would result in a density significantly greater than the existing community and greater than the standard density for the county for this type of area, thus reducing the level of public health and safety by inducing growth in the area. Allowing up to 162 residences to be built within the project area prior to re-certification of the levee for 100-year flood protection reduces the level of public health and safety in the area by increasing the number of people at risk of flooding and is inconsistent with Levees Policy 3.

The County has nevertheless asserted that the term "densities" should apply to all uses, not just residential uses. It further asserted, in essence, that the Old Sugar Mill site was zoned for industrial uses on January 1, 1992, and that those uses were dense. The term "densities," however, is best read as applying to residential uses. The general plan for Clarksburg that was in place on January 1, 1992, for example, refers to densities as residential units per acre. (See Clarksburg General Plan adopted by the Yolo County Board of Supervisors on August 24, 1982. p. 5; see also Table 1, p. 1 of that Plan, referring to "Low Density Residential" and "Residential High Density.") In contrast, that plan does not use the term densities in discussing uses of industrial areas. (*Ibid.*) Rather, in describing industrial uses, it refers to the intensity of uses by classifying zones as either "Light Industrial" or "Heavy Industrial." (*Id.*, Table 1, p. 1.) The Resource Management Plan, however, only applies to "density," not "intensity." (Unlike the Resource Management Plan, the Act's definition of "development" includes both terms, indicating that they are different. Public Resources Code section 29723's definition provides that development means, among other things, "change in the density or intensity of use of land.")

Finally, this project allows residential development in an area prone to floods (see Basis of Finding for Land Use Policy 4, above). A large number of residential units would expose the public to greater dangers from floods compared to the exposure of industrial workers. While industrial workers would be at the site for limited periods of time, would likely be able to quickly spread the word about imminent danger, and would be, for the most part, mobile, those residing in the proposed residential units would be less likely to receive timely notice of sudden events and would have limited mobility. For example, inhabitants would be exposed to flooding while they are sleeping, and therefore would be less likely to learn about imminent danger. Residential inhabitants would not only have to escape themselves; they would also have material items and family members for which they would be held responsible for evacuating, in addition to simply themselves. Thus, the change in zoning would result in a density increase in both number and nature.

There is substantial evidence that the project may require increased flood protection. For example, the County's Deputy County Counsel explains that the project "includes preparation of a geotechnical study and, if appropriate, a Flood Protection Plan and the implementation of feasible mitigation." Uncertainties (see Basis of Finding for Land Use Policy 4), together with increasing recognition of the potential influence and impact of natural occurrences such as climate change and earthquake events, elevate the acknowledgement of flood risks to be taken into consideration in the preparation of such a Plan. The significance of providing assurances

for public health and safety while not increasing human exposure to such impacts through projects that increase densities through changes in the zoning has become increasingly important and projects that promote such change in densities, such as the OSMSPP, are therefore inconsistent with Levees Policy 3.

Project Revisions:

The changes to the Project discussed in reference to Land Use Policy 4, above, are also relevant to Levees Policy 3. The following additional points should also be considered with respect to Levees Policy 3.

Much of the existing town of Clarksburg is comprised of residential lots with an average density of 4 units per acre. The proposed density of the Old Sugar Mill Specific plan is 5.8 units per net acre. However, the Old Sugar Mill Specific Plan incorporates many “smart growth” planning principles that emphasize compact, pedestrian-friendly, higher density residential development. These principles have been implemented in recent projects throughout unincorporated Yolo County, where projects involving densities of 6 units per net acre have become common, including the Orcioli and Esperanza Estates Subdivisions in Esparto, and the White Subdivision in Knights Landing.

It is important that development within the Old Sugar Mill Specific Plan recognize new policy directions in land use planning while complementing the historic and traditional nature of the town. According to the 2001 Clarksburg General Plan, the remaining residential capacity of the town (excluding the Old Sugar Mill Specific Plan) is 17 new units. As indicated in Section 4.10.1 of the certified Environmental Impact Report for the Old Sugar Mill Specific Plan, future residential growth outside of the town of Clarksburg is severely limited by: (a) its location within the Primary Zone of the Delta; (b) the lack of centralized water supply; (c) dependence on individual wastewater treatment systems; (d) absence of a storm drainage system; (e) surrounding agricultural zoning; and (f) the widespread participation of nearby land owners in the Williamson Act. These physical and regulatory constraints create formidable barriers to additional development in the Clarksburg area and/or growth inducement. In turn, they increase the need to redevelop the Project site in a manner that satisfies the agricultural processing, commercial, recreational, and housing needs of this unique area.

Proposed Specific Plan Revisions:

There are a number of proposed minor changes to the Old Sugar Mill Specific Plan (see Attachment G). They are primarily focused in the following areas:

- Correcting acreages to accommodate the revised distribution of land uses within the project area.
- Revising the standards to reflect that livable spaces in new residential units will be limited to the second story and above.
- Incorporating references to the bicycle/pedestrian trail that will extend along the School Street alignment and north within the 50-foot levee buffer.
- Deleting references to the School Street road extension.
- Deleting references to construction of the river overlook.
- Revising wastewater demand estimates due to the lower number of homes.
- Correcting renumbered parcels.
- Revising the agricultural buffer to start from the western edge of right-of-way.

- Deleting reference to the fire station dedication.

Proposed Development Agreement Revisions:

As a result of the project revisions and additional considerations associated with the remand, the applicant and County staff have discussed a number of changes to the Development Agreement. The applicant and County staff have agreed on all of the following changes, except as specifically noted below.

- Extends the timeline for completing improvements of the community park and levee buffer area from the sale of the 31st residential unit to sale of the 61st residential unit.
- Reduces the required period for the developer to maintain the community park and levee buffer area (until maintenance is assumed by the County Service Area) from 18 months to 12 months.
- The fire station site has been reduced from 1.5 acres to 1.25 acres and will be reserved, instead of dedicated. Should the fire district choose to locate the fire station at a different site, the 1.25 acre reservation within the OSMSP would end and the area would be used for residential development (but without an increase in the overall number of units).
- The future park site has been set at 2.0 acres, rather than 1.75 to 2.0 acres (depending on certain conditions). [The applicant has requested that the future park site instead be set at 1.75 acres.]
- The future swimming pool site has been reduced from 0.5 acres to 0.35 acres, bringing it into conformance with accepted recreation standards and a similar ratio as was required in the Orcioli Subdivision for the future Esparto community swimming pool. [The applicant has requested that the pool site be reduced to 0.25 acres.]
- The extension of School Street north from Clarksburg Road into the OSMSP has been deleted due to various concerns about the additional right-of-way needed to construct a full street. Instead, the developer will construct a 12-foot paved bicycle/pedestrian trail and landscaping within the existing right-of-way.
- Construction of the 300 square foot river overlook has been eliminated. Instead, the applicant would pay \$25,000 towards future construction of the overlook, with the remaining funds to be pursued by the County through state and local grants. Similarly, the 16 parking spaces required to be provided near the overlook have been eliminated.
- The period required for the developer to maintain flood insurance on individual private homes within the OSMSP has been reduced. For market rate homes, the period has been reduced from four years to two. For affordable homes, the period has been reduced from ten years to five. [The applicant has agreed to pay premiums for the affordable units for the five-year term, but has requested that it be required to pay premiums for the market rate units for one year instead of two years.]
- School fees on new residential construction within the site have been changed. Previously, the Rio Vista School District would receive their base rate of \$2.64 per

square foot, plus a supplemental \$1.11 per square foot. In addition, the developer had previously agreed to pay another \$1.00 per square foot to the Clarksburg Charter School. Instead, the applicant would pay only the base rate to the Rio Vista School district, without any supplement. However, the contribution to the Charter School would be increased from \$1.00 per square foot to \$1.25.

- The previous Development Agreement required the developer to pay a penalty of \$100,000 if the public boat dock is not constructed within 54 months of the issuance of the first building permit. The timeframe remains in place, however, and (as with any other breach of a Development Agreement obligation) the County has adequate legal means of enforcing the requirement if it is not met.

Significant and Unavoidable Impacts:

As with the original Project, even as revised, the proposed project would result in the following potentially significant and unavoidable impact, even with the implementation of all feasible mitigation:

Impact 4.7.7: The project may expose people and new structures to a significant risk of loss, injury, or death from deep flooding as a result of a potential levee failure.

Similarly, even as revised, the Old Sugar Mill Specific Plan will result in the following significant, unavoidable impacts, even with the implementation of all feasible mitigation:

Impact 4.2.4: The project would contribute to significant cumulative increased in traffic at the intersection of River Road (SR 160) and the Freeport Bridge in 2021. The project's incremental contribution to the significant cumulative condition would be "cumulatively considerable."

Impact 4.2.5: The project would contribute to cumulative increases in traffic on regional roadways in the project vicinity.

Impact 4.8.3: Project-generated traffic would result in an increase in ambient noise levels on nearby roadways used to access the site.

Impact 4.9.2: The project would result in an increase in criteria air pollutant emissions due to project-related traffic stationary sources, and on-site area sources.

Impact 4.9.5: The project would contribute to cumulative air quality impacts in the region.

Impact 4.10.1: The project would create new housing units and jobs, which could create adverse secondary environmental impacts.

Addendum to the Previously Certified Environmental Impact Report:

The Board of Supervisors certified the EIR for the original project on October 24, 2006. No legal challenge to the adequacy of the EIR was filed within the applicable limitation period. Consequently, under CEQA, it is legally presumed to be valid for all of its intended purposes.

The CEQA Guidelines provide legal principles that govern situations in which public agencies consider proposed changes to an approved project for which an EIR has previously been certified. CEQA provides three mechanisms to address changes to a project in this circumstance: a Subsequent EIR; a Supplement to an EIR; and an Addendum to an EIR.

Section 15162 of the CEQA Guidelines describes the conditions under which a Subsequent EIR is to be prepared. A Subsequent EIR is required only if the lead agency determines, on the basis of substantial evidence in light of the whole record, that one or more of the following criteria is met:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major changes of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15163 of the CEQA Guidelines states that a lead agency may choose to prepare a Supplement to an EIR rather than a Subsequent EIR if:

1. Any of the conditions described above for Section 15162 would require the preparation of a Subsequent EIR, and
2. Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

Finally, Section 15164 of the CEQA Guidelines states that a lead agency may prepare an Addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions requiring preparation of a Subsequent EIR under Section 15162 have occurred.

As described in Section 3 of the attached Addendum, "Environmental Consequences of the Proposed Action," that is the case here. Therefore, an EIR Addendum is the appropriate mechanism to address revisions of the Project made in connection with the DPC remand.

Proposed Mitigation Measure Changes:

Three mitigation measures will be revised in connection with the changes to the Project. Mitigation Measure 4.1.2a is modified to measure the 300-foot agricultural buffer from the western edge of the right-of-way of Willow Avenue, rather than from the first vine row, in response to the DPC's findings with regard to Land Use Policy 3 from the Resource Management Plan. The extent that project homes must be elevated to reduce flood-related impacts (in Mitigation Measure 4.7.7a) is modified in a manner that effectively increases the elevation of living areas, as compared with the intermediate level of elevation that was previously allowed. Finally, though not specifically described above, Mitigation Measure 4.10.2 is modified to ensure consistency with the County's Inclusionary Housing Ordinance, which allows more flexibility in the provision of affordable housing than allowed for by the original Mitigation Measure 4.10.2. (The latter change is not made in response to the remand.)

Additions are shown in underline; deletions are shown in ~~strike-out~~:

Measure 4.1.2a:

For new non-agricultural uses, the applicant shall maintain a 300 foot buffer between the adjacent ~~vineyards~~ agricultural fields and the proposed ~~developments~~ structures, as measured from the ~~first vine row~~ western edge of the Willow Avenue right-of-way. ~~The buffer may be reduced by the Planning Commission upon written recommendation of the County Agricultural Commissioner, due to changes in agricultural production, changes in application of chemicals to the vineyards, and/or changes consistent with the policies of the Yolo County Agricultural Element.~~

Measure 4.7.7a:

Habitable areas of all residential units shall be constructed with the floor level one foot above the base flood elevation (BFE) ~~or one foot above the highest expected flood elevation (determined by Wood Rodgers [June 2006] to be 4.0 feet), whichever is greater at the time a residential building permit is issued,~~ consistent with the County Flood Damage Prevention Ordinance. The BFE determined by FEMA at the time a residential building permit is issued shall govern, unless FEMA has not updated its BFE for this location by such time. In that circumstance, the best available information shall be used by a registered professional engineer in determining the BFE, including but not limited to any relevant advisory base flood elevation and floodway data available from a state or federal agency, and the County shall consult with all such agencies (including FEMA and the California Department of Water Resources) prior to issuing any building permits based on the BFE to ensure that it has been determined in an appropriate manner using the best available information. All other aspects of the dDesign and construction of residential units shall be subject to review and approval by the County, and shall conform to the requirements of the County Flood Damage Prevention Ordinance and other applicable federal, state and local laws and regulations.

Measure 4.10.2:

The applicant shall design and construct ~~the any~~ affordable housing units included in the project such that they are visually indistinguishable from the market rate units. ~~The Any such~~ Any such affordable units shall be dispersed throughout the housing development, and not confined to a single location, and shall be identified on the Tentative Subdivision Map. Alternatively, the applicant

may seek approval of an equivalency proposal, as provided in Yolo County Code section 8-9.401, which could include a proposal to satisfy all or a portion of the Project's affordable housing requirements by the rehabilitation of existing substandard housing units located within the Clarksburg General Plan area. Under no circumstance, however, shall any new affordable housing units be constructed anywhere other than on the Project site.

PUBLIC AND AGENCY COMMENTS:

Numerous County departments, State and Federal agencies, other local agencies, the Clarksburg General Plan Advisory Committee, the Planning Commission, and dozens of interested groups and individuals have commented on the OSMSP and the EIR.

ATTACHMENTS

- Attachment A** – Addendum to the certified Environmental Impact Report
- Attachment C** – Revised Old Sugar Mill Specific Plan land use diagram
- Attachment D** – Revised Development Agreement
- Attachment E** – Planning Commission March 30, 2006 Minutes
- Attachment F** – Delta Protection Commission Findings and Analysis from February 22, 2007

The following documents are on file at the Planning and Public Works Department:

- Attachment B** – Revised Old Sugar Mill Specific Plan and Guidelines
- Attachment G** – October 24, 2006 Staff Report to the Board of Supervisors
- Attachment H** – Draft Environmental Impact Report
- Attachment I** – Recirculated Draft EIR
- Attachment J** – Final EIR (Volume 1)
- Attachment K** – Final EIR (Volume 2)

ATTACHMENT “A”

OLD SUGAR MILL SPECIFIC PLAN EIR ADDENDUM

This Addendum was prepared in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. This document serves as an Addendum to the previously certified Old Sugar Mill Specific Plan Environmental Impact Report (EIR). Because the EIR was never challenged in court, it is legally presumed to be adequate. (Pub. Resources Code, § 21167.2.) Yolo County is the lead agency for the environmental review of the Old Sugar Mill Specific Plan project (the “Project”).

1. INTRODUCTION

1.1 BACKGROUND AND ACTION TRIGGERING THE ADDENDUM

The Project site is a 105.4 acre industrial property located within the town of Clarksburg in unincorporated Yolo County. On October 24, 2006, the Yolo County Board of Supervisors certified the EIR for the Project, approved the Old Sugar Mill Specific Plan (OSMSP), and took various related actions (including a rezone of the Project site and a non-substantive amendment to the Yolo County General Plan). These approvals provided for the redevelopment of the site with a variety of light industrial (29.7), commercial (24.7), residential (28.2), and open space and recreational (10.2) uses, as well as miscellaneous roads and public infrastructure facilities.

Shortly after these approvals, various parties filed an appeal to the Delta Protection Commission (the “Commission” or “DPC”) pursuant to the Delta Protection Act (the “Act”) (Public Resources Code, §§ 29700-29780.) The Commission determined that it had jurisdiction over the appeals, concluding that Project site is located in the Primary Zone of the Delta. Pursuant to Section 29770 of the Act, the Commission then reviewed the project for consistency with the Land Use and Resource Management Plan (“Resource Management Plan”) for the Primary Zone. After a public hearing, the Commission determined that the Project was inconsistent with three of the policies in the Resource Management Plan.

On February 22, 2007, pursuant to Section 29771 of the Act, the Commission adopted findings and remanded the Project to the County for reconsideration. In response to the remand, the Project has been modified in a manner that is expected to achieve consistency with the three policies of the Resource Management Plan cited by the Commission. These changes are described in detail in Section 2.2, below.

Briefly, the changes to the Project include: (a) a requirement that all residential dwelling units built in connection with the Project be elevated in a manner that complies with the County’s Flood Damage Prevention Ordinance, which typically applies only in special flood hazard zones (generally, areas that lack 100-year or greater flood protection) and implements provisions of federal law and regulations promulgated by the Federal Emergency Management Agency (“FEMA”) that govern the construction of dwellings in flood-prone areas; (b) a reduction in the number of approved residential dwelling units from 162 to 123; and (c) relocation of the 300-foot buffer zone protecting adjacent farmland to ensure that the Project adequately protects the integrity of that farmland for existing and future agricultural operations. In addition, other minor changes to the mitigation measures and Development Agreement are also proposed. As

explained below, these changes have the effect of reducing the environmental effects of the Project and enhancing related mitigation required by the County.

As provided in Section 21166 of the Public Resources Code and provisions of the CEQA Guidelines, once an EIR is certified for a project, no subsequent or supplemental EIR is required unless certain circumstances arise. Such circumstances are not present here, and preparation of this Addendum to the EIR is warranted in accordance with Section 15164 of the CEQA Guidelines. Among other things, this is because the proposed changes do not give rise to a “new project” and do not create any adverse environmental impacts. Accordingly, there is no need for either a subsequent EIR or a supplement to the certified EIR (see CEQA Guidelines, §§ 15162 and 15163). The basis for this conclusion is further discussed in Section 3, below.

1.2 BASIS FOR AN EIR ADDENDUM

The CEQA Guidelines provide legal principles that govern situations in which public agencies consider proposed changes to an approved project for which an EIR has previously been certified. CEQA provides three mechanisms to address changes to a project in this circumstance: a Subsequent EIR; a Supplement to an EIR; and an Addendum to an EIR.

Section 15162 of the CEQA Guidelines describes the conditions under which a Subsequent EIR is to be prepared. A Subsequent EIR is required only if the lead agency determines, on the basis of substantial evidence in light of the whole record, that one or more of the following criteria is met:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major changes of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant

effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15163 of the CEQA Guidelines states that a lead agency may choose to prepare a Supplement to an EIR rather than a Subsequent EIR if:

1. Any of the conditions described above for Section 15162 would require the preparation of a Subsequent EIR, and
2. Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

Finally, Section 15164 of the CEQA Guidelines states that a lead agency may prepare an Addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions requiring preparation of a Subsequent EIR under Section 15162 have occurred. As described in Section 3 of this Addendum, "Environmental Consequences of the Proposed Action," that is the case here. Therefore, an EIR Addendum is the appropriate mechanism to address revisions of the Project made in connection with the DPC remand.

2. DESCRIPTION OF THE PROPOSED ACTIONS

2.1 PURPOSES OF THE ADDENDUM

This EIR Addendum studies the potential environmental effects of changes to the OSMSP and Development Agreement that, among other things, reduce the number of approved residential units and enhance the effectiveness of certain mitigation measures. The purposes of this Addendum are (1) to explain these changes to the Project in detail, and (2) to evaluate whether these changes will result in new significant impacts, a substantial increase in the severity of previously identified significant environmental impacts, or otherwise trigger the preparation of a Subsequent or Supplemental EIR under CEQA and the CEQA Guidelines. The following Section 2.2 describes the Project changes that are the subject of this EIR Addendum.

2.2 CHANGES TO THE OLD SUGAR MILL SPECIFIC PLAN

In considering appeals of the County's approval of the Project, the DPC evaluated whether the Project was consistent with 11 policies in its Resource Management Plan. Of these eleven policies, the DPC found the OSMSP to be consistent with eight policies and inconsistent with three policies in the Plan. The Commission found that the project was inconsistent with Land Use Policy 3, related to agricultural buffers, Land Use Policy 4, related to growth and infrastructure (including flood protection), and Levees Policy 3, related to flood protection. These policies provide as follows:

Land Use Policy 3. "New residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing agricultural use. Buffers shall adequately protect integrity of land for existing and future agricultural uses. Buffers may include berms and vegetation, as well as setbacks of 500 to 1,000 feet."

Land Use Policy 4. "New non-agricultural residential development, if needed, shall be located within the existing Primary Zone communities where support infrastructure and flood protection are already provided."

Levees Policy 3. "Through flood ordinances based on Flood Emergency Management Act model ordinances, developed by the International Conference of Building Officials and included in the Uniform Building Code, local governments shall carefully and prudently carry out their responsibilities to regulate new construction within flood hazard areas to protect public health, safety, and welfare. Increased flood protection shall not result in densities beyond those allowed under zoning and general plan designations in place on January 1, 1992, for lands in the Primary Zone."

The measures taken by the County upon reconsideration of the Project are summarized in this section, and a detailed analysis of the environmental effects of these changes is set forth in Section 3, below.

Agricultural Buffer

In response to the remand, the 300-foot agricultural buffer required by Mitigation Measure 4.1.2a will be relocated in a manner that affects an additional portion of the Project site and, in turn, enhances the integrity of farmland to the west for future agricultural uses, including expansion of the vineyard or conversion to another crop. The revised language in Mitigation Measure 4.1.2a is set forth in Section 3.2.1, below.

Previously, this buffer was measured from the first vine row on the neighboring vineyard. There is substantial evidence that this buffer would adequately protect existing vineyard operations against any impairment associated with development of the Project. The Commission was concerned, however, that agricultural practices on the neighboring field could change over time, and it noted that Land Use Policy 3 in the Resource Management Plan states that agricultural buffers are to “adequately protect the integrity of land for existing and *future* agricultural uses.” (Emphasis added.) Therefore, while there is no evidence suggesting that an expansion of the vineyard or other change in agricultural use is currently contemplated, the buffer will now be measured from the western edge of the County’s right-of-way rather than the first row of vines. This ensures that the vineyard can expand a small additional distance to the east (i.e., toward the Project site) without any new spraying restrictions. If the vineyard is replaced by another crop at some point in the future, the buffer would ensure that agricultural chemicals could be applied to that crop by ground application methods without any restriction.

Housing Needs

Regarding Land Use Policy 4, the Commission found that there was insufficient evidence supporting the need for 162 residential units in the residential component of the project. In response, the County has decreased the number of approved residential units by 24 percent (from 162 approved units to 123, a total reduction of 39 approved units). This revised figure now appears throughout the Specific Plan and other documents prepared in connection with the revised Project. The new unit total of 123 is slightly less than the number of units recommended by the Clarksburg General Plan Advisory Committee, which recommended up to 126 units after an extensive study of the Project and considerable debate and compromise.

To ensure that the Project continues to provide a range of housing types, the County has preserved the number of cottage residential units (21) and cluster residential units (35) that were previously approved on October 24, 2006. The OSMSP defines a “cottage” unit as a single family dwelling unit on a small lot, either as a single detached unit or as part of a duplex or halfplex. Also, the OSMSP defines a “cluster” unit as a detached or attached single-family dwelling that is constructed either on a separate lot or as part of a common ownership. An example of a cluster unit may include a stand-alone cottage, duplex, triplex, four-plex, courtyard home or zero lot-line house. The number of single-family residential units provided for in the OSMSP, as revised, has now been reduced from 106 to 67 units (a decrease of 37 percent). Finally, though unrelated to the remand, Mitigation Measure 4.10.2 is also being revised so that it conforms more closely to the County’s Inclusionary Housing Ordinance by allowing the applicant to propose alternative means of satisfying the Project’s affordable housing requirements for subsequent Board consideration.

Construction Standards

In connection with Land Use Policy 4 and Levees Policy 3, all residential units will be elevated in a manner that complies with the County’s Flood Damage Prevention Ordinance (Yolo County

Code Title 8, Chapter 3). This is addressed in a revised version of Mitigation Measure 4.7.7a, set forth in Section 3.2.7, below. Previously, Mitigation Measure 4.7.7a required all residences to be elevated in accordance with an analysis of flood depth associated with a 120-hour flood event. This requirement resulted in elevations as high as 5.0 feet above ground level. The application of the County's Ordinance will require the living space of all residential units to be raised to an elevation of one-foot above the base flood elevation, consistent with applicable federal standards. The Design Guidelines for the residential construction within the Project have been amended to account for this increase in elevation.

As revised, Mitigation Measure 4.7.7a states in detail the standards that will apply to the calculation of base flood elevation and related aspects of the implementation of this construction requirement. Appropriate references to federal regulations and other authorities are included. Recognizing the potential for more stringent federal, state or local standards in the future, Mitigation Measure 4.7.7a also makes clear that the standards that apply at the time building permits are applied for will govern all aspects of its implementation. The changes to the measure are shown in Section 3.2.7 of this Addendum.

2.3 CHANGES TO THE DEVELOPMENT AGREEMENT

As set forth in an amendment to the Development Agreement (DA) between the County and the applicant, the timing and scope of some of the public benefits voluntarily provided by the applicant have been revised. These changes do not affect the consistency of the Project with the Resource Management Plan, the Yolo County General Plan, or the Delta Protection Act. These changes warrant study in this EIR Addendum, however, as some affect land use features in the Specific Plan (such as the amount of open space and park land).

Briefly, the changes to the DA are as follows:

Park and Pool Sites. The size of the park site and pool site are now fixed acreages, and are no longer contingent on whether the 250-foot levee protection study area remains in place under Mitigation Measure 4.7.8a. This change is appropriate because of the reduction in number of residential dwelling units, as that reduction will decrease the number of residents and the corresponding demand for recreational facilities.

Geotechnical Testing; Flood Protection Plan. Changes have also been made to provisions of the DA that address the potential reduction or elimination of the 250-foot levee protection study area. The basic purpose of those changes is to further describe the circumstances in which construction of residential dwellings and other occupied structures may proceed.

Flood Insurance. The applicant's obligation to pay flood insurance premiums for future residents has been reduced slightly, as described below.

Scenic Overlook; Parking. The amendment removes a requirement for construction a scenic overlook and the related set aside of a certain number of parking spaces for use by members of the public. A provision requiring the payment of a \$100,000 fee for untimely completion of the dock improvement has also been removed (though the timing requirement remains enforceable as a contractual promise).

These and the other obligations in the DA were not required as mitigation for environmental effects in connection with CEQA, nor were they otherwise imposed by the County based on a nexus with the environmental effects of the Project. Rather, they were offered by the applicant to enhance the public benefits associated with the Project. Accordingly, for these and other reasons described further below, the amendment to the DA does not cause any significant environmental effects.

3. ENVIRONMENTAL ANALYSIS

3.1 APPROACH TO THE ENVIRONMENTAL ANALYSIS

As stated previously in Section 1.2, "Basis for an EIR Addendum," the County has determined, in accordance with Sections 15162 through 15164 of the CEQA Guidelines, that none of the grounds for preparing a Supplemental or Subsequent EIR are present. The proposed changes to the Project are relatively minor and environmentally benign, as explained below. This Addendum to the EIR is prepared to address only these changes and the changes to the DA.

Under Section 15164, to satisfy its CEQA obligations with an Addendum rather than a Supplemental or Subsequent EIR, the County must find that none of the circumstances requiring the preparation of such documents under Sections 15162 and 15163 have occurred. To facilitate this analysis, the assessment of environmental effects in this Addendum focuses on the proposed changes (as described in Section 2.2, above) in the OSMSP and related approvals in response to the DPC remand. In Section 3.2, below, the environmental effects of these differences, if any, are then identified. Next, an assessment is made as to whether these differences will result in new significant impacts, significant changes in the severity of previously identified environmental impacts, or significant changes in the effectiveness or applicability of mitigation measures and project alternatives (and that are also unacceptable to the applicant), that would trigger the need for subsequent environmental review based on the various criteria included in Sections 15162 and 15163 of the CEQA Guidelines.

It should be noted that the Project applicants have agreed to include all of the proposed changes in the Project. Therefore, to the extent that any changes could be categorized as "new mitigation," subsequent environmental review criteria related to the availability/implementation of mitigation measures different from those analyzed in the previous document would not apply because these criteria require that the proposed mitigation be unacceptable to the project proponent. The Project applicants have represented that in many respects, they consider the changes both acceptable and desirable.

3.2 ENVIRONMENTAL EFFECTS OF PROPOSED ACTIONS

This Section identifies and describes any changes in the environmental effects of implementing the OSMSP with the Project revisions that have resulted from the DPC remand, including changes to the Development Agreement. Impacts previously identified in the certified EIR are presented in this Section are reanalyzed based on the changes made in response to the remand.

Since the County's approval of the OSMSP and related project approvals, along with certification of the EIR on October 24, 2006, no changes to the regulatory background or existing conditions have occurred that trigger the need for subsequent environmental review. The environmental impacts are adequately described and analyzed in the certified EIR. The changes to the Project are reflected in edits to the Specific Plan, DA, and certain previously adopted mitigation measures.

Altogether, three mitigation measures will be revised in connection with the changes to the Project. Mitigation Measure 4.1.2a is modified to measure the 300-foot agricultural buffer from the western edge of the right-of-way of Willow Avenue, rather than from the first vine row, in response to the DPC's findings with regard to Land Use Policy 3 from the Resource

Management Plan. The extent that project homes must be elevated to reduce flood-related impacts (in Mitigation Measure 4.7.7a) is modified in a manner that effectively increases the elevation of living areas, as compared with the intermediate level of elevation that was previously allowed. Finally, though not specifically described above, Mitigation Measure 4.10.2 is modified to ensure consistency with the County's Inclusionary Housing Ordinance, which allows more flexibility in the provision of affordable housing than allowed for by the original Mitigation Measure 4.10.2. (The latter change is not made in response to the remand.)

3.2.1 LAND USE

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

- Impact 4.1.1 The project has the potential to physically divide an established community. This impact would be less than significant (LS).
- Impact 4.1.2 The project would conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect. This impact is considered potentially significant (PS).
- Impact 4.1.3 The project would not conflict with an applicable habitat conservation plan (HCP) or natural community conservation plan (NCCP). This impact would be less than significant (LS).
- Impact 4.1.4 The project would increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. This impact is considered potentially significant (PS).
- Impact 4.1.5 The project would include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. This impact is considered potentially significant (PS).
- Impact 4.1.6 The project would not have a substantial adverse effect on a scenic vista. This impact would be less than significant (LS).
- Impact 4.1.7 The project would substantially damage scenic resources within a state or county scenic route. This impact is considered potentially significant (PS).
- Impact 4.1.8 The project has the potential to substantially damage scenic resources, including historic buildings. This impact is considered potentially significant (PS).
- Impact 4.1.9 The project could degrade the existing visual character or quality of the site and its surroundings. This impact would be less than significant (LS).
- Impact 4.1.10 The project would create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. This impact is considered potentially significant (PS).

AGRICULTURAL BUFFER

Impact 4.1.2 identifies the potential for the OSMSP to conflict with established land use policies, including policies intended to protect the viability of agriculture on adjoining property, and policies related to the maintenance and protection of levees. The OSMSP Final EIR proposed, and the Board of Supervisors adopted, Mitigation Measures 4.1.2a and 4.1.2b to reduce Impact 4.1.2 to a less than significant level.

In remanding the Project, the DPC found that the agricultural buffer imposed by Mitigation Measure 4.1.2a would not adequately protect the integrity of the land located to the west of the project for future agricultural uses. Specifically, the Commission found that the buffer area needed to be expanded to ensure that future farming on the property would be adequately buffered from the uses located on the Project site. In response to this finding, the County has modified Mitigation Measure 4.1.2a to measure the buffer from the west side of the County-owned right-of-way of Willow Avenue, rather than measuring it from the first vine row. This effectively increases the width of the buffer. Also, the County has deleted the second sentence of Mitigation Measure 4.1.2a to remove the discretion of the Planning Commission to approve modifications to the buffer, and made other clarifying edits. As revised, Mitigation Measure 4.1.2a reads as follows:

MM 4.1.2a For new non-agricultural uses, the applicant shall maintain a 300-foot buffer between the adjacent ~~vineyards~~ agricultural fields and the proposed ~~developments~~ structures, as measured from the ~~first vine row~~ western edge of the Willow Avenue right-of-way. ~~The buffer may be reduced by the Planning Commission upon written recommendation of the County Agricultural Commissioner, due to changes in agricultural production, changes in application of chemicals to the vineyard, and/or changes consistent with the policies of the Yolo County Agricultural Element.~~

The Yolo County Agricultural Commissioner has confirmed that as revised herein, the 300-foot buffer will prevent conflicts between the Project and the existing vineyard and associated agricultural practices. In addition, the expanded buffer will allow the landowner to continue to apply agricultural chemicals via ground application even if, in the future, the vineyard is expanded to the edge of the County-owned right-of-way or the vines are removed and the field is changed to a different crop. With this change, corresponding environmental impacts remain less than significant.

PARK LAND DEDICATION

Impact 4.1.4 identifies the potential for the OSMSP to contribute to impacts to existing neighborhood or regional park facilities. Mitigation Measure 4.1.4, as adopted by the Board of Supervisors, requires the applicant to dedicate park land at a rate of five acres per 1,000 new residents. This Mitigation Measure has not been revised. However, the Development Agreement previously required the applicant to dedicate a park and community pool site of 1.75 and 0.25 acres, respectively, or 2.0 and 0.50 acres, respectively, in the event the levee protection study area required by Mitigation Measure 4.7.8a was eliminated.

This requirement has been revised to increase the size of the park site to 2.0 acres irrespective of whether the levee protection study area is reduced in the future, and to adjust the size of the pool site to 0.35 acres, also regardless of future changes to the levee protection study area. As previously agreed, the applicant will also install bicycle and pedestrian path improvements in the

50-foot setback area required by Mitigation Measure 4.7.8b. Accordingly, with these minor changes to Development Agreement provisions regarding the size of the park and pool sites, the amount of park and recreational land that is being dedicated in the Project continues to exceed the amount required by Mitigation Measure 4.1.4.

SCENIC OVERLOOK AND PUBLIC PARKING SPACES

The DA for the OSMSP contains several provisions that relate to the development of the waterfront and open space uses within the project. One provision requires the developer to dedicate a parcel of land to the County along the crown of the levee (Parcel 10C). The DA has been amended delete a requirement for the developer to build a scenic overlook on this parcel. The DA has also been amended to delete a requirement to set aside public parking near the scenic overlook, which were intended to serve as parking for overlook visitors. As these requirements are not related to impacts of the Project, their deletion from the DA will not have a significant environmental effect.

OTHER LAND USE IMPACTS

The OSMSP Final EIR identified land use impacts 4.1.5 through 4.1.10, all of which are reduced to less than significant with the incorporation of Mitigation Measures 4.1.5a through 4.1.10, as adopted by the Board of Supervisors. With the current modifications to the Project, these impacts are expected to remain less than significant with the imposition of the mitigation measures required in the MMP.

3.2.2 TRANSPORTATION AND CIRCULATION

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

- Impact 4.2.1 The project would increase traffic at local intersections in the project area vicinity. This impact would be less than significant (LS).
- Impact 4.2.2 The project would increase traffic on regional roadways in the project vicinity. This impact would be less than significant (LS).
- Impact 4.2.3 The project would create potential conflicts among vehicles on roadways in the project vicinity. This impact would be less than significant (LS).
- Impact 4.2.4 The project would contribute to significant cumulative increases in traffic at local intersections in the project area in 2021. The project's incremental contribution to the significant cumulative condition would be "cumulatively considerable" (CS).
- Impact 4.2.5 The project would contribute to cumulative increases in traffic on regional roadways in the project vicinity. This is a significant impact (S).
- Impact 4.2.6 Project construction would result in temporary increases in truck traffic and construction worker traffic. This impact is considered potentially significant (PS).

The OSMSP Final EIR proposed Mitigation Measures 4.2.4a through 4.2.6 to address impacts to traffic and circulation. These mitigation measures were adopted by the Board of Supervisors, and they are not proposed to be revised in connection with the Project changes described in this Addendum. Mitigation Measure 4.2.4b requires the applicant to make alterations to the

intersection of Freeport Bridge and River Road, which is a roadway facility that is within the control of Caltrans. Yolo County has required the applicant to implement this requirement. However, as the County must rely upon the participation of Caltrans to implement this mitigation measure, Impacts 4.2.4 and 4.2.5 are deemed significant and unavoidable. The Board concluded that these impacts were acceptable in light of the project's benefits as set forth in the Board's Statement of Overriding Considerations. These measures are implemented in the MMP.

The County's modifications to the Project will lessen traffic impacts, as the total number of residential units is being reduced by 24 percent (from 162 to 123), and the non-residential land uses are to remain unchanged. While some of the decrease in vehicle trips may be off-set by a slight increase in the number of vehicle trips due to a decrease in residential density (for example, by decreasing opportunities for workers to find housing on-site), this increase is not expected to be great enough to completely off-set the decrease in vehicle trips attributable to the difference in residential units.

3.2.3 AGRICULTURAL RESOURCES

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

Impact 4.3.3 The project could conflict with land use policies for the protection of agriculture. This impact is considered potentially significant (PS).

Impact 4.3.4 The project would cause other changes that could individually or cumulatively result in loss of economically viable Farmland, to non-agricultural uses. This impact would be less than significant (LS).

The OSMSP Final EIR proposed, and the Board of Supervisors adopted, Mitigation Measure 4.1.2a to reduce Impact 4.3.3 to a less than significant level. As discussed in Section 3.2.1, above, the agricultural buffer required by Mitigation Measure 4.1.2a (referenced in Mitigation Measure 4.3.3) is being relocated so that it does not affect any land on the adjacent property that could be farmed in the future, which will enhance protection for present and future farming operations on that property.

3.2.4 BIOLOGICAL RESOURCES

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

Impact 4.4.2 Potential Adverse Impacts to Special Status Species:

Impact 4.4.2a Impacts to VELB is considered potentially significant (PS).

Impact 4.4.2b Impacts to nesting raptors is considered potentially significant (PS).

Impact 4.4.2c Impacts to colony nesting birds is considered potentially significant (PS).

Impact 4.4.2d Removal of nesting and foraging habitat for special-status birds. This impact would be less than significant (LS).

Impact 4.4.2e Loss of foraging habitat for Swainson's hawks is considered potentially significant (PS).

Impact 4.4.2f Disturbance to bat maternity or roost sites is considered potentially significant (PS).

Impact 4.4.2g Impacts to giant garter snake habitat is considered potentially significant (PS).

Impact 4.4.2h Impacts to sensitive fish species would be less than significant (LS).

Impact 4.4.2i Impacts to special status plants would be less than significant (LS).

Impact 4.4.2j Loss of habitat containing active bird nests would violate Section 3503 of the California Fish and Game Code. This impact is considered potentially significant (PS).

Impact 4.4.3 Potential loss of sensitive natural communities would be less than significant (LS).

The OSMSP Final EIR considered twelve impacts related to biological resources, and proposed Mitigation Measure 4.4.2a through 4.4.3 to reduce these impacts to less than significant. These measures are included in the MMP for the project that was adopted by the Board of Supervisors. The County's modifications to the Project will not increase the impacts to biological resources or lessen the effectiveness of the associated mitigation measures. These impacts will remain less than significant.

3.2.5 CULTURAL AND HISTORIC RESOURCES

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

Impact 4.5.1 Implementation of the project could result in the alteration of historically significant elements of the Sugar Plant. This is a significant impact (S).

Impact 4.5.2 Implementation of the proposed project could result in damage to previously unidentified buried archaeological and/or human remains during project construction. This impact is considered potentially significant (PS).

The OSMSP Final EIR proposes Mitigation Measures 4.5.1 and 4.5.2 to reduce these impacts to less than significant. These measures are included in the MMP for the project that was adopted by the Board of Supervisors. The County's modifications to the Project will not increase the impacts to cultural and historic resources, as no changes are proposed with regard to the historic structures on the site or the construction methods from those analyzed in the Final EIR.

3.2.6 HAZARDOUS MATERIALS

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

Impact 4.6.1 Existing and/or previously unidentified contamination could be encountered during project site preparation and construction activities. This is a significant impact (S).

- Impact 4.6.2 Hazardous materials could be spilled during project site preparation and construction activities. This is a significant impact (S).
- Impact 4.6.3 Implementation of the project could conflict with land uses and the landfill material. This impact would be less than significant (LS).
- Impact 4.6.4 The project could expose residents and employees to agricultural chemicals from the adjacent vineyard. This is a significant impact (S).
- Impact 4.6.5 Potential to expose residents to toxic air emissions from the proposed industrial uses. This is a significant impact (S).
- Impact 4.6.6 The project could degrade groundwater through the existing groundwater monitoring wells. This is a significant impact (S).

The OSMSP Final EIR identifies six impacts related to hazardous materials, associated with construction activities, site development, and proposed operations. To reduce these impacts to a less than significant level, the EIR proposed Mitigation Measures 4.6.1a through 4.6.6, which require the applicant to engage in certain precautionary activities during site construction, preparation and development. These measures are included in the MMP for the Project that was adopted by the Board of Supervisors, and remain unchanged by the County's current modifications to the Project, with the following exception.

As discussed in Section 3.2.1, above, the agricultural buffer required by Mitigation Measure 4.1.2a (referenced in Mitigation Measure 4.6.4) is being expanded. This change will ensure that Project residents, employees, and visitors remain protected from potential exposure to agricultural chemicals applied in connection with farming operations on the adjacent property to the west of the Project site. There are no modifications to the Project that increase the impacts associated with hazardous materials. These impacts will remain less than significant with the incorporation of the above referenced mitigation measures.

3.2.7 HYDROLOGY, WATER QUALITY & DRAINAGE

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

- Impact 4.7.1 Water Quality – Construction activities associated with the proposed land uses could result in increased erosion and sedimentation, with subsequent impacts to water quality. Additionally, release of fuels or other hazardous materials associated with construction equipment could impact water quality. This impact is considered potentially significant (PS).
- Impact 4.7.2 Water Quality – The project would increase urban and stormwater runoff, thereby potentially transporting contaminants to local receiving waters. This impact is considered potentially significant (PS).
- Impact 4.7.3 Groundwater Quality – The on-site wastewater treatment system could violate water quality standards, waste discharge requirements, or otherwise degrade surface and groundwater quality. This impact is considered potentially significant (PS).

- Impact 4.7.4 Groundwater Quantity – Groundwater is proposed to supply domestic, irrigation, and fire-fighting purposes. Groundwater extraction to supply this demand could create groundwater drawdown and deplete a known groundwater supply. This impact would be less than significant (LS).
- Impact 4.7.5 Drainage – The project could increase drainage flows as a result of new impervious surfaces, which could create localized flooding and/or contribute to a cumulative flooding impact downstream. This impact is considered potentially significant (PS).
- Impact 4.7.6 Flooding – Waterside development—Although no new piers or boat docks are proposed as part of this project, the project includes the potential for new piers and boat docks only to replace deteriorated floating facilities. These facilities would be constructed within the 100-year flood zone and would operate via floatation. These facilities could potentially impede or redirect flood flows within the A3 Flood Zone; however, regulatory approval from other agencies is required. This impact is considered potentially significant (PS).
- Impact 4.7.7 Levee Failure—Implementation of the project may expose people and new structures to a significant risk of loss, injury, or death from deep flooding as a result of a potential levee failure. This impact is potentially significant and unavoidable (PS).
- Impact 4.7.8 Levee Encroachment—Implementation of the project may impede or preclude the ability to properly maintain and improve the levees, and may impede or preclude the ability to respond in a flood emergency. The potential for adverse effect from the project on the adjacent levees is potentially significant (PS).

SURFACE AND GROUNDWATER QUALITY

The OSMSP Final EIR identifies two significant impacts related to surface water quality, Impacts 4.7.1 and 4.7.2, one significant impact related to groundwater quality (Impact 4.7.3) and one impact to groundwater quality that is less than significant (Impact 4.7.4). To address these significant effects, the Final EIR proposed, and the Board of Supervisors adopted, Mitigation Measures 4.7.1a through 4.7.3j, which require the implementation of measures designed to address water quality impacts associated with construction activities, operational activities, and the treatment and disposal of wastewater. With the reduction in the number of residential units and other changes currently proposed, these impacts are expected to remain less than significant with the incorporation of these mitigation measures.

DRAINAGE

The OSMSP Final EIR identifies a significant impact related to drainage: Impacts 4.7.5. To address this significant effect, the Final EIR proposed, and the Board of Supervisors adopted, Mitigation Measure 4.7.5, which requires the applicant to prepare a Final Drainage Plan for the design and construction of drainage conveyance facilities to contain stormwater run off associated with the Project. With the reduction in the number of residential units and other changes currently proposed, the amount of impervious surfaces will not increase (and may decrease). As such, this impact is expected to remain less than significant with the incorporation of Mitigation Measure 4.7.5.

WATERSIDE DEVELOPMENT

The OSMSP Final EIR considered one impact related to waterside development (Impact 4.7.6). This impact considered the potential for development of docks, piers and other facilities on the waterside of the levee. The Final EIR notes that no new facilities are planned as part of the Project, but finds that the Project contains the potential to replace the deteriorated waterside facilities left over from the historic sugar mill use. This replacement work has the potential to affect the A3 Flood Zone. Therefore, Mitigation Measure 4.7.6 was imposed, which requires the applicant to obtain an encroachment permit from the Reclamation Board, and to evaluate the potential hydraulic effects associated with new in-channel structures as part of a project-level hydraulic analysis and modeling. With this mitigation, related impacts were determined to be (and will remain) less than significant.

DOCK CONSTRUCTION TIMING

The Development Agreement requires the applicant to seek and obtain the requisite permits, and to replace the deteriorated pier and dock facilities within a certain time frame. As part of its modification of the Project in response to the remand from the DPC, the County has removed a provision for a monetary payment in the event that replacement of the dock was not completed within the time frame allotted in the Development Agreement. Other means remain available to the County to enforce the requirement, including all remedies ordinarily available in an action for breach of contract. Since this provision relates only to the timing of such replacement work, its removal will not affect the analysis of Impact 4.7.6 from that discussed in the certified EIR. Dock replacement remains subject to the requirements of Mitigation Measure 4.7.6, which was adopted by the Board of Supervisors and is included in the MMP for the Project.

LEVEE FAILURE

As discussed in the certified EIR, implementation of the Project could expose people and new structures to a significant risk of loss, injury or death from deep flooding as a result of a potential levee failure (Impact 4.7.7). The Final EIR suggested several mitigation measures to address this risk. While the mitigation measures were found to significantly reduce the risk of flooding associated with a levee failure, the Final EIR concluded that Impact 4.7.7 would remain significant and unavoidable. Despite adopting Mitigation Measure 4.7.7a as it appears in the MMP, the Board of Supervisors nevertheless found that the adopted mitigation was insufficient to render the impact less than significant, and found that the impact was acceptable in light of the Project's benefits as set forth in the Statement of Overriding Considerations.

In response to the remand from the DPC, the County has revised Mitigation Measure 4.7.7a to require elevation of all residential units to one-foot above base flood elevation (BFE) per the County's Flood Damage Prevention Ordinance. (Chapter 3 of Title 8 of Yolo County Code.)

MM 4.7.7a Habitable areas of all residential units shall be constructed with the floor level one foot above the base flood elevation (BFE) ~~or one foot above the highest expected flood elevation (determined by Wood Rodgers [June 2006] to be 4.0 feet), whichever is greater at the time a residential building permit is issued, consistent with the County Flood Damage Prevention Ordinance. Design and construction shall be subject to review and approval by the County. The BFE determined by FEMA at the time a residential building permit is issued shall govern, unless FEMA has not~~

updated its BFE for this location by such time. In that circumstance, the best available information shall be used by a registered professional engineer in determining the BFE, including but not limited to any relevant advisory base flood elevation and floodway data available from a state or federal agency, and the County shall consult with all such agencies (including FEMA and the California Department of Water Resources) prior to issuing any building permits based on the BFE to ensure that it has been determined in an appropriate manner using the best available information. All other aspects of the design and construction of residential units shall be subject to review and approval by the County, and shall conform to the requirements of the County Flood Damage Prevention Ordinance and other applicable federal, state and local laws and regulations.

Previously, Mitigation Measure 4.7.7a was modified to reflect an interim level of elevation in the event that FEMA had not adopted a BFE at the time residential building permits were issued. The interim elevation level was based on a hypothetical levee breach simulation performed by the engineering firm Wood Rodgers, which estimated that, over a five-day hypothetical flood scenario, flood water would pond to a depth of up to four feet in some areas of the project site. Consistent with this study, residential units would only require a maximum of five feet of elevation in order to remain above the estimated flood water level.

During the approval hearing process on the project, the project proponent submitted a letter to the County which argued that Mitigation Measure 4.7.7a was not feasible. The letter included opinions from local homebuilders who opined that fully elevated homes would be unmarketable. These opinions, the proponents argued, represented evidence of the infeasibility of Mitigation Measure 4.7.7a. The Planning Commission agreed with this argument, and recommended that Mitigation Measure 4.7.7a be altered to require only an elevation of around four feet, which could be achieved through the cut and fill of streets and building pads. After the Planning Commission made its recommendation, the project proponents advanced the Wood Rodgers study as a basis for the County to revise Mitigation Measure 4.7.7a to require a lower degree of elevation.

The Board of Supervisors never accepted the proponents' argument that Mitigation Measure 4.7.7a was infeasible. In the Findings of Fact supporting their decision on the project, the Board stated that Mitigation Measure 4.7.7a was being revised in light of the Wood Rodgers study. Also, in the Staff Report to the Board of Supervisors hearing on September 12, 2006, staff noted only that Mitigation Measure 4.7.7a was being refined, but found that this refinement would not trigger recirculation of the EIR under Section 15088.5 of the CEQA Guidelines. Contrary to the proponents' desires and the compromise position recommended by the Planning Commission, the Board of Supervisors required the elevation of homes according to the higher level of elevation, if it was determined by the time building permits were issued. Since FEMA had not established a BFE at the time that the Board approved the Project, and the Project remained in an area protected by levees (according to the FEMA FIRM), the Board determined that the Wood Rodgers study could be used to establish an appropriate interim level of elevation.

With the revision to Mitigation Measure 4.7.7a set forth herein, all project residential units must be elevated with the habitable area one-foot above the BFE. While FEMA still has not established a BFE for the project site, a change in FEMA's determination of flood hazard for the site appears more likely today than when the Board last considered the Project over one year ago. The County believes that a determination of BFE for the project site is forthcoming in the

near future. In the event that the official FEMA designation of the site has not changed by the time building permits are issued, the applicant has withdrawn its objection to construction according to the higher level of elevation and other aspects of the County's Flood Damage Prevention Ordinance.

Current estimates suggest a BFE determined in accordance with revised Mitigation Measure 4.7.7a at the project site of no more than 22 feet above mean sea level (NGVD 29), which is the elevation of the BFE established at nearby Merritt Island. As the elevation of the Project site ranges between 9 and 12 feet (NGVD 29), the habitable portions of the Project homes will probably need to be elevated by between 11 and 14 feet to provide one-foot of clearance above the BFE. This estimate is not official, and is provided only to describe the potential result of the implementation of the revised Mitigation Measure. If a new FEMA Flood Insurance Rate Map (FIRM) is not available for the project site before the issuance of building permits, a BFE will need to be established by a registered professional engineer, pursuant to Article 4 of the County's Flood Damage Prevention Ordinance. Other requirements that are associated with this method of establishing the BFE are incorporated into revised Mitigation Measure 4.7.7a, as shown above.

Despite the foregoing, uncertainty continues to surround the issue of levee stability and related flood risks. Accordingly, while the revisions to Mitigation Measure 4.7.7a increase the safety of future Project structures and residents, the County conservatively continues to consider this impact significant and unavoidable.

FLOOD INSURANCE PREMIUM SUBSIDY

The DA for the OSMSP requires the developer to pay the flood insurance premiums and renewals of flood insurance for a period of four years for the market rate homes and ten years for the affordable units. The County has reduced this requirement by amending the DA to require the payment of insurance premiums for a period of two years for each of the market rate units, and five years for each of the affordable units. The requirement that the landowner pay the cost of flood insurance premiums for residents of the Project was not imposed as a mitigation measure, as the requirement does not improve the flood protection available to the residents.

Flood insurance protects the economic investment that a homeowner makes in his or her residence. Flood insurance does not make flood losses any more or less likely to occur. It merely shifts the economic consequences of those losses away from the homeowner. As it deals only with these economic effects related to liability for property damage, the requirement to fund flood insurance premiums does not come within the definition of "mitigation" as used in CEQA. (CEQA Guidelines, § 15064, subd. (e) ["Economic and social changes resulting from a project shall not be treated as significant effects on the environment."]; *Porterville Citizens for Responsible Hillside Development v. City of Porterville*, 2007 Cal. App. LEXIS 1998 ["CEQA is not an economic protection statute."]; *San Franciscans for Reasonable Growth v. City of San Francisco*, (1989) 209 Cal. App. 3d 1502, 1516 ["Economic and social changes resulting from a project . . . need not be mitigated or avoided under CEQA."] The requirement to pay flood insurance premiums was not made a mitigation measure for this reason, and because it did not bear a reasonable relationship to the environmental impacts of the project, as required by the federal Constitution and Subdivision (a)(4)(B) of Section 15126.4 of the CEQA Guidelines. Therefore, reducing the requirement to pay for flood insurance premiums is not considered a significant environmental effect of the project.

LEVEE ENCROACHMENT

The OSMSP Final EIR identified a potential impact to levee encroachment associated with the project (Impact 4.7.8). To address this impact, the EIR suggested Mitigation Measures 4.7.8a, 4.7.8b and 4.7.8c. Mitigation Measure 4.7.8a imposes a 50-foot levee protection area along the landward toe of the levee, and precludes the development of structures within 250 feet of this levee protection area until a geotechnical evaluation of levee stability and seepage is performed and a Flood Protection Plan implemented (if necessary). To date, the geotechnical evaluation called for in Mitigation Measure 4.7.8a has not been performed. Upon completion of the geotechnical evaluation required by Mitigation Measure 4.7.8a, the integrity of the levee can be confirmed, or a Flood Protection Plan implemented. The current revisions to the project do not exacerbate the problem of levee encroachment or weaken Mitigation Measures 4.7.8a, 4.7.8b or 4.7.8c. Rather, certain changes to the Development Agreement complement Mitigation Measure 4.7.8a and effectively provide further assurance that any geotechnical evaluation performed by the applicant will meet all legal standards then in effect, will rely on the best available evidence, and will be the subject of rigorous review by the County and other agencies with appropriate expertise.

3.2.8 NOISE

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

- Impact 4.8.1 Development of the project would result in temporary noise impacts during project construction. This impact is considered potentially significant (PS).
- Impact 4.8.2 Operational activities (non-transportation) associated with the project could increase ambient noise levels at existing nearby sensitive receptors or residences developed as part of the OSMSP. This impact is considered potentially significant (PS).
- Impact 4.8.3 Project-generated traffic would result in an increase in ambient noise levels on nearby roadways used to access the site. This impact is considered potentially significant (PS).

The OSMSP Final EIR considered three impacts related to noise: Impact 4.8.1 (construction noise), Impact 4.8.2 (operational noise), and Impact 4.8.3 (traffic noise). The Final EIR proposes Mitigation Measures 4.8.1a through 4.8.3b to reduce these impacts to less than significant. These mitigation measures are included in the MMP for the project that was adopted by the Board of Supervisors. The County's modifications to the Project will not increase noise impacts or lessen the effectiveness of the associated mitigation measures. These impacts will remain less than significant with the incorporation of the above referenced mitigation measures.

3.2.9 AIR QUALITY

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

- Impact 4.9.1 Construction activities would generate short-term emissions of criteria air pollutants, including suspended and inhalable particulate matter and equipment exhaust emissions. This is a significant impact (S).

- Impact 4.9.2 The project would result in an increase in criteria air pollutant emissions due to project-related traffic stationary sources, and on-site area sources. This is a significant impact (S).
- Impact 4.9.3 The project would result in an increase in toxic air contaminant emissions due to project-related diesel truck traffic, and could increase toxic air contaminant emissions from stationary sources. This impact is considered potentially significant (PS).
- Impact 4.9.4 The project would expose sensitive receptors to objectionable odors, which is considered potentially significant (PS).
- Impact 4.9.5 The project would contribute to cumulative air quality impacts in the region, which is considered cumulatively significant (CS).

The OSMSP Final EIR considered five impacts related to air quality: Impact 4.9.1 (construction activities), Impact 4.9.2 (operational emissions), Impact 4.9.3 (diesel emissions), Impact 4.9.4 (odors), and Impact 4.9.5 (cumulative impacts). The Final EIR proposed, and the Board of Supervisors adopted, Mitigation Measures 4.9.1a through 4.9.5 to address these impacts. With the exception of Impact 4.9.2 and 4.9.5, the Final EIR found that the incorporation of these mitigation measures was sufficient to reduce air quality impacts to less than significant. Regarding Impact 4.9.2 and 4.9.5, the Board of Supervisors found that the mitigation required in the MMP would significantly lessen the associated effects on air quality, but that no mitigation was available to reduce these impacts to less than significant, and consequently found that some of the effects on air quality remained significant and unavoidable. All of the above referenced mitigation measures are included in the MMP for the project that was adopted by the County.

The County's modifications to the Project in response to the remand will decrease the number of residential units within the Project by 24 percent, which will reduce the residential density of the Project. The reduction in the number of residential units is expected to reduce the amount of vehicle emissions associated with residential land uses, based on a reduction in the number of vehicle trips. While some of the reduction in vehicle trips may be off-set by an increase in vehicular dependency related to the slight decrease in residential density, this increase is expected to be significantly less than the overall decrease associated with the reduction in units. Therefore, these impacts will remain essentially unchanged with the incorporation of the above-referenced mitigation measures.

3.2.10 POPULATION, EMPLOYMENT AND HOUSING

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

- Impact 4.10.1 The project would create new housing units and jobs, which could create adverse secondary environmental impacts. This impact is considered potentially significant (PS).
- Impact 4.10.2 The project could conflict with Housing Element policies of the Clarksburg General Plan and Yolo County General Plan. This impact is considered potentially significant (PS).

The OSMSP Final EIR considered two impacts related to population, employment and housing: Impact 4.10.1 (growth), and 4.10.2 (housing policy). No mitigation is available to address Impact 4.10.1, and the Final EIR proposed, and the Board of Supervisors adopted, Mitigation Measure 4.10.2 to reduce Impact 4.10.2 to less than significant. Mitigation Measure 4.10.2 addresses the manner in which the applicant must satisfy the County's affordable housing requirements. Pursuant to policies contained in the Housing Element of the Clarksburg General Plan, the Yolo County General Plan Housing Element and an Inclusionary Housing Ordinance (Chapter 9 of Title 8 of the Yolo County Code), the County has modified Mitigation Measure 4.10.2 to allow the applicant to satisfy the Project's affordable housing obligation through alternative means, potentially including the rehabilitation of existing housing units in the Clarksburg General Plan Area. The affordable housing policies are discussed below, followed by a discussion of the County's modification of Mitigation Measure 4.10.2.

The Yolo County Housing Element contains goals, policies and programs designed to improve the diversity of housing within the County for households of all income groups. In particular, Goal 2 encourages the provision of affordable housing, which is implemented by twelve policies. These policies promote a range of programs and actions intended to increase the amount of affordable housing within the County. Policy 1 requires the County to adopt an inclusionary housing ordinance to establish criteria for the provision of affordable housing in new residential developments. Policy 12 allows for the County to "consider, on a case by case basis, the waiver, reduction, or deferral of fees, or the provision of other incentives, which are appropriate for the provision of affordable housing."

Consistent with the Housing Element of its General Plan, Yolo County has adopted an Inclusionary Housing Ordinance. (Chapter 9 of Title 8 of Yolo County Code [Ord. No. 1339, adopted Nov. 3, 2005].) Pursuant to the Inclusionary Housing Ordinance, new for-sale residential developments of ten or more units must provide an inclusionary housing component of twenty percent (20%) of the units for low and moderate income households. (Section 8-9.301.) These affordable units must be comparable to market-rate units, and must be dispersed throughout the development. (Section 8-9.304.) A similar requirement is contained in Policy 9 of Goal 1 of the Housing Element.

The Inclusionary Housing Ordinance allows the developer of a market-rate housing project to satisfy the requirements of the Ordinance through certain alternative means, if he or she can demonstrate that it is not economically feasible to provide the inclusionary housing component. (Section 8-9.402.) In such cases, the developer may propose an alternative action, such as the construction of an equivalent number of affordable housing units on another site (or sites), dedication of land, payment of in lieu fees, or a combination. An alternative affordable housing proposal must construct an equivalent number of affordable housing units as an inclusionary housing component, and must be approved by the Planning Commission. The Planning Commission reviews such proposals for consistency with applicable General and Specific Plans. If accepted, the developer's proposed alternative for providing affordable housing is documented in an Inclusionary Housing Agreement, which is incorporated into the conditions of approval for the developer's tentative subdivision map, or other such discretionary permit.

In the case of the OSMSP, Mitigation Measure 4.10.2 requires the applicant to include a twenty percent inclusionary housing component in the project. Pursuant to Policy 9 of Goal 1 of the Yolo County General Plan Housing Element, these affordable units must be "visually indistinguishable" from the remaining units, and must be "disbursed" throughout the project. The Findings of Fact from the Board's approval of the OSMSP on October 24, 2006, explained that Mitigation Measure 4.10.2 was necessary because the Specific Plan did not address the

distribution and location of affordable housing, and the concentration of all of the affordable units in one location could constitute a significant environmental effect.

The Final EIR recommended Mitigation Measure 4.10.2 in order to provide clarification regarding the requirement to provide an inclusionary housing component. However, Mitigation Measure 4.10.2 was written before the County adopted its Inclusionary Housing Ordinance. The measure did not account for the possibility that affordable units could be developed through alternative means, if the developer could substantiate that providing an on-site inclusionary housing component in the project was not economically feasible. The Specific Plan provides for the satisfaction of the affordable housing requirement through the construction of an inclusionary housing component or the payment of in lieu fees. However, an alternative means to satisfy the inclusionary housing requirement was not allowed by Mitigation Measure 4.10.2, which appeared to require the development of an inclusionary housing component. Accordingly, the County has modified Mitigation Measure 4.10.2 as follows:

MM 4.10.2 The applicant shall design and construct ~~the any~~ affordable housing units included in the project such that they are visually indistinguishable from the market rate units. ~~The Any such~~ affordable units shall be dispersed throughout the housing development, and not confined to a single location, and shall be identified on the Tentative Subdivision Map. Alternatively, the applicant may seek approval of an equivalency proposal, as provided in Yolo County Code section 8-9.401, which could include a proposal to satisfy all or a portion of the Project's affordable housing requirements by the rehabilitation of existing substandard housing units located within the Clarksburg General Plan area. Under no circumstance, however, shall any new affordable housing units be constructed anywhere other than on the Project site.

The revision to Mitigation Measure 4.10.2 is consistent with the Yolo County General Plan Housing Element, which provides for the affordable housing program to be administered through the Inclusionary Housing Ordinance, and provides for the County to “consider, on a case-by-case basis, the waiver, reduction, or deferral of fees, or the provision of other incentives, which are appropriate for the provision of affordable housing.” (Goal 2, Policy 12.) The Inclusionary Housing Ordinance allows for the Planning Commission to approve alternatives to the inclusionary housing component that are consistent with the applicable General and Specific Plans. Finally, Policy 2 of the Clarksburg General Plan Housing Element states that “the rehabilitation and/or replacement of existing substandard housing are strongly encouraged.” As revised, however, Mitigation Measure 4.10.2 prohibits the construction of new affordable housing units outside of the Project site.

3.2.11 PUBLIC SERVICES AND UTILITIES

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

Impact 4.11.1 The Project would increase the need for fire protection services provided by the Clarksburg Fire District. This impact is considered potentially significant (PS).

Impact 4.11.2 The project would increase the need for law enforcement services from the Yolo County Sheriff's Department. This impact is considered potentially significant (PS).

Impact 4.11.3 The project would result in an increase in families with school-aged children. This impact would be less than significant (LS).

The OSMSP Final EIR considered two impacts related to public services and utilities to be potentially significant: Impact 4.11.1 (fire protection) and 4.11.2 (law enforcement). The Final EIR proposes Mitigation Measures 4.11.1a through 4.11.2 to reduce these impacts to less than significant. These mitigation measures are included in the MMP for the project that was adopted by the Board of Supervisors. The County's modifications to the Project will not increase public services impacts or lessen the effectiveness of the associated mitigation measures. These impacts will remain less than significant with the incorporation of the above referenced mitigation measures.

3.2.12 GEOLOGY, SOILS AND SEISMICITY

PREVIOUSLY IDENTIFIED IMPACTS IN THE OSMSP FINAL EIR

Impact 4.12.1 The project could potentially expose people and/or structures to adverse effects from seismically-induced ground motion (earthquakes). Ground motion could result in other seismic-related hazards, including localized liquefaction, differential settlement, and related ground failure. This impact would be less than significant (LS).

Impact 4.12.2 Construction associated with build-out of the project site could result in accelerated erosion with subsequent sedimentation of local receiving waters. The impact could be significant on slopes over 2 percent and in areas with soils having moderate or greater erosion hazard. This is a significant impact (S).

Impact 4.12.3 Onsite soil materials may not be capable of adequately supporting the use of large onsite wastewater disposal systems for the project. This impact is considered potentially significant (PS).

The OSMSP Final EIR considered two impacts related to geology, soils and seismicity to be potentially significant: Impact 4.12.2 (erosion) and 4.12.3 (percolation). The Final EIR proposes Mitigation Measures 4.12.2a and 4.12.3a to reduce these impacts to less than significant. These mitigation measures are included in the MMP for the project that was adopted by the Board of Supervisors. The County's modifications to the Project will not increase noise impacts or lessen the effectiveness of the associated mitigation measures. These impacts will remain less than significant with the incorporation of the above referenced mitigation measures.

3.3 GREENHOUSE GAS EMISSIONS AND GLOBAL CLIMATE CHANGE

A. INTRODUCTION

After the close of the public comment period on the EIR, some interested parties raised a concern about the potential effects of global climate change on local flood protection infrastructure and related issues. Global climate change was not specifically studied in the EIR, although the EIR did include a detailed analysis of environmental effects—such as potential flooding—that could be exacerbated or otherwise affected by global climate change. As the EIR was not subsequently challenged, it is legally presumed to be adequate. (Pub. Resources Code § 21167.2.)

Despite the presumption that the EIR is legally valid for all of its intended purposes, the County has concluded that, while it is legally unnecessary, it is nonetheless appropriate to consider from an informational standpoint whether greenhouse gas emissions and global climate change issues are of such magnitude to justify the voluntary preparation of a Supplemental or Subsequent EIR in connection with the proposed changes to the Project as a means of facilitating further public input on this subject. As noted above, this determination is guided by criteria in the CEQA Guidelines. In general, the County is required, when considering changes to a previously approved project, to review whether there is any “new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete.” If such new information shows the Project will have one or more significant environmental effects not previously discussed, or that significant effects addressed in the EIR will be “substantially more severe,” then the County must prepare a Supplemental or Subsequent EIR.

Here, because the issue of global warming was raised by certain parties before the Board’s certification of the EIR, these rules do not apply. Even so, the above-referenced analytical framework is used herein to determine whether the preparation of a Supplemental or Subsequent EIR may be a useful exercise. The County has reviewed recent studies and reports regarding the potential effects of global climate change to determine whether conditions supporting the preparation of a Supplemental or Subsequent EIR are present. As discussed below, the County has concluded that such conditions are not present with respect to greenhouse gas emissions and global climate change.

Greenhouse Gas Emissions

For several years there has been widespread scientific consensus that human activities, such as the burning of fossil fuels, are responsible for enhancing the greenhouse effect. (The “greenhouse effect” is generally described as the absorption of infrared radiation by atmospheric greenhouse gases, such as carbon dioxide (CO₂), ozone (O₃), and chlorofluorocarbons (CFCs), and the resulting warming of the atmosphere as a consequence. A byproduct of fossil fuel combustion is CO₂. In California, the transportation sector is the largest emitter of greenhouse gases, followed by electricity generation. While California is a significant emitter of CO₂ and other greenhouse gases, global climate change is a global problem.

Considerable uncertainty remains about the role of many factors in global climate change. Such factors include the direct and indirect effects of aerosols, the “cloud effect” (i.e., the increased reflection of radiation back into space due to increased cloud coverage, also referred to as “global dimming”), the thawing of permafrost, and other so-called “feedback mechanisms.” There are some factors that tend to increase global temperature (“positive feedback”), and others that have the opposite effect (“negative feedback”). The scientific community continues to actively study the role of these and other feedback mechanisms to better understand global climate change.

Global Climate Change—Flooding and Flood Protection Infrastructure

As with greenhouse gas emissions, for several years there has been widespread scientific consensus that global climate change may lead to increased potential for floods because of, among other things, an increase in precipitation falling as rain (rather than snow) in the Sierra Nevada and a decrease in precipitation rates overall. There are many available models that predict the degree of such changes, both in California and more broadly. Overall, however,

these models vary widely in their predictions, and it remains difficult to assess the potential effects of global climate change on the frequency or magnitude of flood events and related infrastructure concerns.

For example, some researchers have commented that detailed regional precipitation information needed for accurate modeling remains unavailable. Also, potential changes in human settlement patterns and water management choices contribute to modeling uncertainty. For these and other reasons, no specific information is available regarding the effects of global climate change on the Clarksburg area (or nearby flood protection infrastructure). The information that is available is general in nature, and projections that quantify the increase in the frequency or magnitude occurrence or severity of flood events simply do not exist.

Regulatory Framework

Prior to certification of the EIR, the state had taken several regulatory steps to address greenhouse gas emissions and global climate change, including:

- **Assembly Bill 1493**—Signed in 2002, AB 1493 requires the California Air Resources Board (CARB) to develop and adopt, by January 1, 2005, regulations that achieve “the maximum feasible reduction of greenhouse gases emitted by passenger vehicles and light-duty truck or other vehicles determined by CARB to be vehicles whose primary use is noncommercial personal transportation in the state.”
- **Executive Order S-3-05**—Signed by Governor Schwarzenegger in 2005, Executive Order S-3-05 proclaims that California is vulnerable to the impacts of climate change. It declares that increased temperatures could reduce the Sierra snowpack, further exacerbate state air quality problems, and potentially raise sea levels. To help address these concerns, the Executive Order established total greenhouse gas emission targets. Those targets specify that emissions are to be reduced to the 2000 level by 2010, to the 1990 level by 2020, and to 80 percent below the 1990 level by 2050.

Under the Executive Order, the Secretary of the California Environmental Protection Agency is to coordinate a multi-agency effort to reduce greenhouse gas emissions to the target levels. The Secretary is also required to submit periodically reports on various topics to the Governor and Legislature. In response, the Secretary created a Climate Action Team (CAT), comprised of members of various state agencies. CAT released its first report in March 2006. The report proposed to meet the targets specified above by building on voluntary actions of California businesses, local government and community actions, and through state incentive and regulatory programs.

- **Assembly Bill 32**—In September 2006, Governor Schwarzenegger signed AB 32, the California Climate Solutions Act of 2006. Among other things, AB 32 requires statewide greenhouse gas emissions to be reduced to 1990 levels by 2020 (like Executive Order S-3-05), to be accomplished by a statewide cap on emissions that will be phased in beginning in 2012. CARB is also directed to develop and implement regulations to reduce greenhouse

gas emissions from stationary sources, and AB 32 requires regulations adopted in response to AB 1493 to address such emissions from vehicles.

- **Senate Bill 1368**—SB 1368 is a companion measure to AB 32. It required the California Public Utilities Commission (PUC) to establish a greenhouse gas emission performance standard for baseload generation from investor owned utilities by February 1, 2007. It also required the California Energy Commission (CEC) to establish a similar standard for publicly owned utilities by June 30, 2007. These standards cannot exceed the greenhouse gas emission rate from a baseload combined-cycle natural gas fired plant. Under SB 1368, all electricity provided to California, regardless of its source, must be generated by plants that meet the PUC and CEC standards.

Several months after the EIR was certified, the following legislation was adopted and signed into law.

- **Senate Bill 97**—Signed by Governor Schwarzenegger in August 2007, SB 97 requires the Office of Planning and Research to prepare draft guidelines for the feasible mitigation of greenhouse gas emissions (or the effects thereof) for review by the State Resources Agency no later than July 1, 2009. In turn the Resources Agency is required to certify and adopt those guidelines by January 1, 2010. Certain exemptions are included in SB 97 for transportation and flood protection projects.

Currently, however, there are no regulations setting ambient air quality emission standards for greenhouse gases.

B. RECENT REPORTS AND STUDIES

All of the information set forth in Section A, above, was available in reports, studies, and legislation that were available prior to the certification of the EIR on October 24, 2006 (with the exception of SB 97). In conducting its CEQA review of the proposed changes to the Project, the County has also researched reports, studies, and other information that became available after certification of the EIR. A list of the relevant documents that became available after October 24, 2006, all of which were reviewed in the preparation of this EIR Addendum, is set forth in the “Resources” list at the end of this Section 3.3.

C. GREENHOUSE GAS EMISSIONS

The EIR studied Project-related emissions and related air quality impacts, including cumulative impacts, associated with traffic and stationary sources. It concluded that certain of these impacts would be significant and unavoidable, even with the implementation of all feasible mitigation. These impacts are described as follows:

Impact 4.9.2. The project would result in an increase in criteria air pollutant emissions due to project-related traffic[,] stationary sources, and on-site area sources.

Impact 4.9.5. The project would contribute to cumulative air quality impacts in the region.

With respect to Project greenhouse gas emissions, there are two key issues. First, the County must determine whether there is any “[n]ew information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified[.]” Second, if so, then the County must review (among other things) whether the proposed changes to the project will result in “one or more significant effects not discussed in the previous EIR,” or whether a previously examined significant effect, such as the two described above, will be “substantially more severe” than described in the EIR. These criteria are not satisfied.

Since October 25, 2006, no “new information of substantial importance” relating to greenhouse gas emissions has become available. Many of the studies and reports identified in the “Resources” list, below, as well as all of the regulatory changes (with the exception of SB 97), were all available as of October 24, 2006, and could, with reasonable diligence, have been brought to the County’s attention by anyone who believed the EIR should have dealt directly with the potential effects of greenhouse gas emissions. In reviewing various subsequent reports, studies and other information (including the other sources listed in “Resources” list, below), the County has not identified any “new information of substantial importance.” The notion that greenhouse gases contribute to climate change was well-accepted prior to October 24, 2006, and subsequent studies only reinforce the same general principles that support that consensus view.

Even if “new information of substantial importance” concerning greenhouse gas emissions had recently become available, there is no indication that Project-related emissions could potentially result in any new significant (or substantially more severe) environmental impacts—including a cumulatively considerable incremental contribution to the significant cumulative impact of global climate change—in the context of greenhouse gas emissions. The Project will reduce the transportation of locally grown agricultural commodities to distant processing facilities. While the Project may result in stationary source emissions associated with processing those commodities, there is no evidence that processing-related emissions on the Project site would exceed emission levels that would occur if the commodities were processed at other locations. Also, the Project is relatively small in size, and it includes many mitigation measures that minimize transportation (and other) related impacts. Those measures will also reduce potential greenhouse gas emissions resulting from the development of the Project. Further, in-fill and mixed-use developments like the Project provide an alternative to more traditional (and vehicle dependent) development forms with greater greenhouse gas emissions, and are a strategy for helping to meet the challenge of global warming. The Project thus cannot be reasonably expected to contribute in any significant way to greenhouse gas emissions relative to existing conditions, or to the global problem of greenhouse gas emissions and resulting climate change. And in the absence of regulatory emission levels for greenhouse gases that require or strongly suggest that such a modest project would create a cumulatively considerable contribution to global climate change, the County concludes that the greenhouse gas emissions from the Project as revised will be less than significant.

Accordingly, for at least these reasons, the County, having voluntarily undertaken consideration of this issue, concludes that there is no reason to prepare a Supplemental or Subsequent EIR in connection with the Project changes as a means of facilitating further public discussion of the issue.

D. GLOBAL CLIMATE CHANGE AND PROJECT-RELATED FLOOD RISKS

Chapter 4.7 of the EIR included a thorough review of potential flood risks, and it concluded that the following impact was potentially significant and unavoidable, even with the implementation of all feasible mitigation:

Impact 4.7.7. The project may expose people and new structures to a significant risk of loss, injury, or death from deep flooding as a result of a potential levee failure.

The County's responsibilities in the context of assessing global climate change and project-related flood risks are as described above. Briefly, the County must first determine whether there is any "new information of substantial importance" that became available after October 24, 2006, and if so, proceed to determine whether the proposed changes to the Project will result in any new significant or "substantially more severe" (in the context of Impact 4.7.7) environmental effects. Once again, the County has determined that these criteria are not satisfied. Certain commentators did raise the issue in October 2006, but they did not challenge the EIR in court, giving rise to a legal presumption that the EIR is adequate for its intended purposes. (Pub. Resources Code § 21167.2.)

Prior to certification of the EIR, a considerable amount of general information on the effect of climate change on state and regional flood frequency and magnitude was readily available. Some of these resources are set forth in the "Resources" list at the conclusion of this Section. Additional information was also provided to the County by interested parties such as the Natural Resources Defense Council and the Natural Heritage Institute. The County has reviewed all of these resources and more recent studies and reports and has concluded that the information that has become available since the certification of the EIR is not "new information" in any meaningful respect. As of October 24, 2006, the concept that climate change is occurring and will have some impact on California (including the Delta), as well as on the frequency and magnitude of flood events, was well accepted. The same is true as of the time of preparation of this EIR Addendum, and recent reports and studies simply reinforce concepts that have been well accepted for several years.

It is also significant that many reports and studies, including those published after October 24, 2006, note the absence of specific data necessary to enable a meaningful analysis of potential future flood risks at a particular location. This is a subject on which future research remains necessary, both generally and with respect to the Clarksburg area in particular. In the absence of some specific information about potential changes in the frequency and magnitude of flood events in the vicinity of the Project site associated with global climate change, the County has no basis for concluding that there is "new information of substantial importance," or that future inhabitants of the Project will be exposed to "substantially more severe" flood risks as a consequence of global climate change. Generalized information suggesting that flood events may be more frequent does not, by itself or when taken together with other available information, constitute "new information of substantial importance." Nor does it demonstrate that Impact 4.7.7 or related environmental impacts will be substantially more severe than previously determined.

For these reasons, there is no basis for further analysis or the preparation of a Supplemental or Subsequent EIR on this subject.

Resources:

Documents published prior to certification of the EIR

CalEPA Climate Action Team, *Report to Governor Schwarzenegger and the Legislature* (March 2006). Available at: http://www.climatechange.ca.gov/climate_action_team/reports/index.html

California Department of Water Resources, *California Water Plan Update* (December 2005) (including climate change reference materials). Available at: <http://www.waterplan.water.ca.gov/previous/cwpu2005/index.cfm>

California Department of Water Resources, *An Interagency Work Team's Plan for Assessing Risks of Climate Change on Management of California's Water Resources* (2005). Available at: <http://www.water.ca.gov/climatechange/docs/FIHMCPaperDWR-ReclamationClimateChangeOct05.pdf>

California Department of Water Resources, *Progress on Incorporating Climate Change into Management of California's Water Resources* (July 2006) (including Chapters 2 and 6). Available at: <http://baydeltaoffice.water.ca.gov/climatechange.cfm>

California Energy Commission, *The Economic Cost of Climate Change Impact on California Water: A Scenario Analysis* (2006). Available at: http://www.energy.ca.gov/pier/final_project_reports/CEC-500-2006-003.html

California Energy Commission, *Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2002 Update* (June 2005)

Luers, Amy Lynd et al., California Climate Change Center, *Our Changing Climate: Assessing the Risks to California* (July 2006). Available at: http://www.climatechange.ca.gov/biennial_reports/2006report/index.html

National Oceanic and Atmospheric Administration, *Greenhouse Gases, Frequently Asked Questions* (2005). Available at <http://lwf.ncdc.noaa.gov/oa/climate/globalwarming.html>

National Research Council, *Climate Change Science: An Analysis of Some Key Questions* (National Academy Press, 2001).

Roos, M., *Accounting for Climate Change. California Water Plan Update 2005* (2005). Available at : <http://www.waterplan.water.ca.gov/docs/cwpu2005/vol4/vol4-globalclimate-accountingforclimatechange.pdf>

Documents published after certification of the EIR

California Air Resources Board, *Proposed Early Actions to Mitigate Climate Change in California* (April 20, 2007). Available at http://www.climatechange.ca.gov/climate_action_team/reports/index.html

California Air Resources Board, Economic and Technical Advisory Committee, *Report Discussion Draft* (December 21, 2007). Available at: <http://www.arb.ca.gov/cc/etaac/etaac.htm>

California Department of Water Resources, Letter from DWR Director Lester Snow to Honorable Don Perata (2007). Available at: http://www.water.ca.gov/climatechange/docs/perata_letter.pdf

California Energy Commission, *Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004 (Final Staff Report)* (December 22, 2006).

Hendrix, Michael et al., *Alternative Approaches to Analyzing Greenhouse Gas Emissions and Global Climate Change in CEQA Documents* (Association of Environmental Professionals, June 29, 2007).

Western Governors' Association, Western States Water Council, California Department of Water Resources, *Climate Change Research Needs Workshop* (2007). Available at: <http://www.water.ca.gov/climatechange/docs/ClimateChangeReport-100307.pdf>

3.4 COMPARISON TO PREVIOUSLY CONSIDERED PROJECT ALTERNATIVES

The OSMSP Final EIR considered five alternatives to the proposed project. Each alternative proposed substantially fewer residential units and the elimination of the senior/cluster residential use. As it remains the only alternative that contains a full range of housing types and other land uses, the proposed project, as modified in response to the remand from the Delta Protection Commission, remains the preferred alternative.

3.5 CONCLUSION

Based on the analysis of environmental effects provided above, the changes to the OSMSP raise none of the conditions described in Sections 15162 or 15163 of the State CEQA Guidelines (calling for preparation of a Supplemental Subsequent EIR). In summary, the changes to the OSMSP and any altered circumstances since certification of EIR in 2006:

- Will not result in any new significant environmental effects,
- Will not substantially increase the severity of previously identified effects,
- Will not, in light of new information not previously available, result in mitigation measures or alternatives that (i) were previously found to be infeasible but are now considered feasible, (ii) would substantially reduce one or more significant effects on the environment, and (iii) are unacceptable to the project proponent, and
- Will not, in light of new information not previously available, result in availability/implementation of new mitigation measures or alternatives that (i) are considerably different from those analyzed in the previous document, (ii) would substantially reduce one or more significant effects on the environment, and (iii) are unacceptable to the project proponent.

These conclusions confirm that this Addendum to the OSMSP EIR is the appropriate mechanism under CEQA to record and evaluate project modifications associated with the DPC remand.

ATTACHMENT "D"

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

Yolo County Planning, Resources & Public
Works Department
Attn: David Morrison, Assistant Director
292 West Beamer Street
Woodland, CA 95695

EXEMPT FROM RECORDING FEES
PURSUANT TO GOV. CODE § 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

FIRST AMENDMENT OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE COUNTY OF YOLO AND CLARKSBURG INVESTMENT PARTNERS

THIS AMENDMENT ("**Amendment**") is entered into this ___ day of _____, 2008 by and between the COUNTY OF YOLO, a political subdivision of the State of California ("**County**"), and CLARKSBURG INVESTMENT PARTNERS, LLC, a California limited liability company, and WILLOW POINT LLC, a California limited liability company (collectively, "**Developer**"), pursuant Sections 65864 through 65869.5 of the Government Code of California.

RECITALS

A. On October 24, 2006, County and Developer entered into an agreement entitled "Development Agreement By and Between the County of Yolo and Clarksburg Investment Partners" (hereinafter the "**Development Agreement**") relative to the Old Sugar Mill Specific Plan and related actions (the "**Project**").

B. Following the County's approval of the Development Agreement, on February 22, 2007, the Delta Protection Commission ("**DPC**") determined that the Project was inconsistent with three policies in the Land Use and Resource Management Plan for the Delta Primary Zone, and remanded the Project to the County pursuant to Government Code Section 29771. Subsequently, the County modified the Project in a manner that is responsive to the remand. Pursuant to Section 29771, the Delta Protection Commission must determine whether the modified Project is consistent with the Resource Management Plan for the Delta.

C. The County has reviewed the environmental effects related to the changes in the Project and this Amendment, and found that only minor changes are necessary to make the previous EIR adequately apply to the modified Project and this Amendment. Consequently, the County has prepared an Addendum to the EIR pursuant to Section 15164 of the CEQA Guidelines.

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

D. Amendment of Development Agreement. The following sections of the Development Agreement are hereby amended as follows:

E. Revised Exhibit A. All references in the Development Agreement to **Exhibit A** shall refer to the **Exhibit A** that is attached to this Amendment and incorporated herein by this reference.

F. Revised Exhibit C. All references in the Development Agreement to **Exhibit C** shall refer to the **Exhibit C** that is attached to this Amendment and incorporated herein by this reference.

G. The following reference is added to the list of Exhibits in Article 10:

Exhibit G Park Site, Pool Site and Fire Station Site Locations"

H. Subsection J of Section 2.01 is deleted in its entirety

I. In Subsection S of Section 2.01, the reference to 162 residential dwelling units is changed to 123 residential dwelling units.

J. Section 4.01.02 is revised in its entirety to read as follows:

Section 4.01.02. Development Obligations, Payments, and Miscellaneous Contributions. Subject to the provisions of Section 6.01, the following is a list of specific development obligations for the Project that are in addition to any project conditions or mitigation measures.

A. Park Land Dedication. The Developer shall dedicate the following parcels to the County: a 2.0-acre park site (the "Park Site"), a 0.35 acre community pool site (the "Pool Site"), and a 50-foot strip of land along the levee toe for use as a permanent levee buffer as described in Mitigation Measure 4.7.8b (the "Levee Buffer"). Developer agrees that the Park Site shall have local street access with no back-on lots. The Park Site and Pool Site dedications shall be located within the single family residential portion of the Plan Area as shown on the attached **Exhibit G**, outside of the buffer area provided in Mitigation Measure 4.7.8b, and shall be depicted on the first tentative and final map that creates single-family residential lots for sale to individual homebuyers. An irrevocable offer of dedication of the Park Site and the Pool Site, free and clear of encumbrances, shall appear on said final map. The offer shall state that each parcel is irrevocably offered for dedication for public purposes and without expense to the County and that it may be accepted after approval of said final map. Developer agrees to submit an irrevocable offer to dedicate the Levee Buffer to the County for public purposes and without expense to the County either prior to the issuance of the first building permit for a residential use within the Plan Area or concurrently with the recordation of any certificate of compliance, parcel map, or final map containing said Levee Buffer, whichever occurs first.

The County commits that, for five years after acceptance, the Pool Site shall be made available for the construction of a community pool. The County will hold the Pool Site for a five-

year period to provide the Clarksburg community an opportunity to establish a special district or other funding mechanism to pay for construction, operation, and maintenance of the facility. If construction of the pool has not commenced within five years, the County may use the Pool Site for other public purposes that serve the Clarksburg community, at its sole discretion, including but not limited to a second public park, community center, or other public facility.

B. Park and Levee Buffer Improvements. Pursuant to Yolo County Code §§ 8-1.1003 and 8-1.1004, prior to the recordation of the final map described in Subsection A, above, Developer shall enter into a subdivision improvement agreement and post financial assurances acceptable to the County Counsel for the full cost of improving the Park Site and Levee Buffer, and this security shall remain in effect until acceptance of the improvements of the Park Site and Levee Buffer by the County. The subdivision improvement agreement shall require that, on at least an annual basis, the financial assurances shall be adjusted by Developer in an amount commensurate with the percentage change in the California Construction Cost Index (CCI) since the last adjustment pursuant to this provision. Said subdivision improvement agreement shall specify the designs, landscaping, and materials of the improvements of the Park Site and Levee Buffer. The Levee Buffer shall be landscaped with drought tolerant plants and a bicycle/pedestrian trail twelve feet in width according to County specifications along the entire frontage of the Levee Buffer. The Park Site improvements shall include the following: design, grading, clearing, drainage, turf, trees, irrigation, drinking fountain, trash receptacles, walkways, tot lot play area, one shade structure, two picnic tables, and two benches. Developer agrees to bear all costs and expenses associated with the design and improvement of the Park Site and Levee Buffer, which shall commence before the sale of the 61st residential lot. Improvement shall be completed to the reasonable satisfaction of the Director within 12 months after it commences.

The Developer shall be responsible for maintaining, and bearing all costs associated with maintaining the improved Park Site and the Levee Buffer until the County Service Area has levied and collected assessments to pay for said maintenance, up to a maximum period of twelve (12) months after the full completion and acceptance by County. At the end of Developer's maintenance period, the operation, maintenance, and related services associated with these facilities shall become the responsibility of the County Service Area to be formed in connection with the Project. At the time of transfer of maintenance obligations, the improved Park Site and Levee Buffer must be in a condition acceptable to the County. If the County has reasonable reservations that the Parks Site or Levee Buffer are not in acceptable condition, then the Developer shall either correct the deficiency to the satisfaction of the County or provide financial assurances acceptable to the County valued at 150% of the estimated cost of correcting the deficiency.

C. Fire Station Site Reservation. Developer agrees to reserve, for a period not to exceed twelve (12) months from the approval of this Amendment, a 1.25 acre parcel on Willow Avenue within the residential portion of the Plan Area for future use as a fire station (the "Fire Station Site") in the location depicted on the attached **Exhibit G**.

D. School Street Bicycle/Pedestrian Path. Within the existing right-of-way connecting School Street to the Plan Area boundary shown in **Exhibit E**, the Developer shall install at its sole cost and expense a bicycle/pedestrian path twelve feet in width according to County specifications. The bicycle/pedestrian path improvements shall be included in the subdivision improvement agreement described in Subsection B of this Section 4.01.02, and are subject to the same security and timing requirements as described in Subsection B for the Park and Levee Buffer Area improvements.

E. Private Streets. The parties agree that all streets and the storm drainage system within the Plan Area are to be privately owned and maintained by the Property Owner's Association, and Developer agrees to implement this private ownership requirement by executing appropriate deeds or taking other necessary actions. Any gating or similar restriction of access to streets that exclusively serve cottage or cluster homes may be proposed by the Developer in conjunction with the submission of plans for County review. County approval of any gating proposal is entirely discretionary, and such proposals will be addressed in conjunction with the review of related project design plans. The County discourages gating as a matter of public policy, and nothing in this Agreement guarantees County approval of any gating proposals that may be submitted by the Developer. All road construction shall satisfy County standards for public streets.

F. Riverfront Dock Construction and Public Use Easements. The parties agree that, in order to maximize availability of land fronting on the river for general public use and enjoyment, the Developer shall convey an easement to the County in a form acceptable to the County granting Public Use, as defined in this Development Agreement, for each of the Parcels 9, 10A, 10B, 10D and 10E depicted on **Exhibit D**. A separate easement for each such Parcel shall be recorded concurrently with the certificate of compliance, parcel map, or final map that includes said Parcel.

(1) Within 48 months of the issuance of the first residential building permit, the Developer shall commence the construction of a dock contiguous to Parcel 9 of at least 150 feet in length. Construction of the dock shall be completed by the Developer at its sole cost and expense within six months after it commences or within 54 months of the issuance of the first residential building permit, whichever comes later.

(2) In order to guarantee that space on the levee remains available for bank fishing, boat docks and/or boat landings shall not be permitted on Parcels 10D and 10E. Similarly, in order to promote boat use, bank fishing shall be prohibited on Parcels 9, 10A and 10B.

(3) On Parcels 9, 10A, and 10B, 50 percent of total dock space, not to exceed a combined maximum of 300 lineal feet of dock side mooring (i.e., all space available for mooring boats along the dock(s)), shall be made available on a non-discriminatory basis for day use by members of the public. If at any time more than one dock exists on these parcels, the Developer or its successors may allocate docking space among the docks in any manner that satisfies the requirements of this provision subject to the approval of the Director, which shall not be unreasonably withheld.

(4) In order to provide public access to the dock side mooring (i.e., all space available for mooring boats along a dock) described in subsection (3), above, easements for access in perpetuity shall be provided by Developer in a form acceptable to the County Counsel before such dock side mooring may be used for any purpose, public or private.

G. County Parcel. Concurrent with the recordation of a certificate of compliance, parcel map, or final map containing the parcel shown as Parcel 10C on **Exhibit D** hereto, or prior to the issuance of the first building permit for a residential use within the Plan

Area, whichever occurs first, Developer agrees to dedicate to the County said parcel of land, which is 490 feet in length (measured from the north side of the Reclamation District parcel). The western boundary of this parcel shall be coterminous with the eastern edge of the River Road right-of-way, and the eastern boundary shall be coterminous with the eastern boundary of the Plan Area. At the sole discretion of the County Counsel, said dedication may take the form of either a fee simple interest, or an easement for Public Use (as defined in the Development Agreement). Concurrent with the dedication [of the County parcel], the Developer shall provide the County with \$25,000 for the County to use to improve the parcel (which may, at County's option, include the construction of a river overlook by County).

H. Flood Insurance. The Developer shall provide, at no cost to all residents of homes with ground level surface area (i.e., excluding lofts) constructed within the Plan Area (including the initial sale and all subsequent resales within the time period set forth in this section), flood insurance and renewals of flood insurance for a period of at least two years (for market rate units) or 5 years (for affordable units) from the date of issuance of a certificate of occupancy for each home. The renewals and subsequent issuance of flood insurance provided by the Developer shall satisfy the minimum requirements of the National Flood Insurance Program for a standard dwelling policy. The Developer will add language satisfactory to the County Counsel to all deeds for such parcels within the Plan Area requiring property owners to maintain flood insurance that meets these requirements at all times following the Effective Date, including after the initial two-year (market rate units) and five-year (affordable units) periods of Developer-paid premiums expire, until geotechnical evaluations of the levee demonstrate to the satisfaction of FEMA or other state or federal agencies with jurisdiction that minimum 100-year flood protection exists, until improvements to the levees (or other measures) are completed that will achieve minimum 100-year flood protection, or during any other period that 100-year or greater protection is not certified by FEMA or other state or federal regulatory agencies with jurisdiction.

I. Geotechnical Investigation; Flood Control Improvements. Consistent with the requirements of Mitigation Measure 4.7.8a, prior to the issuance of any building permits for (a) residential construction within the Plan Area, or (b) any construction of inhabited or occupied structures (e.g., homes, offices, retail units, etc.) within 250 feet of the levee protection area, a determination of levee integrity shall be provided as described in this subsection. The parties anticipate said determination to be provided by the state and/or federal government, and that it will include action by either or both of those authorities to recertify or decertify the Sacramento River levee. However, in its sole discretion and at its sole cost and expense, as an alternative means of satisfying this requirement, Developer may choose to complete the geotechnical investigation described in the "Scope of Work" attached hereto as **Exhibit F**. Said geotechnical investigation shall include a conclusion as to whether FEMA certification of the Sacramento River levee for 100-year flood protection is likely, based on the best available evidence (including but not limited to any maps provided by the Department of Water Resources pursuant to Water Code § 9610). The geotechnical investigation shall be completed to the reasonable satisfaction of the Director in consultation with the State Department of Water Resources and other authorities that he or she believes are appropriately consulted. Such consultation shall include, at a minimum, a 30-day comment period for the Department of Water Resources, as well as adequate time for County consideration of and action on any comments received. The Developer agrees not to object to or otherwise challenge any reasonable consultation undertaken by the County. In the event and to the extent Exhibit F may need to be amended or updated to ensure it meets these requirements prior to the performance of such services, the Developer agrees to provide the County with a revised Scope of Work for its review and approval in accordance herewith.

Unless the geotechnical investigation described above concludes that FEMA 100-year or greater certification is likely or unless the state or federal government provides the County with substantial evidence that, based on state or federal assessments of levee integrity, the Sacramento River levee is likely to provide 100-year or greater protection to the Project site and will be recertified, the Developer shall fund the preparation of a Flood Protection Plan that, at a minimum, (a) identifies the improvements that are expected to be necessary to ensure that the Sacramento River levee provides 200-year flood protection, and (b) sets forth a financing plan that includes an estimate of the cost of implementing all necessary improvements to obtain 200-year flood protection certification, together with identification of potential local, state, and federal agency financing and participation. The Flood Protection Plan shall be completed to the reasonable satisfaction of the Director in accordance with the scope of work included in **Exhibit F** hereto. In addition to all requirements set forth in the Mitigation Monitoring Plan, including but not limited to Mitigation Measures 4.7.8a and 4.7.8b, all feasible flood protection improvements identified in the Flood Protection Plan must be implemented before any building permits are issued for construction of inhabited or occupied structures (e.g., homes, offices, retail units, etc.) within 250 feet of the levee protection area or for any residential construction within the entire Plan Area. Nothing in this Agreement obligates the County to construct or otherwise participate in the implementation of any flood protection improvements identified in the Flood Protection Plan.

J. Annual Flood Risk Notification. The Developer shall take all necessary steps to ensure that the County Service Area formed in connection with the Project provides annual notice of then-current flood risks (in clear and simple language, translated into other languages as necessary) to all property owners within the Plan Area, including notice that flood insurance is mandatory unless and until the Sacramento River levee is subsequently certified as providing at least 100-year flood protection.

K. River Delta School District Fees and Contributions. Developer agrees to pay all necessary River Delta School District fees in effect at the time that building permits are issued. Unless and until the School District adopts a Level 2 fee (as provided in Section 65995.5 of the Government Code), Developer agrees to pay an additional fee of \$1.25 per square foot of residential construction to the Delta Charter Elementary School in Clarksburg at the time building permits are issued.

L. Reclamation District 999 Parcel. Presently, Reclamation District 999 owns a parcel of approximately 0.50 acres located slightly south of the intersection of Willow Point Road and South River Road. The parties agree to work cooperatively and in good faith to secure an easement or fee interest in this parcel during the Term of this Development Agreement. If either party (or a successor in interest) acquires an interest in this parcel before the Term expires, or if another public entity acquires an interest in the parcel and consents to the improvement thereof, the Developer shall improve the parcel within one year of the acquisition to ensure that its landscaping and other features conform to the parcels on each side (i.e., to the north and south). The Developer shall bear all costs incurred in improving this parcel in accordance with this Subsection L.

M. Traffic Calming Plan. To reduce traffic noise and vehicle speeds along South River Road, the Developer shall hire a qualified traffic engineering firm acceptable to the Director to design a Traffic Calming Plan for the segment of South River Road from Rose Road

south to Netherlands Road. This Plan shall examine (but not be limited to) the following: shoulder improvements, additional pavement width (minor lane widening), lighting, safety/caution signage, pavers and other calming devices, and a speed survey. The Plan shall be provided to the Director for review and approval, and all improvements and measures covered by the Plan shall be completed by the Developer (at its cost) to the reasonable satisfaction of the Director no later than 36 months after County issuance of the first building permit for a non-residential use within the Plan Area.

N. Flood Control. Upon request by County (and in a form acceptable to the County), the Developer will execute a commitment to not protest creation of a special district for flood control improvements. Said commitment shall contain language expressly stating that it is binding on all successors in interest to the Developer to the fullest extent permitted under California law.

O. Library Contribution. Prior to the County's issuance of the first building permit for a residential use within the Plan Area, Developer shall provide a cash donation of \$10,000 to the Clarksburg library for a new roof or computer/books acquisition.

P. Covenants, Conditions and Restrictions. Developer or its successors-in-interest shall provide the Director with a proposed set of Covenants, Conditions and Restrictions ("CC&Rs") and afford the Director at least thirty (30) days to review and approve the CC&Rs before they become effective. The Director's review and approval of the CC&Rs shall not obligate County to enforce or otherwise have any role in applying the CC&Rs within the Plan Area, nor shall it be deemed to transfer any liability to County in connection with the CC&Rs.

K. Consistency. The County hereby finds and determines that execution of this Amendment is in the best interest of the public health, safety and general welfare and is consistent with the General Plan, the Old Sugar Mill Specific Plan, and the County Code.

L. Amendment. This Amendment amends, but does not replace or supersede, the Development Agreement except as specified herein.

M. Tolling of Developer Obligations. As provided in Section 6.01 of the Development Agreement, the Developer obligations set forth in Section 4.01.02, as amended herein, shall be tolled until the conclusion of the proceedings before the Delta Protection Commission and any subsequent appeal or lawsuit related to the Project as provided in that Section.

IN WITNESS WHEREOF, the County of Yolo has authorized the execution of this Amendment and the attestation to this Amendment by its County Clerk under the authority of Ordinance No. _____, adopted by the Board of Supervisors on the ____ day of _____, 2008, and Developer has caused this Amendment to be executed.

COUNTY OF YOLO

CLARKSBURG INVESTMENT PARTNERS, LLC, a California limited liability company

By: _____
Duane Chamberlain, Chairman
Board of Supervisors

By: _____
Its Manager/Member

ATTEST:

Ana Morales, Clerk
Board of Supervisors

By: _____
Its Manager/Member

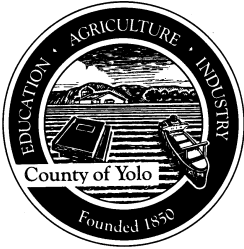
WILLOW POINT LLC, a California limited liability company

APPROVED AS TO FORM:
Robyn Truitt Drivon, County Counsel

By: _____
Its Manager/Member

By: _____
Philip J. Pogledich, Senior Deputy

By: _____
Its Manager/Member



JOHN BENCOMO
DIRECTOR

County of Yolo

PLANNING, RESOURCES AND PUBLIC WORKS DEPARTMENT

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

YOLO COUNTY PLANNING COMMISSION

CHAIR: Amy Cameron

VICE-CHAIR: Don Peart

MEMBERS: Leroy Bertolero; Aurora Cornejo; Jay Gerber; Jeff Merwin; Betty Woo

MINUTES

MARCH 30, 2006

1. PLEDGE OF ALLEGIANCE
2. Chair Cameron called the meeting to order at 8:39 a.m.

MEMBERS PRESENT: Bertolero, Cameron, Cornejo, Gerber, Merwin, Peart, Woo
MEMBERS ABSENT: None
STAFF PRESENT: David Morrison, Assistant Director of Planning
Phil Pogledich, Deputy County Counsel
Carole Kjar, Secretary to the Director

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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 Chair. The Planning Commission reserves the right to impose a reasonable limit on time afforded to any individual speaker.

No one from the public came forward.

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4. CORRESPONDENCE

4.1 February 2006 Edition of the “Regional Report” from the Sacramento Area Council of Governments (SACOG).

4.2 California County Planning Commissioners Association Spring Conference announcement.

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

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5. TIME SET AGENDA

5.1 **2002-075:** Recommendations on the Old Sugar Mill Specific Plan, including Findings of Fact, Statement of Overriding Considerations, Zone Change, General Plan Amendment, Development Agreement, and Design Guidelines and Standards. The proposed project would result in 28.2 acres of residential development (162 new homes), 24.7 acres of commercial uses, 29.7 acres of industrial uses, 15.7 acres of public uses, 3.2 acres of waterfront/open space, and 3.9 acres of roads. The 105.4-acre subject site is currently zoned as M-2 (Heavy Industrial) and designated as Specific Plan. The site is bounded by South River Road/Sacramento River on the east, Winchester Lake on the north, Willow Avenue on the west, and the Town of Clarksburg to the south (APNs: 043-240-06, -07, -09, and -10). An Environmental Impact Report and Mitigation Monitoring Plan have been prepared for this project (SCH# 2003022104). Owner/Applicant: Clarksburg Investment Partners (H. Tschudin/David Morrison).

Chair Cameron gave the following overview of the agenda for this item.

- County staff will give a presentation of the overview of the project.
- Applicant will come forward to make a presentation.
- A member of the Clarksburg General Plan Advisory Committee will be asked to come forward to make a presentation on behalf of the General Plan Advisory Committee.
- The public hearing will be opened, with a maximum three-minute comment period per person.

David Morrison made introductory comments and introduced Heidi Tschudin, the Contract Planner for the project.

Heidi Tschudin, Contract Planner for Yolo County, presented a summary of the staff report, identified documents pertaining to the project, and explained background information. She said there will be a slide presentation, prepared by the applicant, showing the elements of the specific plan.

David Morrison added, for the record, that staff has received comment letters from David Nelson, LAFCO, and James Pacht, that are placed before the Commission for inclusion as part of today’s deliberations.

Tim Taron, attorney representing the applicant, introduced members of his technical team, and thanked staff for their effort in bringing the project forward. He stated that they concur with staff’s overall recommendations, and addressed several areas of disagreement, including

changes to the mitigation measures, development agreement, and staff recommendations (see attached Changes to Staff Recommendation Requested by Applicant).

Carol Berry, Chair of the Clarksburg General Plan Advisory Committee, expressed comments on the Old Sugar Mill Specific Plan (copy of comments attached).

Commissioner Merwin thanked everyone from Clarksburg for attending today's meeting, and for all the time and effort that the Clarksburg General Plan Advisory Committee has placed on this issue.

The public hearing was opened.

Kristy Emory, 53940 South River Road, Clarksburg, said she supports the recommendations of the Clarksburg General Plan Advisory Committee.

Peggy Bohl, resident of Clarksburg representing the concerned citizens of Clarksburg, expressed their concerns to the Commission regarding levee safety, consistency with the Delta Protection Plan, high ground water, closure of the landfill, and the number of homes. She stated that they firmly believe that the Clarksburg General Plan, that was adopted in 1992, should be followed.

Peter Anderson, Clarksburg resident and member of the Clarksburg General Plan Advisory Committee, said that he supports the committee's recommendations and was disappointed that staff's recommendation differed.

Nancy Kirkoff, landowner and owner of a business in the Clarksburg area, expressed her support of the Sugar Mill housing development in Clarksburg, and said that she sees this as a positive change for the community, both visually and economically. She supported the maximum number of homes to bring money and children to the schools.

John Bohl, resident, said this is a complex project, and that he will continue to point out his concerns, including the level of traffic on River Road and levee stability.

Russ van Loben Sels, member of the Advisory Committee, distributed information to the Commission, and focused on two areas of concern, including the proposed growth rate, and the feasibility of the proposed sewage treatment plant.

Harold Shipley, Clarksburg resident, and member of the Clarksburg Fire Protection District urged the extension of School Street and approved moving the fire station to the center of the site.

Don Fenocchio, Clarksburg citizen at 36177 North School Street in Clarksburg, and member of the community for over fifty years, stated that he is in favor of this project, and that it will be a benefit for the Clarksburg community.

Gil Lopez, resident and teacher in Clarksburg, said he supports the applicant's proposal as it will benefit schools and local businesses.

Mark Wilson, of Wilson Farms in Clarksburg, expressed concerns about staff's recommendations, including setback areas, elevated homes, and hours of operations for agricultural trucking operations.

The public hearing was closed.

Chair Cameron declared a five-minute recess in order to correct technical difficulties with the recording system.

The public hearing was re-opened.

Judy Serpa, 53535 South River Road, Clarksburg, said she does not understand why the concerned citizens of the community are not here to voice their opinions. She believes this project will bring a good future to the Clarksburg community.

The public hearing was re-closed.

The Commission addressed issues in the staff recommendations of the staff report, as follows:

Location of the Fire Station:

- Commissioner Bertolero supported the site.
- Commissioner Cornejo supported the location.
- Commissioner Merwin said the connection to School Street is critical to this project, and that the firehouse, park, and pool should be located near each other. His location choices include (in order of priority): (1) the south end of the project on School Street, (2) near the intersection of “C” Street on Sugar Mill Road, (3) where it’s shown, and (4) staff’s recommended location.
- Commissioner Woo said she feels very strongly that the fire station, swimming pool, park, and any amenity, should be on the outside where it is obvious that it belongs to the entire community. It’s very important to keep this project knitted in with the fabric of the community.
- Commissioner Gerber agreed with Commissioner Woo.
- Commissioner Peart concurred with his colleagues.
- Chair Cameron said she agrees with her colleagues, and likes the idea of putting the fire station and pool together.

Summary

Very supportive of extending School Street, keeping the pool and the fire house together, and moving the location in accordance with Commissioner Merwin’s comments.

Design Standards (Attachment C, Page 2, Item 12):

- Commissioner Woo said she agrees with most of the design standards, and commented on other issues as follows:
 - The homes could be two or three stories, but the first floor should not be all garage and should include a basement or apartment.
 - It should be required that they have conduits for the photovoltaic solar energy systems.
 - The setbacks should be smaller.
- Commissioner Gerber asked for clarification about the flooding patterns before requiring the elevations of the houses. He also said he’s opposed to the photovoltaic energy requirement.
- Commissioner Peart said he’s not in favor of requiring the houses to be wired for solar panels.
- Chair Cameron said that requiring conduit is acceptable but agreed that solar panels should not be required. She stated that a county ordinance should be explored before executing this requirement. She respectfully disagreed with Commissioner Woo’s design about the

level of housing, and stated that she likes the look of variable appearing houses next to each other. She also noted that she doesn't like the idea of three-story housing.

- Commissioner Merwin said that the photovoltaic solar energy installation requirement should be left up to the individual lot buyers, and discussed flooding issues. He said that two-story design is a good idea, and that restricting people from not using the ground floor as livable space, is excessive in this particular case. He supported minor elevation of homes.
- Commissioner said she agrees with her fellow commissioners and that she does not support the three-story homes or the solar panels.
- Commissioner Bertolero stated that he doesn't think three story homes are consistent with the current housing pattern in Clarksburg. He agreed with the affordable housing requirement and said that one or two story homes are acceptable, and that it's the choice of the individual. He said that solar panels should be the choice of the individual.
- Commissioner Woo reiterated that one or two story houses are fine but that there should be more than just a garage on the first floor.

David Morrison reiterated that right now Clarksburg is designated as Zone C under the FEMA Flood Insurance Rate Maps, and elevation is not required under the current requirements. If FEMA changes those standards, all homes will be required to be elevated and there will be no living space below the base flood elevation.

Summary

No to solar requirement, but yes to the wiring; raised foundation and pad for all homes, generally two to four feet; one and/or two story homes, but no three-story homes; and handicapped visibility will not be recommended.

Sugar Mill Road:

Commissioner Merwin complimented the Clarksburg General Plan Advisory Committee for their hard work in developing language for the project.

The Commission offered comments regarding the width for the existing School Street.

Summary

This street should be at least the same width as the existing School Street.

Design for the Detention Pond and Joint Use of Drip Dispersal Areas:

Mr. Dauwalder, civil engineer for the developers, gave a detailed clarification of the wastewater system, and answered questions from the Commission. He indicated that the reserve area would not have irrigation, but could be used for joint-use activities.

Bob Smith, a manufacturer of treatment equipment, presented and explained a picture of a wastewater treatment plant in Bethel Heights, Arkansas, which shows a dispersal field that is used in a public use setting.

The Commission recessed for lunch at 12:00 p.m. and reconvened at 1:00 p.m.

300-foot Setback from the Levee:

Heidi Tschudin presented an overview of why staff is recommending the 300-foot setback from the levee, and answered questions from the Commission.

Phil Pogledich gave further clarification of the setback issue, and discussion was held.

Commissioner Bertolero commented on the 300-foot setback and stated that it's an unfair taking of the land and the rights. He said he doesn't see why the burden should be taken on this particular project. He recommended that the 50-foot strip be more of a grass area to serve the function of accessibility.

Commissioner Cornejo said she supports the 50-foot setback, not the 300-foot setback.

Commissioner Woo stated that she also supports the 50-foot setback, and said that it needs to be separate from people's back yards, and that it should be landscaped.

Commissioner Gerber said he thinks this is an undue hardship on the development, and that he would not favor requiring the 300-foot setback.

Commissioner Peart stated that the 300-foot setback should be required to accommodate big equipment until such time as the levee is safe.

Commissioner Merwin commented that he thinks a 50-foot setback is a good number from the standpoint of maintaining and monitoring existing levees. He said he couldn't support a 300-foot setback.

Chair Cameron agreed with the majority of the Commissioner's that a 50-foot setback is adequate at this point.

Summary

There is a consensus of support for the 50-foot setback from the toe of the levee.

Total Number of Residential Units, Single-Family Minimum Lot Size, and Intermixing of Residential Uses:

Commissioner Woo stated that she's in favor of the staff recommendations. She said she supports the 162 units with the 50-foot minimum, agrees that the 7,000 square foot minimum lot size is too large, and is not in favor of intermixing the cluster and cottage units with the residential units since the development is so small. She added that the larger yard setbacks don't make sense.

Commissioner Gerber said that he supports the General Plan Advisory Committee's number of 126 residential units, and the 7,000 square foot minimum lot size.

Commissioner Peart also backed the Advisory Committee's recommendations.

Commissioner Merwin said the General Plan Advisory Committee in Clarksburg worked hard on this project and he is inclined to use their compromised numbers for the housing element even though it represents a slightly lower density than the staff recommendation, because of the following reasons:

- It's the local committee's desire,
- It would more closely approximate the existing housing density in Clarksburg, although it would still be more dense than town,

- It will still effectively double the size of Clarksburg and, although no community should be required to double its size to satisfy regional population goals against its wishes, this will provide ample growth for the Clarksburg area for the foreseeable future.

Commissioner Merwin added that, in this particular instance, he firmly believes that the sign of a good compromise is that nobody is happy with it.

Commissioner Cornejo supported staff's recommendation of 162 units.

Chair Cameron stated that staff's recommendation of 162 units for several of the same reasons expressed by her fellow commissioners, and because it would make it more affordable for the residents that do purchase, in terms of the homeowner's associations and the community service agencies. She also agreed with staff's recommendation on the minimum lot size and the intermixing of residential units.

Commissioner Bertolero explained that he supports the full project of 162 units, and that he believes there should not be a limitation on lot size.

Summary

There is narrow support for both the 162 residential units and the 7,000 square foot minimum lot size.

Location and Size of the Park:

The Commission agreed with staff's recommendation, with the deletion of the requirement for a 300-foot setback.

Chair Cameron concurred with staff's recommendation, with the deletion of the first sentence, on Page 13, under "Location and Size of the Park".

Commissioner Bertolero expressed that the park is a great idea for the community as long as it complies with the minimum size for the population and the standards.

Commissioner Cornejo said she also supports staff's recommendation with the deletion of the first sentence as expressed by Chair Cameron. Also, she said the park needs to be located by the pool.

Commissioner Gerber agreed that the fire station, park, and the pool should be a combined package, and that the preferred location is near the interface somewhat close to School Street.

Commissioner Peart concurred with Commissioner Gerber.

Commissioner Woo expressed that it's not absolutely necessary that the park has to be next to the pool, but that the play areas are located between the existing and the new community, and not buried in the development.

Residential Parking Requirements:

The Commission agreed with staff's recommendation.

Commissioner Woo recommended that the applicant investigate the possibility of shared driveways, which oftentimes is a space-saving measure.

Sycamore Grove:

The Commission concurred with staff's recommendation.

DEVELOPMENT AGREEMENT

Walking Trail:

Chair Cameron supported staff's recommendation, and said that a walking trail is nice for the whole community.

Commissioner Cornejo agreed with staff's recommendation about the walking trail.

Commissioner Bertolero said that the 50-foot buffer should not be over-landscaped and should incorporate drought-tolerant low maintenance plants.

Commissioner Merwin also agreed with staff's recommendation, and with Commissioner Bertolero's comments.

Commissioner Woo agreed with having the walking trail, and that the landscape should be very simple and low maintenance.

David Morrison summarized that staff is satisfied with the discussion to date.

Commissioner Cornejo said she is in support of this project and that it will enhance the economy and the schools in Clarksburg.

Commissioner Cornejo left the meeting at 1:57 p.m.

CEQA

Sound Mitigation:

Commissioner Gerber voiced that the sound mitigation proposal is extreme, and he doesn't believe the developer should be required to replace windows with double pane.

Commissioner Peart agreed with Commissioner Gerber.

Commissioner Bertolero said this requirement doesn't seem reasonable since it's not project-related, and shouldn't be required on private property off the site.

Commissioner Merwin concurred with his fellow commissioners.

Commissioner Woo said she thinks this requirement is unreasonable, and suggested that a maximum cap be placed for mitigating the impacts to each home.

Chair Cameron said she thinks that the staff recommendation is a bit extreme, and that she doesn't think it's fair to the applicant.

The Planning Commission also agreed that wording, “excluding deliveries to the winery” should be shown in Mitigation 4.8.2 regarding noise limits on truck deliveries.

Heidi Tschudin pointed out that the Mitigation Monitoring Plan that has been attached to the staff report contains in it a number of edits that are proposed by staff that clarify those mitigation measures, and that today’s comments will also be incorporated.

Flood Mitigation:

Commissioner Bertolero addressed his concerns regarding the seepage under the Old Sugar Mill site. He recommended that a Condition of Approval be added that a drain tile system be engineered, approved, and installed within the buffer strip, to handle this under-seepage problem.

Commissioner Peart agreed with Commissioner Bertolero’s recommendation, and said that the Reclamation District should review it.

The Planning Commission proposed a drainage tile system as an alternative mitigation measure for Mitigation 4.7.8. They also recommended prominent deed disclosures to alert potential homebuyers that this area may be subject to flooding.

Fiscal Analysis:

Commissioner Peart said he has concerns about the assumptions that are being made, and asked staff to research this further.

A gentlemen, from Economic and Planning Systems, explained the assumptions, and answered Commissioner Peart’s questions.

SUMMARY

Heidi Tschudin presented an overview of the Planning Commission recommendations, as follows:

- School Street is to be extended all the way through.
- The fire station and the pool site are to be kept together as a linked pair of land uses. Those land uses are to move to either the School Street extension location or where Old Sugar Mill Road intersects with “C” Street.
- No solar panel installation, but yes to the wiring for solar.
- No elevation requirements, but yes to raised pads and foundations for all homes.
- No restrictions on uses in any of the floors of the homes.
- All the other design requirements in the list were OK.
- On discussion of accessibility, the Planning Commission did not impose additional accessibility requirements.
- No to the 300-foot buffer, but yes to the 50-foot buffer which has to do with Mitigation Measure 4.7.8. The 50-foot area is to be improved with native grasses, xeriscape, simple landscaping, minimal watering, minimal upkeep, and a walking path.
- There was a consensus at the time for 162 units vs. the Committee’s recommendation of 126 units. Commissioner Merwin stated that he does not concur with this.
- There’s going to be a design guideline added about investigating shared driveways.

- Mitigation Measure 4.8.3 having to do with noise attenuation along South River Road was rejected.
- Related to the 300-foot issue, which was Mitigation Measure 4.7.8, there was a consensus to substitute a requirement for a drainage tile system within the 50-foot buffer area, and the drainage tile system would include an observation-pipe system for monitoring.
- There was a consensus to exclude the winery from the requirements of Mitigation Measure 4.8.2, which had to do with the nighttime noise thresholds.
- There was direction to staff to complete review of the fiscal analysis, so that staff can provide those results to the Board for their deliberation.
- Monument signage and other entry improvements shall be limited to the intersections of “C” Street and Willow Road, and Old River Road and Willow Point Road.

The following are summary comments from the Planning Commission:

Commissioner Woo said that the Committees should be very proud of their work and all of the time they invested, and that she’s sure this project is better since it had so much community input.

Commissioner Bertolero concurred with Commissioner Woo’s comments, and commended David Morrison and his staff, County Counsel, and the consultants for bringing this project together. He said he thinks the Clarksburg Committee has done a great job on their review of the documents, and concluded that with some of these minor changes and additions, he definitely supports the project.

Commissioner Gerber said that this has been one of the most fascinating proposals that have come before the Planning Commission during his seven-year term. He stated that he thinks this project will be beneficial to Clarksburg, and is in support of the project.

Commissioner Merwin thanked the citizens for contributing their tremendous amount of time on the project. He stated that, with the one exception about the 162 new home concept, he is in favor of the project. He also added that he supports the Delta Protection Act.

Commissioner Peart stated that he’s in favor of the project, and expressed appreciation to staff, the applicant, and all the people in Clarksburg. He said that he did vote for the smaller number of homes also.

Chair Cameron said that she supports the project, and added that she did vote for the higher number of houses since this is probably the last development in Clarksburg.

Chair Cameron thanked everyone for coming and for their hard work.

Commissioner Woo thanked Heidi Tschudin for coming into the project at the last moment and for doing such a wonderful job on the staff report.

Commission Action

Recommended that the Board of Supervisors:

- (1) **CERTIFY** the EIR (Attachment A) with minor clarifications as proposed by staff and as amended by discussion today, to the Mitigation Monitoring Plan as proposed by staff in Attachment B.
- (2) **ADOPT** the Old Sugar Mill Specific Plan and Design Guidelines as proposed by staff and as amended by discussion today, with specific modifications proposed by staff in Attachment C.
- (3) **AMEND** the Clarksburg General Plan to incorporate the final Old Sugar Mill Specific Plan as appropriate in the text and as an attachment to the General Plan.
- (4) **REZONE** the property from Heavy Industrial (M-2) to appropriate zones consistent with the final Specific Plan Land Use Diagram.
- (5) **EXECUTE** a Development Agreement with the community benefit items summarized herein and with substantially the same form and content as Attachment D, with the amendments discussed today.

MOTION: Woo SECOND: Peart
AYES: Bertolero, Cameron, Gerber, Peart, and Woo
NOES: Merwin
ABSTAIN: None
ABSENT: Cornejo

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REGULAR AGENDA

8. DIRECTOR'S REPORT

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

Assistant Director David Morrison thanked Heidi Tschudin, Phil Pogledich, and others involved with the project for their good work.

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9. COMMISSION REPORTS

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

1. Commissioner Peart asked that bulk emails not be sent to the Commissioner's email addresses.
2. Commissioner Woo noted that the California County Planning Commissioner's Association Conference is next Saturday, and invited any commissioners who would like to attend.
3. The Commissioners disclosed that they met with the Old Sugar Mill folks prior to today's meeting.

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10. FUTURE AGENDA ITEMS

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

No future agenda items were discussed.

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11. ADJOURNMENT

The Special Meeting of the Yolo County Planning Commission was adjourned at 3:20 p.m. The next Regular Meeting of the Yolo County Planning Commission will be held on **Thursday, April 13, 2006, at 8:30 a.m.**, in the Board of Supervisors' Chambers.

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

Respectfully submitted by,

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

ATTACHMENT “F”

FINDINGS AND ANALYSIS OF THE DELTA PROTECTION COMMISSION CONCERNING APPEALS FILED ON NOVEMBER 3, 2006 BY (1) THE NATURAL RESOURCES DEFENSE COUNSEL AND (2) THE CONCERNED CITIZENS OF CLARKSBURG, ET AL.

Introduction

Upon adoption by the Commission, this document shall constitute the findings and analysis of the Commission concerning two appeals challenging the October 24, 2006 decision of the County to approve the OSMSP. Both appeals were filed with the Commission on November 3, 2006. One appeal was filed by the Natural Resources Defense Council; the other was filed by the Concerned Citizens of Clarksburg and other parties.

Pursuant to the Commission’s applicable regulation (Cal. Code Regs., tit. 14, § 20008), it has heard the appeals in two phases.

First, it held a hearing on November 16, 2006, its first available meeting following the filing of the appeals, to determine whether the appeals fall within the Commission’s jurisdiction and raise an appealable issue. At that hearing, the Commission determined that the appeals do fall within the Commission’s jurisdiction because the OSMSP would constitute “development” within the “primary zone” of the Delta pursuant to the Act. The Commission further determined that the appeals each raise at least one appealable issue under the Act.

The Commission therefore proceeded to the second hearing phase and heard the merits of the appeals on January 25, 2007, its next regularly-scheduled meeting. At that meeting, the Commission determined that the challenged actions of the County were inconsistent with three policies in the Commission’s Resource Management Plan, and related policies in the Act.

The Commission directed staff to prepare written findings, consistent with its determination, and to present the findings to the Commission on February 22, 2007, its next regularly-scheduled meeting.

The detailed history of the OSMSP, approvals by the County and the appeals is provided in staff reports to the Commission dated November 7, 2006 and January 25, 2007 (**Attachment A**).

Background

The Primary Zone of the Sacramento-San Joaquin Delta includes approximately 500,000 acres of waterways, levees and farmed lands extending over portions of five counties: Solano, Yolo, Sacramento, San Joaquin and Contra Costa. This area supports a strong agricultural economy along with open space and habitat values. Recognizing the threats to the Primary Zone of the Delta from potential urban and suburban encroachment, and the need to protect the area for agriculture, wildlife habitat, and recreation uses, the California Legislature passed, and the Governor signed into law on September 23, 1992, the Delta Protection Act of 1992 (SB 1866).

The Act finds and declares in part that “[t]he delta is an agricultural region of great value to the state and nation . . .” and that “. . . the continued dedication and retention of that delta land in agricultural production contributes to the preservation and enhancement of open space and habitat values.” (Pub. Resources Code, § 29703, subd. (a), (b).) The Legislature further finds in

2 part that “. . . the delta is inherently a flood prone area wherein the most appropriate land uses are agriculture, wildlife habitat, and, where specifically provided, recreational activities” (Pub. Resources Code, § 29704.) “In order to protect regional, state, and national interests in the long-term agricultural productivity, economic vitality, and ecological health of delta resources, it is important that there be coordination and integration of activities by the various agencies whose land use activities and decisions cumulatively impact the delta.” (Pub. Resources Code, § 29709, subd. (b).)

The policies of the Act are implemented in part through the Legislature’s determination that “[r]egulation of land use and related activities that threaten the integrity of the delta’s resources can best be advanced through *comprehensive regional land use planning* implemented through reliance on local government in its local land use planning procedures and enforcement.” (Pub. Resources Code, § 29709, subd. (b) (italics added).) Therefore, the statute establishes a 23-member Delta Protection Commission, and directs the Commission to adopt “. . . a comprehensive long-term resource management plan for land uses within the primary zone of the delta” (Pub. Resources Code, §§ 29735, 29760, subd. (a).)

The Commission adopted the statutorily required plan, “Land Use and Resource Management Plan for the Primary Zone of the Delta,” on February 23, 1995. (Cal. Code Regs., tit. 14 § 20000 et seq.) The Act requires that local governments listed in the Act, including the County, may approve “development” in the “primary zone” of the delta only if it is consistent with the Resource Management Plan and the Act. (See Pub. Resources Code, §§ 29763.5, 29765, 29770, subd. (a), 29771.) The Act further provides that “(a)ny person who is aggrieved by any action taken by a local government or other local agency in implementing the Resource Management plan, or otherwise taken pursuant to this division, may file an appeal with the Commission. (Id., §29770. (a).)

Jurisdiction and Appealability

On November 16, 2006, the Commission conducted a hearing, pursuant to California Code of Regulations, title 14, section 20008, and determined that it has jurisdiction over this matter because (1) the project location is in the Primary Zone of the Delta (unanimous) and (2) the project constitutes "development" (15 for/1 opposed). It also determined that both of the appeals include appealable issues (unanimous). The Commission’s determination of jurisdiction and appealability is based on the record, including submissions of staff and of the parties, testimony, and other evidence presented at the public hearing. The analytical basis for the Commission’s determination is set forth in the November 7, 2006, letter (staff report) from Supervising Deputy Attorney General Daniel L. Siegel to the Commission. The letter was provided to the parties to he appeals and made available to the public prior to the hearing, and the Commission hereby incorporates that letter into its current findings.

Merits

Based upon the evidence presented during its public hearing on January 25, 2007, including all communications, reports, staff memoranda and other materials that were made part of the hearing record, the Commission makes the following findings as to whether the County’s actions regarding the OSMSMP are, or are not, consistent with the following specific policies of the Resource Management Plan and related provisions in the Act. For each finding, the policy is first quoted in full, followed by the finding and then the basis for the finding.

UTILITIES AND INFRASTRUCTURE

Policy 3: New sewage treatment facilities (including storage ponds) and new areas for disposal of sewage effluent and sewage sludge shall not be located within the Delta Primary Zone. The

Rio Vista project, as described in the adopted Final Environmental Impact Report for such project, and the Ironhouse Sanitary District use of Jersey Island for disposal of treated wastewater and biosolids are exempt from this policy. (Cal. Code Regs., tit. 14, § 200050, subd) (c.)

Finding: Consistent.

The sewage treatment and disposal elements of the OSMSP do not constitute “new” sewage treatment and disposal facilities. Rather, they constitute the enhancement of existing facilities.

Basis of Finding:

Existing treatment facilities were primarily used to dispose of agricultural waste generated by the former sugar beet processing plant that once operated at the site. The OSMSP facilities, in contrast, will primarily be used to treat human waste. That distinction, by itself, however, does not make the OSMSP facility “new.” Documentation reviewed by Commission staff, and on file with the Commission, relative to the adoption of regulations governing the siting of new sewage treatment facilities and areas for disposal of sewage effluent and sewage sludge in the Primary Zone do not appear to specifically call out a distinction between agricultural and human waste treatment/effluent discharge.

Further, the STEP system developed as a component of the OSMSP would be located in the same area as the system for the prior use related to the operation of a sugar beet processing plant at the site and is, therefore, a replacement system for the redevelopment of the property, as opposed to a “new” system.

LAND USE

Policy 2: Local government general plans, as defined in Government Code Section 65300 et seq., and zoning codes shall continue to strongly promote agriculture as the primary land use in the Primary Zone; recreation land uses shall be supported in appropriate locations and where recreation uses do not conflict with agricultural land uses or other beneficial uses, such as waterside habitat. County plans and ordinances may support transfer of development rights, lot splits with no increase in density, and clustering to support long-term agricultural viability and open space values of the Primary Zone. Clustering is intended to support efficient use of agricultural lands, not to support new urban development in the Primary Zone. Local governments shall specifically indicate when, how, and why these options would be allowed in the Primary Zone. (Cal. Code Regs., tit. 14, § 20060, subd. (b).)

Finding: Consistent.

The specific policies of the Commission’s Resource Management Plan were adopted pursuant California Code of Regulations, Title 14, section 20030 et. seq. The OSMSP is consistent with County ordinances and policies that support agriculture.

Basis of Finding:

The agricultural operation and support components of the OSMSP are consistent with the provisions of the Agriculture Element of the County General Plan and with the County Right to Farm Ordinance which support long-term viability of commercial agriculture in the County and the Delta (by incorporation of the Resource Management Plan into the County General Plan). The clustering of the agricultural facilities, and supporting infrastructure, on the property demonstrates efficient utilization of the area for agricultural purposes while not encroaching on lands zoned for, or currently in, agricultural use.

Policy 3: New residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing agricultural use. Buffers shall adequately protect integrity of land for existing and future agricultural uses. Buffers may include berms and vegetation, as well as setbacks of 500 to 1,000 feet. (Cal. Code Regs., tit. 14, §20060, subd. (c).)

Finding: Not Consistent.

The proposed buffer between agricultural and urban uses provided in the OSMSP would not provide separation equivalent to or beyond that recommended in Policy 3 and thus would not satisfactorily meet the purposes for which such buffers are called for in that Policy.

Basis of Finding:

The 300-foot buffer provided in the OSMSP to separate the development component of the proposal and agricultural operations on adjacent parcels is significantly less than the 500-foot to 1,000-foot buffer recommended in the Resource Management Plan. It should be noted that the 300-foot buffer is from the first row of vines to the nearest occupied building that is a part of the project.

Pursuant to testimony of the County Agricultural Commissioner, the 300-foot buffer was found to be adequate by the County based on facts associated with vineyard operations (current agricultural use of the adjacent parcel). However, Policy 3 states that buffers shall adequately protect integrity of land not only for *existing* but *future* agricultural uses. There is no certainty that wine grapes will continue to be planted on the adjoining parcel. In that the 300-foot buffer is based on farming practices associated with vineyard operations, including ground rather than aerial spraying, it does not provide assurance that such separation would be sufficient or satisfactory for farming practices that could be conducted on the parcel in the future and that could include aerial spraying. A new crop may require a larger buffer. Policy 3 clearly requires an adequate buffer to allow future agricultural uses unfettered by ag/urban conflicts.

Moreover, although presented as a 300-foot buffer in the OSMSP, in reality, the separation between the project area and the adjacent agricultural parcel is significantly less as 75 feet of the buffer is on the agricultural parcel for which the buffer is to be provided. To the extent that the 75-foot buffer on the agricultural parcel would prevent the use of any portion of that parcel for agricultural uses, it is not consistent with the Land Use Policy 3 requirement that land be protected “for existing and future agricultural uses.” No portion of the agricultural parcel subject to the buffer would be available for future agricultural uses.

Policy 4: New non-agricultural residential development, if needed, shall be located within the existing Primary Zone communities where support infrastructure and flood protection are already provided. (Cal. Code Regs., tit. 14, § 20060, subd. (d).)

Finding: Not Consistent.

The project involves new non-agricultural residential development in an area that has not been substantially documented with evidence of having support infrastructure and flood protection in place for such use. As such, the OSMSP is not consistent with Land Use Policy 4.

Basis of Finding:

The inconsistency with Land Use Policy 4 is reinforced by reading that Policy along with Public Resources Code section 29765 which lists findings that local governments were required to make prior to the Commission’s approval of local government general plan amendments under the Act.

Although the section's provisions are not literally applicable, as the Commission has approved the County's amendments, they show legislative intent as to what the Resource Management Plan should achieve, and therefore provide assistance in understanding that Plan's provisions. One finding required under section 29765 is "(f) The development will not expose the public to increased flood hazards."

The OSMSP proposes to convert land zoned Heavy Industrial to a mixed use that includes up to 162 residences. These residences may be constructed even though levee improvements that may be required to provide adequate flood protection may not occur due to economic infeasibility.

The project proponent is only required to perform improvements pursuant to the outcome of required studies. However, if the outcome of such studies requires improvements that are economically infeasible there are no assurances that the project proponent or any other entity would perform the needed improvements.

Flood protection for the project area is uncertain and may be below a 100-year level based on the following information: flood protection for the project area is provided by levees on the Sacramento River and Elk Slough; in 1990, the Clarksburg levees were certified and the area was designated as Zone B (commonly referred to as an area having 100-year flood protection) under FEMA Flood Insurance Risk Maps; a re-evaluation conducted after the 1997 flood determined the 100-year flood to be larger than the flood upon which the 1990 determination was based; and the criteria for levee stability and seepage has become more stringent since 1990.

Allowing up to 162 residences to be built within the project area prior to the re-certification of the levees for 100-year protection reduces the level of public health and safety in the area by increasing the number of people at risk of flooding and is inconsistent with Land Use Policy 4. "Known" uncertainties should be taken into consideration relative to applicability over the life of the project. Although the project is located in an existing community, the adequacy of the flood protection for the community is in a state of uncertainty, ie., FEMA remapping initiative (levee documentation review/decertification of undocumented levees) and FEMA/Corps of Engineers Standards review; DWR mapping initiative (AB 142) and levee coring initiative (Propositions 1E/84); and pending flood protection legislation (SB 5, SB 6, SB 17, SB 59, AB 5, AB 236, AB 64, AB 70 and numerous spot bills).

Finally, there is insufficient evidence that 162 new residences in Clarksburg are needed. This number of units would more than double the size of Clarksburg. According to the August 2004 Draft Environmental Impact Report for this project, Clarksburg had 132 housing units as of 2001. (Draft OSMSP Program Environmental Impact Report, August 2004, p. 4.10-6.) Significantly, according to that report, "the General Plan Housing Element predicts that an additional 27 housing units will be needed to house an additional 68 people by the year 2020." (Ibid.)

Policy 7: Structures shall be set back from levees and areas which may be needed for future levee expansion. (Cal. Code Regs., tit. 14, § 20060, subd. (g).)

Finding: Consistent.

The OSMSP incorporates standard setback requirements.

Basis of Finding:

The 50-foot setback provided in the OSMSP for levee maintenance is consistent with the minimum existing regulatory requirements and the guidelines developed by the Sacramento River Floodway Corridor Forum.

AGRICULTURE

Policy 4: Local governments shall support long-term viability of commercial agriculture in the Delta because of its economic and environmental importance to the State and local communities. (Cal. Code Regs., tit. 14, § 20070, subd. (d).)

Finding: Consistent.

The OSMSP is consistent with County policies that support viability of commercial agriculture in the County and the Delta.

Basis of Finding:

The agricultural operation and support components of the OSMSP, including operation of a grape crushing facility, winery, and related sale of agricultural products from the winery are consistent with the provisions and policies of the County's Agriculture Element of the County General Plan which supports long-term viability of commercial agriculture in the County and the Delta (by incorporation of the Resource Management Plan into the County General Plan). Moreover, there is no displacement of land zoned for agriculture as a result of the proposed project.

LEVEES

Policy 1: Local governments shall ensure that Delta levees are maintained to protect human life, to provide flood protection, to protect private and public property, to protect historic structures and communities, to protect riparian and upland habitat, to promote interstate and intrastate commerce, to protect water quality in the State and federal water projects, and to protect recreational use of the Delta area. Delta levee maintenance and rehabilitation shall be given priority over other uses of the levee areas. To the extent levee integrity is not jeopardized, other uses, including support of vegetation for wildlife habitat, shall be allowed. (Cal. Code Regs., tit. 7 14, § 20100, subd. (a).)

Finding: Consistent.

The OSMSP includes setbacks to assure levee maintenance activities are not compromised.

Basis of Finding:

There is no substantial evidence in the record that the Yolo County approvals will jeopardize the ability of local governments to maintain Delta levees (see Basis of Findings for Land Use Policy 7 and for Levees Policy 2).

Policy 2: If levee guidelines are needed, local governments shall adhere to guidelines for federal and local levee maintenance and construction at a minimum as stipulated in the Flood Hazard Mitigation Plan guidelines developed by California Office of Emergency Services and the Federal Emergency Management Agency in the 1987 agreement, and set longer term goals of meeting Public Law 84-99 (Emergency Rehabilitation of Flood Control Works or Federally Authorized Coastal Protection Works), standards administered by the Corps of Engineers. If vegetation standards are needed, local governments shall adopt the adopted vegetation guidelines, which promote native grasses and limited vegetation on specific areas of the levee. (Cal. Code Regs., tit. 14, § 20100, subd. (b).)

Finding: Consistent.

The OSMSP takes into consideration existing standards and guidelines.

Basis of Finding:

Project approval by the County does not require the adoption of levee or vegetation guidelines. Components of the project do, however, take into consideration the guidelines developed as a part of the Sacramento River Floodway Corridor Forum.

Policy 3: Through flood ordinances based on Flood Emergency Management Act model ordinances, developed by the International Conference of Building Officials and included in the Uniform Building Code, local governments shall carefully and prudently carry out their responsibilities to regulate new construction within flood hazard areas to protect public health, safety, and welfare. Increased flood protection shall not result in densities beyond those allowed under zoning and general plan designations in place on January 1, 1992 for lands in the Primary Zone. (Cal. Code Regs., tit. 14, § 20100, subd. (c).)

Finding: Not Consistent.

The OSMSP includes a change in zoning from Heavy Industrial to a mixed-use that includes 27% of the land being used for moderately high density residential development. By increasing the amount of land zoned residential and placing an intense residential development on it, the project supports an increase in density and a decrease in the level of public safety in the area.

Basis of Finding:

This policy should be interpreted consistent with Public Resource Code sections 29763.5 and 29765. Although those sections are not literally applicable, the first lists findings that the Commission must make before determining that proposed general plan amendments are consistent with the Act, and they express legislative intent as to the purposes of the Act, the Resource Management Plan and conforming local general plan provisions. One of the findings required by section 29763.5 is as follows: “(g) The general plan, and any development approved or proposed that is consistent with the general plan, will not expose the public to increased flood hazard.” Similarly, section 29765 lists findings that a local government must make where the Commission has adopted its resource management plan or amendments to that plan, but (1) a local government has not yet, pursuant to section 29763, submitted to the Commission general plan amendments that would bring their plans into conformity with the Commission’s plan, or (2) a local government has submitted those amendments to the Commission, but the Commission has not approved the amendments. (The Commission adopted its resource management plan on February 23, 1995. It has only adopted one amendment; that amendment became operative on February 27, 1997.) Section 29765 findings include the following: “(f) The development will not expose the public to increased flood hazards.”

The OSMSP includes a change in zoning from Heavy Industrial to a residential use that would result in a density significantly greater than the existing community and greater than the standard density for the county for this type of area, thus reducing the level of public health and safety by inducing growth in the area. Allowing up to 162 residences to be built within the project area prior to re-certification of the levee for 100-year flood protection reduces the level of public health and safety in the area by increasing the number of people at risk of flooding and is inconsistent with Levees Policy 3.

The County has nevertheless asserted that the term “densities” should apply to all uses, not just residential uses. It further asserted, in essence, that the Old Sugar Mill site was zoned for industrial uses on January 1, 1992, and that those uses were dense. The term “densities,”

however, is best read as applying to residential uses. The general plan for Clarksburg that was in place on January 1, 1992, for example, refers to densities as residential units per acre. (See Clarksburg General Plan adopted by the Yolo County Board of Supervisors on August 24, 1982. p. 5; see also Table 1, p. 1 of that Plan, referring to “Low Density Residential” and “Residential High Density.”) In contrast, that plan does not use the term densities in discussing uses of industrial areas. (*Ibid.*) Rather, in describing industrial uses, it refers to the intensity of uses by classifying zones as either “Light Industrial” or “Heavy Industrial.” (*Id.*, Table 1, p. 1.) The Resource Management Plan, however, only applies to “density,” not “intensity.” (Unlike the Resource Management Plan, the Act’s definition of “development” includes both terms, indicating that they are different. Public Resources Code section 29723’s definition provides that development means, among other things, “change in the density or intensity of use of land.”) Finally, this project allows residential development in an area prone to floods (see Basis of Finding for Land Use Policy 4, above). A large number of residential units would expose the public to greater dangers from floods compared to the exposure of industrial workers. While industrial workers would be at the site for limited periods of time, would likely be able to quickly spread the word about imminent danger, and would be, for the most part, mobile, those residing in the proposed residential units would be less likely to receive timely notice of sudden events and would have limited mobility. For example, inhabitants would be exposed to flooding while they are sleeping, and therefore would be less likely to learn about imminent danger. Residential inhabitants would not only have to escape themselves; they would also have material items and family members for which they would be held responsible for evacuating, in addition to simply themselves. Thus, the change in zoning would result in a density increase in both number and nature.

There is substantial evidence that the project may require increased flood protection. For example, the County’s Deputy County Counsel explains that the project “includes preparation of a geotechnical study and, if appropriate, a Flood Protection Plan and the implementation of feasible mitigation.” Uncertainties (see Basis of Finding for Land Use Policy 4), together with increasing recognition of the potential influence and impact of natural occurrences such as climate change and earthquake events, elevate the acknowledgement of flood risks to be taken into consideration in the preparation of such a Plan. The significance of providing assurances for public health and safety while not increasing human exposure to such impacts through projects that increase densities through changes in the zoning has become increasingly important and projects that promote such change in densities, such as the OSMS, are therefore inconsistent with Levees Policy 3.

Policy 4: Local governments shall ensure that existing programs for emergency levee repair should be strengthened and better coordinated between local, State, and federal governments and shall include: interagency agreements and coordination; definition of an emergency; designation of emergency funds; emergency contracting procedures; emergency permitting procedures; and other necessary elements. (Cal. Code Regs., tit. 14, § 20100, subd. (d).)

Finding: Consistent.

The County is a participant in programs to strengthen levee repair and coordination.

Basis of Finding:

As reported by the County Emergency Services Manager, the County is a member of the Delta Emergency Response Team which is involved in the development of tools and a plan to strengthen Delta-wide emergency response.

Policy 5: Local governments shall use their authority to control levee encroachments that are

detrimental to levee maintenance. (Cal. Code Regs., tit. 14, § 20100, subd. (e).)

Finding: Consistent.

The OSMSP takes into account the need for levee maintenance.

Basis of Finding:

The habitat and recreation components of the OSMSP take into consideration the need to allow for levee maintenance as the primary consideration when providing amenities for public access to the waterway.



County of Yolo

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PLANNING COMMISSION STAFF REPORT WORKSHOP ONLY

JANUARY 24, 2008

FILE #2007-058: Accessory Structure Ordinance Amendments. Amendments to the following sections of the Yolo County Zoning Ordinance (Chapter 2 of Title 8 of the County Code) are proposed: Articles 2, 4, 5, 6, 7, 7.1, 8, 9, 10, 11, and 26. A new Article 34 is also proposed to be added to Chapter 2.	
APPLICANT: Yolo County	
LOCATION: The unincorporated area of Yolo County (APN: numerous)	ZONING: Applies in all residential and agricultural zones in unincorporated Yolo County FLOOD ZONE: A, B, C
ENVIRONMENTAL DETERMINATION: Negative Declaration	
REPORT PREPARED BY:	REVIEWED BY:
Eric Parfrey, Principal Planner	David Morrison, Assistant Director

RECOMMENDED ACTIONS:

That the Planning Commission:

1. **HOLD** a workshop on the draft Accessory Structure Ordinance Amendments (**Attachment A**), accept public testimony, and provide direction to staff; and
2. **SCHEDULE** a public hearing on the Accessory Structure Ordinance Amendments at a later date.

REASONS FOR RECOMMENDED ACTIONS:

This workshop is an opportunity for the Commission to review the draft zoning regulations, and ask questions of staff, prior to a formal public hearing being scheduled. The Yolo County Zoning Ordinance is proposed to be amended to provide a clarified and updated set of procedures and standards for the review and permitting of accessory structures located on lands zoned for agricultural or residential use. A key component of the recommended changes would bring County regulations into conformance with current State law pertaining to residential second units, and with the 2007 California Building Code.

BACKGROUND:

The Planning Commission held a workshop on an earlier draft of the Accessory Structure Ordinance Amendments on November 8, 2007. Since the November workshop, a number of changes have been made to the draft ordinance based on Commission and public comments.

“Accessory structures” are secondary structures that are in addition and incidental to the primary structure on a lot, such as a private residence. “Accessory structures” include garages, second dwelling units, barns, gazebos, and pools.

Most accessory structures that are currently built in the unincorporated area require the issuance of a Building Permit, with over-the-counter Planning Division review of setbacks and other issues. This process would not be changed with these ordinance amendments.

Smaller accessory structures that are one-story buildings less than 120 square feet in size, and are used as storage sheds, playhouses and similar uses, are not currently subject to a Building Permit. These smaller sheds and accessory structures would continue to be exempt from a Building Permit under the new proposed zoning amendments (and under the newly adopted Building Code regulations that went into effect in Yolo County on January 10, 2008).

The portions of the current Yolo County Zoning Ordinance (Chapter 2 of Title 8 of the County Code) that address accessory structures need to be updated for clarity and to achieve conformance with State law and the updated 2007 California Building Code. In the current County code, the standards for accessory structures appear in various places and are not entirely consistent. In addition, definitions and design standards are not included in the current regulations for various types of common accessory structures such as detached workshops, pool houses or cabanas, game rooms/exercise studios, artist studios, and storage buildings.

The setback requirements for accessory structures in the current County zoning regulations must be updated to be consistent with the more restrictive setback standards in the 2007 California Building Code. The current regulations also must be revised to address conversions of accessory structures such as garages into dwelling units or studios. Finally, the current zoning ordinance must be updated to include provisions for the review and permitting of residential second units (“granny units”), to accommodate State mandates that such second units be allowed.

Current Zoning Regulations

The current zoning regulations that refer to accessory structures are contained in Section 8-2.2602 (Accessory buildings) and Section 8-2.2608 (Projections into yards and courts) (**Attachment B**). These two sections of the zoning ordinance are hard to read and understand for planners and members of the public.

Section 8-2.2602 (Accessory buildings) includes the following requirements:

- “non-dwelling accessory buildings” requiring a building permit shall be located in the rear one-half of a residential lot
- an accessory building shall be located 60 feet from the front property line, and 3 feet from the side and rear property lines, in agricultural districts
- the Planning Director may approve an accessory building located within 1 foot of side and rear property lines “if a standard building cannot be placed within standard setbacks”

- “non-dwelling accessory buildings” not requiring a building permit “such as a metal shed or gazebo” shall be allowed in the rear and side yards
- in the case of a corner lot, accessory structures shall maintain a 15 foot setback except that such buildings shall not be located closer to any side street than the main building
- “dwelling accessory buildings such as a guest house” shall not be located in any required yard
- A (dwelling) accessory structure shall be located at least 10 feet from any dwelling and at least 6 feet from any other accessory structure
- Accessory buildings, including those allowed under Section 2608(f), shall not exceed 20 percent of the area of the rear yard

Section 8-2.2608 (Projections into yards and courts) includes the following requirement:

- Accessory structures attached to dwellings consisting of patio covers, sunshades and similar structures may extend into required rear yards provided no part of the structure is located within 10 feet of the rear lot line and the structure is unenclosed on three sides.

Proposed Zoning Regulations

Key changes that are proposed to the existing zoning ordinance related to accessory structures include the following:

Format: The accessory structure regulations have been consolidated into a single new section, Article 34, of the zoning ordinance.

Residential second units: The ordinance has been augmented to include definitions of attached and detached residential second units, and provisions for the use, design and permitting of these structures in conformance with 2002 State Law (Section 65852.2 of the California Government Code).

Setbacks: The setback requirements (the minimum required distance from a structure to the front, rear, and side property lines) for specific accessory structures have been revised to be consistent with the updated 2007 California Building Code, which went into effect in January 2008. The proposed ordinance amendments allow the Planning Director or Zoning Administrator to modify the setbacks requirements in specific circumstances, contingent on the structure meeting building code standards.

Guest houses: The definition, design standards, and allowed uses of guest houses have been clarified in the revised ordinance. The current requirement in some zone districts for a Conditional Use Permit for such structures has been eliminated.

Definitions: Definitions and design standards for common accessory structures have been added to the ordinance. New definitions and design standards have been added for detached workshops, pool houses or cabanas, game rooms/exercise studios, artist studios, and storage buildings.

General development standards: Standards generally applicable to all accessory structures have been compiled into a single list.

Specific development standards: Modifications of the general standards allowable for specific types of structures are provided. The development standards now address conversions of non-habitable structures, e.g., garages, into habitable units.

As part of the effort to simplify the regulations for the benefit of both County staff and the general public, the following table below has been included in the proposed new Article 34 of Chapter 2. The table summarizes the types of accessory structures that are allowed by right, or by conditional permit, in each of the zone districts. The table clarifies that almost all types of accessory structures are allowed by right, through issuance of a building permit if over 120 square feet in size, in all districts. The only types of accessory structures that require issuance of a Minor Use Permit by the Zoning Administrator are farm labor camps in the agricultural zones; second housing units, guest house, and conversions that do not meet the standard zone setbacks; and animal enclosures in the residential zones.

**Table 8-2.3404
Accessory Structures: Allowed Zone Districts**

Accessory Structure	ZONE DISTRICTS								
	AP	AGI	A1	RS	RRA	R1	R2	R3	R4
<i>Agricultural support structures:</i>									
- Farm office	X	X	X						
- Barn	X	X	X	X	X				
- Roadside stand	X	X	X						
<i>Accessory housing structure</i>									
- Farm labor camp	C	C	C						
- Ancillary dwelling	X		X						
- Second Unit, detach.				X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
- Second Unit, attach.				X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
- Guesthouse				X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
- Accessory structure conversion	X		X	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
<i>Non-dwelling accessory structure²</i>									
- Detached garage	X	X	X	X	X	X	X	X	X
- Detached workshop	X	X	X	X	X	X	X	X	X
- Poolhouse (cabana)	X		X	X	X	X	X	X	X
- Game/exercise room	X		X	X	X	X	X	X	X
- Storage building	X	X	X	X	X	X	X	X	X
- Artist studio	X		X	X	X	X	X	X	X
<i>Miscellaneous accessory structure²</i>									
- Pools and Spas	X	X	X	X	X	X	X	X	X
- Attached patio cover	X	X	X	X	X	X	X	X	X
- Gazebo	X	X	X	X	X	X	X	X	
- Animal enclosures	X	X	X	X	X	C	C		
- Vehicle covers	X	X	X	X					
<i>Temporary buildings</i>									
- Temp. sales office				X	X	X	X	X	X

Legend: X = Permitted use; C = Conditional use (Minor Use Permit)

Notes to table:

1. Second units, guest houses, and accessory structure conversions in residential zones are an allowed use by right if standard zone setbacks for rear and side yards are met. If the structure intrudes into the required standard zone setback for rear and side yards, a Minor Use Permit is required.
2. Non-dwelling and miscellaneous accessory structures require issuance of a Building permit if over 120 square feet in size. All accessory structures must conform with setback requirements in Section 8-2.3405.

The proposed amendments to the Yolo County Zoning Ordinance are presented in legislative font (~~strikeout~~ and underline format) in **Attachment A** of this staff report, except for the new section, Article 34, which is marked as an entire new section (without underline). The changes are summarized by ordinance section in the table, below.

Summary of Proposed Accessory Structure Amendments to the Zoning Ordinance

Article #	Zone District	Proposed change
2	--	Modify existing definitions for clarity and add definitions for certain common accessory structures.
4	A-P	Delete listing of accessory structures which are now addressed under new Article 34. Reference Article 34 in height regulations.
5	A-E	Reference Article 34 in height regulations.
6	A-1	Delete listing of accessory structures which are now addressed under new Article 34. Reference Article 34 in height regulations.
7	R-S	Delete listing of accessory structures which are now addressed under new Article 34. Eliminate conditional use permit requirement for a guest house. Reference Article 34 in height regulations.
7.1	RRA	Delete listing of accessory structures which are now addressed under new Article 34. Eliminate conditional use permit requirement for a guest house. Reference Article 34 in height regulations.
8	R-1	Delete listing of accessory structures which are now addressed under new Article 34. Eliminate conditional use permit requirement for a guest house. Reference Article 34 in height regulations.
9	R-2	Delete listing of accessory structures which are now addressed under new Article 34. Eliminate conditional use permit requirement for a guest house. Reference Article 34 in height regulations.
10	R-3	Delete listing of accessory structures which are now addressed under new Article 34. Eliminate conditional use permit requirement for guest houses and mobile homes used as temporary guest houses. Reference Article 34 in height regulations.
11	R-4	Delete listing of accessory structures which are now addressed under new Article 34. Reference Article 34 in height regulations.
24	--	Revise swimming pool regulations
26	--	Delete Section 8-2.2602 (Accessory Buildings) of Article 26 as it would be superseded by the new Article 34.
34	--	Add new section of ordinance pertaining to accessory structures.

PUBLIC AND AGENCY COMMENTS:

A "Request for Comments" and "Notice of Availability of Environmental Document" and "Notice of Intent to Adopt a Negative Declaration" were mailed out to approximately 60 staff, individuals, and organizations, on September 17, 2007. The draft ordinance changes were circulated to county agencies and interested parties including the Yolo County Office of Economic Development, Environmental Health Department, the cities of Davis, West Sacramento, Winters, and Woodland, all of the county's citizens advisory committees, all libraries and school districts, and all County Service Areas in the county.

An Initial Study/Negative Declaration (IS/ND) was circulated between September 17, 2007, and October 18, 2007. No letters were received in response to the IS/ND.

A public workshop was scheduled and held at the Planning and Public Works Department to discuss the proposed ordinance changes with members of the public on October 15, 2007. However, no members of the public attended.

Some of the county's citizens advisory committees have held discussions on the proposed ordinance amendments. Most recently, the Dunnigan Advisory Committee received this draft of the ordinance amendments and discussed the changes at their meeting of January 15, 2008.

ATTACHMENTS

Attachment A – Draft Accessory Structure Ordinance Amendments

Attachment B – Current Section 8-2.2602 (Accessory buildings) and Section 8-2.2608 (Projections into yards and courts)

Attachment A

Draft Accessory Structure Ordinance Amendments to Chapter 2 of Title 8 of the Yolo County Code

Deleted sections and text are shown in ~~strikeout~~. New or added sections and text is shown in underline (except for the entirely new Article 34).

CHAPTER 2

Article 2. Definitions

Sec. 8-2.204.1 Accessory agricultural support structure

“Accessory agricultural support structure” shall mean an uninhabited agricultural building or facility that is incidental and accessory to the primary agricultural use of the subject property. Such structures include, but are not limited to, the following: farm office, barn, roadside stand, and reservoir.

Sec. 8-2.204.3 Accessory use.

“Accessory use” shall mean a use lawfully permitted in the zone, which use is incidental to, and subordinate to, the principal use of the site or of a main building on the site and serving a purpose which does not change the character of the principal use, and which is compatible with other principal uses in the same zone and with the purpose of such zone. (§ 3.003, Ord. 488, as amended by § 2, Ord. 1244, eff. February 3, 2000)

Sec. 8-2.203.5 Accessory housing structure

“Accessory housing structure” shall mean a residential building that is in addition to the primary residential dwelling on a parcel. Such structures include, but are not limited to, the following: farm labor camp, ancillary dwelling, residential second unit, and guest house.

Sec. 8-2.203.7 Accessory non-dwelling building

“Accessory non-dwelling building” shall mean an uninhabited non-residential building that is incidental and accessory to the primary residential use of the subject property. Such structures include, but are not limited to, the following: detached garage, detached workshop, pool house or cabanas, game room/exercise studio, artist studio, and storage building.

Sec. 8-2.204.9 Accessory structure.

“Accessory structure” shall mean a detached subordinate structure or building located on the same parcel as the main building and designed and intended for a use which is subordinate to the use of the main building.

Sec. 8-2.209.5. Ancillary dwelling.

“Ancillary dwelling” shall mean a dwelling unit allowed in addition to the primary or principal dwelling on agriculturally-zoned parcels. structure designed, intended, or used for residential purposes, as elsewhere provided for herein, and including “Granny Units,” and be located appurtenant to, clustered with, and on the same parcel as the main residential facilities. It shall not include labor camps. (§ 2, Ord. 1244, eff. February 3, 2000)

Sec. 8-2.209.7. Animal enclosure.

“Animal enclosure” shall mean a building accessory to the primary residential use that is designed to house household pets or hobby animals. Such enclosures include, but are not limited to, horse stables, chicken coops and aviaries.

Sec. 8-2.210.9. Artist studio.

“Artist studio” shall mean a building separate from the primary structure that is designed for the storage and use of equipment and supplies associated with sculpture, painting, photography and similar activities.

Sec. 8-2.215.2 Barn.

“Barn” shall mean a building used to store farm vehicles and equipment, as a warehouse for farm products and supplies, to house livestock, or to conduct maintenance activities.

Sec. 8-2.220. Building, accessory.

Same as “Accessory structure.” Refer to Section 8-2.204.5 of this chapter.

~~“Accessory building” shall mean a detached subordinate building located on the same building site as the main building and designed and intended for a use which is subordinate to the use of the main building. (§ 3.020, Ord. 488)~~

Sec. 8-2.222. Building, main.

“Main building” shall mean a building in which is conducted the principal use of the parcel upon building site on which such building is situated. (§3.022, Ord. 488)

Sec. 8-2.224.3. Building, storage.

“Storage building” shall mean a building separate from the primary structure that is designed for the storage of miscellaneous household goods and materials including, but not limited to, food, lumber, construction materials, household chemicals, personal records, furniture, pet supplies, and books.

Sec. 8-2.224.5 Cabana.

Same as “Pool house.” Refer to Section 8-2.287.6 of this chapter.

Sec 8-2.241.5. Farm office.

“Farm office” shall mean a private administrative office that is located within an enclosed building and is necessary to and used for the management of an ongoing agricultural operation. within an enclosed building for the purpose of running a farming operation. (§ 2, Ord. 1244, eff. February 3, 2000)

Sec. 8-2.244.3 Game room/exercise studio.

“Game room/exercise studio” shall mean a building separate from the primary structure that is designed to provide indoor recreation for the occupants of the primary structure.

Sec. 8-2.244.5 Garage, detached.

“Detached garage” shall mean a building separate from the primary structure that is designed for the storage of passenger vehicles, utility or recreational trailers, or boats.

Sec. 8-2.247.2. Gazebo.

“Gazebo” shall mean a stand-alone unenclosed shade structure.

Sec. 8-2.249. Guest house.

“Guest house” shall mean a detached residential structure limited to sleeping and bathing

facilities (i.e. no kitchen) that encompasses up to 600 square feet in living area, exclusive of attached garage space, detached living quarters of a permanent type of construction, appurtenant to or within close physical proximity of the main residential dwelling; where no compensation in any form is received or paid, whether directly or indirectly. (§ 3.048, Ord. 488, as amended by § 2, Ord. 1244, effective February 3, 2000)

Sec. 8-2.270.10 Miscellaneous accessory structure

“Miscellaneous accessory structure” shall mean an uninhabited building or facility that is incidental and accessory to the primary residential use of the subject property, other than accessory housing or accessory non-dwelling structures. Such structures include, but are not limited to, the following: pool/spa, attached patio cover, gazebo, animal enclosure, and automobile cover.

Non-dwelling accessory structure

Sec. 8-2.279.5. Office, temporary sales.

“Temporary sales office” shall mean a temporary structure erected or a mobile home parked on a residentially-zoned parcel and used to facilitate the sale of homes within the same subdivision or an adjacent subdivision.

Sec. 8-2.284.5. Patio cover or sunshade, attached.

“Attached patio cover or sunshade” shall mean an unenclosed roof structure attached to a principal dwelling and intended to provide shade to a patio deck or other area.

Sec. 8-2.287.61 Pool house.

“Pool house” shall mean a building that is located adjacent to a swimming pool and is designed for the dressing and showering of pool users.

Sec. 8-2.287.62 Pool/spa.

“Pool/spa” shall mean a facility for recreational use (e.g. swimming pool) that is capable of containing water to a depth of eighteen (18) inches or more at any point.

Sec. 8-2.288. Primary Dwelling.

“Primary Dwelling” shall mean a structure designed, intended, and use for residential purposes, as elsewhere provided for herein. It shall not include Ancillary Dwelling; Residential Second Unit, Secondary Dwelling; Guest House; or Living Quarters. (§ 3.086, Ord. 488, as amended by § 2, Ord. 1244, eff. February 3, 2000)

Sec. 8-2.292.9 Reservoir.

“Reservoir” shall mean a privately-owned water storage facility (i.e., an in-ground excavation or above-ground tank) used for irrigation. For permitting purposes, a reservoir includes the associated on-site water transmission works.

Sec. 8-2.294.5 Residential second unit, attached:

“Residential second unit, attached” shall mean a separate, self-contained dwelling unit that shares at least one common wall with a primary residential structure allowed in addition to the primary dwelling on residentially-zoned parcels as provided by Section 65852.2 of the California Government Code.

Sec. 8-2.294.6 Residential second unit, detached:

“Residential second unit, detached” shall mean a separate, self-contained dwelling unit

allowed in addition to the primary dwelling on residentially-zoned parcels as provided by Section 65852.2 of the California Government Code.

Sec. 8-2.297. Roadside stand.

“Roadside stand” shall mean a structure, either temporary or permanent, used for the display and sale of agricultural products. (§ 3.095, Ord. 488, as amended by § 1, Ord. 488.182, eff. June 6, 1985, and § 1, Ord. 1010, eff. August 8, 1985)

~~Sec. 8-2.299. Secondary Dwelling.~~

~~(§ 3.097, Ord. 488, as amended by § 2, Ord. 1244, eff. February 3, 2000)~~

Sec. 8-2.299.14 Temporary accessory building

“Temporary accessory building” shall mean a structure erected on a non-permanent foundation that would remain on the subject property for a specified purpose and time period. Such structures include, but are not limited to, the following: temporary sales office.

Sec. 8-2.299.26.5 Vehicle cover.

INSERT

Sec. 8-2.299.27.9 Workshop, detached.

“Detached workshop” shall mean a building separate from the primary structure designed for the storage and use of tools associated with handicrafts such as carpentry, welding, electronics assembly, or other similar activities.

Article 4. Agricultural Preserve Zone (A-P)

Sec. 8-2.403. Accessory uses (A-P).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be allowed subject to issuance of any requisite Building Permit and ~~The following accessory uses shall be reviewed over the counter by the Planning and Public Works Department and their authorization shall be subject to Site Plan Review and approval by the Planning Division of setbacks, facilities, infrastructure, and health, and safety issues: ; and, issuance of any requisite Building Permit:~~

- ~~(a) Agricultural buildings and structures, appurtenant to an agricultural use no longer necessary for the operation of the principal use may be rented or leased for a similar use;~~
- ~~(b) Private stables;~~
- ~~(c) Home occupations;~~
- (d) Accessory uses that enhance the primary use of agricultural lands or the agricultural industry, or any necessary equipment or facilities for the support or maintenance of the principal operation. For the purposes of this section, “accessory use” shall include temporary or permanent supply, services, or preparation areas for on-site purposes;
- (e) One ancillary dwelling, except where located on a single Antiquated Subdivision parcel or lot of less than eighty (80) acres (as amended by §12, Ord. 1303, eff. July 24, 2003);
- ~~(f) A farm office incidental and necessary to the conduct of a principal use;~~
- ~~(g) Roadside stand;~~
- (h) Temporary landing strips appurtenant to a principal use;
- ~~(i) Temporary shelters for herdsmen; and,~~
- (j) Privately-owned reservoirs and/or water retention basins, with associated on-site water transmission facilities, provided that such reservoir or retention facility is found to have a potential either to provide flood control, fire suppression, water supply, wildlife habitat

improvement, groundwater recharge, or tailwater enhancement.

~~(§ 5.03, Ord. 488, § 4, Ord. 488.47, as amended by § 1, Ord. 652, eff. May 5, 1971, § 1, Ord. 488.122, eff. October 13, 1971, § 5, Ord. 488.155, eff. May 14, 1973, § 2, Ord. 488.182, eff. June 6, 1985, § 2, Ord. 1010, eff. August 8, 1985, §§ 18 and 22, Ord. 488.188, eff. January 2, 1986, § 2, Ord. 1158, eff. March 4, 1993, § 3, Ord. 1244, eff. February 3, 2000, and § 3, Ord. 1250, eff. August 20, 2000, as amended by §13, Ord. 1303, eff. July 24, 2003)~~

(k) Subject to Section 8-2.2703.5 of this chapter, ancillary dwelling where located on a single Antiquated Subdivision parcel or lot of less than eighty (80) acres. (§14, Ord. 1303, eff. July 24, 2003)

Sec. 8-2.404 Conditional uses (A-P) Minor Use Permit.

Upon review and approval, or conditional approval by the Zoning Administrator, the following conditional uses shall be authorized by Minor Use Permit:

(a) Agricultural labor camps consistent with Government Code Sections 17020, 17021.5 and 17021.6 ~~[insert];~~

Sec. 8-2.405. Height regulations (A-P).

There shall be no height regulations in the AP Zone except where required for conditional uses or as specified in Section 8-2.3400 of this Chapter. (§ 5.05, Ord. 488, § 4, Ord. 488.47, as amended by § 16, Ord. 652, eff. May 5, 1971, and § 3, Ord. 1244, eff. February 3, 2000)

Article 5. Agricultural Exclusive Zone (A-E)

Sec. 8-2.505. Height regulations (A-E).

There shall be no height regulations in the AE Zone except where required for conditional uses and as set forth in Section 8-2.3400 and Section 8-2.2406 ~~of Article 24~~ of this chapter. (§ 5.05, Ord. 488, as amended and renumbered to § 6.05, Ord. 488, by § 3, Ord. 488.47, as amended by § 17, Ord. 652, eff. May 5, 1971)

Article 6. Agricultural General Zone (A-1)

Sec. 8-2.603. Accessory uses (A-1).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be allowed subject to issuance of any requisite Building Permit and~~The following accessory uses shall be reviewed over the counter by the Planning and Public Works Department and their authorization shall be subject to Site Plan Review and approval by the Planning Division of setbacks, facilities, infrastructure, and health, and safety issues: ; and, issuance of any requisite Building Permit:~~

- ~~(a) Agricultural buildings and structures, appurtenant to an agricultural use no longer necessary for the operation of the principal use may be rented or leased for a similar use;~~
- ~~(b) Private stables;~~
- ~~(c) Home occupations;~~
- ~~(d) One ancillary dwelling, except where located on a single Antiquated Subdivision parcel or lot of less than twenty (20) acres (as amended by §24, Ord. 1303, eff. July 24, 2003);~~
- ~~(e) A farm office incidental and necessary to the conduct of a principal use;~~
- ~~(f) Roadside stand;~~
- ~~(g) Temporary landing strips appurtenant to a principal use;~~

~~(h) Temporary shelters for herdsmen;~~

(i) Accessory uses that enhance the primary use of agricultural lands or the agricultural industry, or any necessary equipment or facilities for the support or maintenance of the principal operation. For the purposes of this section, "accessory use" shall include temporary or permanent supply, services, or preparation areas for on-site purposes;

(j) Privately-owned reservoirs and/or water retention basins, with associated on-site water transmission facilities, provided that such reservoir or retention facility is found to have a potential either to provide flood control, fire suppression, water supply, wildlife habitat improvement, groundwater recharge, or tailwater enhancement.

~~(§ 5.03, Ord. 488, § 4, Ord. 488.47, as amended by § 1, Ord. 652, eff. May 5, 1971, § 1, Ord. 488.122, eff. October 13, 1971, § 5, Ord. 488.155, eff. May 14, 1973, § 2, Ord. 488.182, eff. June 6, 1985, § 2, Ord. 1010, eff. August 8, 1985, §§ 18 and 22, Ord. 488.188, eff. January 2, 1986, § 2, Ord. 1158, eff. March 4, 1993, § 3, Ord. 1244, eff. February 3, 2000, and § 3, Ord. 1250, eff. August 20, 2000, as amended by §13, Ord. 1303, eff. July 24, 2003)~~ (k) Subject to Section 8-2.2703.5 of this chapter, ancillary dwelling where located on a single Antiquated Subdivision parcel or lot of less than eighty (80) acres. (§14, Ord. 1303, eff. July 24, 2003)

(k) Subject to Section 8-2703.5 of this chapter, ancillary dwellings where located on an Antiquated Subdivision parcel or lot less than twenty (20) acres. (§25, Ord. 1303, eff. July 24, 2003.)

Sec. 8-2.404 Conditional uses (A-1) Minor Use Permit.

Upon review and approval, or conditional approval by the Zoning Administrator, the following conditional uses shall be authorized by Minor Use Permit:

(a) Agricultural chemicals, sales, and storage;

(b) Agricultural processing plants;

(c) Agricultural products storing plants and yards;

(d) Animal feed and sales yards;

(e) Animal hospitals, veterinary offices, and kennels;

(f) Dairies;

(g) Cemeteries, crematories, mausoleums, and columbariums;

(h) Electrical distribution stations, transmission substations, communication equipment buildings, and public utility service yards;

(i) Fertilizer plants and yards;

(j) Forest products manufacturing and processing plants;

(k) Hog farms;

(l) Agricultural labor camps consistent with Government Code Sections 47020, 47021.5 and 47021.6 [insert];

Sec. 8-2.605. Height regulations (A-1).

There shall be no height regulations in the A-1 Zone except where required for conditional uses and as set forth in Section 8-2.3400 and Section 8-2.2406 of Article 24 of this Chapter. (§ 6.05, Ord. 488, as renumbered to § 7.05, Ord. 488, by § 2, Ord. 488.47, as amended by § 18, Ord. 652, eff. May 5, 1971)

Article 7. Residential Suburban Zone (R-S)

Sec. 8-2.703. Accessory uses (R-S).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be permitted in the R-S Zone:

(a) Animal and fowl breeding, hatching, raising, and fattening, including poultry, fowl, birds,

rabbits, chinchillas, fish, and frogs for domestic use, and keeping bovine animals, horses, burros, mules, sheep, goats, and pigs. The keeping of such fowl and animals shall conform to all other provisions of law governing the same. No pen, coop, stable, barn, or corral shall be kept or maintained within fifty (50') feet of any dwelling or other building used for human habitation, or within 100 feet of the front lot line of the lot upon which it is located, or within twenty-five (25') feet of the street side of a corner lot, or within 100 feet of any public park, school, hospital, or similar institution. There shall be no raising, killing, or dressing of any such animal or poultry for commercial purposes.

(b) ~~Garages, private, and Parking areas, private;~~

(c) (Repealed by § 4, Ord. 1158, eff. March 4, 1993);

(d) Home occupations;

~~(e) Living quarters of persons regularly employed on the premises, but not including labor camps and dwellings for transient laborers;~~

(f) Pets, household;

(g) Signs as provided in Section 8-2.2406 of Article 24 of this chapter;

~~(h) Swimming pools, private, exclusively for the use of the residents and guests, subject to the provisions of Section 8-2.2407 of Article 24 of this chapter;~~

~~(i) Other accessory uses and buildings customarily appurtenant to a permitted use, subject to the requirements of Section 8-2.2602 of Article 26 of this chapter;~~

~~(j) Mobile homes as temporary guest houses in accordance with subsection (7) of subsection (b) of Section 8-2.2404 of Article 24 of this chapter; and~~

~~(k) Temporary tract offices providing tract homes are for sale in the subdivision in which the offices are located.~~

~~(§ 8.03, Ord. 488, as amended by §§ 21 and 41, Ord. 488.188, eff. January 2, 1986, and §4, Ord. 1158, eff. March 4, 1993)~~

Sec. 8-2.704. Conditional uses (R-S).

The following conditional uses shall be permitted in the R-S Zone:

(a) Buildings and structures, public and quasi-public, and uses of an educational, religious, cultural, or public service type, not including corporation yards, storage or repair yards, warehouses, and similar uses;

(b) Communication equipment buildings;

(c) Foster homes, nursery schools, and day care centers;

(d) Recreation areas and facilities, public and private noncommercial, such as country clubs, golf courses, and swimming pools; and

~~(e) Guest house not rented or otherwise conducted as a business.~~

~~(§ 8.04, Ord. 488, as amended by § 19, Ord. 652, eff. May 5, 1971, § 5, Ord. 488.167, eff. September 4, 1974, § 5, Ord. 488.180, eff. April 18, 1985, § 35, Ord. 488.188, eff. January 2, 1986, and § 8, Ord. 1158, eff. March 4, 1993)~~

Sec. 8-2.705. Height regulations (R-S).

No main building in the R-S Zone shall exceed thirty-five (35') feet in height, and no accessory building shall exceed fifteen (15') feet in height, except as provided in Section 8-2.3400 and Section 8-2.2605 of Article 26 of this chapter. (§ 8.05, Ord. 488)

Article 7.1. Residential, Rural, Agricultural Zone (RRA)

Sec. 8-2.713. Accessory uses (RRA).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be permitted in the RRA Zone, subject to the limitation of the number of animal units set forth in subsection (b) of Section 8-2.712 of this article:

- (a) Animal and fowl breeding, hatching, raising, and fattening, including poultry, fowl, birds, rabbits, chinchillas, fish, and frogs for domestic use, and keeping bovine animals, horses, burros, mules, sheep, goats, and pigs. The keeping of such fowl and animals shall conform to all other provisions of laws governing the same. No pen, coop, stable, barn, or corral shall be kept or maintained within fifty (50') feet of any dwelling or other building used for human habitation, or within 100 feet of the front lot line of the lot upon which it is located, to within twenty-five (25') feet of the street side of a corner lot, or within 100 feet of any public park, school, hospital, or similar institution;
- ~~(b) Garages, private, and parking areas, private;~~
- (c) (Repealed by § 5, Ord. 1158, eff. March 4, 1993)
- (d) Home occupations;
- ~~(e) Living quarters of persons regularly employed on the premises, but not including labor camps and dwellings for transient laborers;~~
- (f) Pets, household;
- (g) Signs as provided in Section 8-2.2406 of Article 24 of this chapter;
- ~~(h) Swimming pools, private, exclusively for the use of the residents and guests, subject to the provisions of Section 8-2.2407 of Article 24 of this chapter;~~
- ~~(i) Other accessory uses and buildings customarily appurtenant to a permitted use, subject to the requirements of Section 8-2.2602 of Article 26 of this chapter; and~~
- ~~(j) Temporary tract offices providing tract homes are for sale in the subdivision in which the offices are located. (§ 2, Ord. 488.177, eff. March 7, 1985, as amended by § 42, Ord. 488.188, eff. January 2, 1986, and § 5, Ord. 1158, eff. March 4, 1993)~~

Sec. 8-2.714. Conditional uses (RRA).

The following conditional uses shall be permitted in the RRA Zone:

- (a) Buildings and structures, public and quasi-public, and uses of an educational, religious, cultural, and public service type, not including corporation yards, storage or repair yards, warehouses, and similar uses;
 - (b) Communication equipment buildings;
 - (c) Foster homes, day nurseries, nursery schools, and day care centers;
 - (d) Recreation areas and facilities, public and private noncommercial, such as country clubs, golf courses, and swimming pools; and
 - ~~(e) Guest houses not rented or otherwise conducted as a business.~~
- (§ 2, Ord. 488.177, eff. March 7, 1985, as amended by § 40, Ord. 488.188, eff. January 2, 1986, and § 9, Ord. 1158, eff. March 4, 1993)

Sec. 8-2.715. Height regulations (RRA).

No main building in the RRA Zone shall exceed thirty-five (35') feet in height, and no accessory building shall exceed fifteen (15') feet in height, except as provided in Section 8-2.3400 and Section 8-2.2605 of Article 26 of this chapter. (§ 2, Ord. 488.177, eff. March 7, 1985)

Article 8. Residential One-Family Zone (R-1)

Sec. 8-2.803. Accessory uses (R-1).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be permitted in the R-1 Zone:

- (a) Pets, household;
- (b) Rooming and boarding of not more than two (2) persons;
- (c) Signs as provided in Section 8-2.2406 of Article 24 of this chapter; and
- ~~(d) Other accessory uses and accessory buildings customarily appurtenant to a permitted~~

~~use, subject to the requirements of Section 8-2.2602 of Article 26 of this chapter;~~
(e) Home occupations subject to the requirements of Section 8-2.251 of Article 2 of this chapter; ~~and~~
(f) ~~Temporary tract offices providing tract homes are for sale in the subdivision in which the offices are located.~~
(§ 9.03. Ord. 488, as amended by §§ 31 and 43, Ord. 488.188, eff. January 2, 1986)

Sec. 8-2.804. Conditional uses (R-1).

The following conditional uses shall be permitted in the R-2 Zone:

- (a) Buildings and structures, public and quasi-public, and uses of a recreational, educational, religious, cultural, or public service type, not including corporation yards, storage or repair yards, and warehouses;
- (b) Communication equipment buildings;
- (c) Foster homes, nursery schools, and day care centers;
- ~~(d) Guest houses;~~
- ~~(e) Home occupations subject to the requirements of Section 8-2.251 of Article 2 of this chapter; and~~
- (f) (e) Off-street public parking areas on sites contiguous to nonresidential zones, subject to the provisions of Article 25 of this chapter. (§ 10.04, Ord. 488, as amended by § 21, Ord. 652, eff. May 5, 1971, § 7, Ord. 488.167, eff. September 4, 1974, § 7, Ord. 488.180, eff. April 18, 1985, and §§ 28 and 37, Ord. 488.188, eff. January 2, 1986)

Sec. 8-2.805. Height regulations (R-1).

No main building in the R-1 Zone shall exceed thirty (30') feet in height, and no accessory building shall exceed fifteen (15') feet in height, except as provided in Section 8-2.3400 and Section 8-2.2605 of Article 26 of this chapter. (§9.05, Ord. 488)

Article 9. Residential One-Family or Duplex Zone (R-2)

Sec. 8-2.903. Accessory uses (R-2).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be permitted in the R-2 Zone:

- (a) Pets, household;
 - (b) Rooming and boarding of not more than two (2) persons;
 - (c) Signs as provided in Section 8-2.2406 of Article 24 of this chapter;
 - ~~(d) Other accessory uses and accessory buildings customarily appurtenant to a permitted use, subject to the requirements of Section 8-2.2602 of Article 26 of this chapter;~~
 - (e) Home occupations subject to the requirements of Section 8-2.251 of Article 2 of this chapter; and
 - ~~(f) Temporary tract offices providing tract homes are for sale in the subdivision in which the offices are located.~~
- (§ 10.03, Ord. 488, as amended by §§ 32 and 44, Ord. 488.188, eff. January 2, 1986)

Sec. 8-2.904. Conditional uses (R-2).

The following conditional uses shall be permitted in the R-2 Zone:

- (a) Buildings and structures, public and quasi-public, and uses of a recreational, educational, religious, cultural, or public service type, not including corporation yards, storage or repair yards, and warehouses;
- (b) Communication equipment buildings;
- (c) Foster homes, nursery schools, and day care centers;
- ~~(d) Guest houses; and~~

- (e) (Repealed by § 28, Ord. 488.188, eff. January 2, 1986)
- (f) Off-street public parking areas on sites contiguous to nonresidential zones, subject to the provisions of Article 25 of this chapter. (§ 10.04, Ord. 488, as amended by § 21, Ord. 652, eff. May 5, 1971, § 7, Ord. 488.167, eff. September 4, 1974, § 7, Ord. 488.180, eff. April 18, 1985, and §§ 28 and 37, Ord. 488.188, eff. January 2, 1986)

Sec. 8-2.905. Height regulations (R-2).

No main building in the R-2 Zone shall exceed thirty (30') feet in height, and no accessory building shall exceed fifteen (15') feet in height except as provided in Section 8-2.3400 and Section 8-2.2605 of this chapter.

(§ 10.05, Ord. 488)

Article 10. Multiple-Family Residential Zone (R-3)

Sec. 8-2.1003. Accessory uses (R-3).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be permitted in the R-3 Zone:

- (a) Pets, household;
- (b) Signs as provided in Section 8-2.2406 of Article 24 of this chapter;
- ~~(c) Other accessory uses and accessory buildings customarily appurtenant to a permitted use, subject to the requirements of Section 8-2.2602 of Article 26 of this chapter;~~
- (d) Home occupations subject to the requirements of Section 8-2.251 of Article 2 of this chapter; and
- ~~(e) Temporary tract offices providing tract homes are for sale in the subdivision in which the offices are located.~~

(§ 11.03, Ord. 488, as amended by §§ 33 and 45, Ord. 488.188, eff. January 2, 1986)

Sec. 8-2.1004. Conditional uses (R-3).

The following conditional uses shall be permitted in the R-3 Zone:

- (a) Buildings and structures, public and quasi-public, and uses of a recreational, educational, religious, cultural, or public service type, but not including corporation yards, storage or repair yards, and warehouses;
- (b) Communication equipment buildings;
- (c) Foster homes, nursery schools, and day care centers;
- ~~(d) Guest houses;~~
- (e) (Repealed by § 29, Ord. 488.188, eff. January 2, 1986)
- (f) Mobile home parks with a maximum density of ten (10) units per gross acre, subject to the further requirements set forth in Section 8-2.2404 of Article 24 of this chapter;
- (g) Nursing homes, licensed; (h) Offices, professional, including offices for:
 - (1) Accountants;
 - (2) Architects;
 - (3) Attorneys;
 - (4) Chiropractors;
 - (5) Chiropractors;
 - (6) Dentists;
 - (7) Engineers;
 - (8) Insurance agents;
 - (9) Opticians;
 - (10) Optometrists;
 - (11) Osteopaths;
 - (12) Physicians;

- (13) Real estate brokers; and
 - (14) Surgeons;
 - (i) Off-street public parking areas on sites contiguous to nonresidential zones, subject to the provisions of Article 25 of this chapter;
 - (j) Rooming houses and boardinghouses for any number of guests;
 - (k) Schools, private, with organized classes, including music schools and dance studios; and
 - (l) Social halls, lodges, fraternal organizations, and clubs, except those operated for a profit;
 - ~~(m) Mobile homes as temporary guest houses in accordance with subsection (7) of subsection (b) of Section 8-2.2404 of Article 24 of this chapter.~~
- (§ 11.04, Ord. 488, as amended by § 22, Ord. 652, eff. May 5, 1971, § 8, Ord. 488.167, eff. September 4, 1974, § 8, Ord. 488.180, eff. April 18, 1985, §§ 29 and 38, Ord. 488.188, eff. January 2, 1986, and Ord. 681.143, eff. July 23, 1992)

Sec. 8-2.1005. Height regulations (R-3).

No main building in the R-3 Zone shall exceed forty (40') feet in height, and no accessory building shall exceed twenty-five (25') feet in height except as provided in Section 8-2.3400 and Section 8-2.2605 of this chapter. (§ 11.05, Ord. 488)

Article 11. Apartment-Professional Zone (R-4)

Sec. 8-2.1103. Accessory uses (R-4).

In addition to the accessory structures allowed pursuant to Section 8-2.3400 of this ordinance, the following accessory uses shall be permitted in the R-4 Zone:

- (a) Pets, household;
 - (b) Signs as provided in Section 8-2.2406 of Article 24 of this chapter;
 - ~~(c) Other accessory uses and accessory buildings customarily appurtenant to a permitted use;~~
 - (d) Home occupations subject to the requirements of Section 8-2.251 of Article 2 of this chapter; and
 - ~~(e) Temporary tract offices providing tract homes are for sale in the subdivision in which the offices are located.~~
- (§ 12.03, Ord. 488, as amended by §§ 34 and 46, Ord. 488.188, eff. January 2, 1986)

Sec. 8-2.1105. Height regulations (R-4).

No main building in the R-4 Zone shall exceed four (4) stories or forty-five (45') feet in height, and no accessory building shall exceed twenty-five (25') feet in height except as provided in Section 8-2.3400 and Section 8-2.2605 of this chapter. (§ 12.05, Ord. 488)

Article 24. General Provisions

Sec. 8-2.2407. Swimming pools.

Any pool, pond, lake, or open tank not located within a completely enclosed building and containing, or normally capable of containing, water to a depth at any point greater than eighteen (18") inches, when used as a private swimming pool in any Zone, shall comply with the following requirements:

- (a) Such pools shall be used solely for the enjoyment of the occupants of the premises on which they are located and their guests and not for instruction or parties when fees are paid therefore, unless a use permit is first obtained.
- (b) Such pools shall be located on the rear one-half (1/2) of the lot or not less than no closer to the front property line than any existing or proposed principal dwelling or 50 feet from the front

property line, whichever is less.

(c) Such pools shall maintain the side and rear yards required for accessory buildings but in no case be closer than five (5') feet from any lot line nor cover more than forty (40%) percent of any required rear yard.

(d) Lot coverage by a swimming pool shall not be considered in measuring the maximum lot coverage for buildings.

(e) Filter and heating systems for swimming pools shall not be located:

- (1) Within any required yard adjacent to a public street; or
- (2) Within three (3') feet of a side or rear property line; or
- (3) Within ten (10') feet from the living area of any dwelling unit on an adjacent parcel, unless enclosed in a soundproof enclosure.

(f) Fencing and barrier requirements set forth in Yolo County Code Section 7-1.04(p). (§ 25.07, Ord. 488, as amended by § 1, Ord. 488.175, eff. February 14, 1985, and § 2, Ord. 1178, eff. April 27, 1995)

Article 26. Exceptions and Modifications

Sec. 8-2.2602. Accessory buildings.

~~Accessory buildings in all Residential and Agricultural Zones shall meet the following requirements:~~

~~(a) Attached to main buildings. Where an accessory building is attached to the main building by a common wall or continuous roofed structure, it shall be considered a portion of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building, except as provided in subsection (f) of Section 8-2.2608 of this article.~~

~~(b) Detached from main building. A non-dwelling accessory building requiring a building permit, such as a garage, except a garage determined by the Planning Director to be architecturally compatible with the principal dwelling, shall be located in the rear one-half (1/2) of a lot in a residential zone and sixty (60') feet from the front property line in an agricultural zone, and may be located to within three (3') feet of side and rear property lines. The Planning Director may approve the location of any such standard building to within one foot of side and rear property lines if a standard structure cannot be placed within standard setbacks. Those non-dwelling accessory structures not requiring a building permit, such as a metal shed or gazebo, shall be allowed to locate in the required rear and side yards. In the case of a corner lot, an accessory structure shall maintain a fifteen (15') foot street side yard setback except that such buildings shall not be located closer to any side street line than the main building. Otherwise, dwelling accessory buildings, such as a guest house, shall not be located in any required yard. An accessory structure shall be located at least ten (10') feet from any dwelling unit, and at least six (6') feet from any other accessory structure on the same lot.~~

~~(c) Rear yard coverage. Accessory buildings, including structures permitted within the rear yard by the provisions of subsection (f) of Section 8-2.2608 of this Article, shall not exceed twenty (20%) percent of the area of the rear yard. (§27.02, Ord. 488, as amended by §§ 1 and 2, Ord. 488.37, § 1, Ord. 488.173, eff. September 6, 1984, § 1, Ord. 681.131, eff. August 25, 1988, and §10, Ord. 1244, eff. February 3, 2000)~~

Sec. 8-2.2608. Projections into yards and courts.

Certain architectural features may extend from a main building into required yards or courts as follows:

(a) Cornices, canopies, and eaves may extend beyond the front wall and/or rear wall a distance not exceeding three (3') feet. (b) Open, unenclosed outside stairways may extend beyond the front wall and/or rear wall a distance not exceeding four (4') feet six (6") inches.

(c) Uncovered landings and necessary steps may extend beyond the front wall and/or rear wall a distance not exceeding six (6') feet; provided, however, such landing and steps shall not extend above the entrance floor of the building except for a railing which does not exceed three (3') feet in height.

(d) Bay windows and chimneys may extend beyond the front wall and/or rear wall a distance not exceeding three (3') feet.

(e) Such architectural features may also extend into any side yard a distance of not more than three (3') feet.

~~(f) Accessory structures attached to dwellings, consisting of patio covers, sunshades, and similar structures, may extend into required rear yards provided the following conditions are satisfied:~~

~~(1) No part of the structure shall be located within ten (10') feet of the rear lot line.~~

~~(2) The structure shall be unenclosed on three (3) sides except for the following:~~

~~(i) Required vertical supports;~~

~~(ii) Insect screening; and~~

~~(iii) Kickboards not exceeding one foot in height as measured from the ground level. (§27.08, Ord. 488, as amended by § 3, Ord. 488.37)~~

Article 34. Accessory Structures *[New Article]*

Sections:

- 8-2.3401 Purpose
- 8-2.3402 Applicability
- 8-2.3403 Definitions
- 8-2.3404 Permitting procedures
- 8-2.3405 Development standards

8-2.3401 Purpose

The purpose of this chapter is to provide a clarified and uniform set of procedures and standards for the review and permitting of accessory structures proposed on lands zoned for agricultural or residential use. This chapter implements the policies of the Yolo County General Plan as well as updates the County Code to reflect recent changes in State law.

8-2.3402 Applicability

The provisions of this chapter shall apply to all lands located within the unincorporated areas of the County of Yolo that are zoned for agricultural or residential use as specified in Title 8 of the County Code.

8-2.3403 Definitions

- A. **Accessory agricultural support structures:** Uninhabited buildings or facilities that are incidental and accessory to the primary agricultural use of the subject property. Such structures include, but are not limited to, the following:
 - 1. Farm office: A private administrative office that is located within an enclosed building and is necessary to and used for the management of an ongoing agricultural operation.
 - 2. Barn: A building used to store farm vehicles and equipment, as a warehouse for farm products and supplies, to house livestock, or to conduct maintenance activities.
 - 3. Roadside stand: A structure, either temporary or permanent, used for the display and sale of agricultural products.

- B. **Accessory housing structures:** Residential structures or buildings that are in addition to the primary residential dwelling on a parcel. Such structures include, but are not limited to, the following:
 - 1. Farm labor camp: any living quarters, dwelling, boardinghouse, tent, bunkhouse, mobile home, or other housing accommodation maintained in connection with any work or place where work is being performed and the premises upon which such accommodations are situated, and/or the areas set aside and provided for the camping of six (6) or more employees by a labor contractor. "Labor camp" shall also mean a labor supply camp. "Labor supply camp" shall mean any place, area, or piece of land where a person engages in the business of providing sleeping places or camping grounds for five (5) or more employees or prospective employees of another.

2. Ancillary dwelling: A dwelling unit allowed in addition to the primary dwelling on agriculturally-zoned parcels.
3. Residential second unit, detached: A separate, self-contained dwelling unit allowed in addition to the primary dwelling on residentially-zoned parcels as provided by Section 65852.2 of the California Government Code.
4. Residential second unit, attached: A separate, self-contained dwelling unit that shares at least one common wall with a primary residential structure allowed in addition to the primary dwelling on residentially-zoned parcels as provided by Section 65852.2 of the California Government Code.
5. Guest house: A detached residential structure limited to sleeping and bathing facilities (i.e. no kitchen) that encompasses up to 600 square feet in living area, exclusive of attached garage space.

C. **Non-dwelling accessory structures:** Uninhabited non-residential structures or buildings that are incidental and accessory to the primary residential use of the subject property. Such structures include, but are not limited to, the following:

1. Detached garage: A building separate from the primary structure that is designed for the storage of passenger vehicles, utility or recreational trailers, or boats.
2. Detached workshop: A building separate from the primary structure designed for the storage and use of tools associated with handicrafts such as carpentry, welding, electronics assembly or other similar activities.
3. Pool house (cabana): A building that is located adjacent to a swimming pool and is designed for the dressing and showering of pool users.
4. Game room /exercise studio: A building separate from the primary structure that is designed to provide indoor recreation for the occupants of the primary structure.
5. Artist studio: A building separate from the primary structure that is designed for the storage and use of equipment and supplies associated with sculpture, painting, photography and similar activities.
6. Storage building: A building separate from the primary structure that is designed for the storage of miscellaneous household goods and materials including, but not limited to, food, lumber, construction materials, household chemicals, personal records, furniture, pet supplies and books.

D. **Miscellaneous accessory structures:** Uninhabited non-residential structures or facilities that are incidental and accessory to the primary residential use of the subject property, other than accessory non-dwelling structures. Such structures include, but are not limited to, the following:

1. Pool/spa: A facility for recreational use (e.g. swimming pool) that is capable of containing water to a depth of eighteen (18) inches or more at any point.
2. Attached patio cover or sunshade : An unenclosed roof structure attached to a principal dwelling and intended to provide shade to a patio deck or other area.
3. Gazebo: A stand-alone unenclosed shade structure.
4. Animal enclosure: A building accessory to the primary residential use that is designed to house household pets or hobby animals. Such enclosures include, but are not limited to, horse stables, chicken coops and aviaries.
5. Vehicle cover: INSERT

- E. **Temporary buildings:** Structures erected on a non-permanent foundation that would remain on the subject property for a specified purpose and time period. Such structures include, but are not limited to, the following:
 - 1. Temporary sales office: A temporary structure erected or a mobile home parked on a residentially-zoned parcel and used to facilitate the sale of homes within the same subdivision or an adjacent subdivision.
- F. **Accessory structure conversion:** Conversion of an existing accessory structure from a non-habitable and non-work use, such as a garage or storage shed, to a habitable or work use such as a second unit or artist studio.

8-2.3404 Permitting procedures

- A. **Zone districts:** The structures listed in Section 8-2.3403 of this Chapter shall constitute a permitted accessory use or a conditional accessory use in the Agricultural and Residential zone districts as indicated in Table 8-2.3404 below.
- B. **Permitted accessory structures:** Prior to the issuance of any Building Permit required pursuant to the California Building Code, structures identified as a permitted use in Table 8-2.3404 shall be allowed subject to over the counter Site Plan Review and approval by the Planning Division of setbacks, facilities, infrastructure, and health and safety issues.
- C. **Conditionally permitted accessory structures:** Prior to the issuance of any Building Permit required pursuant to the California Building Code, structures identified as a conditional use in Table 8-2.3404 shall require the granting of a Minor Conditional Use Permit by the Zoning Administrator in accordance with the procedures set forth in Article 28 of Title 8 of the County Code.

**Table 8-2.3404
Accessory Structures: Allowed Zone Districts**

Accessory Structure	ZONE DISTRICTS								
	AP	AGI	A1	RS	RRA	R1	R2	R3	R4
<i>Agricultural support structures:</i>									
- Farm office	X	X	X						
- Barn	X	X	X	X	X				
- Roadside stand	X	X	X						
<i>Accessory housing structure</i>									
- Farm labor camp	C	C	C						
- Ancillary dwelling	X		X						
- Second Unit, detach.				X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
- Second Unit, attach.				X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
- Guesthouse				X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
- Accessory structure conversion	X		X	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹	X/C ¹
<i>Non-dwelling accessory structure²</i>									
- Detached garage	X	X	X	X	X	X	X	X	X
- Detached workshop	X	X	X	X	X	X	X	X	X
- Poolhouse (Cabana)	X		X	X	X	X	X	X	X
- Game/exercise room	X		X	X	X	X	X	X	X
- Storage building	X	X	X	X	X	X	X	X	X
- Artist studio	X		X	X	X	X	X	X	X
<i>Miscellaneous accessory structure²</i>									
- Pools and Spas	X	X	X	X	X	X	X	X	X
- Attached patio cover	X	X	X	X	X	X	X	X	X
- Gazebo	X	X	X	X	X	X	X	X	
- Animal enclosures	X	X	X	X	X	C	C		
- Vehicle covers	X	X	X	X					
<i>Temporary buildings</i>									
- Temp. sales office				X	X	X	X	X	X

Legend: X = Permitted use; C = Conditional use (Minor Use Permit)

Notes:

1. Second units, guest houses, and accessory structure conversions in residential zones are an allowed use by right if standard zone setbacks for rear and side yards are met. If the structure intrudes into the required standard zone setback for rear and side yards, a Minor Use Permit is required.
2. Non-dwelling and miscellaneous accessory structures require issuance of a Building permit if over 120 square feet in size. All accessory structures must conform with setback requirements in Section 8-2.3405.

8-2.3405 Development standards for accessory structures

A. General requirements:

1. Sequence of construction: Except in agricultural zone districts, accessory structures subject to a Building Permit shall not be erected on a lot until construction of the principal structure has started, and an accessory structure shall not be used unless the use of principal structure has begun.
2. Height restrictions: Except as specified in Section 8-2.3405.B of this chapter, accessory structures shall comply with the height restrictions for principal uses as set forth in the applicable regulations for each zone district.
3. Building separation: Detached accessory structures subject to a Building Permit shall be separated from principal structures by a minimum of ten (10) feet and from other detached accessory structures subject to a Building Permit by a minimum of six (6) feet.
4. Setback requirements in residential zone districts:
 - a. *Front and Side:* Except as provided in Section 8-2.3405.B of this chapter, an accessory structure subject to a Building Permit shall comply with the front yard and side yard setback regulations for principal uses as set forth in the applicable regulations for each zone district. Provided, however, that the Planning Director may approve the location of any standard accessory structure, other than an accessory housing structure, within five (5) feet of side property lines if a standard structure cannot be located within standard setbacks. Those accessory structures not requiring a Building Permit, such as a storage shed of less than 120 square feet, may be allowed to locate in the side yard setback area.
 - b. *Rear:* Except as provided in Section 8-2.3405.A.3.c, an accessory structure subject to a Building Permit, other than an accessory housing structure, may be located in the rear setback area provided that it meets the minimum building separation standards listed above, would be a minimum of five (5) feet from the rear property boundary, and its construction would not result in coverage of more than 40 percent of the required rear yard area. Provided, however, that the Planning Director may approve the location of any standard accessory structure, other than an accessory housing structure, within three (3) feet of rear property lines if a standard structure cannot be located within standard setbacks and Building Code standard are met. Those accessory structures not requiring a Building Permit, such as a storage shed of less than 120 square feet, may be allowed to locate in the rear yard setback area.
 - c. *Corner lot setbacks:* Accessory structures on a corner lot shall be located no closer to the street right-of-way than the principal structure on the lot. Where a corner lot backs onto the side yard of an adjoining lot, the minimum rear yard setback for accessory structures shall be equivalent to the side yard setback of the adjoining lot.
5. Setback requirements in agricultural zone districts: Except as specified in Section 8-2.3405.B of this chapter, agricultural accessory structures subject to

a Building Permit shall comply with all setback regulations for principal uses as set forth in the applicable regulations for each zone district. Provided, however, that the Planning Director may approve the location of any standard accessory structure such as a garage within five (5) feet of side and rear property lines if a standard structure cannot be located within standard setbacks. Those accessory structures not requiring a Building Permit, such as a storage shed of less than 120 square feet, may be allowed to locate in the side and rear yard setback area.

6. Kitchen or cooking facilities: An accessory structure shall not contain a kitchen or any other cooking facilities unless specifically permitted as a residential unit (i.e. an ancillary dwelling, or second unit, or farm labor camp).
7. Conversion of an accessory structure: Conversion of an existing accessory structure from a non-habitable use that was permitted through a Building Permit, such as a garage, to a habitable or work use such as a second unit or artist studio, is allowed, as set forth in Section 8-2.3405.B, below.

B. Standards for specific types of accessory structures: The general requirements for accessory structures outlined in Section 8-2.3405.A are modified below for the listed specific types of structures.

1. Roadside stands:

- a. *Setbacks:* A roadside stand may be located within the front yard area of agriculturally-zoned parcels provided that they are placed a minimum of 30 feet from the edge of road right-of-way and adequate ingress, egress and a parking area sufficient to accommodate five (5) vehicles is provided.

2. Farm office or barn:

- a. *Plumbing devices:* Agricultural support structures that serve as a primary place of employment, such as a farm office, may include full bathing and shower facilities, and a wet bar area for employee or public use, but shall not include kitchens. The wet bar may be comprised of a counter area and associated overhead cabinets that encompass no more than twenty (20) square feet, a bar sink, and an under-counter refrigerator. The wet bar shall not include cooking facilities nor be configured in a manner that facilitates conversion into a kitchen. The Planning Director shall determine if a proposed wet bar meets these requirements. Agricultural support structures that do not serve as a primary place of employment, such as a barn without a farm office, shall be limited to toilets and washbasins. No bathing facilities shall be allowed.

3. Farm labor camp:

- a. *Kitchen or cooking facilities:* A farm labor camp may have cooking or kitchen facilities consistent with applicable health and safety codes.
- b. *Gross floor area:* The gross floor area of a farm labor camp is not limited by this code provided that all other standards are met.
- c. *Plumbing devices:* Full bathing and shower facilities shall be allowed in farm labor camps.

4. Ancillary dwellings:

- a. *Proximity to principal dwelling:* An ancillary dwelling shall be located no

- b. *Gross floor area:* The gross floor area of an ancillary dwelling is not limited by this code provided that all other standards are met.
- c. *Plumbing devices:* Full bathing and shower facilities shall be allowed in ancillary dwellings.

5. Detached second residential unit:

- a. *Density/Lot size:* The minimum net lot area on which a detached second unit may be located is 5,000 square feet. Only one second unit is allowed per parcel.
- b. *Gross floor area:* Detached second units shall encompass between 600 to 1,200 square feet of living floor area, exclusive of any attached garage space. Any portion of the proposed building readily convertible to living space shall be counted as part of the living floor area.
- c. *Maximum footprint area:* The maximum footprint of a detached second unit, including garage, shall not exceed 1,700 square feet in area.
- d. *Location and setbacks:* A detached second unit shall be located in the rear one half of a parcel in the residential zone. A detached second unit is an allowed use by right if the structure complies with the side and rear yards setbacks for the zone district. A one-story detached second unit may intrude into the required zone setback for rear and side yards within five (5) feet of side and/or rear property lines upon issuance of a Minor Use Permit. A two-story detached second unit may intrude into the required zone setback for rear and side yards within ten (10) feet of side and/or rear property lines upon issuance of a Minor Use Permit.
- e. *Plumbing devices:* Full bathing and shower facilities shall be allowed in a detached second unit.
- f. *Parking:* Off-street parking shall be provided for the second unit in addition to that required for the principal dwelling. One space shall be provided for units with up to two bedrooms and two spaces shall be provided for units with three or more bedrooms. On-site parking may be included within the yard areas. Only one new on-site parking space is required for a larger than two-bedroom second unit if there is a clear evidence presented that off-site street parking is adequate. The parking spaces shall be otherwise consistent with the design standards provided in Section 8-2.2502 of this ordinance.
- g. *Building height:* A detached residential second unit shall not exceed 30 feet in height.
- h. *Design standard:* A detached second unit proposed on a parcel of less than one acre in area shall reflect the exterior appearance and architectural style of the principal dwelling.
- i. *Number of structures:* A second unit shall not be allowed on a parcel in addition to a guesthouse.

6. Attached residential second unit:

- a. *Density/Lot size:* The minimum net lot area on which an attached second unit may be located is 5,000 square feet. Only one second unit is allowed per parcel.
- b. *Gross floor area:* Attached second units shall be limited in living area to the equivalent of 30 percent of the living area of the principal dwelling to which it is attached up to a maximum of 1,500 square feet, excluding

any attached garage. Conversion of floor space in an existing principal dwelling to an attached second unit shall be subject to the same limitations. Any portion of a proposed second unit building addition that is readily convertible to living space shall be counted as part of the living floor area.

- c. *Maximum footprint area:* The maximum footprint of an attached second unit, including garage, shall not exceed 2,000 square feet in area.
- d. *Location and setbacks:* An attached second unit shall be located in the rear one half of a parcel in the residential zone. An attached second unit is an allowed use by right if the structure complies with the side and rear yards setbacks for the zone district. A one-story attached second unit may intrude into the required zone setback for rear and side yards within five (5) feet of side and/or rear property lines upon issuance of a Minor Use Permit. A two-story attached second unit may intrude into the required zone setback for rear and side yards within ten (10) feet of side and/or rear property lines upon issuance of a Minor Use Permit.
- e. *Plumbing devices:* Full bathing and shower facilities shall be allowed in an attached second unit.
- f. *Parking:* Off-street parking shall be provided for the second unit in addition to that required for the principal dwelling. One space shall be provided for units with up to two bedrooms and two spaces shall be provided for units with three or more bedrooms. On-site parking may be included within the yard areas. Only one new on-site parking space is required for a larger than two-bedroom second unit if there is clear evidence presented that off-site street parking is adequate. The parking spaces shall be otherwise consistent with the design standards provided in Section 8-2.2502 of this ordinance.
- g. *Building height:* An attached residential second unit shall not exceed the height of principal dwellings allowed in the subject zone district.
- h. *Design standard:* An attached second unit shall reflect the exterior appearance and architectural style of the principal dwelling.
- i. *Number of structures:* A second unit shall not be allowed on a parcel in addition to a guesthouse.

7. Guest house:

- a. *Density/lot size:* The minimum net lot area on which a guest house may be located is 5,000 square feet. Only one guest house is allowed per parcel.
- b. *Gross floor area:* The living floor area shall not exceed 600 square feet, excluding any attached garage space.
- c. *Maximum footprint area:* The maximum footprint area of the guest house, including any attached garage, shall be 1,000 square feet.
- d. *Location and setbacks:* A guest house shall be located in the rear one half of a parcel in the residential zone. A guest house is an allowed use by right if the structure complies with the side and rear yards setbacks for the zone district. A one-story guest house may intrude into the required zone setback for rear and side yards within five (5) feet of side and/or rear property lines upon issuance of a Minor Use Permit. A two-story guest house may intrude into the required zone setback for rear and side yards within ten (10) feet of side and/or rear property lines upon issuance of a Minor Use Permit.

- e. *Plumbing devices and kitchens:* Full bathing and shower facilities shall be allowed in a guest house, but a guest house shall not include a kitchen or cooking facility.
- f. *Occupancy:* A guest house shall be used on a temporary basis only by the occupants of the principal dwelling or their non-paying guests or employees and is not to be rented for any form of compensation. Temporary occupancy is defined as less than 120 days in any 12-month period.
- g. *Parking:* One offsite parking space shall be provided for a guest house in addition to that required for the principal dwelling.
- h. *Building height:* A guest house shall not exceed 30 feet in height.
- i. *Design standard:* A guest house proposed on a parcel of less than one acre in area shall reflect the exterior appearance and architectural style of the principal dwelling.
- j. *Number of structures:* A guest house shall not be allowed on a parcel in addition to a second unit.

8. Artist studio

- a. *Density/lot size:* The minimum net lot area on which an artist studio may be located is 4,000 square feet. Only one artist studio is allowed per parcel.
- b. *Gross floor area:* The studio floor area and maximum footprint shall not exceed 600 square feet.
- c. *Location:* An artist studio shall be located in the rear one half of a parcel in a residential zone.
- d. *Plumbing devices and kitchens:* Shower facilities and kitchens shall not be allowed in an artist studio,
- e. *Building height:* An artist studio shall not exceed fifteen (15) feet in height.
- f. *Number of structures:* On parcels less than one acre in area, an artist studio shall not be allowed on a parcel in addition to a second unit or a guest house. On parcels greater than one acre in area, an artist studio may be allowed in addition to a second unit or a guest house.

9. Accessory structure conversion

- a. *Density/lot size:* The minimum net lot area on which an existing accessory structure may be converted from a non-habitable and non-work use, such as a garage or storage shed, to a habitable or work use such as a second unit or artist studio, is 4,000 square feet.
- b. *Gross floor area:* The floor area and maximum footprint for an accessory structure that is converted into a habitable or work use shall conform with the requirements of the specific accessory use as set forth in this section.
- c. *Setbacks:* For an existing accessory structure that does not conform with the required setbacks, such as a garage located on the side or rear property line, no additional expansion of the structure footprint shall be allowed, unless a Minor Use Permit is approved.
- d. *Plumbing devices and kitchens:* The plumbing devices and kitchens allowed for an accessory structure that is converted shall conform with the requirements of the specific accessory use as set forth in this section.
- e. *Building height:* A converted accessory structure shall conform with the requirements of the specific accessory use as set forth in this section, except that an existing accessory structure that does not conform with the

required setbacks shall be limited in the conversion to a height of one story or 15 feet unless a major variance application is approved.

- f. *Number of structures:* An accessory structure converted to a habitable use shall not be allowed on a parcel in addition to a second ancillary dwelling, a second unit, or a guest house. On parcels greater than one acre in area, an accessory structure converted to an artist studio may be allowed in addition to an ancillary dwelling or a second unit.

10. Pool house (cabana):

- a. *Density/lot size:* The minimum net lot area on which a pool house may be located is 5,000 square feet. Only one pool house is allowed per parcel, and all such structures shall be located immediately adjacent to a permitted swimming pool.
- b. *Gross floor area:* The living floor area and maximum footprint shall not exceed 600 square feet.
- c. *Plumbing devices:* Shower facilities shall be allowed in a pool house.
- d. *Kitchens:* Kitchens shall not be allowed in a pool house.
- e. *Building height:* A pool house shall not exceed fifteen (15) feet in height.
- f. *Number of structures:* A pool house shall not be allowed on a parcel in addition to a guesthouse. On parcels greater than one acre in area, a pool house may be allowed in addition to a second unit.

11. Pools and spas:

- a. *Setbacks:* In residential and agricultural zone districts, pools and spas may encroach into the rear yard area provided that a minimum setback of five feet from the property line is maintained. Pools and spas must be located on the rear one-half of the lot and no closer to the front property line than any existing or proposed principal dwelling or 50 feet, whichever is less. The side and rear yard setbacks for pool equipment (e.g. the filtration pump and heating equipment) shall be as set forth in Section 8-2.2407.

12. Attached patio covers or sunshade:

- a. *General:* The structure shall be unenclosed on three (3) sides except for required vertical supports; insect screening; and kickboards not exceeding one foot in height as measured from the ground level.
- b. *Setbacks:* In residential zone districts, the required side and rear yard setback shall be 50 percent of that required for a principal structure but not less than five (5) feet. The front yard setback may be reduced by five (5) feet.
- c. *Building height:* A patio cover or sunshade may not exceed 15 feet in height.

13. Gazebo:

- a. *Setbacks:* The required front, side, and rear yard setbacks shall be as set forth in Section 8-2.3405(A)(4) and (5) above.
- b. *Building height:* A gazebo may not exceed 15 feet in height.

14. Vehicle cover:

- a. *Allowed zones:* Vehicle covers are not an allowed use in R-1, R-2, R-3, and R-4 residential zones, but are allowed in the R-S zone and all agricultural zones.

- b. *Setbacks*: The required front, side, and rear yard setbacks shall be as set forth in Section 8-2.3405(A)(4) and (5) above.
- c. *Building height*: A vehicle cover may not exceed 15 feet in height.

Attachment B

Current Accessory Structure Ordinance Regulations

Sec. 8-2.2602. Accessory buildings.

Accessory buildings in all Residential and Agricultural Zones shall meet the following requirements:

- (a) *Attached to main buildings.* Where an accessory building is attached to the main building by a common wall or continuous roofed structure, it shall be considered a portion of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building, except as provided in subsection (f) of Section 8-2.2608 of this article.
- (b) *Detached from main building.* A non-dwelling accessory building requiring a building permit, such as a garage, except a garage determined by the Planning Director to be architecturally compatible with the principal dwelling, shall be located in the rear one-half (1/2) of a lot in a residential zone and sixty (60') feet from the front property line in an agricultural zone, and may be located to within three (3') feet of side and rear property lines. The Planning Director may approve the location of any such standard building to within one foot of side and rear property lines if a standard structure cannot be placed within standard setbacks. Those non-dwelling accessory structures not requiring a building permit, such as a metal shed or gazebo, shall be allowed to locate in the required rear and side yards. In the case of a corner lot, an accessory structure shall maintain a fifteen (15') foot street side yard setback except that such buildings shall not be located closer to any side street line than the main building. Otherwise, dwelling accessory buildings, such as a guest house, shall not be located in any required yard. An accessory structure shall be located at least ten (10') feet from any dwelling unit, and at least six (6') feet from any other accessory structure on the same lot.
- (c) *Rear yard coverage.* Accessory buildings, including structures permitted within the rear yard by the provisions of subsection (f) of Section 8- 2.2608 of this Article, shall not exceed twenty (20%) percent of the area of the rear yard. (§27.02, Ord. 488, as amended by §§ 1 and 2, Ord. 488.37, § 1, Ord. 488.173, eff. September 6, 1984, § 1, Ord. 681.131, eff. August 25, 1988, and §10, Ord. 1244, eff. February 3, 2000)

Sec. 8-2.2608. Projections into yards and courts.

Certain architectural features may extend from a main building into required yards or courts as follows:

- (a) Cornices, canopies, and eaves may extend beyond the front wall and/or rear wall a distance not exceeding three (3') feet.
- (b) Open, unenclosed outside stairways may extend beyond the front wall and/or rear wall a distance not exceeding four (4') feet six (6") inches.
- (c) Uncovered landings and necessary steps may extend beyond the front wall and/or rear wall a distance not exceeding six (6') feet; provided, however, such landing and steps shall not extend above the entrance floor of the building except for a railing which does not exceed three (3') feet in height.
- (d) Bay windows and chimneys may extend beyond the front wall and/or rear wall a distance not exceeding three (3') feet.
- (e) Such architectural features may also extend into any side yard a distance of not more than three (3') feet.
- (f) Accessory structures attached to dwellings, consisting of patio covers, sunshades, and similar structures, may extend into required rear yards provided the following conditions are satisfied:
 - (1) No part of the structure shall be located within ten (10') feet of the rear lot line.
 - (2) The structure shall be unenclosed on three (3) sides except for the following:
 - (i) Required vertical supports;
 - (ii) Insect screening; and
 - (iii) Kickboards not exceeding one foot in height as measured from the ground level. (§27.08, Ord. 488, as amended by § 3, Ord. 488.37)