



County of Yolo

PLANNING AND PUBLIC WORKS DEPARTMENT

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YOLO COUNTY PLANNING COMMISSION

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

MINUTES

August 14, 2008

ADMINISTRATIVE AGENDA

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

MEMBERS PRESENT: Bertolero, Burton, Liu, Merwin, Peart, and Winters
MEMBERS ABSENT: Kimball
STAFF PRESENT: David Morrison, Assistant Director of Planning
Philip Pogledich, Senior Deputy County Counsel
Eric Parfrey, Principal Planner
Donald Rust, Principal Planner
Stephanie Berg, Associate Planner
Craig Baracco, Associate Planner
Jeffrey Anderson, Assistant Planner
Carole Kjar, Secretary to the Director
Aundrea Hardy, Office Support Specialist

3. ADOPTION OF MINUTES OF THE **June 12, 2008** MEETING.

Commission Action

The Minutes of the **June 12, 2008** Meeting were approved with the following corrections:

Item 10. **COMMISSION REPORTS: CHANGE** Chair Bertolero's report to read as follows:

- "F. Chair Bertolero stated that last month he attended Yolo-Zamora, Esparto, Dunnigan, and Knights Landing Community Advisory Meetings, and a meeting at the Esparto Scout Hall where three advisory committees met regarding the Casino expansion."

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MOTION: Liu SECOND: Merwin
AYES: Bertolero, Liu, Merwin, Peart, and Winters
NOES: None
ABSTAIN: Burton
ABSENT: Kimball

4. PUBLIC REQUESTS

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

No one from the public came forward.

5. CORRESPONDENCE

5.1 California County Planning Commissioners Association State Conference flyer.

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

CONSENT AGENDA

6.1 None.

TIME SET AGENDA

7.1 **2007-049 and 2007-050:** Use permit for a re-established marina and an associated road abandonment in the Agricultural General (A-1) zone. The property is located on the Sacramento River near the I-5 bridge at Elkhorn, east of the City of Woodland (APN: 057-210-18 and -17). A Mitigated Negative Declaration has been prepared for this project. Owner/Applicant: Newton/Turner (C. Baracco)

Craig Baracco, Associate Planner, gave the staff report, and answered questions from the Commission. He also commended the applicant for their cooperation on the project.

Vice-Chair Winters asked how the boat slips are used if there isn't a boat launch.

Craig Baracco responded that there are boat launch facilities available on the neighboring property, as well as the county boat launch facility at Elkhorn park, which is south of the proposed marina. He said there is a boat launch facility in Knights Landing as well.

Commissioner Peart clarified that there is no boat launch facility included tied with this project.

Commissioner Burton asked for clarification about berthing fees within the county.

Craig Baracco responded that the county does not require berthing fees. A proposed condition of

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approval would require that individual boat owners maintain separate permits to use the County boat launching facilities.

Commissioner Liu asked a question about traffic flow in the area.

Craig Baracco replied that these roads are not heavily used, and that based on the traffic analysis, Public Works staff feels that the proposed mitigation measures would be sufficient to ensure public safety.

Chair Bertolero opened the public hearing.

Robert Newton, applicant, requested that the merger of the two properties be approved immediately so that they may do further planning.

Philip Pogledich, Senior Deputy County Counsel, informed the Planning Commission that, under California law, only the Board of Supervisors has authority to act on the road abandonment; therefore, it will be going to the Board of Supervisors subsequently for consideration within the next month or two.

Chair Bertolero closed the public hearing.

Vice-Chair Winters commended staff on a very thorough report which clearly states the intent and the value of the berthing facility.

Commissioner Merwin concurred with the comments of Commissioner Peart and Commissioner Burton regarding fees and permits. He said he is comfortable with the wording in Condition 9 and is prepared to move forward with the project.

Commissioner Liu said she supports the re-establishment of the marina project, and congratulated the applicant.

Commissioner Peart said that this is a good project, but that he would like Condition 9 to be removed from the Conditions of Approval.

Commissioner Burton said he would like to move forward with the project.

Chair Bertolero agreed that Condition 9 should be omitted because it's competitive and confusing.

David Morrison, Assistant Director of Planning Services, clarified further about the launching fee and offered a modification of Condition 9 for the commission to consider.

Philip Pogledich, Senior Deputy County Counsel, proposed a revision to Condition 9 to clarify its intent.

Commissioner Burton suggested that Condition 9 state, "The applicant shall advise clients of the marina who utilize county boat launch facilities, at least annually, to comply with all Yolo County permitting requirements, including the boat launching fee."

Philip Pogledich, Senior Deputy County Counsel, agreed with the wording of Condition 9 as suggested by Commissioner Burton.

Commission Action

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1. **HELD** a public hearing and received comments;
2. **ADOPTED** the Mitigated Negative Declaration as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **ADOPTED** the Mitigation Monitoring and Reporting Program (**Attachment D**);
4. **ADOPTED** the Findings (**Attachment E**); and
5. **APPROVED** a Use Permit subject to the modified Conditions of Approval (**Attachment F**).

MOTION: Burton SECOND: Liu
AYES: Bertolero, Burton, Liu, Merwin, Peart, and Winters
NOES: None
ABSTAIN: None
ABSENT: Kimball

CONDITIONS OF APPROVAL

Planning

1. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval contained herein. The applicant shall comply with both the spirit and the intent of all applicable requirements of the Yolo County General Plan, the County Code, and these Conditions of Approval.
2. The subject project shall be only for the uses approved by this Use Permit. The project is approved for a commercial marina as described in the Project Description sections of this report. Any modification to the approved plans, extent, or manner of operation of the facility shall be submitted for review and approval to the Director of the Planning and Public Works Department.
3. This Use Permit shall commence within one year from the date of the Planning Commission's approval or said permit shall be null and void. The Director of Planning and Public Works may grant an extension of time; however, such an extension shall not exceed a maximum of one year.
4. The facility will not include refueling facilities. No "live aboard" vessels will be allowed. If the owner/applicant wishes to add refueling, boat ramp, or live aboard facilities to this project, they shall make an application to amend this Use Permit subject to review by the Planning and Public Works Department, and approval of the Planning Commission.
5. Any proposed sign for the marina shall comply with the requirements of the Yolo County sign regulations (Section 8-2.2406 of the County Code).
6. Any lighting used on the site shall be so arranged as to direct light away from adjoining lots and the night sky.

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7. The applicant shall apply for and maintain a Yolo County Business License prior to commencement of the marina operations.
8. Prior to commencement of marina operations, the applicant shall obtain approval for the associated road abandonment. (ZF 2007-050)

Resources

9. The applicant shall advise clients of the marina who utilize county boat launch facilities, at least annually, to comply with all Yolo County permitting requirements, including the boat launching fee.

Public Works

10. County encroachment permits will be required for all work within the County right-of-way.
11. Paved commercial driveway access shall be constructed and completed by the applicant according to Yolo County Improvement Standards, prior to final occupancy.
12. The applicant shall submit a grading and drainage plan for each site for review by the county. Applicant shall submit hydrology calculations that demonstrate that there will be no negative downstream impacts during a 10-year event. All plans and reports shall be signed and sealed by a licensed California civil engineer.
13. Prior to issuance of grading permits, the applicant shall obtain a General Construction Activity Stormwater Permit and a National Pollutant Discharge Elimination System (NPDES) permit from the Regional Water Quality Control Board. The permits are required to control both construction and operation activities that may adversely affect water quality. The applicant shall also prepare a Storm Water Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post-construction sediment and erosion control measures and maintenance responsibilities, and non-stormwater management controls.
14. The applicant shall coordinate with the Regional Water Quality Control Board (RWQCB) to determine storm water discharge requirements for preventing contaminants from leaving the site and entering the Sacramento River, and if an Industrial SWPPP is required for each site. The applicant shall document the RWQCB's direction, and notify the county of their determinations prior to submittal of the drainage plans.
15. The applicant shall submit a signage and striping plan for review by the county. All appropriate measures shall be completed prior to permit issuance. Plan shall be signed and sealed by a licensed California civil engineer.
16. The applicant shall determine if any other safety measures are required by the governing railroad authority for the rail line between the marina and the boat storage facility.

Building

17. Unless otherwise authorized by the Planning and Public Works Director, grading, excavation, and trenching activities shall be completed prior to November 1st of each year to prevent erosion.

18. All building permit plans shall be submitted to the Planning and Public Works Department for review and approval in accordance with County Building Standards prior to the commencement of any construction.
19. The applicant shall pay the appropriate fees prior to the issuance of Building Permits, including, but not limited to, School and Fire District fees, County Facilities Fees and Environmental Health Fees.

Environmental Health

20. The water system will likely be classified as a public water system that will be regulated under permit by Yolo County Environmental Health. Monitoring wells should precede the installation of a domestic well and testing to assure that the water quality for the marina is equivalent to that of a community water system. The modification of the existing well or construction of a new domestic well will be required to be done under permit by Yolo County Environmental Health.
21. The features of this parcel may preclude the permitting of a septic system for sewage disposal. **Environmental Health will not approve parcels that do not have a sewage disposal system that meets all applicable requirements for any occupancy.** Prior to issuance of any grading or building permit, an approvable sewage disposal plan should be submitted to and approved by Environmental Health. Liquid waste, other than domestic sewage, must not be disposed of into the septic system.
22. The applicant shall meet all of the Hazardous Materials Business Plan requirements of Yolo County Environmental Health.

State and Federal Agencies

23. Prior to issuance of building permits the applicant shall secure all necessary permits from all relevant agencies, including, but limited to, a Fish and Game, Army Corps of Engineers, Department of Boats and Waterways, and the National Marine Fisheries Service.
24. Prior to issuance of building permits, the applicant shall secure an amended lease agreement with the California State Lands Commission to reflect the increased size of the marina.
24. As this project will have an impact to fish and/or wildlife habitat, assessment of fees under Public Resources Code Section 21089, and as defined by Fish and Game Code Section 711.4, will be necessary. The fees (\$1875.76) are payable by the project applicant upon filing of the Notice of Determination by the lead agency, within five working days of approval of this project by the Planning Commission.

Mitigation Measures

The following Mitigation Measures identified in the first circulation of the Initial Study/Mitigated Negative Declaration for the project are added as project approval conditions (these items have the original numbering in the Initial Study document).

25. Mitigation Measure 1:

(a) A condition of the Use Permit shall require the owner-operator to ensure that all boats docked at the marina shall be kept in good working order and repair. Non-operative or abandoned craft shall not be allowed to remain in dock. All boats, buildings, and structures shall be kept clean and free from graffiti, trash and visual clutter. All trash enclosures and storage areas will be screened from the viewing public.

(b) Prior to issuance of building permits, the applicant shall submit a detailed landscaping and irrigation plan for the project site to be approved by the Planning and Public Works Director. A variety of native plants, shrubs and grasses shall be used to enhance the visual character of the site, and to visually integrate the project into the surrounding area.

26. Mitigation Measure 2:

Fish

(a) All in-water construction activities in the Sacramento River shall be limited to the period June 1 through October 31 to avoid the primary migration periods of listed salmonids.

(b) In-water pile driving will be restricted to the period July 1 through September 30 to avoid or minimize exposure of adults and juvenile salmonids to underwater pile driving sounds.

(c) Pile driving shall be conducted by barge to minimize disturbance of riparian habitat.

(d) Following construction, native riparian vegetation shall be planted on disturbed or exposed soils to control erosion and offset any losses of vegetation on the waterside slope of the levee.

(e) The owner/operator shall enforce a no-wake zone for boats operating in and in the vicinity of the marina through the posting of signs and other mechanisms.

Elderberry Longhorn Beetle

(f) Prior to issuance of a grading permit or land disturbance activities on the panel storage area, the observed elderberry shrub shall be identified, mapped, flagged, and be protected by orange temporary fencing for the duration of the project earthmoving activities. Complete avoidance (i.e., no adverse effects) may be assumed when a 30 m (100 ft) (or wider) buffer is established and maintained around elderberry plants containing stems measuring 2.5 cm (1.0 in) or greater in diameter at ground level. In the event that work must proceed in areas where encroachment on the 30 m (100 ft) buffer has been approved by the USFWS, a minimum setback of at least 6 m (20 ft) from the dripline of each elderberry plant shall be provided.

Raptors

(g) Prior to any site preparation or construction activity, the applicant shall protect raptor nesting habitat as described in this mitigation measure. All surveys shall be submitted to the Yolo County Planning, Resources and Public Works Department for review.

(h) For construction that will occur between March 15 and September 15 of any given year, the applicant shall conduct a minimum of two preconstruction surveys for (a) suitable nesting habitat within one-half mile of the project site for Swainson's hawk; and (b) within 500 feet of the project site for tree-nesting raptors and northern harriers. Surveys shall be conducted by a qualified biologist and will conform to the Swainson's Hawk Technical Advisory Committee (2000) guidelines. These guidelines describe the minimum number and timing of surveys. If nesting raptors

are detected during preconstruction surveys, the applicant shall implement mitigation measures described in (k), below.

(i) If nesting raptors are recorded within their respective buffers, the applicant shall adhere to the following buffers:

(1) Maintain a 1/4-mile buffer around Swainson's hawk nests, and a 500-foot buffer around other active raptor nests. These buffers may be reduced in consultation with CDFG; however, no construction activities shall be permitted within these buffers except as described in (2), below.

(2) Depending on conditions specific to each nest, and the relative location and rate of construction activities, it may be feasible for construction to occur as planned within the buffer without impacting the breeding effort. In this case (to be determined in consultation with CDFG), the nest(s) shall be monitored by a qualified biologist during construction within the buffer. If, in the professional opinion of the monitor, the project would impact the nest, the biologist shall immediately inform the construction manager and CDFG. The construction manager shall stop construction activities within the buffer until either the nest is no longer active or the project receives approval to continue from CDFG.

27. Mitigation Measure 3:

(a) As a condition of approval, the applicant shall be required to either raise all proposed buildings out of the 100-year flood hazard area by elevating the pads of the buildings so that the finished flood elevations would be one foot above the base flood elevation or to construct the buildings to dry-proofing standards as required by the California Building Code and Federal Emergency Management Agency standards.

28. Mitigation Measure 4:

(a) As a Condition of Approval of the use permit, the applicant shall obtain a General Construction Activity Stormwater Permit (SWPPP) and a National Discharge Elimination System (NPDES) permit. The permits are required to control both construction and operational activities that may adversely affect water quality.

(b) The applicant shall utilize Best Management Practices (BMPs) to prevent pollution from entering the Sacramento River. Such BMPs should include, but no be limited to:

- i. Storing materials and equipment to prevent spills or leaks.
- ii. Developing and implementing a spill prevention and cleanup plan.
- iii. Installing traps, filter, or other devices to prevent contaminants from leaving the site and entering the Sacramento River; and using barriers, such as straw bales or plastic, to minimize the amount of uncontrolled runoff that could exit the site.

(c) The applicant shall submit a grading and drainage plan for the site for review and approval of County Public Works.

29. Mitigation Measure 5:

(a) As a Condition of Approval, prior to the start of marina operation, the applicant shall install signage, as approved by the Department of Planning and Public Works, to warn the traveling public of the following:

- Slow Traffic Ahead
- Cross Traffic Ahead
- Do not Block Railroad

County Counsel

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

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

- **Non-issuance of future building permits;**
- **Legal action.**

FINDINGS

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2007-049, the Yolo County Planning Commission finds the following:

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

California Environmental Quality Act (CEQA) and Guidelines

1. That the recommended Initial Study/Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) and is the appropriate environmental document and level of review for this project.

The environmental document for the project, prepared pursuant to Section 15000 et. seq. of the CEQA Guidelines, provides the necessary proportionate level of analysis for the proposed project, and sufficient information to reasonably ascertain the project's potential environmental effects. The environmental review process has concluded that there will not be a significant effect on the environment as a result of the proposed project with the incorporated mitigation measures.

General Plan

2. That the proposal and requested land use is in conformity with the General Plan.

The following General Plan Policies are consistent with this project.

Code 23 Sacramento River and Putah Creek. Yolo County shall encourage additional use of Sacramento River and Putah Creek Water.

Rec. 6 Riverfront. Development of riverfront recreation areas shall offer recreational facilities, visual aesthetics and open space amenities, while insuring access to the river for all residents.

Rec 7 Urban Waterfront Land Uses. Yolo County shall require that a portion of urban waterfront, other than the Port of Sacramento and existing industrial uses, should be used for water-dependent activities including, but not limited to, recreation, tourism, scenic public walkways, waterview restaurants, marinas, fishing access, small waterfront parks, and interpretation projects with retained and enhanced riparian vegetation.

The project will provide increased riverfront recreation facilities in the form of both a marina and boat storage. This project will provide increased recreational activities and shall encourage additional use of the Sacramento River for recreational purposes.

Zoning Code

In accordance with Section 8-2.404.5 of the Yolo County Code, the Planning Commission finds the following:

3. The requested land use is listed as a conditional use in the zoning regulations and is allowed under the following authorization:

The property is zoned Agricultural General (A-1). The proposed new uses are consistent with the A-1 designation under Section 8-2.604.4. Rural recreation with permanent buildings is listed as a conditional use. "Rural Recreation" is defined as outdoor sporting or leisure activities that require large open space areas and do not have any significant detrimental impact on agricultural use of lands.

Use Permit

In accordance with Section 8-2.2804 of the Yolo County Code, the Planning Commission finds the following.

4. The requested use is essential or desirable to the public comfort and convenience.

The proposed new use provides a valuable recreational service to the public. It is desirable for uses of this type to be located in a rural area to take advantage of an existing waterway.

5. The requested land uses will not impair the integrity or character of a neighborhood or be detrimental to public health, safety, or general welfare.

The requested uses will create little or no impact to the character of the area. An existing marina exists in close proximity to the proposed project. The proposed project is consistent with similar development found along the Sacramento River. As conditioned, the project will not be detrimental to public health, safety, or general welfare.

6. The requested use will be in conformity with the General Plan.

Compatibility with General Plan Policies is discussed at #2 above. This project is in conformity with General Plan polices Con 23, Rec 6 and Rec 7.

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7. Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities will be provided.

As conditioned and with mitigation measures incorporated, adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities will be provided in this project as approved.

- 7.2 **2008-010:** Tentative Parcel Map for the subdivision of an 11-acre parcel into a 6-acre homesite and a 5-acre homesite. The project is located at 34474 County Road 25, three miles west of the City of Woodland and one mile south of the Watts-Woodland Airport in the Monument Hills area (APN: 040-040-04). A Negative Declaration has been prepared for this project. Owner/Applicant: Slooten (J. Anderson)

Jeffrey Anderson, Assistant Planner, gave the staff report, and answered questions from the commission.

Chair Bertolero opened the public hearing.

George Slooten, the owner of the property, said he will be working with the owners to secure an access easement. He expressed concern about the wording in Condition 7, where he will be required to pave the County Road 94A connection to County Road 25 with a minimum throat width of 20 feet.

Eric Parfrey, Principal Planner, provided clarification regarding the requirement of Condition 7 that was requested from Public Works, and answered questions from the Commission.

Dave Taylor, resident at 19739 County Road 94A, expressed concerns from members of the community, and said that the neighbors are willing to work with Mr. Slooten to address these concerns. He briefly explained the responsibilities of the neighbors and the private road maintenance agreement regarding the upkeep of the road.

Mr. Taylor requested that the obstruction of Willow Slough be addressed.

David Paul, a neighbor directly north of Mr. Slooten's property, mentioned concerns about a neighboring property's barns and the effect of their tractor trailers on the road, and answered questions from the commission. He said he and the neighbors would like to meet with Mr. Slooten to resolve concerns about the project.

Mr. Slooten provided information regarding the slough and the fence that crosses the slough. He said that there is a flap on the fence that allows the debris and water to go through, and that he is willing to work with the neighborhood.

Chair Bertolero closed the public hearing.

David Morrison clarified some of the conditions and requirements, and commented on some of the issues that were brought forth from the neighbors.

Chair Bertolero suggested that the item be continued for one month.

David Morrison explained why he doesn't think a continuation of the item is necessary, since today's direction to the applicant would be clear.

Commissioner Burton said that he doesn't see any need for condition 7, and feels that it is unfair to the applicant to make this a requirement.

Commissioner Peart said he doesn't have a problem with a 20-foot apron coming out to the County road. He said he sees no reason that the Planning Commission shouldn't approve this project. He explained that there should be a stipulation that the problems with the neighbors be resolved.

Vice-Chair Winters said he's prepared to move ahead with the property split. In regards to Condition 7, he feels that it is unfair to hold the property owner to do more than the 20-foot minimum. He recommends that Mr. Slooten do the 20-foot and then the neighbors should work together in repairing the rest of the road.

Commissioner Merwin concurred with Vice-Chair Winters, and also agreed with Commissioner Peart. He is pleased the neighbors are willing to work things out with Mr. Slooten, and is prepared to move forward with the project.

Commissioner Liu expressed concern about the Willow Slough water issue. She is open and flexible to delay and revisit. She would like to see some type of agreement amongst the neighbors regarding the roads.

Chair Bertolero said the water issue is not their decision to make today. As far as the paving, when the project comes in for an application like this, the County has in the past, made it a requirement in paving the driveways. However, he found it to be a burden on the applicant to deal with the intersection when so many other parties are involved. He found it hard to justify that. He felt that the requirement for Condition 7 should be eliminated.

Commissioner Burton stated that he understands the reason, but doesn't understand the point of the requirement.

Commissioner Merwin is prepared to move forward with his fellow commissioner's comments noted.

Commission Action

1. **HELD** a public hearing and received comments;
2. **ADOPTED** the Initial Study/Negative Declaration, prepared for the proposed project in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **ADOPTED** the proposed Findings (**Attachment D**) for the project; and
4. **APPROVED** the Tentative Parcel Map (TPM #4617) (**Attachment B**) in accordance with the Conditions of Approval (**Attachment E**).

MOTION: Merwin SECOND: Peart
AYES: Bertolero, Merwin, Peart, and Winters
NOES: Liu
ABSTAIN: Burton
ABSENT: Kimball

CONDITIONS OF APPROVAL

General

1. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval contained within this staff report.
2. The Final Map for the project shall be filed and recorded at the applicant's expense with the Yolo County Planning and Public Works Department. The Final Map shall be recorded within two years from the date of approval by the Planning Commission or the Tentative Parcel Map shall become null and void without any further action in accordance with the State Subdivision Map Act.

Planning

3. The applicant shall pay fees in the amount of \$1,876.75, under Public Resources Code Section 21089, and as defined by Fish and Game Code Section 711.4, at the time of the filing of the Notice of Determination to cover the cost of review of the environmental document by the California Department of Fish and Game.
4. The property owner(s) shall record a "Private Road Maintenance Agreement" prior to the recordation of the Final Map. The applicant shall seek approval of the neighborhood association for the rights to record the Private Road Maintenance Agreement. In this particular case, the Private Road Maintenance Agreement serves as the Private Vehicular Access Easement (PVAE) for the users of County Road 94A. The agreement will provide for funding of the installation, maintenance and repair or on-site roads not assumed by the county. All the terms, conditions, restrictions, and covenants contained in the agreement are deemed covenants running with the land, are for the benefit of the land affected by the agreement and shall inure the benefit of, and be enforceable by, all owners of said lands and their heirs, devisees, assigns, and successors in interest. A copy of the recorded agreement shall be provided to the Planning and Public Works Department prior to recording of the Final Map.
5. The Parcel Map submitted for recordation shall have the Parcel Map Number (PM #4617) indelibly printed on it. Said PM #4617 shall be prepared with the basis of bearings being the State Plan Coordinate System, North American Datum (NAD 83) pursuant to Article 9, Section 8-1.902 (f) of the Yolo County Code.
6. Prior to filing of the Final Map for recordation, the project shall comply with the County Inclusionary Housing Ordinance and all policies regarding affordable housing in effect at the time of the filing of the Final Map. To comply with the adopted ordinance, the applicant must pay an in-lieu fee for the construction of any home(s) on the newly created parcel.

Public Works

7. Paved driveway connections (with culverts, if necessary) to County Road 25 are required for the two driveways on the southern (5-acre) parcel. The applicant is also required to pave the County Road 94A connection to County Road 25 with a minimum throat width of 20 feet. All work to be completed per county standards. Prior to the recordation of the Final Map, the applicant shall secure an encroachment permit for this work with a \$15,000 guarantee bond, or enter into an agreement with the county to complete the improvements.

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Building

8. All building permit plans shall be submitted to the Planning and Public Works Department for review and approval in accordance with County Building Standards prior to the commencement of any construction.
9. The applicant shall pay the appropriate fees prior to the issuance of Building Permits, including, but not limited to, the Parcel Map checking fees, School and Fire District fees, County Facilities fees, and Environmental Health fees.

Parks & Resources

10. Prior to the recording of the Final Map, the applicant shall mitigate for the loss of Swainson's Hawk habitat through participation in the Yolo County Habitat Conservation Plan. The applicant shall pay a Swainson's Hawk mitigation fee for the six acre, undeveloped parcel. The fee is currently set at \$8,660 per acre and shall be collected for 2.5 acres prior to the recording of the Final Map.

Environmental Health

11. Prior to the issuance of any building permits, well and septic system designs shall be approved by the Environmental Health Department.

Fire District

12. Standard fire department access and standard fire department vehicle turnaround area are required for the northern parcel.

County Counsel

13. In accordance with Yolo County Code Section 8-2.2415, the applicant shall agree to indemnify, defend, and hold harmless the county or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the county or its agents, officers, or employees to attach, set aside, void, or annul an approval of the county, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations.

The county shall promptly notify the applicant of any claim, action or proceeding and that the county cooperates fully in the defense. If the county fails to promptly notify the applicant of any claim, action, or proceeding, or if the county fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the county harmless as to that action.

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

14. Failure to comply with the CONDITIONS OF APPROVAL as approved by the Planning Commission may result in the following actions:
 - **legal action;**
 - **non-issuance of future building permits.**

FINDINGS

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2008-010, the Planning Commission approves the proposed Tentative Parcel Map #4617. In support of this decision, the Planning Commission makes the following findings:

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

California Environmental Quality Act

That the proposed Negative Declaration and Initial Study prepared for the project is the appropriate environmental documentation in accordance with the California Environmental Quality Act (CEQA) and Guidelines.

The Initial Study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment.

Pursuant to the California Environmental Quality Act (CEQA) and Guidelines, an environmental evaluation (Initial Study) has been circulated for 30 days for public review and to Responsible Agencies having jurisdiction over the project, with no significant comments noted.

*The proposed Negative Declaration is the appropriate level of environmental review pursuant to Article 6, Section 15070 of the CEQA Guidelines (**Attachment C**).*

Yolo County General Plan

That the design of the land division and the development proposed for construction on the parcels to be created by the land division is consistent with the Yolo County General Plan.

The subject property is designated as Agriculture in the Yolo County General Plan and as Rural Residential in the Woodland Area General Plan. The division of this 11-acre parcel into five-acre and six-acre parcels is consistent with the level of residential development and density allowed in the Monument Hills area, as defined by the Woodland Area General Plan. As conditioned, the Tentative Parcel Map is consistent with the policies, goals, and objectives of the County General Plan.

Zoning Code

That the proposed Tentative Parcel Map is consistent with the applicable zoning standards. [Article 6 of the County Zoning Ordinance]

The proposed project will result in the creation of two parcels of 5± and 6± acres respectively. The subject property is zoned Agricultural General (A-1), which has a minimum 20-acre lot size for cultivated, irrigated land. However, because of the poor soil quality, the Monument Hills area, as defined by the Woodland Area General Plan, allows for the creation of five-acre minimum parcels. The Tentative Parcel Map meets the width to depth ratio, access, and general requirements of the Yolo County Code. The minimum parcel size of 20-acres for A-1 zoned parcels does not apply to this project since five-acre minimum parcels are allowed per the Woodland Area General Plan.

Subdivision Map Act

Pursuant to Section 66474 of the Subdivision Map Act a legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

The subject property for the proposed Tentative Parcel Map is designated as Agriculture in the Yolo County General Plan and Rural Residential in the Woodland Area General Plan. The creation of five- and six-acre homesites is consistent with policies of the Woodland Area General Plan. The site is not a viable farming parcel due to the poor soils and surrounding five-acre homesite development.

- b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The site has been determined to be suitable for rural residential use based on designations in the County General Plan and Woodland Area General Plan. As conditioned, the Tentative Parcel Map is consistent with the requirements of both plans.

- c) That the site is not physically suitable for the type of development.

The proposed parcels comply with the minimum parcel size required by the Woodland Area General Plan. The site is the last parcel in a fourteen parcel subdivision to be divided into the minimum five-acre homesite.

- d) That the site is not physically suitable for the proposed density or development.

The Woodland Area General Plan designates land use on the property as RR (Rural Residential), which is located within the Monument Hills area and the City of Woodland's planning area, but outside the City's urban limit line. County zoning for Monument Hills is Agricultural General (A-1), which serves as a way to prevent premature and inadequately serviced urban development. Residential development in Monument Hills is limited to very low density due to insufficient service capacities. Urban development policies in the Woodland Area General Plan discourage poorly serviced urban development in areas outside the City of Woodland's urban limit line.

- e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

An Initial Study has been prepared and staff has determined that a Negative Declaration is the appropriate level of environmental review pursuant to the CEQA Guidelines. Prior to the recording of the Final Parcel Map, the applicant shall pay or mitigate for the loss of Swainson's hawk habitat according to the Department of Fish and Game Swainson's hawk Guidelines. The site is currently developed with one homesite. The proposed creation of two parcels will not cause environmental damage or substantially and avoidably injure fish and wildlife or their habitat.

- f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

The proposed design of the requested Tentative Parcel Map will not cause serious health problems. All issues regarding health, safety, and the general welfare of future residents and adjoining landowners will be addressed as described in the Conditions of Approval, by the appropriate regulatory agency prior to recordation of the Final Parcel Map, issuance of Building Permit, and/or issuance of Final Occupancy Permit.

- g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Access to the 5-acre, southern, parcel will come directly from County Road 25. Access to the 6-acre, northern, parcel will be granted through a road access easement. The applicant shall record a Private Road Maintenance Agreement, which also serves as the Private Vehicular Access Easement (PVAE), prior to recordation of the Final Map. The applicant shall seek approval of the neighborhood association for the rights to record the Private Road Maintenance Agreement.

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

- h) The design of the subdivision does not provide for, to the extent feasible, future passive or natural heating or cooling opportunities.

Each of the proposed parcels is over 5-acres in size, providing opportunities for future development to incorporate passive or natural heating and cooling features.

A ten-minute recess was called.

- 7.3 **2008-006:** Use Permit for a research, development and demonstration program in association with the University of California, San Diego and University of California, Davis, to develop technologies to use agricultural residue and urban green waste to create an alternative fuel source (biodiesel). The project site is within the Agricultural General (A-1) zone. The 21-acre parcel is located at 14954 County Road 100B (the Wallace Ranch), just north of Best Ranch Road (County Road 18A) and north of the City of Woodland (APN: 027-230-08). A Mitigated Negative Declaration has been prepared for this project. Owner/Applicant: Taylor/West BioFuels (D. Rust)

Donald Rust, Principal Planner, gave the staff report with a power point presentation, and answered

questions from the Commission.

Commissioner Burton asked a question regarding what happens to the ash.

Donald Rust recommended that the applicant respond to this question.

Commissioner Burton commented that he would like the certified mail requirement stricken from Mitigation Measure 46, in the Conditions of Approval.

Chair Bertolero opened the public hearing.

Philip Pogledich, Senior Deputy County Counsel, pointed out that the staff report sets the context for this as a recommendation to the Board of Supervisors by the Planning Commission; however, this matter is before the commission today as an action.

The applicant, Donald Taylor, came forward to answer questions posed by the Commission. He answered Commissioner Burton's question regarding the ash disposal. He also responded to the requirement regarding the notifications to the neighbors, and commented that they would proceed in accordance with the commission's direction.

Chair Bertolero closed the public hearing.

Vice-Chair Winters commended staff on a thorough report, and said he thinks this is the sort of project that they should be encouraging in Yolo County. He said It sounds like an excellent project.

Commissioner Merwin expressed that he is pleased to see collaborative efforts of utilizing our local universities, and that he feels it is good for agriculture and the County. He said he will support this project.

Commissioner Liu stated that she would support the project to develop alternative fuels. She thanked the applicant for his commitment in complying with all of the mitigation measures and conditions.

Commissioner Peart said he will support this project, and expressed that it is good for the County and the university to work together. He stated that he wants to make sure that this is just a research and development facility, and doesn't get into production.

Commissioner Burton commended the applicant, because this is the type of project they are looking for in Yolo County. He commended staff for their work on this project, and commended the applicant for their interaction with other members of the neighboring area.

Chair Bertolero concurred with his fellow Commissioners. He said it is a tremendous project to seek out alternate fuel sources to reduce our dependence on oil. He stated that Mitigation Measure 46, requiring the applicant to notify the neighbors on the pesticide issue, should be deleted. He explained that he doesn't believe there should be any notification required, other than a notice posted for the employees, but that any activities on the site have to comply with all of the agricultural codes. He said the burden lies on the crop dusters and the farmers, and that if the applicant receives a notice of future spraying, then that would be the time for the applicant to post a notice informing their employees.

Commissioner Peart stated that he believes there is a burden on the applicant to let the landowners know of any insect or any problems they might see or material that they are bringing into the agricultural area.

Commissioner Burton stated that Mitigation Measure 46 should be stricken from the Conditions of Approval.

Philip Pogledich, Senior Deputy County Counsel, made a brief comment on why Mitigation Measure 46 was included. He suggested that the Planning Commission strike the second paragraph of the mitigation measure, to retain the substance of the mitigation, but relieve the applicant of the burden.

Commissioner Burton agreed that the second paragraph of Mitigation Measure 46 should be stricken.

Commission Action

Recommended that the Board of Supervisors:

1. **HOLD** a public hearing on the project and receive comments;
2. **ADOPT** the Mitigated Negative Declaration (**Attachment C**) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;
3. **ADOPT** the Mitigation Monitoring and Reporting Plan as modified which implements and monitors all mitigation measure in accordance with CEQA and the CEQA Guidelines (**Attachment D**);
4. **ADOPT** the recommended Findings (**Attachment E**); and
5. **APPROVE** the Conditions of Approval as modified (**Attachment F**).

MOTION: Burton SECOND: Peart
AYES: Bertolero, Burton, Liu, Merwin, Peart, and Winters
NOES: None
ABSTAIN: None
ABSENT: Kimball

CONDITIONS OF APPROVAL

ON-GOING OR OPERATIONAL CONDITIONS OF APPROVAL:

PLANNING DIVISION – PPW (530) 666-8808

1. The project shall be developed in compliance with all adopted Conditions of Approval and the Mitigation Monitoring Program for Zone File No. 2008-006. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval and Mitigation Monitoring Program as contained herein.
2. The project is as described in the Mitigated Negative Declaration and summarized in the Yolo County Board of Supervisors staff report, as modified by the adopted Conditions of Approval and Mitigation Monitoring Plan. Any subsequent substantive changes in the project description (as determined by the County Planning and Public Works Director) may only occur subject to the Planned Development Standards as adopted for the subject property.

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3. Any alteration or expansion of these facilities or increase in the developed area of the site from that shown on the approved site plan may require submission of an additional application for review and approval.
4. Failure to comply with the Conditions of Approval and Mitigation Monitoring Plan as approved by the Board of Supervisors may result in: (1) Non-issuance of future building permits; (2) legal enforcement action; and/or (3) revocation of the Use Permit.
5. In accordance with Yolo County Code Section 8-2.2415, the applicants, owners, their successors or assignees shall agree to indemnify, defend and hold harmless the County or its agents, officers and employees from any claim, action or proceeding (including damage, attorney fees, and court cost awards) against the County or its agents, officers, or employees to attack, set aside, void, or annul an approval of the County advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action or proceeding and that the County cooperates fully in the defense. If the County fails to promptly notify the applicant of any claim, action or proceeding, or if the County fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the County harmless as to that action. The County may require that the applicant post a bond in an amount reasonably determined to be sufficient to satisfy the above indemnification and defense obligation.
6. The applicant shall ascertain and comply with the requirements of all Federal, State, County and Local agencies as applicable to the proposed use and the project area. These include, but are not limited to: **1) FEDERAL:** U.S. Fish & Wildlife; **2) STATE:** Department of Fish & Game (DFG), Central Valley Regional Water Quality Control Board (CVRWQCB), California Occupational Safety and Health Administration (Cal-OSHA), Yolo-Solano Air Quality Management District, Cal Trans District 3, California Highway Patrol **3) COUNTY:** Public Health-Environmental Health Services, Building Division, Code Enforcement, Public Works; **4) LOCAL** Woodland Fire Department.
7. All construction and operational equipment shall be muffled and maintained in accordance with manufacturer's specifications.
8. Construction and operational equipment shall be staged away from any surrounding residences or livestock.
9. The hours of operations, shall be 24 hours, 6 days a week, except Sundays and Federal holidays.
10. All private facilities, improvements, infrastructure, systems, equipment, common areas, etc. shall be operated and maintained by the applicant/operator in such a manner, and with such frequency, to ensure the public health, safety, and general welfare. All on-site "No Trespassing" or other "Posted Area" signs shall be maintained in a clean readable condition at all times and all graffiti and vandalism shall be removed and repaired on a regular basis. All landscaping, fuel modification measures, fencing and structures shall be maintained regularly by the applicant/operator, so that all facets of the operations are kept in continual good repair, including but not limited to the removal of graffiti and the continued provision of healthy thriving landscaping. The property shall be maintained so that is visually attractive and not dangerous to the health and welfare of the surrounding properties.

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11. All costs of ownership, operation and maintenance of private facilities, improvements, infrastructure, systems, equipment, common areas, etc. shall be the responsibility of the applicant, operator or the property owner.
12. If any County enforcement activities are required to enforce compliance with the conditions of approval, the applicant and/or property owner shall be charged for such enforcement activities in accordance with the Yolo County Code Schedule of Fees.
13. If human remains are discovered, all work must stop in the immediate vicinity of the find, and the County Coroner must be notified, according to Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed. This requirement shall be noted on the approved Grading Plans. Contact the Yolo County Coroner at (530) 668-5820.
14. The applicant/operator shall remove any soils that become chemically contaminated to a County approved disposal site so as to preclude any chemical leaching into the local ground water supply over time.
15. The site shall be limited to one freestanding advertising sign. A Building Permit shall be obtained from the Building Division prior to installation of the sign. All signs may only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, or by direct stationary neon.
16. Failure to properly remove and clean up the site of all hazardous and non-hazardous wastes may result in the county contracting out for the necessary work. The property owner and/or the applicant shall be liable for the full costs of any such clean-up work.

PUBLIC HEALTH DEPARTMENT – ENVIRONMENTAL HEALTH DIVISION (530) 666-8646

17. The septic system shall be maintained so as not to create a public nuisance.
18. All refuse and usable materials at the premises shall at all times be stored and handled so that health nuisances are not created. Permits from this office will be required when reaching threshold levels..
19. All refuse containing garbage shall be removed from the premises at least 1 time per week during operation to an approved solid waste facility.

PRIOR TO ISSUANCE OF GRADING PERMITS:

PLANNING DIVISION - PPW (530) 666-8808

20. The applicant/operator shall obtain all necessary permits from the YSAQMD, including Permits to construct and operate or provide evidence that said permits are not required. Copies of all approved YSAQMD permits shall be submitted to the Planning Division prior to construction and/or operation of the source in question.
21. Mining of native on-site materials is prohibited.
22. The applicant shall contact Pacific Bell's Underground Service Alert (USA) two days prior to the commencement of any underground work to verify the existence of existing subsurface service and/or utility lines.

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BUILDING DIVISION – PPW (530) 666-8775

23. Grading plans shall be submitted to the Building Division for review and approval prior to any grading/land disturbance on the site.
24. Flood Certificate shall be submitted to the Building Division for review and approval prior to any grading/land disturbance on the site.

PUBLIC HEALTH DEPARTMENT - ENVIRONMENTAL HEALTH DIVISION (530) 666-8646

25. If the water system meets the definition of a public water system, the applicant shall obtain approval of a new permit to operate a public water system for this site. The system must produce water of a quality which meets the requirements of a non-transient, non-community water system category. Failure to meet water quality standards may result in replacement of wells, installation of treatment facilities and/or other measures to meet compliance
26. Liquid wastes from laboratories, industrial operations, mechanic shops, and similar operations using hazardous chemicals or creating designated waste must not dispose of wastes into the septic system. Waste lines from such operations shall be segregated from the domestic sewage lines. Final disposal of this waste must be done under permit from the Central Valley Regional Water Quality Control Board. Written clearance shall be obtained from the designated California Regional Water Quality Control Board and a copy forwarded to the Environmental Health Division.
27. Domestic sewage shall be disposed into septic system(s) that meet the capacity for the anticipated use. Repairs, replacement or new septic tanks or leach-lines must be done under approved permit from Environmental Health Division.
28. Discovery of previously unknown contamination is possible during construction activities. If, during construction activities, the applicant discovers any potentially hazardous contamination, they shall consult with Environmental Health Division prior to the issuance of grading permit.

PUBLIC WORKS DIVISION – PPW (530) 666-8811

29. The applicant shall apply for a county encroachment permit for work within the county right-of-way. A paved driveway approach is required for the applicant's access connection to County Road 100B per county standards.
30. If greater than one acre is to be disturbed, the developer shall obtain a National Pollutant Discharge Elimination System (NPDES) permit from the Central Valley Regional Water Quality Control Board (CVRWQCB) for controlling construction activities that may adversely affect water quality.
31. If greater than one acre is to be disturbed, the applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) that describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post-construction sediment and erosion control measures and maintenance responsibilities, and non-storm water management controls. The Public Works Division shall review and accept the SWPPP prior to issuance of a grading permit.

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32. Applicant shall contact the CVRWQCB to determine if an Industrial SWPPP is required for controlling operation activities that may adversely affect water quality.
33. Applicant to provide an engineered plan for review and approval to revise the installation of the pipe connecting the portion of the detention basin that has been interrupted by the installation of the biofilter pipeline from the exhaust blower out to the biofilters (mounding on top of biofilter pipe, has created a “dam”). The current installation does not promote evacuation of the ditch to the east. Plan to be signed and sealed by a professional civil engineer licensed in the State of California.

PRIOR TO THE ISSUANCE OF BUILDING PERMITS:

PLANNING DIVISION – PPW (530) 666-8808

34. Prior to the issuance of any Building Permit, the applicant shall record a “Right to Farm” Statement. The “Right to Farm” Statement shall serve to disclose that normal farming activities will take place in the area and that normal agricultural activities are not considered nuisances. The “Right to Farm” Statement shall be in accordance with Chapter 6, Article 1 of the Yolo County Code. Said statement shall be approved to form by the County Counsel and shall be recorded in manner to the satisfaction of the Planning and Public Works Director.

BUILDING DIVISION – PPW (530) 666-8775

35. The applicant shall pay all appropriate fees prior to the issuance of Building Permits, including but not limited to Woodland Fire District fees, Woodland Unified School District fees, and County facility fees.
36. Prior to the issuance of any Building Permit and/or Flood Hazard Development Permit, all necessary permits as required by Federal, State, and local agencies and districts shall be provided to the Planning and Public Works Department.
37. Prior to construction, any building, sign, or structure to be located on site will require professionally prepared plans approved by the Building Division.

WOODLAND FIRE DEPARTMENT (530) 661-5855

38. The above referenced project is protected by the City of Woodland Fire Department. Prior to any construction occurring on any parcel, the applicant shall contact the fire department for verification of current fire protection development requirements. All new construction shall comply with the existing Uniform Fire Code requirements and all applicable statutes, codes, ordinance, or standards of the Fire Department.

PRIOR TO THE COMMENCEMENT OF OPERATIONS:

PLANNING DIVISION – PPW (530) 666-8775

39. All refueling and maintenance areas shall be protected by impervious surfaces designed to contain spills to the satisfaction of the Building Division and the Environmental Health Division.
40. The applicant shall obtain a Business License from the Planning and Public Works Department.

WOODLAND FIRE DEPARTMENT (530) 661-5855

41. Prior to final inspection or occupancy of any new or remodeled building, hand portable fire extinguishers are required to be provided. The location, type, and cabinet design shall be approved by the Woodland Fire Department.
42. The access roads within the facility shall remain unobstructed at all times, except for a driveway access gate, which may be closed during night time operating hours. An approved fire department key box is required for any access gate, installed prior to the commencement of operations.

PUBLIC HEALTH DEPARTMENT - ENVIRONMENTAL HEALTH DIVISION (530) 666-8646

43. The operator will be required to submit a Hazardous Materials Business Plan (HMBP) to Yolo County Environmental Health (YCEH) as soon as they store, handle, or use greater than the threshold quantity (55-gal, 500-lb, 200-ft³) of a hazardous material at this site. An HMBP is also required if they generate hazardous waste, operate underground or aboveground hazardous material or waste tanks, or are subject to RMP requirements.
44. The applicant shall obtain approval of a new permit to operate the public water system for this site, prior to the commencement of operations. The system must produce water of a quality which meets the requirements of a non-transient, non-community water system category. Failure to meet water quality standards may result in replacement of wells, installation of treatment facilities and/or other measures to meet compliance.

MITIGATION MEASURES

ON-GOING OR OPERATIONAL:

PLANNING DIVISION – PPW (530) 666-8808

45. *II-1. The applicant shall maintain a 100-foot buffer along the northern and eastern boundaries of the project site. The buffer area may be used for outdoor product storage only, and no structures may be constructed or occupied within the buffer area. The Best Ranch Road right-of-way may be included as a part of the 100-foot buffer along the northern boundary.*
46. *II-2. The Developer shall work cooperatively with immediately adjacent landowners to prevent the potential for spray drift of pesticides, herbicides, and other substances listed as "registered pesticides" by the Yolo County Agricultural Commissioner's Office. Human exposure to registered pesticides is expected to be reduced by the implementation of buffer zones along the northern and eastern boundaries of the project site. However, the following precautions shall also be taken by the Developer to ensure that all feasible steps have been taken to protect human health and safety.*

~~*On a monthly basis, the Developer shall contact immediately adjacent landowners who have historically used registered pesticides within 500 feet of the project site, by certified mail or other method acceptable to those landowners to request prior notice of any registered pesticides scheduled for (a) aerial application within 500 feet of the project site boundary, (b) airblast spraying within 300 feet of the project site boundary, and (c) ground application within 100 feet of the project site boundary.*~~

Upon receiving at least twenty-four (24) hours prior notice from an immediately adjoining landowner who has historically used registered pesticides within 500 feet of the project site, of an intent to apply registered pesticides within the specified distance from the project site boundary, the Developer shall close all outdoor storage within the affected area. No activities are allowed until the application has been completed and for at least four (4) hours, or until the time required for the chemicals to dissipate (as determined by the Yolo County Agricultural Commissioner), after the cessation of spraying. During this entire period of time, the Developer shall use its best efforts to prevent employees, vendors, and members of the public from entering the area.

47. *II-3. The Developer shall disclose to all employees and visitors of the proposed project site that active farming operations occur on surrounding properties. Notification shall be prominently posted prior to the commencement of operations, disclosing that employees and visitors could experience inconvenience or discomfort resulting from accepted farming activities pursuant to the provisions of the County's Right-to-Farm Ordinance.*
48. *III-1. Prior to construction, the applicant/operator shall apply for and obtain air quality Authorities to Construct for all applicable pollutant emitting equipment. In addition, the facility shall apply best management practices in accordance with YSAQMD Rule 3-4, Section 300 to all applicable air pollutant-emitting equipment operating at the stationary source.*
49. *III-2. The applicant shall submit a construction dust control plan to the Yolo-Solano Air Quality Management District, prior to the commencement of operations. This plan shall ensure that dust controls measures are implemented during all phases of project construction and daily operations. The plan shall include short-term measures for use during high wind (greater than 25-mph gust) conditions. Control measures shall include surface stabilization (such as active watering) to comply with YSAQMD requirements. The dust control best management practices (BMPs) shall include but not be limited to the following:*
 - *Apply nontoxic soil stabilizers according to manufacturer's specifications to all inactive construction areas (previously graded areas inactive for four days or more);*
 - *Reestablish ground cover in disturbed areas quickly;*
 - *Water active construction sites at least twice daily to avoid visible dust plumes;*
 - *Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;*
 - *Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);*
 - *Enforce a speed limit of 15 MPH for equipment and vehicles operated in unpaved areas;*
 - *All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or should maintain at least two feet of freeboard; and*
 - *Sweep streets at the end of the day if visible soil material is carried onto adjacent public paved roads.*
 - *The operator shall wet down stockpiles on a regular basis and more frequently as needed during windy conditions. The operator shall also either shut down the operation or double the frequency/intensity of dust suppression efforts (as approved by YSAQMD) on days of extreme wind conditions as defined by sustained wind forces of 15 mph or greater.*
 - *Stockpiled materials shall be kept to overall heights not exceeding 25 feet to reduce the exposure of stockpiled materials to wind erosion.*
 - *Tune and maintain all equipment and use YSAQMD required low sulfur fuel. Also, maintain six (6) inches of freeboard on all haul trucks.*

PRIOR TO THE ISSUANCE OF GRADING OR BUILDING PERMITS:

PLANNING DIVISION – PPW (530) 666-8808

50. I-1. *The applicant/developer shall prepare a detailed lighting plan which shall be submitted for review and approval by the Yolo County Planning & Public Works Department. The lighting plan shall include the proposed locations, design, and type of the light fixtures. Outdoor light fixtures shall be low-intensity, shielded and/or directed away from residences and the night sky. Lighting fixtures shall use low-glare lamps or other similar lighting fixtures. All light fixtures shall be designed, installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. The lighting plan shall demonstrate that illumination levels at adjacent residences will not exceed one-foot candle.*
51. I-2. *The applicant/developer shall submit a detailed Landscaping and Irrigation Plan for the proposed project site to the Planning and Public Works Director for approval. A variety of native trees, shrubs and grasses shall be planted within the 100-foot buffer to preserve the character of the surrounding properties and to help screen the proposed concrete batch plant, other production equipment and the bulk concrete pre-cast structures in the storage area from the view along Best Ranch Road and the property immediately east. Drought-resistant, fire retardant vegetation shall be used for landscaping and erosion control to reduce water consumption and promote slope stability (where applicable). All landscaped areas must be irrigated in a manner designed to conserve water.*
52. IV-1. **Swainson's Hawk, Cooper's Hawk, and White Tailed Kite.** *If construction occurs during the breeding season (March-September 15), the project applicant shall conduct pre-construction surveys no more than 14 days and no less than 7 days prior to initiating construction. A qualified biologist shall conduct the surveys and the surveys shall be submitted to Yolo County Planning & Public Works Department for review. The survey area shall include all potential nesting sites located within ½ mile of the project site. If no active nests are found during the surveys, no further mitigation shall be required except with regard to foraging habitat, as discussed below.*

If an active nest used by a Swainson's hawk, Cooper's hawk or White Tailed Kite is found sufficiently close (as determined by the qualified biologist) to the construction area to be affected by construction activities, a qualified biologist shall notify the Department of Fish and Game and a ½ mile construction-free buffer zone shall be established around the nest. Intensive new disturbances (e.g., heavy equipment activities associated with construction) that may cause nest abandonment or forced fledging shall not be initiated within this buffer zone between March and September unless it is determined by a qualified biologist in coordination with CDFG that the young have fledged and are feeding on their own or the nest is no longer in active use.

53. IV-2. **Swainson's Hawk.** *Prior to issuance of a grading permit, the developer shall mitigate for the loss of Swainson's hawk habitat through participation in the Yolo County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). The applicant shall either: 1) pay a Swainson's hawk mitigation fee for the area disturbed by development, which is currently estimated at 2-acres, or 2) implement another project specific mitigation plan which is deemed appropriate to the California Department of Fish and Game. The fee is currently set at \$8,660 per acre and is subject to change. As of January 9, 2006 projects that exceed 40 acres in area are no longer eligible to pay the fee, but are required to dedicate suitable conservation easements as determined by the Yolo HCP/NCCP Joint Powers Agency and the California Department of Fish and Game. In the event that the final*

HCP/NCCP is adopted before development occurs, the developer shall participate in the Final HCP/NCCP to mitigate for the loss of Swainson's hawk habitat.

54. IV-3. Valley Elderberry Longhorn Beetle (VELB). *the observed elderberry shrubs shall be identified, mapped, flagged, and be protected by orange temporary fencing for the duration of the project earthmoving activities. Complete avoidance (i.e., no adverse effects) may be assumed when a 30 m (100 ft) (or wider) buffer is established and maintained around elderberry plants containing stems measuring 2.5 cm (1.0 in) or greater in diameter at ground level. In the event that work must proceed in areas where encroachment on the 30 m (100 ft) buffer has been approved by the USFWS, a minimum setback of at least 6 m (20 ft) from the dripline of each elderberry plant shall be provided.*
55. IV-4. Silver-Haired Bat. *Prior to issuance of a grading permit or land disturbance activities, a qualified biologist shall conduct a bat survey of the woodpile located at the southwestern edge of the industrial facility. If the bat is not encountered, the woodpile shall be removed. If a live bat is encountered, the bat shall be monitored and given a chance to leave the area on its own. If the bat does not show signs of leaving, then the qualified biological shall slowly move toward the bat and encourage it to leave the woodpile. If the bat does not leave on its own within 1 working day, the biological monitor shall consult with the CDFG to determine necessary additional measures. If construction is to take place during the maternity roosting season for bat species (May through July), a breeding season survey shall be performed by a qualified biologist to determine the presence/absence of breeding bats in the woodpile prior to activities. If breeding bats are found during the focused survey, the woodpile removal shall be rescheduled to take place in late August, or until all juvenile bats are capable of independent flight, as determined by a qualified biologist in coordination with CDFG.*
56. IV-5. Giant Garter Snake.
- (i) *All grading activity within potential giant garter snake habitat (aquatic habitat and uplands within 200 feet of aquatic habitat) shall be restricted to a period between May 1 and October 1. Because this is during the snakes' active stage, it would allow snakes to actively move away from danger and thereby reduce chances of snake mortality. Additionally, this restriction is timed to avoid grading during the snakes' breeding, dispersal, fall foraging and over-wintering periods, when they are most vulnerable to disturbance. If grading cannot be scheduled between May 1 and October 1, the Applicant shall contact the USFWS and CDFG to determine whether additional measures are necessary to avoid and/or minimize take of giant garter snake. Grading shall only occur during the period between October 2 and April 30 upon written USFWS and CDFG approval.*
 - (ii) *Within 24 hours of the start of construction activities, the panel storage area shall be surveyed for giant garter snakes by a qualified biologist, which shall be repeated no more than 24 hours prior to the re-start of construction activities if grading or construction activity lapses for a period of two weeks or more. If the survey reveals the presence of a giant garter snake construction of the panel storage area shall not commence until appropriate corrective measures have been completed and it has been determined, in consultation with the Fish and Wildlife Service, that the snake will not be harmed.*
 - (iii) *Between April 15 and September 30, all irrigation ditches, canals, or other aquatic habitat within the construction area shall be completely dewatered, with no ponded water remaining, for at least 15 consecutive days prior to the excavation or filling in of the dewatered habitat. The purpose of dewatering the aquatic habitat prior to filling is to compel giant garter snakes to leave the area on their own. A qualified biological monitor*

shall ensure that dewatered habitat does not continue to support giant garter snake prey, which could attract snakes into the area. Netting and salvage of prey may be necessary if a site cannot be completely dewatered.

- (iv) Clearing and grading shall be confined to the minimum area necessary to facilitate construction activities as determined by a qualified biologist. Habitat that will be avoided shall be cordoned off, clearly flagged, and designated as an "Environmentally Sensitive Area" by a qualified biologist.*
 - (v) All construction personnel shall receive worker environmental awareness training from a USFWS approved biologist prior to commencing any construction-related activities on the project site. This training shall instruct workers on how to identify the giant garter snake and its habitat, and what to do if a giant garter snake is encountered during construction activities.*
 - (vi) A USFWS-approved biological monitor shall be present during grading activities within 200 feet of aquatic giant garter snake habitat to ensure that construction activities do not encroach into unauthorized areas. If a live giant garter snake is found during construction activities, the biological monitor shall immediately notify USFWS and CDFG. The biological monitor shall have the authority to stop construction in the vicinity of the snake. The snake shall be monitored and given a chance to leave the area on its own. If the snake does not show signs of leaving, then the biological monitor shall slowly move toward the snake to flush it toward adjacent habitat away from the construction area. Potential escape routes for giant garter snakes shall be determined in advance of construction. If the garter snake does not leave on its own within 1 working day, the biological monitor shall consult with the USFWS and CDFG to determine necessary additional measures. Any giant garter snake mortality shall also be reported by the biological monitor within 1 working day to USFWS and CDFG. Any project-related activity that results in giant garter snake mortality shall cease so that this activity can be modified to the extent practicable to avoid future mortality.*
 - (vii) Upon completion of construction activities, construction debris shall be completely removed from the site. If this material is situated near existing giant garter snake aquatic habitat, it shall be inspected by a qualified biologist prior to removal to assure that giant garter snakes are not using it for hibernaculae or temporary refuge.*
 - (viii) No plastic, monofilament, jute, or similar erosion control matting that could entangle snakes shall be placed on a project site when working within 200 feet of snake aquatic or rice habitat. Possible substitutions include coconut coir matting, tactified hydroseeding compounds, or other material approved by USFWS and CDFG.*
57. **IV-6. American badger.** *Prior to issuance of a grading permit or land disturbance activities, a qualified biologist shall conduct pre-construction surveys for American badger in the pre-cast storage panel area two weeks prior to initiation of construction activities. If an American badger or active burrow, indicated by the presence of badger sign (i.e., burrow of suitable shape and size, scat) is found within the construction area during pre-construction surveys, the Department of Fish and Game shall be consulted to obtain permission for animal relocation. If the qualified biologist determines that potential dens are inactive, the biologist shall excavate these dens by hand with a shovel to prevent badgers from re-using them during construction. If the qualified biologist determines that potential dens may be active, the entrances of the dens shall be blocked with soil, sticks, and debris for three to five days to discourage use of these dens prior to project disturbance. The den entrances shall be blocked to an incrementally greater degree over the three to five day period. After the*

qualified biologist determines that badgers have stopped using active dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction.

58. ***IV-7. Burrowing Owl.*** *Prior to issuance of a grading permit or land disturbance activities, pre-construction surveys of all potential burrowing owl habitat shall be conducted by a qualified biologist within the project area. Presence or sign of burrowing owl and all potentially occupied burrows shall be recorded and monitored according to the California Department of Fish and Game and California Burrowing Owl Consortium guidelines. If burrowing owls are not detected by sign or direct observation, construction may proceed and no further mitigation is required.*

If potentially nesting burrowing owls are present during pre-construction surveys conducted between February 1 and August 31 grading shall not be allowed within 250 feet of any nest burrow during the nesting season (February 1 – August 31), unless approved by the California Department of Fish and Game.

If burrowing owl are detected during pre-construction surveys outside the nesting season (September 1 – January 31), passive relocation and monitoring shall be undertaken by a qualified biologist following the California Department of Fish and Game and California Burrowing Owl Consortium guidelines, which involve the placement of one-way exclusion doors on occupied and potentially occupied burrowing owl burrows. Owls shall be excluded from all suitable burrows within the project area and within a 250-foot buffer zone of the impact area. A minimum of one week shall be allowed to accomplish this task and allow for owls to acclimate to alternate burrows. These mitigation actions shall be carried out prior to the burrowing owl breeding season (February 1 - August 31) and the site shall be monitored weekly by a qualified biologist until construction begins to ensure that burrowing owls do not re-inhabit the site.

59. ***IV-8. Pallid Bat and Hoary Bat.*** *Prior to the removal of any on-site buildings and/or mature oak trees, the affected buildings and/or trees shall be surveyed by a qualified biologist to determine if special-status bats are roosting in them. A copy of the biologist's report shall be provided to the Planning and Public Works Department prior to demolition. No mitigation is required if no special-status bats are detected.*

If special-status bats are present, artificial roosts shall be constructed or purchased, and a qualified biologist shall determine where they shall be located, so as to minimize disturbance during construction or operation of the facilities so that the bats will not be disturbed

60. ***IV-9.*** *Prior to the land disturbance of any mature oak trees, a State of California-qualified arborist shall complete a study of the project area and submit the report to the Planning and Public Works Department for review. If the project requires the removal of any oak trees, the applicant will be required to provide: 1) a conservation easement and the planting and maintenance of an appropriate number of trees (3:1), or 2) contribute funds to the Oak Woodlands Conservation fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code.*

61. ***IV-10. Worker Environmental Awareness Program (WEAP).*** *In the event that a preconstruction biological survey reveals the presence of any of the listed or otherwise regulated species, a qualified biologist shall establish a WEAP to train all construction workers regarding the presence of any listed or otherwise regulated species, which shall be implemented prior to the initiation of any grading or other construction activities and shall remain in effect during all site disturbance activities (i.e., grading).*

62. V-1. The following mitigation measures shall be included in the construction documents to be used by the project contractor to the satisfaction of the Planning and Public Works Department:
- (a.) *The applicant/developer shall inform all construction personnel involved with excavation of the potential for exposing subsurface cultural resources and the anticipated procedures that will be followed upon the discovery or suspected discovery of archaeological materials, including Native American remains and their treatment. It is recommended that this be done in a formal meeting as well as in a “toolbox” meeting at the job site.*
 - (b.) *All project construction personnel shall be informed that collecting significant historical or unique archaeological resources discovered during development of the project is prohibited by the conditions of the project and by applicable laws and regulations.*
 - (c.) *If potential historical or unique archaeological resources are discovered during construction, all construction work shall be suspended in the immediate vicinity (within approximately 25 feet) to avoid altering the cultural materials and their context pending site investigation by a qualified archaeological or cultural resources consultant retained by the project applicant. Construction work shall not begin again until the archaeological or cultural resources consultant has been allowed to examine the cultural materials, assess their significance, and offer proposals for any additional exploratory measures deemed necessary for the further evaluation of, and/or mitigation of adverse impacts to, any potential historical resources or unique archaeological resources that have been exposed.*
 - (d.) *If the discovery is determined to be a historical or unique archaeological resource, and if avoidance of the resource is not possible, the archaeological or cultural resources consultant shall prepare a treatment plan acceptable to the County. The treatment plan shall be designed to result in the extraction of sufficient volumes of non-redundant archaeological data to address important regional research considerations. The work shall be performed by the archaeological or cultural resources consultant, and shall result in a detailed technical report that shall be filed with the California Historical Resources Information System, Northwest Information Center. Construction in the vicinity of the find shall not recommence until treatment has been completed.*
 - (e.) *If human remains are discovered, they shall be handled in accordance with state law including immediate notification of the Yolo County Medical Examiner/Coroner*
63. VII-1. *Prior to the commencement of operation, the applicant/operator shall submit for review and approved by the YCEH - Hazardous Materials Division a Business Emergency/Contingency Plan for emergency release or threatened release of hazardous materials and wastes or a letter of exemption.*
64. VII-2. *Prior to the commencement of operation, the applicant/operator shall be required to apply for one or more of the following: a Hazardous Materials Handler Permit, a Hazardous Waste Generator Permit, an Aboveground Storage Tank Permit, and/or an Underground Storage Tank Permit. For information, contact the YCEH - Hazardous Materials Division*
65. VIII-1. *The applicant/developer shall obtain an Industrial National Discharge Elimination System permit (NPDES), which pertains to operational discharges. Compliance with the Permit requires the project applicant to file a Notice of Intent (NOI) with the State Water*

Resources Control Board (SWRCB) and prepare a Storm Water Pollution Prevention Plan (SWPPP) prior to construction. The SWPPP would incorporate Best Management Practices (BMPs) in order to prevent, or reduce to the greatest extent feasible, adverse impacts to water quality from erosion and sedimentation: the SWPPP shall be provided for the review and approval of the Yolo County Planning and Public Works Department.

66. *VIII-2. All concrete waste and wash out shall be directed to a self-contained system which shall adequately contain and properly dispose or recycle the settling waste to the satisfaction of the Yolo County Planning and Public Works Department.*
67. *VIII-3. The applicant/operator shall submit for the review and approval of the Planning and Public Works Department, verification that all new construction is above the base flood elevation and that any grading will comply with the County's Flood Management Ordinance.*
68. *VIII-4. Grass or other vegetative cover will be established on the construction site after land disturbance. At a minimum, vegetative application will be completed by September 15 to allow plants to establish. No disturbed surfaces will be left without vegetation or the appropriate erosion control measures in place between October 15 and April 15.*
69. *XI-1. A qualified acoustical consultant shall develop a mitigation program to achieve exterior noise levels of 60 dB or less for the homes along County Road 18C between State Highway 113 and County Road 100B, which are identified above as having the potential for significant noise exposure. This program shall be subject to approval by the Planning and Public Works Director and shall be implemented by the Developer prior to the issuance of grading or building permits.*

FINDINGS

A. Introduction

The applicant for the West Biofuels, LLC project (the "Project") has applied to the County of Yolo to commence research, development, and demonstration program facility, in association with the University of California, San Diego; University of California, Davis; California Energy Commission; private investors; and other sources, to develop technologies to use agricultural residue, shredded wood, urban green waste, and other bio-waste to create alternative fuel sources on a 21 acre site in unincorporated Yolo County previously developed as an agricultural production site with an agricultural commodity storage and transfer facility. The Project includes requests for the following land use entitlements:

B. Findings Regarding Compliance with the California Environmental Quality Act (CEQA) and Guidelines

The County has complied with the California Environmental Quality Act (CEQA) by preparing an Initial Study/Mitigated Negative Declaration (MND) for the Project, in accordance with Section 21080 of the Public Resources Code. The MND was submitted to the State Clearinghouse for a 30-day public review period on July 15, 2008. The Planning Commission hereby accepts and adopts the determinations described in the MND based on an assessment of all viewpoints concerning the environmental impacts identified and analyzed in the MND, including all testimony and written comments received up to the date of adoption of these Findings. Public hearings were held before the Planning Commission on August 14, 2008.

After considering all of the written materials and testimony received during the public review process and public hearings on the Project in light of the whole record and with a preference in favor of protecting the environment, the Planning Commission finds that the record did not contain substantial evidence to support a fair argument that the Project had the potential to cause a significant effect on the environment. The Planning Commission reaches this conclusion based upon the reasoned analysis contained in the initial study prepared for the Project, along with the technical studies, reports and analysis prepared to support the conclusions reached therein. The initial study showed that there were no significant environmental effects associated with the Project that had not been mitigated to a level of less than significant.

C. Conditional Use Permit

CONDITIONAL USE PERMIT

In approving the Conditional Use Permit for the Project, the Planning Commission considers the factors set forth in 28 (Use Permits), as well as the applicable provisions of Articles 24 (General Provisions), and 25 (Off-Street Parking and Loading) of Chapter 8 (Zoning) of Title 8 (Land Development and Zoning) of the Yolo County Code. In granting the Conditional (Minor) Use Permit for the Project, the Planning Commission finds, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the structures and uses are located, and the General Plan, that the general conditions specified in Section 8-2.2804 are fulfilled, as described in detail below.

- a) The requested land use is listed as a conditional use in the zoning regulations.

The research, development, and demonstration program facility is listed as principal permitted uses in the Agricultural General Zone (A-1). The proposed use is a permitted uses, as listed in the A-1 Zone "agricultural research."

- b) The requested use is essential or desirable to the public comfort and convenience.

The research, development, and demonstration program facility contribute to the expansion of the local and regional economy. The use will generate 10 jobs and substantial direct and indirect fiscal benefits to Yolo County.

- c) The requested land use will not impair the integrity or character of a neighborhood or be detrimental to public health, safety or general welfare.

The applicant will have to comply with the Conditions of Approval of the Conditional Use Permit, which require adequate landscaping, shielding of buildings and machinery, and agricultural buffers to prevent impacts to the aesthetics, agricultural resources, air quality, and biological resources from the proposed The research, development, and demonstration program activities.

- d) The requested use will be in conformity with the General Plan.

The proposed project will provide for agricultural industrial growth in the County to provide employment, services, and tax base while minimizing hazards and nuisances and while conserving resources and agricultural lands. In all respects the Project, including the conditional use permit, is consistent with the General Plan.

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

All necessary infrastructure and utilities will be required of the proposed project. An existing domestic water well and septic system will serve the project site. County Road 100B will receive minor improvements and the applicant will participate in a cost sharing program with annual maintenance inspections.

- f) Sufficient off-street parking and loading facilities will be provided.

Sufficient off-street parking and loading spaces are provided on-site to meet the needs of, delivery vehicles, employees, and operational vehicles associated with the operation. All parking areas will be, graded and drained in accordance with Section 8-2.2513 of the Zoning Code. The parking and loading areas will be arranged so as to provide for safe and orderly loading, unloading, parking and storage. Lighting of the parking and loading areas will be provided in accordance with Section 8-2.2514 of the Zoning Code.

- 7.4 **2006-090:** Adoption of the proposed Downtown Mixed Use (DMX) zoning district as an amendment to the Yolo County Code and rezoning of properties in downtown Esparto along Yolo Avenue and Woodland Avenue from C-2 (Community Commercial) to DMX. (APN: numerous). A Mitigated Negative Declaration has been prepared for this project. Owner/Applicant: Yolo County (E. Parfrey)

Eric Parfrey, Principal Planner, gave the staff report, and answered questions from the Commission. He said the final action notification will be done in September or October 2008.

Chair Bertolero opened the public hearing.

Elizabeth Campbell, Executive Director of the Esparto Regional Chamber of Commerce, read a letter that she had written regarding mixed use and their support to use language in the DMX ordinance such as “we encourage these uses” or “we recommend these uses” instead of “requiring the uses”. She stated that they are currently working with Wes Ervin in the Economic Development Department to create incentives for business owners. She also expressed concern regarding the safety of small children on State Highway 16.

James Durst, president of New Season Community Development Corporation, presented the commission with a letter regarding several concerns. He took the opportunity to share these concerns with the commission, saying that the ordinance as written is inappropriate for their community at this time.

Seth Merewitz, on behalf of John Deterding, distributed a letter to the commission and shared some concerns. He asked that the project be deferred until the items have been thought out, to clearly identify the goals and not restrict economic development.

Giacomo Moris, a member of the Esparto Citizen’s Advisory Committee, distributed a handout to the commission. A map of the town was distributed showing how much land has already been approved for residential area. He said he is concerned about allowing more single-family detached homes.

John Hulsman, Jr., also a member of the Esparto Citizen’s Advisory Committee, commented on zoning, economic incentives, rights, and conditions. He stated that he is also concerned about the

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advisory committee losing the opportunity to comment on projects, because the DMX ordinance will permit it by right.

Sue Heitman, Capay Valley resident, clarified the SACOG process of the Dan Burton walkable communities. She said she is not sure if this plan is the vision of Dan Burden, or the community.

Commissioner Burton asked Sue Heitman questions about Capay Valley Vision, and their role and position on the DMX. He also asked about the square footage of some buildings in Esparto.

David Morrison provided more background on the issue, the Dan Burton walkable community plan, and explained the ordinance. He commented on the Commission and public discussion, and the differences in the vision outlined by the community and the vision outlined by the business development community. He asked that, as the Commission moves through its discussion, if there are any points of agreement between Commission members that they can get a vote of intent on, that it would be helpful for staff in coming back and making the redrafts to bring back a final ordinance at the next meeting.

Mark Kraber, a representative of John Deterding, pointed out that this DMX zone only targets a small area, not the entire town, nor the length of Yolo Avenue, or anything below that.

Chair Bertolero closed the public hearing.

Chair Bertolero commented on the DMX having been brought to the Planning Commission before and how now it has been narrowed down to just a few issues that need to be resolved. There are five issues that need to be looked at. Density was one issue. Chair Bertolero felt that the area needed to be dense,

Commissioner Liu had the inclination to lean towards the ten units per acre, and stay with not allowing the single-family homes, but she was open to further discussion.

Commissioner Peart supported continuing not allowing detached residence at any density, just as it is written.

Commissioner Burton said he has given a lot of thought to this community and has repeatedly voiced concern about low-cost housing, but he is not sure that this is where it belongs. The idea is to revitalize the community and business developments. He doesn't want to allow detached homes at all.

Vice-Chair Winters agreed with his fellow Commissioners that having detached homes in that area would not be appropriate. The way it is stated in the ordinance would be appropriate. He would be supportive of work force housing in the higher density area.

Commissioner Merwin stated that he does not think it is appropriate to have single-family homes in that area. Higher density apartments, or workforce housing in a commercial zone downtown is not appropriate.

Chair Bertolero reviewed the second item in question. The current language is to "require" it, but the discussion is to use the word "encourage" instead.

Eric Parfrey clarified that this item only applies to the vacant 25 acres north of Woodland Avenue.

Commissioner Burton liked the idea of "requiring" mixed use in the area, however, the fact that

every business individual in the community that he respects came out against this, including the Economic Development Manager had him rethink his opinion. He felt that they should go more towards the requirement of “encouraging” or even removing the mixed use statement all together when it comes to a building by building specific approach and limiting the floor space.

Commissioner Merwin agreed with Commissioner Burton’s consensus.

Eric Parfrey clarified the direction that the commission was giving to staff regarding the vacant 25 acres north of Woodland Avenue. He verified that staff should delete the requirement for a mix of uses when those vacant lands develop and they would change the requirement to say “encourage”.

Further clarification was discussed regarding the Commission’s direction on limiting the size on buildings and use on individual parcels. An overall consensus was not reached regarding the mixed use issue, however, the language of “encourage” was recommended.

Chair Bertolero asked the Commission their views on the next issue on page four, the second paragraph.

Eric Parfrey mentioned that because of the Commission’s prior consensus that staff would have to go back and revise the paragraph.

Commissioner Burton said he would like to see the paragraph revised, not eliminated, and that it be revisited at a later time.

Chair Bertolero asked David Morrison whether or not the new County design guidelines in the General Plan would have precedence of the Esparto general plan.

David responded that as they go through the General Plan process in this next year, they will have to go back and make sure everything is consistent with the new adopted General Plan policies.

Philip Pogledich, Senior Deputy County Counsel, said that if Esparto comes up with its own design guidelines, the Board of Supervisors can allow those to take precedence over the countywide design guidelines. The Board of Supervisors has the authority to say that if a community adopts its own it would apply in that community. Therefore, the decision on that is up to the Board of Supervisors.

Chair Bertolero asked if some of that language be adopted into section G to cover the bases.

David Morrison agreed, and suggested that the Commission may want to appoint a sub-committee to work on this before it comes back to the Commission next month.

Chair Bertolero moved forward to the next item pertaining to retaining section 8-2.1216. Some Advisory Committee members have recommended that this paragraph should be deleted. He asked for the Commissioners to share their views.

Eric Parfrey said that staff is recommending allowing uses beyond 25,000 square feet up to 35,000 square feet, with provisions that it is multiple lines of merchandise. Therefore, it would be a modification of what Wes Ervin recommends.

Commissioner Burton agreed with that as long as it doesn’t go past 35, 000 square feet.

Commissioner Liu also supported the amendment that will allow uses up to 35,000 square feet and will accommodate growing needs in the future.

Chair Bertolero read the next item to be discussed, which involved continuing to allow lodging up to 16 guest rooms by right, with a larger number of rooms requiring a Conditional Use Permit.

David Morrison informed the commission that staff was contacted by a person who is interested in developing a 60-unit hotel complex in the north part of Esparto. Under the C-2 zone that is currently in place, the project would be allowed by right. He believes that the Advisory Committee would like to have input on this rather than allowed by right. No application has been submitted on this project as it was just an inquiry.

The Commission supported the community's request.

Commissioner Burton and Commissioner Liu volunteered to form a sub-committee to further discuss unresolved issues, and will get back to staff on their recommendations.

The matter will be continued to the next regularly scheduled meeting of the Planning Commission for final recommendations to the Board of Supervisors.

7.5 **ZF 2008-034:** Road Abandonment of a 40-foot wide strip of land contained solely on one parcel. The project site is located at 22322 County Road 23 (APN: 047-060-19). The right-of-way was originally conveyed to the County in 1888 for use as a public road; however, the deeded roadway was never constructed and no road currently exists on the property. Owner/Applicant: Van Vuren-Scott (S. Berg)

Stephanie Berg, Associate Planner, gave the staff report and answered questions from the commission.

Chair Bertolero opened and closed the public hearing. No one from the public came forward.

The commission supported the road abandonment.

Commission Action

Recommended that the Board of Supervisors:

1. **HOLD** a public hearing and receive comments;
2. **DETERMINE** that the project is exempt under the California Environmental Quality act (CEQA) and Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines (**Attachment C**);
3. **ADOPT** the Findings (**Attachment D**) and Conditions of Approval (**Attachment E**); and
4. **APPROVE** the request for a road right-of-way abandonment of a 40-foot strip of land deeded to the county for roadway dedication.

MOTION: Burton SECOND: Merwin

AYES: Bertolero, Burton, Liu, Merwin, Peart, and Winters

NOES: None
ABSTAIN: None
ABSENT: Kimball

CONDITIONS OF APPROVAL

1. The applicant shall comply with all requirements of agencies of jurisdiction.
2. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval contained herein.
3. The applicant shall submit a revised road abandonment map to the Planning and Public Works Department for review and approval. Said map shall be approved by the Director of Planning and Public Works and recorded in the Office of the County Recorder upon approval by the Yolo County Board of Supervisors.
4. In accordance with Section 8-2.2415 of the Yolo County Code, the applicant shall agree to indemnify, defend, and hold harmless the county or its agents, officers and employees from any claim, action, or proceeding (including damage, attorney fees, and court cost awards) against the county or its agents, officers, or employees to attach, set aside, void, or annul an approval of the county, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations.

The county shall promptly notify the applicant of any claim, action or proceeding and that the county cooperates fully in the defense. If the county fails to promptly notify the applicant of any claim, action, or proceeding, or if the county fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the county harmless as to that action.

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

5. Failure to comply with the **CONDITIONS OF APPROVAL** as approved by the Planning Commission may result in the following actions:
 - **legal action;**
 - **non-issuance of future building permits.**

FINDINGS

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2008-034, the Yolo County Planning Commission recommends that the Board of Supervisors find the following:

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

California Environmental Quality Act (CEQA) and Guidelines

That the recommended Notice of Exemption was prepared in accordance with the California Environmental Quality Act (CEQA) and Guidelines, and is the appropriate environmental level of review for this project.

The notice of exemption for the project, prepared pursuant to Section 15060(c)(2) of the CEQA Guidelines, provides the necessary proportionate level of environmental review for the proposed project. The environmental review process has concluded that the project is exempt from CEQA, as the project will not result in a direct or reasonable foreseeable indirect physical change in the environment.

General Plan

That the proposal is consistent with the Yolo County General Plan as follows:

Circulation Policy CIR-19 Rights-of-Way: "Yolo County shall require public rights-of-way to all properties."

The dedicated 40-foot strip of land does not serve as a public right-of-way for any adjoining property, including the subject parcel. A roadway has never been constructed for public use or was abandoned long ago.

Streets and Highways Code

That the proposal is consistent with Section 8321 of the Streets and Highways Code.

The road vacation petition is consistent with Section 8321(a,) which prescribes that ten or more freeholders may petition the Board of Supervisors to vacate a street or highway under this chapter. At least two of the petitioners shall be residents of the road district in which some part of the street or highway proposed to be vacated is situated.

That the proposal is consistent with Section 8324 of the Streets and Highways Code.

The 40-foot dedicated strip of land that runs in a generally east-west direction is not a constructed public right-of-way and does not serve as a public access road. The county has no plans to construct this right-of-way for future public use.

Section 8324 of the Streets and Highways Code states, "If the legislative body finds, from all the evidence submitted, that the street, highway, or public service easement described in the notice of hearing or petition is unnecessary for present or prospective public use, the legislative body may adopt a resolution vacating the street, highway, or public service easement. The resolution of vacation may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied."

- 7.6 **ZF 2008-036:** Zone Boundary Adjustment to rezone a 4.0-acre parcel from the Agricultural General (A-1) zone to the Agricultural Preserve (A-P) zone (APN: 048-130-23) to provide consistency with the Orciuoli mitigation project. The four-acre parcel was recently merged with A-P zoned lands to implement a lot line adjustment and Williamson Act successor amendment that resulted in two parcels, one of 60.60 acres and one of 54.30 acres, and divided an existing Williamson Act contract. Owner/Applicant: Castle/Boatwright (S. Berg)

Stephanie Berg, Associate Planner, gave the staff report, and answered questions from the commission.

Chair Bertolero opened and closed the public hearing. No one from the public came forward.

Commissioner Liu supported the project, and said she thinks it is appropriate to extend the easement.

Commissioner Merwin concurred with Commissioner Liu.

Vice-Chair Winters agreed with his fellow commissioners.

Commissioner Burton supported the project.

Commissioner Peart concurred with the commission.

Commission Action

Recommended that the Board of Supervisors:

1. **HOLD** a public hearing and receive comments;
2. **DETERMINE** that a Categorical Exemption is the appropriate level of environmental documentation in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **ADOPT** the Findings (**Attachment D**); and
4. **ADOPT** an Ordinance approving the Zone Boundary Adjustment (**Attachment E**).

MOTION: Merwin SECOND: Winters
AYES: Bertolero, Burton, Liu, Merwin, Peart, and Winters
NOES: None
ABSTAIN: None
ABSENT: Kimball

FINDINGS

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2008-036, the Yolo County Planning Commission recommends that the Board of Supervisors find the following:

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

California Environmental Quality Act (CEQA) Guidelines

That the recommended Class 5 and Class 17 Categorical Exemptions are the appropriate levels of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines.

Pursuant to CEQA Section 15305, Class 5 (Lot Line Adjustments), and Section 15317, Class 17 (Open Space Contracts or Easements), the project is categorically exempt from further environmental review. Class 5 includes minor lot line adjustments not resulting in the creation of any new parcels. Class 17 covers the establishment of agricultural preserves and the making and renewing of open space contracts under the Williamson Act.

General Plan

That the project is consistent with the Yolo County General Plan and policies in the Agricultural Element in that it continues to conserve and preserve agricultural lands, especially areas currently farmed.

The proposed Zone Boundary Adjustment will bring an additional four acres of land under Williamson Act contract for the conservation and preservation of agricultural lands.

Zoning Code

That the purpose of the Agricultural Preserve Zone (A-P), Section 8-2.401 of the Yolo County Code, shall be to preserve land best suited for agricultural use from the encroachment of nonagricultural uses. The A-P Zone is intended to be used to establish agricultural preserves in accordance with the California Land Conservation Act of 1965, as amended. Uses approved on contracted land shall be consistent and compatible with the provisions of the Act.

The four-acre parcel (APN: 048-130-23) was recently merged with approximately 111 acres through a lot line adjustment that resulted in two remaining parcels – one of 60.60 acres and one of 54.30 acres. The resulting two parcels currently meet and will continue to meet all the requirements of the A-P zone with regard to land use in the zoning requirements of the Yolo County Code (Section 8-2.402) and the amended Williamson Act Contract (Section 8-2.408).

REGULAR AGENDA

8. DISCUSSION ITEMS

8.1 None.

9. DIRECTOR'S REPORT

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

David Morrison, Assistant Director of Planning, brought the commission up to date on the following:

A. Board of Supervisors Approvals:

- The Board of Supervisors approved the amendments to the accessory structures ordinance portion of the zoning code.

B. 2008-09 Budget:

- The PPW Development Services Division will be holding three of its 20 positions vacant for budgetary cost savings. The Code Enforcement Officer position and the receptionist position will not be filled until next July. The vacant Principal Planning position will not be filled for at least another month or two for budget considerations.
 - The Planning and Public Works Department will be shut down between Christmas and New Years; a majority of PPW staff are taking a voluntary furlough (extra time off without pay) the last two weeks of the year.
- C. Permit Streamlining: The Planning staff has been working with the economic development manager, Wes Ervin, on permit streamlining issues. They hope to have something to recommend to the Board of Supervisors by the end of this year to help continue the work they have been doing much of this past year.
- D. Delta Information: There is a lot of activity going on right now with the Delta, both with the Planning Department, and the Parks and Resources Department, along with County Counsel's Office. The Delta Vision process is a whole new way of looking at the Delta, and establishing additional governances, similar to coastal commissions; while that is happening there is the peripheral canal issue, and the Bay Delta Conservation Plan. The Delta Protection Commission is updating their Land Use and Resource Management Plan.
- E. Second Annual Advisory Committee Summit: The summit meeting of advisory committees and Planning Commission in June was a success.
- F. General Plan Update Schedule: On September 16, 2008, the Planning Commission will come together for a joint meeting with the Board of Supervisors to review the Draft General Plan.

10. COMMISSION REPORTS

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

- A. Commissioner Peart said he attended a meeting in Dunnigan regarding the Dunnigan prison.
- B. Commissioner Burton: No report.
- C. Vice-Chair Winters reported that he attended a field trip to R.H. Phillips and the Crewe winery, and visited some beautiful olive groves in the county.
- D. Commissioner Merwin stated that he attended two Farm Bureau meetings; the main topic of discussion was the proposed groundwater monitoring ordinance.
- E. Commissioner Liu reported that in July she attended the groundbreaking ceremony for the Clark Pacific plant, as well as a retirement party for former Mayor Dave Flory, held at the Gibson House in Woodland.

- F. Chair Bertolero stated that last month he attended two community meetings in Dunnigan (June 18, 2008 and July 7, 2008), and on June 19, 2008 and July 10, 2008, he attended meetings in Clarksburg. He said he also attended the Clark Pacific groundbreaking ceremony and tour, the prison meeting at the Zamora Firehouse, and the Capay Open Space Park ribbon cutting ceremony.

11. 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.

- A. Release of Knights Landing Boatyard RV Park bond.
- B. Adoption of the proposed Downtown Mixed Use (DMX) zoning.
- C. Tour of Cache Creek Preserve.

12. ADJOURNMENT

The Regular Meeting of the Yolo County Planning Commission was adjourned at 12:08 p.m.. The next scheduled meeting of the Yolo County Planning Commission is September 16, 2008, which is a joint meeting with the Board of Supervisors regarding the update of the County General Plan.

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

Respectfully submitted by,

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