



# 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

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### MINUTES

October 9, 2008

#### ADMINISTRATIVE AGENDA

1. Chair Bertolero called the meeting to order at 8:36 a.m.
2. Pledge of Allegiance was led by Commissioner Liu.

MEMBERS PRESENT: Bertolero Burton, Kimball, Liu, and Peart  
MEMBERS ABSENT: Winters and Merwin  
STAFF PRESENT: David Morrison, Assistant Director of Planning  
Philip Poglelich, 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

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3. ADOPTION OF MINUTES OF THE **August 14, 2008** MEETING.

#### Commission Action

The Minutes of the **August 14, 2008** meeting were approved with the following corrections:

Item 7.1. **2007-049 and 2007-050: CHANGE** comment to read as follows:

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

Item 7.2 Tentative Parcel Map: CHANGE Commission Action to read as follows:

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

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

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4. PUBLIC REQUESTS

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

No one from the public came forward.

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5. CORRESPONDENCE

5.1 None.

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

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CONSENT AGENDA

6.1 None.

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TIME SET AGENDA

7.1 **2008-016:** Tentative Parcel Map application for the subdivision of a 13-acre industrial parcel into four parcels of approximately 3+ acres each, in the Heavy Industrial/Planned Development (M-2/P-D) zone. The project is located at 52360 Willow Point Road, in the town of Clarksburg (APN: 043-240-05). A Negative Declaration has been prepared for this project. Owner/Applicant: Gordon and Sylvie Jensen (J. Anderson)

Jeffrey Anderson, Assistant Planner, gave the staff report, and answered questions from the commission, and advised that the Agricultural Commissioner was also present to answer questions. A handout was distributed regarding neighboring comments and a letter from neighbor Mary McTaggart.

Commissioner Burton asked Jeffrey Anderson questions about prior zoning on the property.

Commissioner Kimball requested information regarding agency comments found in the staff report regarding violations and the meaning of a “commercial coach.”

Jeffrey Anderson explained that Mr. Jensen has made a good faith effort to work with the Chief Building Official to resolve code violations on this property

Chair Bertolero asked for further clarification on the starting point on the agricultural buffer.

Chair Bertolero opened the public hearing.

Chair Bertolero requested that the applicant, Mr. Jensen come forward and share a little more information on the project.

Gordon Jensen, applicant, explained his future intentions for the property and that he has no need for that much property personally.

Commissioner Kimball asked the applicant what his overall goal was in regards to this split.

Gordon Jensen stated that he intends to retain ownership of lot 3 and sell the other parcels.

Chair Bertolero closed the public hearing.

Commissioner Liu recommended that the project move forward as the parcel is not prime agricultural land.

Commissioner Burton said that he mostly agrees with the staff report, although he did have questions on the agricultural mitigation waiver.

Commissioner Kimball said she agrees with Commissioner Burton, and has some concerns with the traffic similar to those expressed in the letter from Mary McTaggart. Overall, she supports approval.

Commissioner Peart concurred with his fellow Commissioners and feels that this property should be industrial and splitting it up would provide an opportunity to increase industry.

Chair Bertolero said that the buffer is a big issue for him and commented on the agricultural mitigation fee. He said that this property has not been agricultural for years, but he is not sure if the fee should have been waived. He mentioned that he had spoken to the Clarksburg citizen advisory committee regarding this project and they mostly voted in favor of it.

### **Commission Action**

Recommended that the Board of Supervisors:

1. **HOLD** a public hearing and receive comments;
2. **ADOPT** the Initial Study/Negative Declaration, with the Errata, prepared for the proposed project in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **ADOPT** the proposed Findings (**Attachment D**) for the project;

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4. **APPROVE** the Tentative Parcel Map (TPM #4927) (**Attachment B**) in accordance with the Conditions of Approval (**Attachment E**); and
5. **ADOPT** the Ordinance rezoning the property from Heavy Industrial Planned Development (M-2 PD) to Heavy Industrial Planned Development No. 64 (M-2 PD-64) (**Attachment F**).

MOTION: [Kimball](#) SECOND: [Liu](#)  
AYES: [Bertolero, Burton, and Peart](#)  
NOES: None  
ABSTAIN: None  
ABSENT: [Winters and Merwin](#)

**CONDITIONS OF APPROVAL**

**General**

1. The applicant shall be responsible for all costs associated with implementing the Conditions of approval as approved by the Board of Supervisors.
2. The Parcel Map for the project shall be filed and recorded at the applicant's expense with the Yolo county Planning and Public Works Department. The Parcel Map shall be recorded within two years from the date of approval by the Board of Supervisors or the Tentative Parcel Map shall become null and void without any further action in accordance with the state Subdivision Map Act.
3. The applicant and all future landowners of the parcels created by Parcel Map #4927 shall adhere to the requirements and regulations set forth in the Ordinance (PD-64) approved concurrently with the Tentative Parcel Map.

**Planning Division 530-666-8808**

4. The applicant shall pay fees in the amount of \$1,926.75 (\$1,876.75 for state filing fee plus \$50 county processing fee), 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.
5. The Parcel Map submitted for recordation shall have the Parcel Map Number (PM #4927) indelibly printed on it. Said PM #4927 shall be prepared with the basis of bearings being the State Plane Coordinate System, North American Datum (NAD 83) pursuant to Article 9, Section 8-1.902(f) of the Yolo County Code.
6. 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 proposed Parcel 1 and Parcel 4, a total of 6.74 acres. The fee is currently set at \$8,660 per acre and shall be collected for 6.74 acres (\$58,368.40 total) prior to the recording of the Final Map.
7. The owner shall maintain a buffer setback of 300 feet along the southern boundary of the project site unless the adjacent property owner agrees in writing that the 300-foot buffer is not needed. In such case, the buffer may be reduced to no less than 100 feet. The buffer

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area may be used for the parking of vehicles and equipment. In addition, unoccupied (i.e. storage) buildings may be constructed within the buffer area.

8. Landscaping shall be installed along the length of the southern boundary of Parcel 4. This required landscaped area shall be permanently maintained in a manner that preserves plant health and that is otherwise consistent with the design at the time of completion. A landscape plan shall be submitted to and approved by the Planning and Public Works Department prior to the recording of the Final Map. Required landscaping shall be installed within one (1) year of approval of the Final Map.
9. The applicant shall submit a sign plan to the Planning and Public Works Department prior to the installation of a monument sign. Only signs allowed per the PD-64 Ordinance shall be permitted.
10. Any development on the new parcels will require the following permits and approvals from the Regional Water Board:
  - a. Coverage under the State Water Board's NPDES General Permit for discharges of storm water associated with construction activity; and
  - b. Coverage under the State Water Board's NPDES General Permit for discharges of storm water associated with industrial activities.
11. Prior to the issuance of building permits, there shall be a formal (written) consultation with Regional Water Board staff to determine whether a septic system permitted by Yolo County is appropriate for the specific industrial facility to be constructed.
12. Depending on case-specific circumstances, it may be appropriate for the wastewater disposal systems to be regulated by the Regional Water Board under Waste Discharge Requirements (WDRs).

### **Building Division 530-666-8775**

13. There is an outstanding Code Enforcement Case on the property for two commercial coaches that were installed without approval and permits. Applicant shall obtain approvals and permits for the trailers or remove them before Final Map approval.
14. 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.

### **Public Works Division 530-666-8811**

15. Prior to Final Map approval, provide engineered improvement plans for a turn-pocket on east-bound Willow Point Road to ensure there is a safe access to the four industrial parcels, including trucks. Any additional right-of-way required for this work to be obtained by the applicant. Plans shall be signed and sealed by a professional civil engineer in the State of California, and reviewed and approved by the County Engineer.
16. Prior to Final Map approval, provide engineered improvement plans for extending the existing twenty-five foot wide paved private access road that meets County Standards, including a cul-de-sac (turning) bulb at the northern terminus to allow for turning of emergency vehicles and trucks. Include replacement of the existing corrugated metal culvert at the current driveway with reinforced concrete pipe. Plans shall be signed and sealed by a professional civil engineer in the State of California, and reviewed and approved

by the County Engineer.

17. Prior to Final Map approval, provide an improvement bond and enter into an Improvement Agreement to ensure all improvements are completed within one (1) year of map approval. Submit an engineer's cost estimate for all improvements required by conditions of approval using public agency unit prices, adding ten percent contingency, plus twenty percent county administrative cost allowance.
18. Prior to Final Map approval, provide an engineered drainage plan for review and approval by the County Engineer. The drainage plan must be prepared in accordance with the County Standards and be signed and sealed by a professional civil engineer in the State of California. The plan must demonstrate how storm water flows from the site will be conveyed through the proposed parcels, and how post-development drainage to the public right-of-way will be managed so as not to exceed pre-development flows. Dedicate the storm water easements necessary to provide for drainage from all parcels. A maintenance agreement shall be recorded for each storm water easement.
19. Prior to Final Map approval, provide a copy of the private road maintenance easement to be recorded concurrently with map, for county review.

**Environment Health Department 530-666-8646**

20. Prior to the issuance of any building permits, well and septic system designs shall be approved by the Environmental Health Department.
21. Prior to Final Map approval, the precise location, not just approximate locations, of existing septic systems must be disclosed. Existing and future septic systems must meet current setback distances to any proposed property lines. Relocation of existing septic system(s) will be required where setback distances are not met.
22. Proposed parcel maps must show adequate approvable area(s) where the sewage disposal system and replacement sewage disposal systems can be located. This area must meet Yolo County Ordinance 765 setback requirements to structures, drainage courses, property lines and nearby wells. The sewage disposal areas cannot be under areas that will be paved.
23. The septic system is approved for domestic sewage only. Liquid wastes from industrial operations, mechanic shops, and similar operations which may use hazardous chemicals or create designated waste must not be disposed of into a septic system. Plumbing waste lines from such operations must 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.
24. Industrial users will need 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-ft<sup>3</sup>) of a hazardous material at this site. An HMBP is also required if they generate hazardous waste, operate underground or aboveground hazardous materials or waste tanks, or are subject to RMP requirements.

25. 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.

26. Failure to comply with the **CONDITIONS OF APPROVAL** as approved by the Board of Supervisors may result in the following actions:
- **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 #2008-016, the Board of Supervisors approves the proposed Tentative Parcel Map #4927. In support of this decision, the Board of Supervisors makes the following findings:  
*(A summary of the evidence to support each FINDING is shown in Italics.)*

### **California Environmental Quality Act**

1. 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**

2. 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 Industrial in the Yolo County General Plan and as Master Plan in the Clarksburg General Plan. As conditioned, the Tentative Parcel Map is consistent with the policies, goals and objectives of the County General Plan.*

### Zoning Code

3. That the proposed Tentative Parcel Map is consistent with the applicable zoning standards. [Article 18 of the County Zoning Ordinance].

*The proposed project will result in the creation of four parcels of approximately 3+ acres each. The subject property is zoned Heavy Industrial Planned Development (M-2 PD), which uses an underlying zoning of Heavy Industrial. The concurrently approved planned Development Ordinance (PD-64) restricts the types of heavy industrial uses allowed on the four new parcels (**Attachment F**). There are no minimum lot area requirements, except in all instances there shall be provided on the site adequate space to accommodate all required off-street parking and loading necessitated by the proposed use. The Tentative Parcel Map meets the access and general requirements of the Yolo County Code.*

### Subdivision Map Act

4. 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 Industrial in the Yolo County General Plan and Master Plan in the Clarksburg General Plan. The creation of four industrial parcels of 3+ acres each is consistent with policies of both general plans. Land Use Policy 43 of the Yolo County General Plan states that in areas designated for industry and commerce, Yolo County shall encourage the initiation and growth of appropriate industry and commerce.*

- 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 industrial use based on designations in the County General Plan and Clarksburg 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 1982 Clarksburg General Plan designated the project site as Industrial and rezoned the site to Heavy industrial (M-2). The site has been leveled and used for industrial purposes. The proposed Parcel 2 and Parcel 3 are developed with structures associated with industrial operations. The proposed Parcels 1 and 4 have been used for the storage of industrial equipment.*

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

*The Yolo County General Plan allows and encourages industrial growth in areas already*



*designated for industry. The Tentative Parcel Map, as conditioned, complies with the Yolo County Code and Improvement Standards adopted by the County, to ensure that the site is physically suitable for the proposed density of development.*

- 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 applicant will be responsible for payment of mitigation for loss of Swainson's Hawk habitat on the two parcels that do not contain permanent structures (Parcel 1 and Parcel 4). The proposed creation of four 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 southern parcel (Parcel 4) will come directly from Willow Point Road. Access to the remaining three parcels will be granted through a road access easement. The applicant will record a Private Road Maintenance Agreement, which will also serve as the Private Vehicular Access Easement (PVAE).*

*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 three acres in size, providing opportunities for future development to incorporate passive or natural heating and cooling features.*

- 7.2 **99-087:** Requested release of a compliance bond for the Boatyard RV Park in the Multiple-Family residential (R-3) zone. The project is located at 42100 4th Street in the town of Knights Landing. A Categorical Exemption has been prepared for this project. (APN: 056-282-12 & -13). Owner/Applicant: Bole (C. Baracco)

Craig Baracco, Associate Planner, gave the staff report, and answered questions from the commission.

Commissioner Liu asked questions regarding the removal of the stairs, and whether or not residents will have access to the dock.

Craig Baracco responded that the dock is not owned by the RV park, so they are not required to allow access to the dock, however the dock is still accessible, just not directly from the park.

Commissioner Liu asked if staff recommended the release of the bond, and if so, when would the other work be completed.

Craig Baracco answered that staff does recommend the release of the bond. He stated that the other work would require an encroachment permit and that if the Planning Commission would like to impose a reasonable time limit for work completion they may.

Philip Pogledich, Senior Deputy County Counsel, clarified the staff's request for the release of the bond upon the applicant's written agreement to complete the work.

Commissioner Liu expressed concerns about health and safety based on information contained in the staff report. She asked when and what the most recent complaint was.

Craig Baracco stated that there was a complaint about a sub-standard bathroom at the site.

Commissioner Peart shared his recollection of the past complaints from the park regarding water pressure and propane tanks. He stated that he is happy to see that many issues have been resolved.

Commissioner Burton expressed concerns regarding the applicants history of non-compliance, and two, that staff would release the only thing that seems to encourage the applicant to be compliant.

Commissioner Kimball echoed Commissioner Burrton's concerns.

Chair Bertolero opened the public hearing.

Spencer Bole, applicant, came forward to share some of the history regarding ownership of the RV park. He said that, he and his wife are current owners and that it was previously owned by his father in law. The reason that they are requesting the release of the bond is because probate cannot be completed until the bond is released, as this bond is considered an asset and it must be liquidated. He answered questions about the probate from Commissioner Burton. He also provided information from the October 12, 2000 staff report written by Lance Lowe. The conditions listed for completion were contained in the report, and the items that were not completed were clearly indicated. Based on this staff report, the applicants feel that they are in compliance with the conditions that were imposed at that time. Further clarification on the compliance of the curb, sidewalk and gutter was discussed in regards to location and the applicants understanding of its completion.

Donald Allen, Vice-Chair of the Knights Landing citizen's advisory committee, and neighbor of the RV park, came forth to share his feelings about releasing the bond with the Planning Commission. He stated that the applicants have been totally irresponsible in how they have maintained the park; mentioning a previous incident over a fire lane. He shared a picture, with two commercial dumpsters in front of the fire gate. He also stated that within 20 feet of the dumpster there is a trailer that is occupied, and the door opens right out to the dumpster and he feels that this may be a health consideration.

Wayne Green, Chair of the Knights Landing service district, spoke to the Planning Commission about complaints that he had received from residents of the RV park in regards to contaminated drinking water, electrical issues. He said the Boles do not want to work with the service district and they get complaints every month.

Spencer Boles responded to the comments from Wayne Green and Donald Allen. He said he has known Don for many years and has found him reasonable and has worked with him on issues over the past. The fire gate was installed by a license contractor and meets requirements. He stated that they also hired a private plumber regarding the water incident and that they have ongoing water testing. He said that Wayne Green is correct that the water line did fail, but that they supplied tenants with bottled water during that time. He said that it is a 35 year old park, so there are electric issues that occur. He is not aware of anything else, except that they are compliant at this time.

Chair Bertolero said he does not see a need for a new agreement when there is already one in effect, and that he would like to see the bond retained.

Commissioner Peart stated that the applicants should be commended for cleaning up the park, but there are still issues that need to be resolved. He agreed with Chair Bertolero.

Commissioner Kimball said that she is confused about the staff report. The applicants thought they were in compliance so the bond should have been released a long time ago. She does not know if they can continue it. She said she requires more information.

Commissioner Burton said he was partly in agreement with Commissioner Kimball in regards to requiring more information and would like to see this item continued.

Commissioner Liu said that Mr. and Mrs. Bole have been actively involved owners in the past year, but in the last nine years, there have been some outstanding issues. She commended the applicants on the stair issue, but said there has been no indication that any work has been done as far as the curb, sidewalk and gutter. She would like to see this item continued.

Commissioner Burton asked that staff answer further questions from the commissioners.

Craig Baracco responded to the commissions concerns in regards to the curb, sidewalk and gutter. The staff's evaluation is that it is not completed. There are not specifics in the agreements as far as map illustration or how far it should extend. Further questions were answered regarding the specifics of the requirements.

Spencer Bole requested to speak further on the subject of the requirements. He said the only clarification is the report from staff. There was no indication that the work was not completed or more work was needed. He said that as to issues with Don and the service district, he would like to meet with them and see if there are ongoing issues that they can resolve.

Commissioner Burton replied that meeting with the service district and Don Allen shows good faith

but is not needed

Philip Pogledich asked Spencer Boles what the date was on the staff report to which he referred.

Spencer Boles responded that the date was October 12, 2000, and reviewed the included attachment regarding the specific conditions in question.

Chair Bertolero closed the public hearing.

### Commission Action

1. **HELD** a public hearing to determine if the Boat Yard RV Park has complied with the terms of Agreement No. 00-301 (**Attachment B**), and whether the associated compliance bond should be released.
2. **DETERMINED** that a Categorical Exemption under Section 15270(a) of the California Environmental Quality Act (CEQA) and Guidelines is the appropriate environmental documentation for the project (**Attachment E**).
3. **APPROVED** authorization of the release of the bond and find that all terms of the agreement have been complied with.

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

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A ten-minute recess was called.

- 7.3 **2008-031:** Variance to exceed the 250-foot clustering requirement for an ancillary dwelling in the Agricultural Preserve (A-P) zone. The project site is located at 32560 Russell Blvd. in the Winters area (APN: 038-100-08). The applicant wishes to place a second home site approximately 1,500 feet away from the primary home site in order not to disturb a productive chestnut operation. A Categorical Exemption has been prepared for this project. Owner/Applicant: Buck/Eng (S. Berg)

Stephanie Berg, Associate Planner, gave the staff report with a power point presentation, and answered questions from the commission.

Chair Bertolero opened the public hearing.

Waylin Eng, applicant, shared some of his history and future goals and plans for the land and its chestnut orchards. He addressed some of the items in the staff report such as the code violations and how he has been working with the building division to get them resolved. His biggest concern was the 250-foot clustering requirement that is applied to agriculturally zoned parcels in an effort to minimize the residential development footprint and maximize agricultural production. He told the Planning Commission that all the trees in that area are already dead, because of the type of soil. They also planned within the footprint and are now within the 250-foot requirement. His hopes are that the Commission will take these things into consideration.

Commissioner Kimball asked questions of the applicant about the length of time they had owned the property, the estimated footprint size for the new home, and about the lifespan of a chestnut tree.

Waylin Eng's response was that they did not have the exact size of the footprint just that it was within the dead trees, and that the chestnut trees are currently between eight and twelve years old, and just reaching maturity.

Commissioner Liu asked the applicant how much of the acreage in the area is not as conducive to growing trees and the trees are dead?

Waylin Eng responded that it is approximately 15-20 acres maybe, and that other trees around it are starting to die. He mentioned that the person that that takes care of the trees felt that it is because of type 2 soil.

Chair Bertolero closed the public hearing.

Commissioner Liu asked about the possibility of building in a more northern area that would not violate any other buffer zone.

Philip Pogledich, Senior Deputy County Counsel, clarified the question for staff.

Stephanie Berg shared a picture of the area, and explained that the area that they want to build within the area of the dead trees is within the 500-foot buffer zone.

Commissioner Peart gave a history of when they started the 250-foot requirement and why. He said that he appreciates what the applicant is trying to do and conserve agricultural land. He is familiar with class 2 soils and the idea that trees will not grow on class 2 is incorrect. The issue is the 250- ft requirement. He wanted to stick with the requirement of the 250-foot ancillary dwelling clustering, and not go out and set a precedence.

Commissioner Kimball said that she does not support this. She said she appreciates all that the applicant is trying to do, but there is good reasoning for clustering. This county has made it very clear and there is a new general plan coming up and agriculture is the most important thing for the county and as you add houses out into the agricultural land, especially when they are not clustered the county loses prime farm land, and most people would kill for class 2 soil. She cannot with good heart take good class 2 soil out of production, especially when there is a rule for keeping within 250-feet.

Commissioner Burton said that the county really needs to stick to what they have been doing with this. His concern of setting precedence in this area greatly outweighs his feelings towards the petitioner, and though he really supports what they are trying to do, he cannot support this project.

Commissioner Liu said it looks like the standard that is being applied is that it needs to rise to a level of hardship, or a level of practical difficulty. In the past, the commission heard matters where it would be virtually or physically impossible for the landowner to comply with the zoning limitations because they would not be able to build a structure or even place a flagpole there based on other restrictions. In this case, she understands what the applicant is saying, as it is clearly preferable to have some privacy and be located somewhere different from the current dwelling. However, it does not rise to the level of hardship to make an exception. They need to continue with the 250-foot clustering policy

Chair Bertolero stated that he toured the site the past week, and realizes that there are limitations with the power line and setbacks to the neighboring farming and they have been taken into consideration. He said he thinks that things have changed since the orchards were originally planted with drip irrigation as Commissioner Peart mentioned and many orchards will backhoe each hole for the tree. The combination of loosening up the sub-soil with the backhoe and changing the irrigation that soil type will grow almost anything. He asked staff if Road 92B is still being used as a public road or if it has been abandoned.

Stephanie Berg responded that Road 92B is not being used by the public, it is used as an access easement.

Chair Bertolero reviewed the soil types, he said as far as the argument on the soil type for the orchard he personally does not see that and as far as the loss of land it is going to take much more in that new location and he would assume that if it was put near the existing home there is potential to tie into the existing well and septic, where going to the new location would require everything new. He is in support of staff's decision to deny the application.

Chair Bertolero reopened the public hearing.

Waylin Eng said that he certainly is not going to try to change the mind of the Planning Commissioners with five in favor. He said in fact he is happy that he went through this process, both for the work that Stephanie did and for the Planning Commission's comments. He stated that now he more fully understands why they feel that way, and he and his wife have learned a lot going through this process. Never the less, it does not stop them from pursuing their dreams, so to speak, as corny as some people may think that is, on the public education and research aspect. He has learned and he feels he may have been able to convince the university that more work needs to be done in this area, particularly on chestnuts for this area, and he will pursue that and work with the staff and try to do their best to work within the footprint. He thanked the Planning Commission for their consideration.

Commissioner Peart welcomed Mr. Eng, and wished them the best in their new endeavors and is certainly impressed with what they are trying to do. He said he is sorry that it did not work out quite the way the applicant might have thought.

Waylin Eng, said not to be sorry, that he feels that they have gained more than what they even came for. They are very excited.

Chair Bertolero closed the public hearing.

### Commission Action

1. **HELD** a public hearing and received comments;
2. **DETERMINED** that a Categorical Exemption is the appropriate level of environmental review in accordance with the California Quality Act (CEQA) and CEQA Guidelines (**Attachment C**);
3. **ADOPTED** the Findings (**Attachment D**) for the project; and
4. **DENIED** the variance as described in the Findings.

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

**FINDINGS**

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2008-031, and in accordance with the California Environmental Quality Act (CEQA), the Yolo County General Plan, and Yolo County Zoning Code Section 8-2.2904 (variance requirements), the Yolo County Planning Commission finds the following concerning the project:

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

**California Environmental Quality Act (CEQA) Guidelines**

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

*That on the basis of pertinent information in the public record and comments received, the project consists of minor alterations in land use limitations, which do not result in any changes in land use or density and that a Categorical Exemption has been prepared in accordance with the California Environmental Quality Act (CEQA) and Guidelines, Section 15305.*

**Variance Findings:**

2. In accordance with Section 8-2.2904 of Chapter 2, Title 8 of the Yolo County Code, the Planning Commission finds:

- a. That a variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated;

*The review criteria for single-family and ancillary dwellings in agriculturally zoned districts require that any proposed ancillary dwelling site be located within 250 feet of, and clustered with, an existing home site, and that disturbance of actively farmed areas has been minimized. The applicant is requesting to place a second home site approximately 1,500 to 1,700 feet away from the primary dwelling site; thus, a significant 1,250- to 1,450-foot difference exists between the requirement and what the applicant requests. Although existing restrictions on the parcel pose limitations for placement of a second home site, other buildable locations exist on the property that meet the clustering requirement criteria.*

- b. That, because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter is not found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under the identical zone classification;



and

*Although the 49-acre parcel contains constraints that minimize the areas a second dwelling can be placed, areas within the 250-foot radius of the primary dwelling are available. Removing productive trees from an active orchard to accommodate a second home adjacent to the primary home site does not constitute a set of special circumstances, particularly when the northern portion of the parcel is also suitable for productive tree crops.*

- c. That the granting of such variance will not be in harmony with the general purpose and intent of this chapter and will be in conformity with the Master Plan.

*The property is designated for agricultural uses in the Yolo County General Plan and subject to A-P (Agricultural Preserve) zoning regulations for any residential development of the site. The 250-foot clustering requirement is applied to agriculturally zoned parcels in an effort to minimize the residential development footprint and maximize agricultural production. Keeping the ancillary dwelling adjacent to the primary dwelling minimizes the residential footprint on the property and does not adversely affect surrounding farming operations.*

\*\*\*

- 7.4 **2008-026:** Variance to reduce minimum lot size requirement and allow a Lot Line Adjustment for two parcels located in the General Agriculture (A-1) zone. The project is located at 3750 State Highway 16, one-half mile south of the town of Rumsey. A Categorical Exemption has been prepared for this project (APN: 060-220-22, -23 & -58). Owner/Applicant: Heath/Peterson (C. Baracco)

Craig Baracco, Associate Planner, gave the staff report, and answered questions from the commission.

Commissioner Burton said he approves the variance

Commissioner Kimball concurred.

Commissioner Peart approved.

Commissioner Liu approved.

Chair Bertolero said there isn't any reason not to combine the two parcels.

Chair Bertolero opened the public hearing.

No one from the public came forward.

Chair Bertolero closed the public hearing.

### Commission Action

1. **HELD** a public hearing;
2. **ADOPTED** the **FINDINGS (Attachment C)** for the project;



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3. **ADOPTED** the variance described in the Findings attached hereto, subject to the Conditions of Approval (**Attachment D**);
4. **DETERMINED** that a Categorical Exemption under Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines is the appropriate environmental documentation for the project (**Attachment E**); and
5. **APPROVED** the resolution of Lot Line Adjustment (**Attachment F**).

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

### **CONDITIONS OF APPROVAL**

The applicant shall be responsible for all costs associated with implementing the following Conditions of Approval, which the Planning Commission finds are necessary and appropriate:

#### **Planning**

1. This variance shall apply solely to the minimum parcel size for the purpose of approving the Lot Line Adjustment. No further reduction in parcel size shall be allowed.
2. All other requirements of the Yolo county Zoning Code for the A-1 zone shall be followed on both parcels, including setbacks, parking, height of building, and the clustering of the second home.
3. Within thirty days of the approval of this application, applicant shall record the "Certificate of Compliance" with the County Recorder's Office.

#### **Building**

4. The applicant shall apply for building permits for the construction of any structures on the property, shall follow all applicable building codes and regulations, and pay all appropriate fees.
5. All structures within the 100-year floodplain shall be elevated a minimum of one foot above Base Flood Elevation.

#### **Environmental Health**

6. Any modification to the existing well or septic system shall be done under permit with the Environmental Health Division.

#### **County Counsel**

7. 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.

8. 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, testimony at the public hearing for Zone File #2008-026, and all other documents in the record, and in accordance with the California Environmental Quality Act (CEQA), the Yolo County General Plan, the Capay Valley General Plan, Yolo County Zoning Code Section 8-2.2904 (variance requirements), the Yolo County Planning Commission approves a variance to the minimum parcel size in the A-1 zone to allow the lot line adjustment, and finds the following concerning the project:

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

### **California Environmental Quality Act (CEQA) Guidelines**

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

*Under Section 15305(a) of the California Environmental Quality Act (CEQA) Guidelines, minor variances and lot line adjustments not resulting in the creation of any new parcels are exempt from CEQA review. The variance at issue in this application meets these criteria.*

### **Variance Findings:**

2. In connection with Section 8-2.2904 of Article 27 of the Yolo County Code, the Planning Commission finds:
  - a. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated;

*The A-1 Zone requires a minimum parcel size of 20 acres. The applicant shall be allowed to reduce a parcel to 14.1 acres in size. The Variance does not constitute a grant of a special privilege with respect to this parcel. This waiver is specific to this particular circumstance and is not applicable to other parcels that are sub-standard in size. By granting this variance, the Planning Commission finds that it is simply ensuring that the subject parcel enjoys the same residential development rights as*

*other surrounding parcels. If the Planning Commission were to instead deny the requested variance, the subject parcel would not enjoy the same privileges as other parcels in the same vicinity and zone.*

*Conditions of Approval have been prepared for this project, which limit this waiver specifically for the purpose of the lot line adjustment. The variance will not apply generally, nor will any further reduction in parcel size be allowed.*

- b. That, because of special circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter would deprive the subject property of privileges enjoyed by other properties in the vicinity and under the identical zone classification; and

*The orphan portion of Parcel B is physically separated from the rest of the legal parcel by State Highway 16, a substantial physical barrier. Due to its small size (.79 acres) it is not a viable property for agriculture uses. Due to both its small size and relatively narrow (87 foot) width, developing the property with a home while meeting septic system and well requirements would prove very difficult. In short, the physical circumstances preclude using this portion of the property for the purposes allowed under its currently zoning designation. These circumstances do not occur in any of the adjacent parcels and can be considered unique to this property.*

*Due to the size, location and physical constraints to this parcel, applying the minimum parcel size requirement is not appropriate. The unique circumstances found on this property make it appropriate to waive parcel size requirements to allow the lot line adjustment to proceed. The Lot line adjustment would remove the physical constraints on the property and allow the subject parcel to be developed in a manner consistent with surrounding parcels.*

- c. That the granting of such variance will be in harmony with the general purpose and intent of this chapter and will be in conformity with the Master (General) Plan.

*The property is designated Agriculture in the Yolo County General Plan and Capay Valley General Plan. The proposed lot line adjustment is consistent with the provisions of this land use designation.*

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- 7.5 **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 distributed the most recent copies of the DMX draft dated October 1, 2008. He requested that they please be aware when referencing that there are two drafts.

Commissioner Burton discusses the detached housing issue and about the modifications to the agreement. He said that requiring attached housing doesn't necessarily make sense, that they had discussed detached housing and examples had been provided that could be used in the same high-density areas that would be less expensive and more desirable to people moving into that region.

He noticed that it was not mentioned in the DMX draft.

Commissioner Liu said that they had focused on high-density areas and had referenced 10 units per acre. She asked Eric Parfrey if that was still in the draft.

Eric Parfrey clarified the requirement of 10 units per acre, which was located on page six of the October 1, 2008 draft. He also clarified the request the sub-committee had regarding removal of the language "attached or detached."

Philip Pogledich added an additional comment about revising a table located on page 3 of allowed uses that refers to detached single-family units as not being allowed in the DMX zoning district.

Commissioner Burton summarized the examples that had been used as a reference for this item

Chair Bertolero opened the public hearing.

Sue Heitman, thanked the Planning Commission and Yolo County staff for the numerous meetings that were set up and all of the hard work that was put into the DMX. She distributed a letter from New Season Community Development Corporation and reviewed its content. The letter summarized comments from property owners regarding zoning, detached and attached housing, using the language "encouraged", and economic incentives, etc...

John Hulsman Jr., a citizen's advisory committee member, offered his comments on the DMX and the vision of the committee members. He said their hope is that there will be places for people to work and not just be a bedroom community, and that they would like to retain some business base in Esparto.

Chair Bertolero asked John Hulsman Jr. if he supports the latest October 1, 2008 draft of the DMX zone.

John Hulsman Jr. replied that he supports about 60 percent of the draft, but feels that the whole thing was misleading to the citizen's advisory committee when it was first proposed.

Terrie Bueno read a letter on behalf of Elizabeth Campbell, Executive Director of Esparto Chamber of Commerce. The letter recommended major changes including: allowing all restaurant use, permitting an increase in hotel/motel rooms to 59, housing on larger than one-acre parcels should be allowed on parcels not on Main Street, Woodland Avenue should allow six units per acre and the word encouraged should have an economic incentive attached to it.

Chair Bertolero asked Sue Heitman if she had an opportunity to review the most recent DMX draft from October 1, 2008

Sue Heitman said that she did not yet have an opportunity to review the most recent draft, but everything that was presented in the staff report, except what was brought up today by Commissioner Liu and Commissioner Burton, would be excepted by New Seasons and most of the business owners, as she thinks that the smaller group helped hone those issues in. She doesn't know if that is in Attachment A, but she concurred as long as it includes what the Planning Commission addressed earlier.

Chair Bertolero closed the public hearing.

Commissioner Kimball asked if staff recommends that by right, hotels go from one to thirty-nine rooms, the chamber would like to see it go to fifty-nine rooms and the Esparto citizen's advisory

committee would like it to stay from one to sixteen?

Eric Parfrey confirmed Commissioner Kimball's information.

Commissioner Liu asked John Hulsman Jr, about his comment earlier regarding the practicality of having 10 units per acre versus six units, and if this was something that they needed to compromise on with maybe eight units per acre or does he think ten units per acre is most viable still.

John Hulsman Jr. stated that some of the guys thought that 10 units per acre was too restrictive for single-family housing. Six units per acre is what the developers asked for, and that is probably less dense than the county is thinking in the general plan from what he hears. He said that it is a difficult situation and maybe Eric Parfrey would have a better feel of what a good compromise would be.

Eric Parfrey reiterated that the staff's position is adamantly opposed to allowing conventional subdivisions in the DMX, so, they want to retain the 10 units per acre minimum then you can do single-family detached homes on very small lots of 3,000 feet. If you were to allow single-family detached homes on very small lots, over time that group of homes can be converted to commercial uses. There is nothing in this ordinance that precludes that. If the Commission wishes to allow that option to stay open to build single-family detached homes, minimum density of 10 units per acre then the ordinance should be modified to somehow address that future conversion of houses into office type uses. There could be potential incompatibilities from one lot to the next.

Commissioner Burton asked if that problem could be solved by notice to potential buyers.

Eric Parfrey said that it could be solved through other sorts of zoning language added into the ordinance.

Commissioner Liu commented that in the long run it would be good to include some of that language, perhaps just add a sentence or two so that people do have formal notice. She said that it seems that this issue would still arise with attached units

Eric Parfrey said that the notion of requiring formal notice, as if individual single-family homes were converted to businesses then kind of implies that any conversion requires a conditional use permit. That would be the logical extension.

Commissioner Kimball asked about using the disclosure process.

Eric Parfrey replied that the disclosure requirement could be used in this instance too and make reference of that requirement in the zoning.

Chair Bertolero commented that this has happened in many communities. He thanked the subcommittee Commissioner Liu and Commissioner Burton for their extra work.

Commissioner Liu thanked staff and members of the community. She said she attended two meetings with Commissioner Burton, one with staff and one with community members and she would support the attachment A as presented in the draft dated October 1, 2008. She would like to include the two different types of language. One, giving people notice that the area is mixed use and your neighbor may change from residential to commercial, and two, the economic incentive they had talked about. Some general language would be helpful. A lot of people have made good faith effort and she would support it at this time

Commissioner Burton commented that it this has been a long process, even longer than he has been involved and that the distinct feeling he got on dealing with this is that there is a kind of polarization going on in the community right at the moment and they aren't going to be able to make both sides happy, but will be able to compromise that both sides can live with. He said that he appreciates staff and all the work they have done. He commented that DMX is supposed to be mixed use, commercial next to residential and residential next to commercial, and if that is not what they want then they shouldn't have gone down this route in the first place. He expressed the need to have restrictions, but also the need to have something conducive to get the business in there. Esparto has not had economic growth on the commercial side and based on what Wes Ervin has said there is more commercial space set up at the moment than what is needed for the region or what this region is going to support. Therefore, he likes the most recent draft from staff. He would like to make the following changes. One, removing the statement about attached, and he also wanted to touch on the hotel issue. He said it is like a hand grenade to take it one way or the other, so he is favor of keeping it as it stands as 16 units, or raise it to the 60 units. He stated that he felt the citizen's advisory committee did have a good argument and that there should be some restrictions on the image of the hotel/motel being put in there. He said unfortunately it is not in the plans at the moment and he imagines that it will require a whole new reassessment of this. He stated that he is not quite sure where to move from here, that he would like to support the project and just make those changes, be he also sees a few loopholes that haven't been fixed yet. He requested staff's opinion at the end of the Planning Commission's comments if those changes are made.

Commissioner Kimball said that she has not been as involved in this as some of her fellow Commissioners so she defers to them and trusts that they have paid a lot of attention to it in the last month as well as Sue Heitman's comments and others they have heard from over the last several months. She said that she feels that it is very close and is happy to support it with some of the changes that Commissioner Burton mentioned. She would like to move forward as soon as possible if not today. She also said that she does very much like and would be supportive of seeing an economic incentives language included with the general plan portion policies. She said those two things need to be working in tandem and that you can't have the zoning without these policies.

Commissioner Peart concurred with Commissioner Kimball as he also hasn't been as quite involved with some of this. He commended Eric, the Esparto Citizen's advisory Committee and the business community. He stated that he thinks they have come very close to having what everybody should be somewhat happy with. He said that he will go along with whatever comes out of this, and he does think that any enhancements that the county can have for the business community to bring in businesses there we should certainly be looking at.

Chair Bertolero expressed his thanks to his fellow Commissioners and said that there was a lot of compromise by a lot of people, and lots of hard work by a lot of people, and Eric Parfrey has certainly been open to change. He thinks that they have come up with a couple of ordinances now in the draft that are very close. He commended Liu and Burton on their additional work on the sub-committee. He concurred with Commissioner Burton regarding the changes to be made if they were to approve the ordinance today. The hotel unit change should be included in the motion and the language ""attached"" should be removed. The language should also include the disclosure requirements regarding residential units being able to be converted to commercial at any time.

Commissioner Burton made a motion on the approval of the October 1<sup>st</sup>, 2008 draft, attachment A as stated with the following adjustments. One, to remove the word "attached, the second issue is that with that adjustment they also need to make sure there is notification to any property buyers that they are in DMX zone and can be changed at any time. Issue two, dealing with the hotel, he would like to see it at 60 units, although he would welcome a friendly amendment if his fellow Commissioners disagree with him on this. He would also like to see some language in their

conformance with the citizen's advisory committee about streetscape, and that it fits into what the community would like to see. He would also like to see some language about economic incentives.

Philip Pogledich, Senior Deputy County Counsel, clarified that on the economic incentives, that if that was to be incorporated into a General Plan policy, that would be separate matter and would have to come back to the Planning Commission. It could come down the road after this ordinance, or they could hold this up to track with that. He said that including incentives in the ordinance in his mind is a little tricky. If they had some specific incentives in mind, there is no reason staff can't go back and formulate that before it goes to the Board of Supervisors. If that is what they want to do, that would be fine, but if not that seems like more of a General Plan level.

Commissioner Burton asked if they were able to direct staff to work with community to come up with something to make adjustments to the General Plan as part of this plan. He also mentioned another issue that came up while they were having the discussion that has nothing else to do with what they are working on and that is with citizen advisory committees in general in Yolo County. They need to get some guidelines in place.

Eric Parfrey repeated back what he felt the Planning Commission's direction to staff on the last two points included. The Planning Commission's direction was to consider, at a future date, an amendment to the Esparto General Plan referencing economic development incentives for development within the DMX zone. The direction also included addressing the lack of written procedures that govern all of the citizen's advisory committee meetings in the county for a future date to come back. This includes a time frame for reviewing projects.

### Commission Action

Recommended that the Board of Supervisors:

1. **HOLD** a public hearing and receive comments on the Draft Esparto Downtown Mixed Use (DMX) Zoning District Ordinance (**Attachment A**), the proposed rezoning of 36 downtown properties from Community Commercial Planned Development (C-2 PD) to the new DMX district (**Attachment B**), and the proposed DMX Amendment to the 2007 Esparto General Plan;
2. **ADOPT** the Mitigated Negative Declaration, with the Errata, and the accompanying Mitigation Monitoring and Reporting Program, as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **APPROVE** a Resolution certifying the Mitigated Negative Declaration, with the Errata, and making findings of fact for the DMX zone (**Attachment D**);
4. **APPROVE** an Ordinance amending the Yolo County Code by adopting the DMX (**Attachment E**);
5. **ADOPT** an Ordinance approving a series of rezonings in conjunction with the DMX zone (**Attachment F**); and
6. **APPROVE** a Resolution approving the proposed amendment to the 2007 Esparto General Plan (**Attachment G**).

MOTION:     Burton                   SECOND:     Kimball



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AYES: Bertolero, Liu, and Peart  
NOES: None  
ABSTAIN: None  
ABSENT: Merwin and Winters

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7.6 **2007-081:** Discussion of the proposed Alcoholic Beverage Control (“ABC”) Ordinance and amendments to the Yolo County Code. The proposed ordinance would provide a set of procedures for the review and approval/denial for the sale of alcohol or alcoholic beverage licensing, provide the county with better control and enforcement authority over alcohol sales, and would amend the Yolo County Code regarding alcoholic beverage sales within the unincorporated areas of the county. Owner/Applicant: Yolo County (D. Rust)

Donald Rust, Principal Planner, gave the staff report, and answered questions from the commission.

Commissioner Kimball asked if this is really a problem in Yolo County, and if this is something that they need an ordinance for.

Donald Rust, shared an experience with a past project that was taken to the Board of Supervisors. It was at that time that staff was directed to prepare this ordinance.

Commissioner Kimball expressed another concern that she had regarding agricultural tourism. She referred to a memo from Wes Ervin. She said that she understands that any restaurant by right, no problem, but yet now they are going to require them to get a conditional use permit for their alcohol, which she feels is completely at odds with each other. She asked about agricultural tourism. She said that sees that wineries are exempt, but what about other kinds of situations where they are in the county, and selling alcohol, whether it is a special event a no host bar, or those kinds of things. She stated that this happens now, and that they will continue to happen, and with the new General Plan they are going to happen even more as alcohol is usually some facet of those events. She asked how those types of situations play in to this ordinance and if everyone will have to get a conditional use permit for every event they do.

Donald Rust responded to Commissioner Kimball’s questions. Special events would be exempt, as they are one day or two day events. They would still have an application through the Alcohol Control Board, but those events are not under this ordinance. He said there is an exemption for specific zoning for wineries outside of that. He said that there is also, currently under works a Clarksburg agricultural district draft ordinance. That may have to fit in where the exemptions are. He stated that outside of that he thinks the ordinance is, for lack of a better term, an insurance policy for the county if somebody is out there not complying with something they have been asked to do, they can pull their conditional use permit. The county cannot pull their license because they are not issuing that, the state of California is. With this ordinance if there is an issue where they are violating their alcoholic beverage license, then the county can pull their conditional use permit.

Commissioner Kimball said she would like to see agricultural tourism exempted completely.

Commissioner Burton said that he was surprised that Yolo County did not have an ordinance. He asked if this is the type of permit that has cash value, like in El Dorado County, where it can be sold as part of the business or is that more the Alcohol Control Board.

Donald Rust confirmed that it would be the Alcohol Control Board.



Chair Bertolero opened public hearing.

Erich Linse, Vice-Chairman of the Dunnigan citizen advisory committee, offered his personal comments on the ABC ordinance. He said that he likes this proposal and he likes the respect it gives to restaurants because he feels that it may help with economic development.

Chair Bertolero closed the public hearing.

Commissioner Peart said that he thinks it is a good idea. He is supportive of an ordinance of this type.

Commissioner Kimball said that she doesn't want to appear that she is against an alcohol ordinance, she just doesn't want to impede potential opportunities in an agricultural tourism perspective. She agreed that it would be good to have local control, but wants to make sure that it is not another layer of bureaucracy that people must go through.

Commissioner Burton said that he is familiar with this process in other counties and that it is pretty standard, and is surprised that Yolo County didn't already have one. His concern is a blanket exemption for agricultural tourism that provides a loophole for people to walk through. He said leaving something like that open is going to be a problem, but he thinks that this is a needed step and is glad to see it going forward.

Commissioner Liu said that she would support having this workshop and a formal ordinance. She thinks that people in the business community and individuals need clarity and agreed with her fellow commissioners' comments that there needs to be a streamline process in place, and also a way to have some local agency review to provide feedback and input.

Chair Bertolero referenced the staff report regarding other counties and cities having established a set of procedures, applications and fees required of the applicant to request a review of proposed alcohol sales. He agreed that it was appropriate for Yolo County to have some guidelines in place and would definitely support it. He said that he presumes that this will be coming back to the Planning Commission in more of a formal submittal.

Donald Rust confirmed that it should be back in December.

This was a discussion item only action not needed at this time.

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## REGULAR AGENDA

### 8. DISCUSSION ITEMS

8.1 The County General Plan Update is out. David Morrison and Heidi Tschudin are out having numerous outreach meetings including meetings with advisory committees, cities, adjacent counties. The Planning Commission is scheduled to have three workshops on the County General Plan update draft on November 3, November 5, and on November 6, of 2008.

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### 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.

Eric Parfrey, Principal Planner, brought the commission up to date on the following:

- A. No personnel changes at this time. There aren't any new planners expected in the mean time because of the extreme budget situation.

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## 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 prior to the last meeting and they have not yet had another meeting. He plans to attend the meeting that they will have on October 15, 2008 regarding the General Plan. He said they just completed almond harvest and they had a good crop with beautiful quality. He attended several meetings about water issues, which he is very involved in, and due to the drought conditions and extremely low level of Lake Shasta and Lake Oroville, it looks like the county will be looking at very restrictive water this year unless there is a lot of rainfall.
- B. Commissioner Kimball reported that she attended a tour that was put on by the county for SACOG. It was about Yolo County and the folks that attended have been touring other counties within their area. The county staff did a wonderful job. They started in Davis followed by Winters, they then went to Mariani Nut company, then Esparto and talked about the new plans there, and ended up at the Durst farm and enjoyed a wonderful event out there. It ended with a reception in Davis. She commented on a bill that was sponsored originally by Yolo County Ag Futures Alliance, AB 2881, was signed by the governor last week. What that does is require that every person that moves into an area within a mile of a farm is given a required disclosure as part of the statewide disclosure packet. It has been renamed to include right to farm laws.
- C. Commissioner Burton reported that he spent a lot of the last month dealing with the DMX zone issues and met with a number of the business community members in the region including the Seth Merowitz, and Sue Heitman. He has also been involved in a few things in the City of West Sacramento, there are a lot of exciting things going down at the waterfront over there.
- D. Commissioner Liu stated that she attended two meetings to discuss the DMX ordinance and amendments. She also attended an event for the voter's forum in Sacramento last weekend. It has grown from several hundred to several thousand attendees. There were a lot of candidates and public officials including Supervisor Yamada.
- E. Chair Bertolero reported that he attended two advisory committees in Esparto and Dunnigan. In September, he attended a meeting about the prison at the Yolo County

airport. He also attended three advisory committees in Clarksburg, Esparto and Dunnigan. He, as well as the other Planning Commissioner's, attended the joint meeting with the Board of Supervisors regarding the Draft General Plan. He plans to attend CCPCA State Planning Commission conference in two weeks in Bakersfield.

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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. Parcel Map for Crew Winery.
- B. Use Permit for the Botter stable.
- C. Sign ordinance.
- D. Citizen advisory committee reviews.
- E. General Plan Change

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12. ADJOURNMENT

The Regular Meeting of the Yolo County Planning Commission was adjourned to a field trip to the Cache Creek Preserve at 12:08 p.m. The next [regularly scheduled](#) meeting of the Yolo County Planning Commission is [December 18](#), 2008, in the Board of Supervisors' Chambers.

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

Respectfully submitted by,

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