



County of Yolo

PLANNING AND PUBLIC WORKS DEPARTMENT

John Bencomo
DIRECTOR

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

YOLO COUNTY PLANNING COMMISSION

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

MINUTES

January 29, 2009

ADMINISTRATIVE AGENDA

1. Chair Bertolero called the meeting to order at 8:39 a.m.
2. Pledge of Allegiance was led by Commissioner Burton.

MEMBERS PRESENT: Bertolero, Burton, Kimball, Liu, Merwin, Peart and Winters
MEMBERS ABSENT: None
STAFF PRESENT: David Morrison, Assistant Director of Planning
Eric Parfrey, Principal Planner
Stephanie Berg, Associate Planner
Donald Rust, Principal Planner
Philip Pogledich, Senior Deputy County Counsel
Andrea Hardy, Office Support Specialist

Kristine Mann, from the Yolo County Clerk – Recorder's Office, conducted the swearing in ceremony for the new four-year term of Planning Commission Member, Leroy Bertolero.

3. ADOPTION OF MINUTES OF THE **December 18, 2008** MEETING.

Commission Action

The **Revised** Minutes of the **December 18, 2008** meeting were approved with the following corrections:

Item 7.1 **2008-040**, Page 4: **Amend** the Commission recommendation to read:

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a. Condition 10 to be amended to state that prior to final map approval, the applicant shall record notice in the **chain** of title...etc.

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

7.4 Resolution of Appreciation for Commissioner Mary Liu was presented by David Morrison, Assistant Director of Planning.

Commissioner Liu expressed her thanks to staff and fellow commissioners, and said that it has been an incredible privilege to work with everyone.

Commissioner Peart stated that it has been a pleasure to serve with Commissioner Liu over the last four years and expressed his gratitude and thanks for the great job she had done.

Chair Bertolero concurred.

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 Letter from the Farm Bureau regarding item 6.2, Zone File 2008-030.

5.2 Memorandum regarding item 6.2, Zone File 2008-030.

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

TIME SET AGENDA

6.1 **2008-030:** A Minor Use Permit for a commercial stable to operate a horse boarding facility for up to 75 horses, add a 15,840 square foot covered riding arena, and the installation of an advertising sign in the Agricultural Preserve (A-P) zone. The project is located at 23151 County Road 100A, south of County Road 27 and just east of State Highway 113 north of the City of Davis (APN: 041-110-15). A Mitigated Negative Declaration has been prepared

for this project. Owner/Applicant: Creekside Stables/ Botter (D. Rust)

Chair Bertolero acknowledged that this item had been heard and was continued from the December 18, 2008 Planning Commission meeting, and that the public hearing has remained open for the duration. He also indicated that the applicant had requested an additional continuance to the regularly scheduled meeting in March. The reason given was that the applicant was in surgery today and the owner was out of the country. Chair Bertolero asked that the question of the continuance be addressed before any further actions are taken. Staff recommended that any interested parties in attendance be given the opportunity to testify first before should the Commission decide to continue the item.

Commission Action

1. **CONDUCT** the public hearing on the item before acting on the applicants' request for continuance.

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

Donald Rust, Principal Planner, gave the staff report, brought the Planning Commission up to date on details regarding the progress of the project, and answered questions from the commission.

Commissioner Kimball asked staff what would happen to this project if the Planning Commission were to deny the request.

Mr. Rust described the actions and procedures that would follow a denial.

Philip Pogledich, Senior Deputy County Counsel, further clarified the question posed to staff by Commissioner Kimball.

Commissioner Peart asked if the building permit that the applicant applied for was consistent with their Use Permit.

David Morrison responded to the question, and informed Commissioner Peart that there were some inconsistencies in that the building permit application indicates a proposed U occupancy, which generally applies to Ag barns, while the Use Permit proposed that the building be accessible to the public. Consequently, the building permit does not appear to be consistent with the proposed Use Permit.

Commissioner Burton asked staff about the procedures taken when a landowner will not allow Yolo County on their land for inspection purposes.

Mr. Morrison explained that rather than provoke a hostile situation, the county sends the red tag through certified mail.

Philip Pogledich, expanded on Mr. Morrison's explanation and advised Commissioner Burton that in one other situation they obtained an administrative search warrant.

Commissioner Burton requested that staff describe the materials used in the structure that the applicant had put up. He also wanted to know if the structure was permanent.

Mr. Morrison responded that it was permanent, and answered further questions about the handling of any future violations.

Chair Bertolero stated that the public hearing continues to remain open from the last meeting.

Kent Calfee, spoke on behalf of the applicant, since neither Mr. Dowling, nor Ms. Botter, were available. He said that in terms of their request for a continuance, he felt that it was a matter of fundamental fairness, to allow them to participate. He said that in view of the comments made, he wanted to respond to the staff report. The real issue is fire protection. Staff supported this project back in the spring and up until last month. The condition, as stated, was that they comply with the local fire requirements. They are agreeable to that. What those requirements will be is as yet uncertain. In any event, they are going to need to resolve that issue in order to operate the facility as a stable. He said that they acknowledge the need to comply with the Fire Department, and that both the staff and the applicant concurred. As a result, the applicant was comfortable with requesting a continuance last time. Mr. Calfee felt that it is better to resolve the fire issue, and have everyone's consent prior to granting of the Use Permit. But since that has not yet been resolved, the applicant is requesting a further continuance.

Mr. Calfee also addressed the erection of the cover in response to information previously discussed with the Planning Commission. He said that as to the structure itself, he believes that the erection of the structure was not illegal. He agreed with Mr. Morrison, in that if they use that as part of the stable, it will require a building permit. In order to use it as part of the stable, they need a Conditional Use Permit. He said that they have filed that application, and that it is still pending. He continued, saying that if they were to qualify under an ag exempt structure, that they would not require a building permit, they would require an application, which will require fire marshal approval. He referenced code 7-1.03.301.2.1, and said that under section 10, a cloth structure for agricultural purposes does not need a building permit, or fire marshal approval. There are different rules, depending on whether it is to be used as part of the stable, or as an ag exempt structure. He said that they have an absolute right without a building permit to construct the facility to store agricultural equipment, chemicals, commodities or any other use for a farm industry operation. Therefore, construction of the facility is not illegal. It would be illegal if it was used in connection with the stable. He said it is not being, nor shall it be used, in connection with the stable until they have a Use Permit. He stated that staff has taken the facts, drawn a conclusion that it is illegal, and in essence is trying to punish them for an illegal structure by recommending denial. He said he thinks the real issue is fire protection, and he does not feel that a 30,000-gallon tank required by fire protection is reasonable. He thinks that they are going to come to a compromise with the fire marshal, and that by granting the continuance they have an opportunity to do that.

Commissioner Liu asked staff if the application submitted in June of 2008 for the Use Permit was ever granted.

Mr. Morrison informed Commissioner Liu that the action being considered today is the Use Permit in question.

Commissioner Burton asked Mr. Calfee what the structures current use is, and what the intent for its use would be.

Mr. Calfee said the erection has not been totally completed, and that it is not currently being used. He said that the intent was to put it to a lawful use. They hope is that they will be able to put it to use with the stable. If the use permit is denied, they are faced with the choice of either tearing it down or putting it towards a lawful use.

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Phillip Pogledich commented that one of Kent Calfee's arguments is that they have an absolute right to build the structure because it is a shade cloth structure, within the meaning of the building code. He said that Mr. Calfee explained that our county code contains an exception from the building permit requirement for shade cloth structures. That argument had already been made to the building official and it was rejected. The building official does not believe that this is a shade cloth structure within the meaning of the code. Mr. Calfee's client has a right to appeal that decision, but that decision is not up to the Planning Commission today, or before you today on appeal. For the purposes of considering the Use Permit, he believes that the Planning Commission ought to treat that as a final and binding decision, or as a binding decision at the very least. If there is an appeal later on, and that decision is reversed, then they can reconsider, but for today's purposes the building official has determined that this is not a shade cloth structure and that is binding on the Planning Commission.

Mr. Calfee said that he is not aware that the building was illegal, nor has he received any formal notice to that effect from Lonell Butler, the Chief Building Official. He said that he has had conversations with Mr. Butler and that his comments were that the Building Code did not apply to this situation.

Mr. Morrison informed the Planning Commission that Mr. Calfee appears to be under some misunderstanding, as a notice of violation was filed on the property, for the illegal construction of the building without a building permit. He said that he does not understand the confusion, in that ag exempt buildings still require approval from the building department. He said that the exemption does not mean that an application is not required. Mr. Morrison referred back to Mr. Calfee's remark when he indicated that an application had been submitted. The application has not been approved by the building department or by the fire department. The building is illegally constructed in Yolo County's viewpoint. He said that Mr. Calfee seems to hold a different view point, and he respects that, but in the county's view point it is an erroneous perspective.

Mr. Calfee addressed Mr. Morrison's comments and said that they obviously have a good faith disagreement over the provision. He said there is a process to resolve that, and that his comments reflect his client's good faith positions. He feels that these good faith positions should not be the basis for denial of this Use Permit. He urged the Planning Commission to deal with the Use Permit on the merits of the permit and the application. He said that staff has previously supported this project for some time.

Mr. Morrison rebutted the statement from Mr. Calfee by saying that staff had supported the use permit, up until a week before the December Planning Commission hearing when the building went up illegally. The applicant requested a continuance in December for time to resolve the issue. That was several weeks ago, and there hasn't been any progress by the applicant and in many cases, outright resistance by the applicant during that period. A letter proposing a resolution was faxed to the fire commissioner the night before the Planning Commission meeting, which was insufficient time for staff to provide any meaningful review. Mr. Morrison said that with all due respect to Mr. Calfee, and he has worked with him for many years and has a great deal of respect his profession and for his conduct, he questions the intent of good faith from the applicant in regards to this application.

Chair Bertolero made a correction in regards to his observation on the timeline of the erection of the structure that was presented by staff.

Chair Bertolero reviewed the possible actions the Planning Commission were able to take action on and asked his fellow commissioners for their input.

Commissioner Liu said she had reviewed this and it does not make sense to allow a sign or the

boarding of seventy-five additional horses and deny the riding arena portion of the Use Permit request. She said that it was clear that their intention was to make this a riding arena. That was their first request when they applied and requested a Use Permit, and based on the applicants actions, it continues to reflect their intentions. They later became a little bit impatient, and wanted to request a different type of permit and went ahead with construction without the original permit for their original intention being granted. She felt that the applicants were trying to go around the process. She said that she was not going to say that they've made a good faith effort, but she doesn't think it is a bad faith effort. She just doesn't think that there is sufficient good faith effort to grant the Use Permit at this time.

Commissioner Liu had to leave the meeting at 9:32 a.m.

Vice-Chair Winters stated that looking over this whole process, they really have to separate the behavior of the applicants versus the policies and the law. If he had to vote on behavior alone, it would be no problem. It is certainly not good form when county officials come to the property to conduct legitimate business, and they are told to leave and are threatened by having the sheriff called on them.

Commissioner Peart expressed his respect for Mr. Calfee and said that he has known him for a number of years. He said that he realizes that Mr. Calfee is working for his client, and in saying that, in the number of years that he has served on the commission, he has never seen a case with so much disregard for the county rules and the county staff. He stated that he would feel very reluctant to continue this, and put the staff through what they have been through in regards to being run off by the landowner/manager and told that they were going to have the sheriff called on them. He further commented that they ask everyone else in the county to go by a certain set of rules and for the most part, they do. He said that never have they had a case with a show of such defiance where they have refused to do what they are asked to do, which are the ordinances and laws of Yolo County. He said that he feels that they have to deny the Use Permit.

Commissioner Kimball agreed with her fellow commissioners in regards to the continuance. She said in regards to fairness, the Planning Commission had yet to see the applicants. There have been two meetings and the applicants have not attended either one. She said that she feels that there has been ample time for the applicants to appear and plead their case. The heart of the issue, is that the building was constructed illegally without a building permit and without a Use Permit. She said that she has heard nothing that would change her mind, or decision on what she was planning to vote in December; which was to deny the Use Permit.

Commissioner Burton concurred with his fellow commissioners, but said he would caution the Planning Commissioners when looking at this application of not making a decision based on how the applicants are dealing with Yolo County staff. He explained that there are ample grounds on this case to deny it based on the fact that the applicant isn't following the law. He said when he hears that a steel frame with a concrete foundation is being pushed off as a shade structure, when it was originally designed to be a riding arena, he has a hard time making that paradigm leap. He continued by saying that he thought about it a great deal, and had the applicant tried to work with them and county staff, he may have been inclined to give them more time, but they haven't. He said that he is not inclined to give them another continuance.

Chair Bertolero disclosed that on the night of December 19, 2008, he spoke to Commissioner Kimball, and Commissioner Peart, about the continuation. He also spoke to David Morrison, and Donald Rust, on two separate occasions about it. He also disclosed that he had a conversation with Kent Calfee as the representative of the applicant. He stated that he had spoken to the Yolo County Building Inspector, Brian Frenger, and that Mr. Frenger had shared a conversation that he had with the applicant, Marlene Botter. During that conversation she had stated that she was going

to go ahead with the building regardless of what the county said; and she did. Chair Bertolero said that to him, that shows intent from the beginning to disregard county regulations. He said that he is sure that the applicant has brought up plenty of reasons for why they went ahead and put up the building, such as it couldn't be kept in storage, etc. However, they did not bring up these reasons until now. Therefore he is in support of denial of this Use Permit.

Commission Action

That the Planning Commission take the following actions:

1. **HOLD** a public hearing on the project and receive comments;
2. **DENY** the Use Permit; and
3. **ADOPT** the recommended Findings (**Attachment C**).

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

FINDINGS

A. Introduction

The applicant for the Creekside Stables/Marlene Botter project (the "Project") has applied to the County of Yolo for a Use Permit to operate an existing commercial stable and boarding facility (formerly the Cottonwood Stables). The applicant has proposed to add a 15,840 square foot covered riding arena, and the installation of an advertising sign on the existing hay barn on a 79.54-acre parcel in unincorporated Yolo County. The Project includes requests for the following land use entitlement:

- Conditional Use Permit for a commercial stable and boarding facility.

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 November 7, 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 December 18, 2008 and continued to January 29, 2009.

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/MND prepared for the Project, along with

the analysis prepared to support the conclusions reached therein. The Initial Study/MND 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 denying the Conditional Use Permit for the Project, the Planning Commission considers the factors set forth in Article 28 (Use Permits), as well as the applicable provisions of Article 24 (General Provisions), and Article 25 (Off-Street Parking and Loading) of Chapter 8 (Zoning) of Title 8 (Land Development and Zoning) of the Yolo County Code. In denying 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 not fulfilled, as described in detail below.

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

The proposed commercial stable and boarding facility is listed as a conditional permitted use in the Agricultural Preserve Zone (A-P, specifically described in Chapter 8 (Zoning) of Title 8 (Land Development and Zoning) of the Yolo County Code, Section 8-2.404(k) – Commercial stables.

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

Many horse enthusiasts within the local and regional commercial stables and boarding facilities desire additional stables and boarding facilities. The proposed use could generate five jobs and direct and indirect fiscal benefits to Yolo County. However, the riding arena as currently constructed would place the public in potential harm, due to the lack of adequate fire protection measures, which is not consistent with either their comfort or convenience.

- 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 would have to comply with the proposed Conditions of Approval (Attachment D) that requires approval from the Woodland/Springlake Fire Department prior to the issuance of any building permits. However, the applicant and property owner have to date disagreed with the need for any additional fire protections regarding the proposed indoor riding arena. It does not appear at this time that further discussions between the applicant and the Fire Department will be productive. Without adequate fire protection for customers and visitors to the riding arena, the proposed use of the building would be detrimental to the public health, safety and welfare.

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

By constructing the riding arena without adequate fire safety measures, the project as proposed is inconsistent with the following policies.

S 1. Yolo County shall regulate, educate, and cooperate to reduce death and injuries or damage to property and to minimize the economic and social dislocation resulting from fires; geologic hazards; streets, highways, bikeways and pedestrian ways; floods; transportation or industrial accidents; civil disturbances; catastrophic pollution, epidemic; or water disaster; and other public safety hazards.

S 10. *Yolo County shall regulate building spacing, building densities, building on slopes, and the provision of appropriate fuel breaks as minimum devices to assist in promoting fire safety.*

S 14. *Yolo County shall cooperate with the fire districts, enforce planning, zoning, and building codes and advise and encourage development to enhance fire safety.*

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

The facilities constructed in the 1940's, have in place the original utilities, access road, and/or other equestrian features that exist at the site. County Road 100A is the main access point to the site with an existing paved driveway. An existing domestic water well and septic system will serve the existing structure. However, the construction of the new riding arena requires the applicant/property owner to obtain approval from the County and Woodland/Springlake Fire Department prior to the issuance of any building permits. The applicant and the applicant's representatives have met on several occasions to discuss the fire departments concerns. The applicant has not obtained final construction approval or proposed any alternative fire suppression systems to the fire protection agency.

- 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, clients, and employees associated with the operation. The existing parking and loading areas 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.

- g) The requested use will serve and support production of agriculture, the agricultural industry, animal husbandry or medicine; or is agriculturally related and not appropriate for location within a city or town; and the requested use, if proposed on prime soils, cannot be reasonably located on lands containing non-prime soils.

The project site is developed as and historic use that includes equestrian activities, and other related livestock activities (formerly Cottonwood Stable). The existing facilities include: horse corrals, a hay barn, two (2) horse barns, an existing riding arena, a maintenance shop, a modular home and a farm house. The applicant proposes to construct and operate an additional 15,840 square foot covered riding arena, the boarding of up to 75 horses and the installation of an advertisement sign on the existing hay barn on the 79.54-acre parcel.

As discussed above, the site serves as an existing commercial stable and boarding facility. Approximately 7.54-acres will be utilized for the horse boarding facility and remaining 72-acre will be used for agricultural crop production: sunflower, alfalfa, and other crops. Currently, the property is under a Williamson Act contract (06-001) within Agricultural Preserve AP 66.

- 6.2 **2008-022:** Appeal of Zoning Administrator approval of the division of an existing Williamson Act Contract into 11 new successor contracts (APN: 062-180-07, -10, -13, & -14, 062-130-

12, -13, &-14, 061-101-07, -08, & -09). The project site is located between County Road 8 and County Road 11, on the east and west sides of County Road 85, in the Dunnigan Hills, southwest of the Town of Dunnigan. A Categorical Exemption has been prepared for this project. Owner/Applicant: Dixon Corporate Commons (D. Rust)

Donald Rust, Principal Planner, gave the staff report, reviewed the memo on the project that he had provided that morning, and answered questions from the commission.

Chair Bertolero acknowledged that this item was heard and continued from the December 18, 2008 Planning Commission meeting, and that the public hearing has remained open for the duration.

Fritz Durst, the appellant, Yolo County resident and neighbor to the project site, appeared to oppose the parcel split. He said that several of the parcels do not meet the minimum parcel size, and that he attended and commented about the split at the October 31, 2008 staff meeting. At that meeting, he stated that he had asked staff what the minimum parcel size was for irrigated versus non-irrigated lands. He was told that the minimum was 80 acres for irrigated land and 160 acres for non-irrigated land. He used this as the basis for his appeal, as he feels very strongly that these parcels do not fit the criteria for irrigated lands. He continued by saying that five days ago, he received the Planning Commission packet that contained an analysis from staff referring to County Code Section 8-2-4.08, and that this was in conflict with what he was told in October. He requested that he receive clarification on one thing in premise to his dispute. He asked what is the minimum parcel size for a Williamson Act contract?"

David Morrison responded to Mr. Durst's question and explained to him that there is a difference between a Williamson Act contract and creating a new parcel. This particular project is for new Williamson Act contracts, not new parcels. The requirements for Williamson Act contracts are 40 acres and 80 acres.

Mr. Durst asked Mr. Morrison when the lot line adjustments occurred several years past, why the three 80 acre parcels allowed to be 80 acres, when they were not irrigated?

Mr. Morrison answered that a lot line adjustment does not create new parcels, it merely redefines the boundaries of existing parcels. The parcels were created decades ago before county zoning requirements were in affect. Under California law, once a parcel is legally created, it remains legally created, unless some other action is taken to merge it, divide it, or change its boundaries..

Mr. Durst said that unfortunately, there are ways to manipulate the rules in Yolo County, and when he read through the information that Mr. Rust sent him, it became very confusing as to what exactly our goal is in the county. He stated that these properties are in a very arid area and he has lots of information that he can share with them about whether or not the land will be irrigatable. He doesn't deny that Mr. Anderson will be able to irrigate some of it, but unfortunately, history repeats itself in their neighborhood. In their neighborhood, people buy a piece of property with a dream, and unfortunately, those dreams don't always occur, because of financial hardship. Mr. Durst expressed his concerns regarding Mr. Anderson's actions of splitting and reshaping his parcels to allow access to public roads, and then breaking out Williamson Act contracts, and the possibility of him selling some of his parcels.

Art Anderson, the applicant for the project, came forward to respond to comments. He referred to comments from County Counsel regarding the Williamson Act requirements. He said that when they went in to apply for this contract division, they thought they were doing an over the counter type of approval. Instead, the application ended up being appealed to the Commission. He said that he believes that his application was filed correctly, and that they are in compliance with all Williamson Act statutes and conditions. County staff and County Counsel agree with the proposal. Mr.

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Anderson indicated that he would just like to get everything wrapped up, move on, and use the property for its best and highest use, which is more intensive agriculture. He told the Planning Commission that he appreciates their consideration.

Commissioner Peart asked if the land had been irrigated.

Mr. Anderson's response was that no, the land has not been irrigated.

Commission Kimball asked Mr. Anderson if the well that was shown, was to irrigate parcels one, two and seven.

Mr. Anderson replied that the well was originally a twelve hundred gallon a minute well, and that it had been inactive for about twenty years. He stated that they have now run 24-hour tests on it, and it is producing over a thousand gallons a minute. They have re-connected a center pivot and are running it right now to irrigate one hundred and ten acres. They are probably not going to use the center pivot in the future because it is not a part of the three 80 acre parcels. They have put in a mile of main line to service the 80-acre parcels, so they are all set to do tree planting. There is ample water to do so.

Commissioner Kimball asked the applicant clarifying questions on the depth and future abilities of the well to service the acreage.

Mr. Anderson responded that if Commissioner Kimball were to drive out to that area, and could see the number of acres and vineyards using the same type of well systems and are currently in full use today, she would say that they are consistent with what is going on in the area.

Commissioner Kimball said that it is consistent, and that is one of her concerns. There are a more people pulling off of those same aquifers now than there have ever been in the past. The sustainability, or the ability, of that water aquifer to continue irrigating at the current level of demand is completely unsustainable. She appreciates Mr. Anderson's point of view, but she has a differing perspective.

Mr. Anderson shared the results of tests that he had run in October on his wells. He said that if they make a mistake, it is their fault, and while he appreciates Commissioner Kimball's consideration on water, he thinks they have it figured out. He said that the other point is that this really isn't about irrigation water, and that he is doing far more than is required of him. However, he does agree that water is a concern.

Phil Pogledich touched on the comment made by the applicant about the significance of whether the parcels could be irrigated. He said that the applicant is correct, that under the criteria of a successor agreement, as long as the parcels are 80 acres, it doesn't matter if they are capable of irrigation or not. It is a helpful fact in considering the application, but it's not legally significant under the criteria adopted by the Board of Supervisors in the county code.

Vice-Chair Winters asked the applicant what the advantages are in separating the Williamson Act Contract.

Mr. Anderson informed Vice-Chair Winters that it is for liability and financial reasons.

Tim Miramontes, President of the Yolo County Farm Bureau, addressed the Planning Commission on this project. He said that they agree with the appeal of Fritz Durst, and do not see a reason to change one large Williamson Act into eleven smaller Williamson Act contracts. He said that the application looks like an opportunity to create parcels for sale to individual landowners, and that the

water issue is significant.

Howard Lopez, neighbor to Art Anderson's property, said he is against a split and feels that this will open doors to start selling parcels off. He said that another reason he opposes it is that there isn't very much water up there. That country has been used for livestock and dry land farming. If he starts sucking the water out of the ground at a thousand or twelve hundred gallons a minute, then pretty soon they will not have any water for the livestock. Mr. Lopez read a memo from a neighbor regarding her thoughts about the division of the Williamson Act contract.

Ed Mast, neighbor, speaking for his wife and family, said that they have four wells, and any new wells can jeopardize their wells. As a result, he is opposed to this project.

Chair Bertolero closed the public hearing.

Commissioner Peart said that he met with Mr. Anderson and visited the site. He commended Mr. Anderson for his intentions. Commissioner Peart shared his knowledge and past experience in regards to financing and said that he doesn't understand the financing of this project. He said he thinks that Mr. Durst rightfully questioned, as does he, the division of the parcels. What it gets down to is that they cannot do anything other than go along with Mr. Durst on that because in the findings, if you read page 15, section e, paragraph 3, it clearly states that they have to be 80-acre parcels that have been irrigated.

David Morrison pointed out that the revised findings handed out this morning by Mr. Rust, removed that language, and is not applicable to this project. As indicated previously, the minimums apply to the creation of new parcels, not new contracts.

Commissioner Peart said that he feels that this is completely unfair at this late date and time to change the draft findings.

Mr. Morrison replied that the standards have been in place since 1993.

Commissioner Peart said that he was reading the draft findings that they are to approve, as recommended by staff.

Mr. Pogledich explained to Commissioner Peart that Mr. Morrison was trying to say that the original draft of the original findings included a citation to the wrong part of the code, and stated a standard that does not apply, and that the revised findings distributed that morning by Mr. Rust, recite the correct code citation and the correct standard, which is 80 acres for non irrigated land when considering a successor agreement application.

Commissioner Peart said that he understood that, but that the original findings draft was all he had to go on before today.

Mr. Pogledich asked that Commissioner Peart consider the issue of fairness to the applicant when they are applying a code section to his application. They have to apply code section 8-2.408 because that is the one that applies to successor agreements. The fact that staff may have erroneously cited 8-2.406, should not be something that is held against the applicant.

Mr. Morrison informed the Planning Commission that if they wished to consider denying this application, the grounds would have to be for one of the following:

- the proposed division of the contract would be inconsistent with the General Plan, or
- It would not preserve agricultural uses from the encroachment of non-agricultural uses, or
- It would not maintain the agricultural economy, or

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- It would not preserve prime farmland, or
- It would not preserve lands with public value as open space.

Commissioner Peart said that he felt that the application did not meet the requirements as of yesterday, but today all that seems to have changed and he doesn't think that is the way it should be. He thinks that what Mr. Durst was questioning, is exactly the same thing that he read, as provided in their packet. He said that he thinks that in order to proceed, staff needs to come back with the correct findings, and return to the Planning Commission for future consideration.

Mr. Morrison explained that the correct findings were distributed that morning, and that if the Planning Commission wishes to take action they could, or if they wish to continue that is an option as well, although staff would ask for direction as to what the purpose of the continuation would be, and what information that staff would need to bring back.

Commissioner Peart said he feels that a continuance is appropriate, and Yolo County should refund the \$570 appeal fee paid by Mr. Durst, because his appeal was based on the findings in the packet previously distributed.

David Morrison said that he appreciates the Commissioner's opinion on that matter, but fees can only be waived by the Board of Supervisors.

Commissioner Peart said that he hopes that they recommend that the Board of Supervisors make the refund.

Commissioner Kimball commented that there has definitely been a lot of confusion on this project from the beginning, but that technically it is legal. The proposed contracts meet the minimum acreages required. She understands that the applicant is not creating new parcels. However, she said that she is opposed to it philosophically, for the reasons that are already stated, including the lack of irrigation. She said that additional irrigation in that area is not sustainable for the area, not sustainable for Yolo County, and not sustainable for the local agricultural economy. If the applicant is unable to continue irrigating the land, and has sunk a lot of money into the property, then he will sell individual parcels to people that want to put in a big house. She doesn't see the reason to break up this Williamson Act contract for financing reasons. She has spoken to many farmers, as well as the Farm Credit in Woodland, and all have said that it is very common to encumber numerous parcels together. She doesn't believe that these reasons are the true motivation for the applicant in making this request. She would be much more comfortable if he was coming forward two years from now, showing his success in irrigating those parcels over time, and then asking for the break-up of the Williamson Act. Right now, the applicant's plans appear to be a pipe dream. She opposes the application.

Commissioner Burton stated that he understands his colleague's statements. He thinks that part of the reason they have so many diverse people on the Planning Commission is that their view points tend to be a little bit different. Coming from a legal, and especially a business attorney's prospective, he really does see the reason, both from a financial prospective and from a liability limitation, for Mr. Anderson's application. He often advises people to separate their different business ventures into smaller pieces. If somebody sues, or some issue comes up, they don't wind up encumbering all the properties and end up losing everything. He said that the scenario makes sense, and that it also makes sense to be able to finance each of these properties seperately. He said he feels that the situation is unfortunate, as it all seems to stem from somebody misreading a statute. He commended the appellant for bringing it forward, in that he is trying to make sure that the applicant is following the rules and the law. If anyone sees that the county isn't following its own rules, then someone needs to point that out. Commissioner Burton continued by saying that in this situation, they are following the law. He said that this is a contract issue and that he sees the

reason for it as estate planning. It makes sense. It is legal under the law and he doesn't see any reason not to support it and will vote for the original decision to allow the Williamson Act contract division and deny the appeal.

Chair Bertolero acknowledged the letter from the Farm Bureau that supports the appeal made by Fritz Durst.

Chair Bertolero said that he met with Art Anderson before the last hearing in December and had talked to him by phone briefly the night before. He said that this new division of the Williamson Act contract does not create new legal parcels, nor does it create any additional home-site development than is currently allowed. Therefore, whether this contract was reduced or not, nothing changes regarding the number of legal parcels or the rights to build on them,. He said that the applicant can drill new wells, even if the split is denied. Nothing prevents him from going ahead and doing what he wants to on his own property. If he doesn't find enough water, he will probably decide on his own, not to plant as much vineyard or orchard, and that is a decision that will come down the road when he develops his water supply. All contracts must conform with the county zoning and Williamson Act requirements, and it was been pointed out in the memorandum that the parcels comply with the applicable Williamson Act requirements. It will add value to the county that he is taking grazing land, and converting it to much more productive vineyard and orchard uses. The Commission has to look at the best use of land in many of their decisions, and this is certainly an improved usage. With the new drip irrigation techniques, much less water is used than more traditional techniques. Therefore, water supplies are going to stretch much further throughout the county, as the use of drip irrigation increases. As far as the size of the contracts for being self sufficient, the only place you could argue that might not be sufficient, is on the portion that would be grazed. He doesn't think that if you owned one hundred -sixty acres just for grazing you could support a herd of cattle to make a living, but a person that might own that property could have another reason for grazing cattle or horses. It isn't a sufficient standard for turning down the request. He said that he personally feels that the property could be developed the way Mr. Anderson wants to do it regardless of whether this contract is approved or not. Chair Bertolero said he feels that the liability issue and financing issue is important, as they may want to have different loans with different banks, and he may need the flexibility to use different parcels to support those loans. At this time, he would vote to deny the appellant's request.

Commissioner Merwin said that although these are individual legal parcels, they still are all under one single Williamson Act. They currently cannot be legally sold to anybody else, unless the other people become partners in the entire amount, and they can't put more than two houses on the entire seventeen hundred plus acres. He asked Mr. Morrison if that was correct.

David Morrison explained that there was a requirement that limited two houses per contract, but that was removed in 2001 from the county code. They could still put two houses on each of the eleven parcels, but that Commissioner Merwin is correct, in that none of the parcels could be sold until the contract was terminated or divided.

Commissioner Merwin said that it still doesn't change his line of thinking. He said that there has been much talk about water, and the fact of the matter is, that divided or undivided, if he wants to develop the property, he believes that Mr. Anderson can put as many wells on there as he sees fit. Dividing the Williamson Act contract isn't going to help him or hinder him in that, other than by selling a parcel or two he can afford to put more wells in. His concern is that Mr. Anderson is not going to put two houses per lot to rent out, but if each parcel has their individual contracts to them, they can then be sold, and whoever buys them will most likely put at least one house on each parcel, and a well, and perhaps even another well for agricultural purposes. What they are faced with, is that Mr. Anderson has met the minimum requirements for the successor agreements. However, Commissioner Merwin said that he is more inclined to look at it from a broader

perspective. He concurs with Commissioner Kimball on this. He came into this meeting thinking that he was going to deny the appeal, but not feeling good about it.

Commissioner Winters said that there were many compelling issues on this project, and one to him, is that this request doesn't change the fact that these are separate legal parcels. Initially he was looking at the subsection in the Williamson Act for the acreage size. The presentation this morning made an appropriate change to that. He said that they can all speculate on what might happen in the future, with what the use of the land might be, but Mr. Anderson certainly appears to have the appropriate footing to have the new Williamson Act contracts. He feels that staff has made the appropriate determination in denial of the appeal by Mr. Durst.

Commissioner Burton asked Mr. Morrison to repeat the reasons for denial of the application by Mr. Anderson.

Mr. Morrison reiterated the reasons, and advised them that if the appeal was to be upheld and the original application denied, then the findings would have to be revised and brought back for future consideration.

Commission Action

That the Planning Commission takes the following actions:

1. **HOLD** a public hearing to receive comments from the applicants or their representative in support of their appeal, as well as comments from members of the public;
2. **DENY** the appeal from the appellant;
3. **DETERMINE** that a Categorical Exemption is the appropriate level of environmental documentation in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment D**);
4. **ADOPT** the Findings (**Attachment E**) and Conditions of Approval (**Attachment F**);
5. **APPROVE** the Williamson Act Contract Amendment to be sent to the Chairman of the Yolo County Board of Supervisors for signature. (**Attachment H**).

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

The Chair called for further motions on the item. None were offered.

Chair Bertolero declared the Planning Commission deadlocked. The appeal was denied and the original recommendation of the Planning Commission to approve the project was upheld.

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

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File # ZF2008-022, the Yolo County Planning Commission recommends that the Board of Supervisors find the following:

California Environmental Quality Act (CEQA) and Guidelines

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

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, and that it ensures compatibility of land uses adjacent to agricultural operations, so that agricultural productivity is not substantially affected.

The Williamson Act Contract Division will not decrease agricultural production on the project site. The proposed parcel configurations will provide better conformance of the property boundaries to current ownership and planned agricultural activities and facilitate a Williamson Act contract division for the transfer of real property.

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 proposed contract establishments are consistent with the requirements for Land Use Contracts, as set forth in the Yolo County Code Section 8-2.408(c) and 8-2.406(a)

1. *The Williamson Act contract amendment will divide the existing contract into eleven new contracts, which will be comprised of eleven parcels that are 80-acres or greater for a total of 1,722-acres. The property owner(s) will execute separate Williamson Act Successor Agreements for each separately situated parcel and be recorded in the office of the County Recorder;*
2. *The eleven parcels are legal parcels under the Subdivision Map Act (Government Code Section 66400et. Seq.);*
3. *Each new parcel meets the minimum acreage requirements as specified in Subsection 8-2.406(a): 80 gross acres where the soils are capable of cultivation and are irrigated; 160 gross acres where the soils are capable of cultivation but are not irrigated; and.*
4. *The Williamson Act contract amendment is consistent with Yolo County General Plan and policies in the Agricultural Element and the Successor Agreements will preserve the agricultural use of the parcels.*

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval contained herein.
2. Upon approval by the Board of Supervisors, the property owner(s) or administrators of trust shall execute the Williamson Act Contract Division for the subject properties on a form approved by the Office of the County Counsel of Yolo County. Said contracts shall be recorded in the Office of the Yolo County Clerk/Recorder and a copy of the recorded

contracts shall be returned to the Planning and Public Works Department prior to the issuance of any building entitlement on the subject properties.

3. The properties subject to a single Williamson Act Contract shall not be divided for the purpose of sale, non-agricultural lease or financing unless approval of a division of the Williamson Act Contract is granted as provided in the Yolo County Zoning Ordinance and Land Conservation Act of 1965 (Williamson Act).
4. 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.
5. 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 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 Board of Supervisors may result in the following:

- Non-issuance of future permits;
- Legal action

- 6.3 **2008-058:** Road abandonment request to abandon approximately 800 feet of road right-of-way at the easternmost portion of County Road 43, which ends at the property located at 16090 County Road 43 in Guinda (APNs: 060-210-11 and 060-210-09). The portion of unimproved roadway beyond the end of pavement already exists as farmland.
Owner/Applicant: Muller/Full Belly Farms (S. Berg)

Stephanie Berg, Associate Planner, presented the project and answered questions from the commission.

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

Vice-Chair Winters said that it seemed pretty straightforward to him

Commissioner Merwin agreed with Vice-Chair Winters. He said that he tends to look at road abandonment closely because each one is unique, but he doesn't see anything that raises a red flag on this one.

Commissioner Peart also agreed with his fellow commissioners. He said he has no problem abandoning that road.

Commissioner Kimball said that she has been down that road to Full Belly Farms many times, and

she had no idea that the county road extended all the way to the creek, so this makes a lot of sense.

Chair Bertolero concurred with his fellow commissioners.

Commissioner Burton had nothing to add. He said that it is very straightforward.

Commission Action

RECOMMENDED ACTIONS

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

1. **HOLD** a public hearing and receive comments;
2. **DETERMINE** that the project is exempt under the California Environmental Quality Act (CEQA) and CEQA 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 abandonment of approximately 800 feet of road right-of-way on the easternmost portion of County Road 43.

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

FINDINGS

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

Upon due consideration of the facts presented in this staff report and at the public hearing, the Yolo County Planning Commission finds the following:

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 15061(b)(3) 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 reasonably 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 last 500 feet of right-of-way for CR 43 does not serve as a public right-of-way for any adjoining properties, including Cache Creek. A roadway has never been constructed for public use along this corridor. An additional 300 feet of paved and maintained roadway ends at the property's farming headquarters and serves no other users.

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 approximately 800 feet of the easternmost portion of CR 43 road right-of-way, of which approximately 500 feet is not constructed as a public right-of-way and does not serve as a public access road, serves only one user and does not provide access for the public. The county has no plans to use 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."

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, including costs for the relocation or replacement of the existing "END" sign to the proposed east end of County Road 43, by the Planning and Public Works Department.
3. The applicant shall provide legal description(s) and plat(s) of the proposed road abandonment, signed and sealed by a surveyor licensed in the State of California, to the Planning and Public Works Department for review and approval. The map(s) 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. The applicant shall submit a signed deed that will grant the county a road easement for a vehicle turnaround area (cul-de-sac or hammerhead) at the proposed east end of County Road 43, to the satisfaction of the County Engineer. The turnaround area must be adequate for an emergency vehicle (fire truck) to make a U-turn, and shall not encroach on private property. The applicant shall provide a legal description and plat of the proposed easement that has been signed and sealed by a surveyor licensed in the State of California.
5. 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.

6. 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.**

* * *

10:54 a.m. Chair Bertolero called a ten minute recess.

6.4 **2009-004:** Draft Design Guidelines for residential, commercial and industrial uses. The guidelines would apply to all new development within the unincorporated area. Owner/Applicant: Yolo County (S. Berg)

Stephanie Berg, Associate Planner, presented the Design Review Guidelines, and thanked the sub-committee and their UCD voluntary intern Erica Jones, for their vision and commitment to Yolo County and for their work on the guidelines. She answered questions from the commission.

Commissioner Merwin thanked his fellow sub-committee members and expressed his appreciation for the opportunity.

Chair Bertolero opened the public hearing.

Betty Woo, resident and previous Yolo County Planning Commission member, thanked everyone for allowing her to be a part of the subcommittee. She said it was fun to get to work with them all again, and working on the committee gave her a chance to keep herself in the swing of things. She expressed her appreciation for the opportunity to make the document more user friendly, as people like her are the ones that have to read and implement those documents.

Erica Jones, University of Davis intern, thanked everyone for allowing her to be a part of the subcommittee. She said she feels that she got more out of the educational process of the project than any class she could have taken. She said she appreciates being part of something real, and that matters in a place where she lives.

Chair Bertolero thanked her and told her that she really put her fingerprint on this document.

Chair Bertolero closed the public hearing.

Mr. Morrison mentioned that the next step would be that staff would incorporate any changes to the draft recommended by the Planning Commission. It will then be sent out to the public, including the advisory committees for review and comment. It will then come back to the commission for review and recommendation to the Board of Supervisors.

Commissioner Peart said it looks like a great draft, and he commended the members of the sub-committee.

Commissioner Kimball agreed with Commissioner Peart and that it was great to be a part of the committee. She feels like the document is very close in terms of readability and appreciates the succinctness of it. She stated that by going through the process and going on field trips, talking about it and looking at things, made her feel like she is going to be much stronger as a commissioner when they do have developments that come up. She recommended a training or orientation after the guidelines are approved to familiarize others with it.

Commissioner Burton stated that he was very impressed with the document.

Vice-Chair Winters echoed the comments of his fellow commissioners and said that the subcommittee did a wonderful job and he is very impressed with what was done.

Chair Bertolero said that the fact that there will be three separate stand-alone documents is very good and will save a lot of paper for the county. He said the subcommittee worked on these guidelines a long time. The bullet points were a big issue, but they discussed it, and now have it set up to where you don't have to read the entire chapter to find the areas that you want to inquire about, therefore adding the bullet points and the numbering system made it very user friendly.

Commission Action

That the Planning Commission:

1. **HOLD** a workshop on the Draft Yolo County Design Guidelines for industrial, commercial, and residential development, accept public testimony, and provide direction to staff regarding any proposed changes, additions, and/or deletions to the draft guidelines; and
2. **SCHEDULE** a public hearing at a later date for recommendations to the Board of Supervisors on the Design Guidelines.

A request was made to return to item 6.2, **2008-022**: Appeal of Zoning Administrator approval of the division of an existing Williamson Act Contract into 11 new successor contracts.

Commission Action:

1. **RECOMMEND** that the Board of Supervisors reimburse the appeal fees to the appellant Mr. Durst.

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

6.5 Report on the General Plan Update hearings at the Board of Supervisors (D. Morrison)

Mr. Morrison took a moment to express his pleasure in the design guidelines and the work done on the document for a number of different reasons. In comparing the work done by the Planning

Commission subcommittee with the work done by the General Plan consultant team, the two documents are very complimentary. He said that there are a lot of similar themes, and overlapping ideas running through the two documents. He feels that the design guidelines are going to reinforce the new General Plan very well, and it is reassuring to see the Board of Supervisors and Planning Commission going in similar directions on many of these issues.

Mr. Morrison informed the Planning Commission that the Board of Supervisors held two days of hearings on January 20 and January 21, 2009, where they received the Planning Commission's recommendations. During the public review period, staff received more than ninety letters, totaling more than five hundred and fifty pages of comments. Over the holiday period, he and Heidi Tschudin had been busy trying to review, analyze, and incorporate those comments where appropriate into the new revised Draft General Plan. He stated that with all due respect, the staff did not include three recommendations from the Planning Commission. They did, however, make note of the three omissions to the Board of Supervisors. The recommendations not included were:

- *Add a new policy to establish criteria by which policies would be prioritized.*
Because all elements of the General Plan are equally balanced, staff does not agree that economic development is more important than the environment, or that the environment is more important than social services, etc. Issues considered in the General Plan must be balanced within the context of each decision. Staff did not feel it was appropriate and could be potentially limiting to the Board of Supervisors in the future to have a priority system for policies. It would reduce the flexibility of the Board of Supervisors to react to rapidly changing social or economic circumstances.
- *Recommendation for a three hundred foot buffer within habitat areas adjoining agriculture lands.*
This is an issue of great debate at the Board of Supervisors. They have discussed those issues on a regular basis, but have not taken any official policy concerning the regulation of habitat conversion in agricultural areas yet, nor have they given any specific direction to staff regarding that issue. The issue that is still under discussion and without prior direction, staff felt that this recommendation was premature.

Mr. Pogledich said that he was working on some recommendations to the Board of Supervisors which will probably be considered in two or three months regarding regulation of habitat creation projects. He asked Mr. Morrison if there was any reason that he could not bring up the Planning Commission's recommendation to the Board of Supervisors at that time.

Mr. Morrison replied that it would be entirely appropriate to raise the Commission's position as a part of any future Board of Supervisors' discussion of this issue.

- *Rural housing criteria – recommendation to delete any limit on the size of rural homes.*
Staff has already received specific direction on that from the Board of Supervisors concerning this matter, and as staff ultimately works for the Board, they did not feel comfortable recommending something that was in direct conflict with previous Board of Supervisor direction.

After taking public testimony, the Board of Supervisors made a number of changes to the revised draft of the General Plan. The revised General Plan was made available to all Planning Commission members prior to the January 20, 2009 meeting, so the changes they made were to that draft, not the September 16, 2009 draft.

Mr. Morrison said that it generally looks like the plan is more or less accepted by large segments of the population, and is generally in line with the thinking of the Planning Commission and the Board of Supervisors. Therefore, the changes were fairly limited. Mr. Morrison gave a summary of the revisions to be made.

REGULAR AGENDA

7. DISCUSSION ITEMS

7.1 Election of Officers for 2009.

Chair Bertolero called for a motion.

Vice-Chair Winters motioned to recommend to the Yolo County Planning Commission for 2009 as Chair, Mary Kimball. The motion was seconded by Commissioner Burton. There was no additional discussion and the motion carried unanimously

Commission Action:

1. **NOMINATE** Commissioner Mary Kimball as the 2009 Chair of the Planning Commission.

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

Commissioner Kimball motioned to recommend to the Yolo County Planning Commission for 2009 as Vice-Chair, Jeb Burton. The motion was seconded by Commissioner Merwin. There was no additional discussion and the motion carried unanimously

Commission Action:

1. **NOMINATE** Commissioner Jeb Burton as the 2009 Vice-Chair of the Planning Commission.

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

Chair Bertolero commented on the future Planning Commission vacancies. He reported that he was reappointed, however, Commissioner Liu has a new supervisor in her district and he will be coming forth with a new commissioner. Supervisor Chamberlain will be filling the vacancy left by Commissioner Peart's departure.

7.2 Salaries and lunches.

Chair Bertolero requested this discussion item. He said he is in favor of continuing lunches, but wanted to discuss making an adjustment on the salaries to help with the county budget.

David Morrison informed the Planning Commission that this item was not placed on the agenda at the request of staff, but by Chair Bertolero, and that staff has already accounted for the Planning Commission budget for the current fiscal year.

After a brief discussion several of the Planning Commissioners volunteered to forego their salaries, however, at this time it was decided that no changes to the Planning Commissioners salaries or lunches shall be made.

7.3 Matrix indicating levels of development application approvals.

David Morrison provided a handout regarding the development application approvals as requested at a previous meeting by Commissioner Kimball, and answered questions from the commission.

7.4 Resolution of Appreciation for Mary Liu.

Resolution for Mary Liu presented earlier in the meeting.

7.5 Resolution of Appreciation for Don Peart.

David Morrison presented the Resolution of Appreciation for Commissioner Don Peart.

Commissioner Peart expressed his thanks to the Supervisors that had appointed him to the Planning Commission, and also thanked all of his fellow commissioners, both past and present.

The Planning Commissioners each thanked Commissioner Peart for his time on the commission and wished him the best.

Commissioner Peart requested that he continue to receive the Planning Commission agenda.

8. 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, brought the commission up to date on the following:

- A. Personnel Changes and Budget:
 - The preliminary budget has been received for the 09/10 fiscal year. The Development Services Division was asked to reduce its general fund allocation by about a quarter of a million dollars. They intend to continue to leave the three vacant positions open, and anticipate another two-week furlough in 2009 at a minimum.
 - Planning and Public Works recently increased building and planning fees to bring them up to full cost recovery, and will continue to do that next year as needed.
 - Residential building permits are down substantially this year. However, the loss has been largely offset by increased commercial and agricultural building permit activity.

- B. Board of Supervisors Agenda:
 - The Gorman lot line adjustment was approved on January 27, 2009.

- There has been no action on the proposed ABC license as of yet.
- The proposal for the technology fees is moving forward.
- Wes Ervin, Economic Development Manager, took his recommendations to the Board of Supervisors for further permit streamlining.
- The negotiations between the tribe and Yolo County regarding the casino resort expansion still remain unresolved.
- The letter that the Planning Commission approved in December regarding a proposal to create an Ad-hoc committee to standardize rules and procedures will be heard at the February 24, 2009, Board of Supervisors meeting
- The Bay Delta Conservation plan gave a presentation to the Board of Supervisors. Planning staff continues to work with the Delta Protection Commission on revisions to the Land Use Resource Management Plan, and the Delta process is moving forward.
- The DMX zone will go back to the Board of Supervisors on February 24, 2009.

9. COMMISSION REPORTS

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

- A. Commissioner Peart said that he had a phone conversation with Donald Rust, Principal Planner, regarding Creekside stables. He also had a phone conversation with Art Anderson about his agenda item, Dixon Corporate Commons.
- B. Commissioner Kimball had nothing to report.
- C. Commissioner Burton reported that he spoke to Kent Calfee on the phone.
- D. Vice-Chair Winters said he also had a conversation with Kent Calfee.
- E. Commissioner Merwin stated that he attended the Yolo County Farm Bureau meeting for January and attended their annual dinner that was held at the Woodland Community Center. Commissioner Peart was also there. He also spoke to Kent Calfee on the phone.
- F. Chair Bertolero reported that he had a very busy six weeks.
 - On December 19, 2008, he spoke on the phone to Yolo County Building Inspector Brian Frenger and Commissioners Peart and Kimball about the Creekside Stables.
 - On January 5, 2009, he attended the Supervisor's and Judge's swearing-in ceremony in Woodland, where Supervisor's Chamberlain, McGowan and Provenza took their oath of office.
 - On January 7, 2009, he attended the Capay Citizens' Advisory Committee meeting along with Supervisor Chamberlain and Stephanie Berg.
 - On January 13, 2009, he attended the Board of Supervisors' regular meeting where he was reappointed to the Planning Commission for a new four-year term.
 - On January 14, 2009, he attended the Knights Landing Citizens' Advisory Committee meeting.
 - On January 20, 2009, he attended the Esparto Citizens' Advisory Committee

meeting.

- On January 21, 2009, he attended the Dunnigan Citizens' Advisory Committee meeting.
- On January 26, 2009, he met with Chair McGowan to discuss the formation of the Ad hoc subcommittee of the Planning Commission regarding General Plan Citizens' Advisory Committee procedures. This committee formation will be placed on the consent calendar for the next Board of Supervisors' meeting for approval on February 24, 2009
- On January 26, 2009, he phoned Philip Pogledich, Senior Deputy County Counsel, to discuss procedures for conducting today's Planning Commission meeting.
- On January 26, 2009, he attended the Yolo-Zamora Citizens' Advisory Committee meeting.
- On January 28, 2009, he met with Don Rust, David Morrison and Eric Parfrey at their office to discuss various county planning issues.
- On January 28, 2009, he had a phone conversation with Kent Calfee, representative of Creekside Stables. They discussed the current status and their wish to continue the agenda item 6.1 to a future date.
- On January 28, 2009, he had a phone conversation with Art Anderson regarding his application for a Williamson Act split, scheduled to be heard on today's Planning Commission agenda. Mr. Anderson wanted to know if he had any questions.

10. FUTURE AGENDA ITEMS

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

- General Planning Commission Orientation.
- Brown Act Training.
- General Plan EIR will be heard at the April 2009 meeting.

11. ADJOURNMENT

The Regular Meeting of the Yolo County Planning Commission was adjourned at 12:33 p.m. The next regularly scheduled meeting of the Yolo County Planning Commission is March 12, 2009, 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