



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

MINUTES

March 12, 2009

ADMINISTRATIVE AGENDA

1. Chair Kimball called the meeting to order at 8:33 a.m.
2. Pledge of Allegiance was led by Commissioner Bertolero.

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

3. ADOPTION OF MINUTES OF THE **January 29, 2009** MEETING.

Commission Action

The Minutes of the **January 29, 2009** meeting were approved with the following corrections:

Item 6.2, **2008-022** Dixon Corporate Commons; Planning Commission Action to read:

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

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

4. SWEARING IN OF NEW PLANNING COMMISSIONER

Kristine Mann, from the Yolo County Clerk – Recorder’s Office, administered the oath of office to Richard Reed.

5. 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.

A member of the public came forward to congratulate Commissioner Reed.

6. CORRESPONDENCE

- 6.1 Invitation to 29th Annual Farm City Festival Breakfast
- 6.2 Clark Pacific Newsletter
- 6.3 APA brochure for Planning Commission training tools.
- 6.4 APA brochure offering resources and training to become an effective Commissioner.
- 6.5 Memorandum from Stephanie Berg, Associate Planner, regarding a revision to Item 7.4, Zone File **2008-004**, Taylor Tentative Parcel Map

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

TIME SET AGENDA

- 7.1 **2007-081**: 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. A Negative Declaration has been prepared for this project.
Owner/Applicant: Yolo County

Donald Rust, Principal Planner reviewed the proposed ordinance and amendments, and answered questions from the commission.

Vice-Chair Burton asked where the funds generated from the ABC licensing fees would go.

Assistant Director of Planning, David Morrison, replied that the Development Services Division, which includes Building and Planning, is a general fund budget. Therefore, the fees would go into the general fund, as would any other permit fee, to pay for the costs of implementing the program.

A short discussion followed regarding the ABC licensing process, including use and restrictions of the license.

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

Commissioner Winters stated that it seems like a straightforward ordinance. He said he thinks that it is important for the county to have meaningful input into alcohol beverage sales within the unincorporated area, so he is in support of this ordinance.

Commissioner Merwin said that though he tends to not be a supporter of additional government, and additional layers of resolution; the sales of alcohol in communities, especially small rural communities, is something that as a society we need to keep an eye on. He thinks that the more opportunity we have to steer that, the better, so he is also in support of this ordinance.

Commissioner Bertolero shared information regarding the ABC ordinance from several of the citizens' advisory committee meetings he attended. Overall, they are happy to see some regulation on the sale of alcohol, except in Capay Valley, where they are generally against any more regulation. He said that personally, he feels that the ordinance is well written, and is a good start.

Commissioner Reed said that it seems like a good ordinance but that he hopes that the application process is transparent and clear for applicants so they do not feel as if they are bouncing between county and state; other than that, he thinks that it is fine.

Vice-Chair Burton expressed his surprise, as he has in the past, that Yolo County did not already have an ordinance of this type. He said he thinks it is something that needs to be done from a county perspective, but he wants to make sure that as they add more legislation and fees, that the county is giving benefits back to the community.

Chair Kimball concurred with her fellow commissioners. She also shared some of the same concerns as Commissioner Reed in regards to the timing and the ease of the application process. She also wanted to make sure that the communities were in favor of it, which appeared to be the case, with the exception of Capay. She expressed confidence in this ordinance, and said it is a good place to start.

Commission Action

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

1. **INTRODUCE** by title only and waive the first reading of the Alcoholic Beverage Control ("ABC") Ordinance and amendments (**Attachment A**) to Chapter 2 of Title 8 of the Yolo County Code;
2. **HOLD** a public hearing and receive testimony on the proposed ordinance and amendments of the Yolo County Zoning Code that provide for ABC ordinance;
3. **ADOPT** the Negative Declaration (**Attachment B**) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines; and

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4. **ADOPT** the proposed ordinance and amendments of the Yolo County Zoning Code that provide for ABC Ordinance (**Attachment A**) at the time of the second reading.

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

- 7.2 **2008-069:** Land division request to divide a 160-acre parcel into two parcels of 80-acres each (APN: 050-130-14). The parcel is zoned A-1 (Agricultural General) and is in row crop production. The project site is located at 22823 County Road 88, approximately five miles north of the City of Winters. The use is proposed to remain the same. A land division application is similar to a Tentative Parcel Map. The most significant difference is that a Certificate of Compliance is issued and recorded instead of a Final Map. A Negative Declaration has been prepared for this project. Owner/Applicant: Fredericks

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

Chair Kimball opened the public hearing.

John Fredericks, trustee for the Fredericks Family trust, addressed the Swainson's Hawk fee, and stated that the fee exceeds the annual income of the property, and would create an undue hardship since there will not be any development at this time. He requested a deed restriction on the property that will require the fees be paid at time of development.

Robert Milsap, Yolo County resident, objected to the application for land division. He expressed his concern regarding the creation of additional home-sites. He said that similar land divisions have been consistently rejected by Yolo County, the Board of Supervisors, and the Planning Commission, because of the fact that it creates a sub-division for rural residential development. He questioned the fairness to previous applicants that were denied similar requests if the county approves the applications now. He said that he does recognize that the applicant is requesting a restriction, and if the commission granted the division with the restriction imposed, that it would be the proper solution.

Chair Kimball closed the public hearing.

Commissioner Bertolero reminded the commission that in the past, they have approved several land divisions of this type, and per the request of an applicant, deferred fees until submittal of a building permit. He thinks they should consider deferring the Swainson's Hawk fee at this time and include language taken from a previous land division decision. Commissioner Bertolero provided an example of language to use.

Commissioner Reed said that he likes the suggestion on the fee, but it needs to be implemented at the appropriate time; other than that he feels that the land division is fine.

Vice-Chair Burton stated that he does not have a problem with it. He added that he had expressed his concern when they waived the fee for Crew Winery, because every time a similar request comes up, they will end up repeating the same decision. Unfortunately, that is what they have done, and

he does not see how this application is any different from Crew Winery, therefore, it would be inappropriate not to treat them the same way as they have treated the other applicants.

Commissioner Winters agreed with the comments from his fellow commissioners. He added that this is the type of thing that they are seeing more of, and during this different economic climate, there are various reasons why people need to do subdivisions. He thinks it would be appropriate to charge the fee when the loss of Swainson's Hawk habitat occurs.

Commissioner Merwin spoke about a couple of different issues including his concern at having farmland sub-divided. He added that his biggest concerns about making people pay fees up front for something that may not happen. It puts pressure on them, especially given the economics of it, to do exactly what the county is trying to prevent; which is sell the parcels off and put homes on it. If the county imposes the fees up front and the applicant does not have any intent of putting houses on it; then that is unfair. He said he is inclined to support the language that the Planning Commission utilized with the Crew Winery project.

Chair Kimball agreed that she never likes to see land sub-divided. She indicated that she is familiar with this property, and is aware that it is in very viable agricultural production. She also expressed her concern that the number of these parcel split requests have increased due to financing reasons, as well as an increased number of requests to delay payment of the Swainson's Hawk fees. She stated that she disagrees with delaying that payment, but after listening to her fellow commissioners, she realizes that there may be good reason for it. She cautioned everyone that what they are doing, and what they have already done with Crew Winery, was going to set a precedence. She does not think that they need to look at this particular language for every single application that comes through.

Assistant Director of Planning, David Morrison, commented that as with the Crew Winery hearing, staff remains opposed to deferral of Swainson's Hawk mitigation fee until issuance of the building permit. He contrasted the cost to a homebuilder versus the cost to the land developer especially considering the many other fees that are applied with the building permit. He requested that the Planning Commission place a discussion item on the next agenda regarding the deferral of fees: define guidelines for when and where they will be applied, and to find out if the Planning Commission's intent is to defer fees uniformly.

Commissioner Merwin clarified that his intent is not to direct staff to defer Swainson's Hawk fee across the board.

Commissioner Bertolero said that he thinks that having a workshop on these fees would be good.

Further discussion was held on the deferral of fees.

Chair Kimball said that these items do need to be discussed at a future workshop.

Mr. Morrison offered to invite Maria Wong, the Director of the Joint Powers Association (JPA), to the next meeting so that she can offer her insights, since she administers the Swainson's Hawk mitigation program.

Philip Pogledich, Senior Deputy County Counsel, proposed additional language to be added to condition 3: "Alternatively, the applicant may record a deed restriction in the chain of title, in a form approved by county council, requiring payment of the then current fee, prior to the issuance of a building permit, or other approval for development."

Vice-Chair Burton asked if they should remain consistent and use the same language that they

used for the Crew Winery project, which is, "The applicant shall record a notice of the chain of title for the newly created parcel, stating the obligation to mitigate for the loss of Swainson's Hawk foraging habitat at the time of the building permit. Such notice shall be approved by county council prior to recordation."

Mr. Pogledich agreed that the language sounded fine.

Commission Action

Vice-Chair Burton made a motion to accept the staff recommendation as modified, with an amendment to condition 3 that states, "The applicant shall record a notice of the chain of title for the newly created parcel, stating the obligation to mitigate for the loss of Swainson's Hawk foraging habitat at the time of the building permit. Such notice shall be approved by county council prior to recordation."

That the Planning Commission:

1. **HOLD** a public hearing to receive comments;
2. **ADOPT** the Initial Study/Negative Declaration 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;
4. **APPROVE** the Land Division (**Attachment A**) in accordance with the Conditions of Approval (**Attachment E**);
5. **WAIVE** the parcel map requirements pursuant to Article 4 of Chapter 1 of Title 8 of the Yolo County Code; and
6. **DIRECT** planning staff to issue a Certificate of Compliance to be recorded with The Yolo County Recorder's Office (**Attachment F**).

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

FINDINGS

Upon due consideration of the facts presented in the staff report and at the public hearing for Zone File #2008-069, the Planning Commission approves the proposed Land Division. In support of this decision, the Planning Commission makes the following findings:

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

California Environmental Quality Act

That the proposed Initial Study and Negative Declaration 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 20 days for public review and to Responsible Agencies having jurisdiction over the project, with no significant comments noted.

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

Yolo County General Plan

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

The subject property is designated as Agriculture in the Yolo County General Plan. As conditioned, the Land Division is consistent with the policies, goals and objectives of the general plan. Development is not proposed as part of this application.

Zoning Code

That the proposed Land Division is consistent with the applicable zoning standards. [Article 6 of the County Zoning Ordinance]

The proposed project will result in the creation of two parcels of 80± acres each. The subject property is zoned Agricultural General (A-1), which has a minimum parcel size of twenty (20) acres. The resulting two parcels of 80 acres each will meet all the requirements of the A-1 (Agricultural General) zone. The Land Division meets the minimum parcel sizes, width to depth ratio, access, and general requirements of the Yolo County Code.

Subdivision Map Act

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

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

The subject property for the proposed Land Division is designated as Agriculture in the Yolo County General Plan. The parcel is used for an agricultural purpose and will continue as such after approval of the Land Division. The proposed Land Division, as conditioned, complies with the minimum parcel size and use in the Agricultural General (A-1) zone and Agricultural General Plan designation.

- 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 agricultural use based on designations in the Yolo County General Plan. As conditioned, the Land Division is consistent with the requirements of the General Plan.

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

As conditioned, the proposed parcels comply with the minimum parcel size required by the Agricultural General zone and the Yolo County General Plan. The site is in agricultural production and will continue to be farmed in the future. Development is not proposed as part of this application.

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

The Yolo County Code sets minimal parcel size in the A-1 zone of 20 acres. The Land Division, as approved, complies with the Yolo County Code and Improvement Standards adopted by the county. Residential development is not proposed as part of the application. The division of the parcel into two parcels of approximately 80 acres each is suitable for the continued agricultural operations.

- 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 Certificate of Compliance, 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 proposed creation of two parcels will not cause environmental damage or substantially and avoidably injure fish and wildlife or their habitat.

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

The proposed design of the requested Land Division 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 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.

The design of the Land Division 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 approximately 80 acres in size, providing significant opportunities for future development to incorporate passive or natural heating and cooling

features.

CONDITIONS OF APPROVAL

ON-GOING OR OPERATIONAL CONDITIONS OF APPROVAL:

Planning Division – PPW (530) 666-8808

1. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval as approved by the Yolo County Planning Commission.
2. Upon approval of the Land Division by the Planning Commission, the requirements for filing a (Final) Parcel Map shall be waived and the Planning and Public Works Department shall issue a Certificate of Compliance. Within thirty (30) days of issuance of the Certificate of Compliance, the applicant shall be required to record, at the applicant's expense, the Certificate, including the map exhibit and legal descriptions, with the County Recorder's Office. If the Certificate is not recorded, approval of the Land Division shall be deemed null and void without any further action in accordance with the State Subdivision Map Act.
3. Prior to issuance of the Certificate of Compliance, the applicant shall record a notice in the chain of title for the newly-created parcel (Parcel 1) stating the obligation to mitigate for the loss of Swainson's hawk foraging habitat at the time of building permit issuance, through participation in the Yolo County Habitat Conservation plan. Such notice shall be approved by the County Counsel prior to recordation. The fees collected shall be subject to those set at the time of building permit. ~~the applicant shall be required to address the potential loss of Swainson's hawk habitat through participation in the Yolo County Habitat Conservation Plan. The fee is currently set at \$8,660 per acre, and shall be collected for 2.5 acres (\$21,650 total). The Certificate of Compliance shall be recorded within two years from the date of approval by the Yolo County Planning Commission, or the Land Division shall become null and void without any further action in accordance with the state Subdivision Map Act.~~
4. The applicant shall pay fees in the amount of \$2,043 (\$1,993 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.

County Council (530) 666-8172

5. 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.

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

PRIOR TO ISSUANCE OF ANY BUILDING PERMITS:

Building Division — PPW (530) 666-8775

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

Environmental Health Department (530) 666-8646

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

- 7.3 **2008-057:** Tentative Parcel Map to divide an existing 760±-acre parcel into two parcels of 80± acres and 680± acres each, located approximately two miles west of Dunnigan (APN: 062-060-11). The parcel is zoned A-P (Agricultural Preserve) and is under Williamson Act contract. The property is currently in agricultural production with almond orchards and an almond processing facility. The use is proposed to remain the same. A Negative Declaration has been prepared for this project. Owner/Applicant: Bains Farms/Bains

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

A short discussion followed regarding additional home sites on the parcel if the division is approved.

Chair Kimball opened the public hearing.

Mr. Bains, applicant, addressed the commission and informed them that he has no intention of developing the property into anything other than agricultural use, and has no intention of adding a third house. He cited reasons, including financing of the property, as reasons for the split.

Robert Milsap, Yolo County resident, stated that his comments were along the same lines that he shared in Item 7.2, , except that he wasn't aware that there were home sites already developed on both parcels, so he will reserve further comment until the next agenda item.

Chair Kimball closed the public hearing.

Commissioner Winters said that the proposal seems very clear, and because parcel one already has an existing home site, they do not have the problem of an additional home being put anywhere else on the project site; therefore, he is in favor of approving the request.

Commissioner Merwin stated that this request seems reasonably straight forward, and in addition, it is made a little clearer what the applicant's intent is by the fact that he is not requesting a Williamson Act contract split for successor agreements. He stated that he is in support of this project.

Commissioner Bertolero concurred with his fellow commissioners and said that the Dunnigan Advisory Committee recommended approval of the split. He said that he does not see any environmental issues of concern; therefore, he supports it.

Commissioner Reed stated that he supports the request as is, and concurs with the comments from the other commissioners.

Vice-Chair Burton clarified that he is quite often in support of sub-dividing properties and understands the reason, as far as a liability or financial perspective, and sometimes an estate perspective for it. He said that he is in support of this division.

Chair Kimball stated that she also supports this project, and is much happier to see that the location already has home-sites. She concurred with Commissioner Merwin's comment regarding the lack of request for a Williamson Act contract split.

Commission Action

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

1. **HOLD** a public hearing and receive comments;
2. **ADOPT** the Initial Study/Negative Declaration prepared for the proposed project in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines (Attachment C);
3. **ADOPT** the proposed Findings (Attachment D) for the project; and 4. **APPROVE** the Tentative Parcel Map (TPM #4967) (Attachment A) in accordance with the Conditions of Approval (Attachment E)
4. **APPROVE** the Tentative Parcel Map (TPM #4967) (Attachment A) in accordance with the Conditions of Approval (Attachment E)

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

FINDINGS

Upon due consideration of the facts presented in the staff report and at the public hearing for Zone File #2008-057, the Planning Commission approves the proposed Tentative Parcel Map #4967. In

support of this decision, the Planning Commission makes the following findings:

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

California Environmental Quality Act

That the proposed Negative Declaration and Initial Study prepared for the project is the appropriate environmental documentation in accordance with the California Environmental Quality Act (CEQA) and CEQA 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 CEQA Guidelines, an environmental evaluation (Initial Study) has been circulated for 20 days for public review and to Responsible Agencies having jurisdiction over the project, with no significant comments noted. The proposed Negative Declaration is the appropriate level of environmental review pursuant to Article 6, Section 15070 of the CEQA Guidelines (Attachment C).

Yolo County General Plan

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

The subject property is designated as Agriculture in the Yolo County General Plan. As conditioned, the Tentative Parcel Map is consistent with the policies, goals and objectives of the General Plan. Residential development is not proposed as part of this application.

Zoning Code

That the proposed Tentative Parcel Map is consistent with the applicable zoning standards.

The proposed project will result in the creation of two parcels of 80 acres and 680 acres, respectively. The subject property is zoned Agricultural Preserve (A-P), which has a minimum 80-acre lot size for cultivated, irrigated land. The 80-acre parcel (Parcel 1) will contain the almond processing facility and almond orchards. Parcel 2 will contain 680 acres of almond orchards. Both parcels are equipped with agricultural wells, fully irrigated, and currently in agricultural production. The resulting two parcels of 80 acres and 680 acres will meet all the requirements of the A-P (Agricultural Preserve) zone. The Tentative Parcel Map meets the minimum parcel sizes, width to depth ratio, access, and general requirements of the Yolo County Code.

Subdivision Map Act

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

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

The subject property for the proposed Tentative Parcel Map is designated as Agriculture in the Yolo County General Plan. The property is in use as an active almond orchard and almond processing facility, and will continue as such after approval of the Parcel Map. The

proposed Parcel Map complies with the minimum parcel size and use in the A-P (Agricultural Preserve) Zone and Agricultural General Plan land use designation.

- 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 agricultural use based on designations in the Yolo County General Plan. All current agricultural uses will remain the same upon approval of the Parcel Map. The Tentative Parcel Map is consistent with the requirements of the General Plan.

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

The proposed parcels comply with the minimum parcel size required by the A-P (Agricultural Preserve) zone and the Yolo County General Plan. The site is in agricultural production and will continue to be farmed in the future.

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

The Yolo County General Plan allows for the creation of 80-acre parcels of land. The proposed Tentative Parcel Map complies with the Yolo County Code adopted by the county. Residential development is not proposed as part of the application. The division of the parcel into two parcels of approximately 80 acres and 680 acres is suitable for the continued use of an almond orchard and almond processing facility.

- 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. The proposed creation of two parcels will not cause environmental damage or substantially and avoidably injure fish and wildlife or their habitat.

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

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

- i) 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 80-acre parcel (Parcel 1) will continue from County Road 2. The 680-acre parcel (Parcel 2) will continue to be accessed from County Road 4. No improvements are necessary.

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

- j) 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 at least 80 acres in size, providing significant opportunities for future development to incorporate passive or natural heating and cooling features.

CONDITIONS OF APPROVAL

Planning Division – PPW (530) 666-8808

10. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval as approved by the Yolo County Planning Commission.
11. 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 Yolo County Planning Commission, or the Tentative Parcel Map shall become null and void without any further action in accordance with the state Subdivision Map Act.
12. The applicant shall pay fees in the amount of \$2,043 (\$1,993 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.
13. The almond hulling operation is considered to be a legal non-conforming use on the property. Any expansion of the hulling portion of the operation will be limited to the existing footprint and may require the issuance of a Major Use Permit, at the discretion of the Director of Planning and Public Works.
14. The property is currently under a single Williamson Act contract (Land Use Agreement # 01-061) in Agricultural Preserve #041. The parcels cannot be sold separately without first obtaining separate contracts (Williamson Act Successor Agreements) for each parcel.

County Council (530) 666-8172

15. 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.

16. Failure to comply with the **CONDITIONS OF APPROVAL** as approved by the Yolo County Planning Commission may result in the following actions:

- **non-issuance of future building permits;**
- **legal action.**

PRIOR TO FINAL MAP APPROVAL:

Planning Division – PPW (530) 666-8808

17. The Parcel Map submitted for recordation shall have the Parcel Map Number (PM #4967) indelibly printed on it. Said PM #4967 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.

PRIOR TO ISSUANCE OF ANY BUILDING PERMITS:

Building Division - PPW (530) 666-8775

18. 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 and Services Authorization (FSA) fees, and Environmental Health fees.

19. All building permit plans shall be submitted to the Planning and Public Works Department for review and approval in accordance with County Building Standards prior to the commencement of any construction.

Environmental 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.

7.4 **2008-064:** Tentative Parcel Map to divide an existing 685.04-acre parcel into three separate parcels of 200.61 acres, 126.46 acres, and 357.97 acres, located approximately 3.5 miles west of the City of Woodland (APNs: 025-360-46, 025-360-48, and 025-360-55). The property is zoned A-1 (Agricultural General), and is currently farmed in seasonal row crops. The proposal to divide the property will allow the owner to attract investment and financing to plant permanent crops on two of the three proposed parcels. The western portion of the property is currently used for irrigated and dry land pasture and will remain the same. The Parcel Map will follow soil types, irrigation methods, and planned permanent crops for the purpose of dividing the property into three separate farming operations. A Negative Declaration has been prepared for this project. Owner/Applicant: Miksal, Inc./Taylor

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

Phillip Pogledich asked for clarification regarding the notice issue.

Ms. Berg responded that a courtesy notice was mailed to landowners within one thousand feet of the project site, for both the public hearing as well as the environmental document. It was determined that the noticing was legal.

Chair Kimball opened the public hearing.

Lux Taylor, applicant, thanked staff and Ms. Berg for the thorough job on his application, and requested that they defer payment for Swainson's Hawk mitigation since he has no intention of developing the property.

Chair Kimball requested clarification on the financing issue.

Mr. Taylor responded to the question posed by Chair Kimball, and further explained his intentions.

Susan Millsap, Yolo County resident, shared her concerns and thoughts with the commission regarding the parcel split. She also requested that the Planning Commission allow the split, but only as long as it is for agricultural related uses.

Rainy Bewley, neighbor, said that she had only heard about the split the day before, so she did not have time to read the entire document, but that she was aware that the corner lot has a for sale sign on it. She expressed her concerns about the potential for additional homes being built on the property, when there are water issues in the area, and it is a high fire severity zone. She also shared some history of past flooding in the area and disagreed with the comment in the staff report that there is not any flooding there.

Robert Milsap, local resident, addressed the commission and said that the overall issue with all of these land divisions is the same. He said that he was not aware of the Crew Winery decision, but he is in agreement with Commissioner Bertolero, who mentioned his concern about setting a precedent regarding that particular decision. He stated that the precedence seems to have already come to pass, as there are already three applications on the current agenda, and he is sure they will see many more. They have now established a policy that allows division of parcels in Yolo County that do in fact create additional home-sites simply by characterizing it as being for the purpose of agricultural financing. He referenced the General Plan, and reminded the commission of the requirements needed to approve the application.

Chair Kimball closed the public hearing.

Commissioner Bertolero stated that his position on the delay of the mitigation fees is consistent with the prior applicant, which is delaying it until the time when any houses are built. He said that as far as allowing the split, it appears that it is for the purpose of expanding the property use from grazing, to either vineyard or orchard, which is a higher benefit to the county. He added that he does not see any environmental issues, nor is the property in the Williamson Act; so, at this time, he has no opposition to the split.

Commissioner Reed said that within the framework of what they have to decide, he thinks that the split is ok, but expressed his concern about the creeping approval of home-sites on agricultural land. He stated that he does have reservations on a higher level, but as an individual project, he accepts staff recommendation.

Vice-Chair Burton said that he also accepts staff recommendation, and expressed his interest in hearing how the other commissioners felt on the subject. He said that they have gotten to a point to where they have to treat applicants equally, and he personally doesn't have a problem with one of the properties being for sale; as he understands the financial reasons, and other reasons to be dealing with this. He added that they need to realize that when property is split, sale of one of the parcels is a possibility. He explained that treating Mr. Taylor any differently than they treated the other applicants would be inappropriate; therefore, he agrees that they stick to the policies that they had decided on previously.

Commissioner Winters agreed with the staff recommendation on the proposal. He added that when weighing the concept of intent; it is not something they are able to judge. He stated that the fact that it might be for sale, does not mean that someone may not come in and use it for agricultural purposes.

Commissioner Merwin said he felt that they have hammered the Swainson's Hawk fee, and the delay there of, and he has been comfortable with that precedence up until this point. He shared his dislike in seeing agricultural land split just because they can, along with the creation of additional home-sites. He stated that they do have to be fair, but the commission has asked questions in the past about its ability to place restrictions on newly created parcels or home-sites. However, county staff has indicated the difficulties of such an approach. He said that he has looked at the divisions before them today, and even though there is language in the General Plan that talks about denying the creation of additional home-sites in agricultural areas, it rarely happens. He said that he is not opposed to looking into that in the future.

Mr. Morrison reported that it was a more common practice of the county, to allow for the restriction of the home sites in the 1990's, but since then, the issue of whether the county has the ability to restrict home-sites has evolved. He said one of the primary concerns, is that there has to be a sufficient nexus, since what you are doing is depriving any future landowners of being able to live on the property. He said that it is not entirely clear what the legal ability of the county is to restrict home-sites, but if the commission wishes they can include that on the next agenda for further discussion. He pointed out that agricultural land division is not a new practice, and it has been ongoing for sometime. He said that on average, they have approved perhaps one a year, and although this year has been unusual, the economic times are unusual. However, they have certainly allowed them in the past, and during the ten years that he has been liaison to the Planning Commission, they have not restricted home-sites, and in many cases the commission has taken restrictions off of home-sites. He stated that it has been the policy of the county to make sure that farmers can live on the land that they farm. Restricting home-sites, means that if a family wishes to farm the parcel in the future, they would have to live in Woodland or Winters and commute; if they are not allowed to live on the farm. Mr. Morrison stated that this has broader policy implications, and that the purpose of the General Plan language, as he reads it, is that dividing land for the express purpose of creating residences is prohibited. The question is whether or not the application is solely for the purpose of creating a residential home site.

Commissioner Merwin said that by developing and establishing minimum parcel sizes, the county is in fact limiting the creation of additional home sites to that end, and in his mind twenty acres is a ranchette and is not sustainable agriculturally. He said that they may need to revisit tools at their disposal to prevent repeated division of the same land until they have nothing left but several twenty-acre ranchettes. He said that at this level, he finds it hard to find a significant argument to oppose this a split of this size, regardless of who the applicant is, He stated that he is still comfortable with deferring the Swainson's Hawk mitigation fees.

Mr. Morrison commented that the Board of Supervisors had a vigorous debate about a year ago,

when staff indicated that if the county wished to pursue a more aggressive approach towards preserving farmland, that they could increase the minimum parcel size in the A-1 zone to 80 acres. The Board of Supervisors unanimously decided not to do that, and felt very strongly that would not be the appropriate direction for Yolo County to go. Mr. Morrison responded to Commissioner Merwin's question about preventing someone from taking a four-hundred acre parcel in an A-1 zone and dividing it down into twenty-acre parcels, and he said that the answer goes back to the concept of agricultural viability, which is more or less the yardstick that the county has used for the last decade. He said that the question is not whether it meets minimum parcel size. As it has been pointed out, the A-1 zone is a twenty-acre minimum, these parcels all range from one hundred and twenty-acres, to over three hundred acres. He stated that Mr. Millsap is correct that in the General Plan, the primary purpose of land division has to be agricultural not residential. The question is, are these parcels agriculturally viable.

Chair Kimball agreed that parcel sizes are appropriate, although she philosophically disagrees with it. She expressed concern about a for sale sign on the corner, when the land division hasn't even been approved yet. She asked how they can ensure that the fees are collected, as most likely he is going to sell the property.

Mr. Morrison replied that this request is for a tentative parcel map, and Mr. Taylor was premature and ill advised to put up a for sale sign before the land is divided. The land will not be divided until the final parcel map is recorded. He said that in regards to the Swainson's Hawk mitigation fee, staff is still opposed to the deferral; however, should the Planning Commission choose to allow that, staff would recommend that they include a deed noticing that would warn any future buyers that should they place a house there, they would be subject to this cost.

Chair Kimball said that she is personally against deferring the fees, but she does not see any reason at this point, why they can decline it.

Vice-Chair Burton made a motion to accept the staff recommendation as modified with an amendment that states, "The applicant shall record a notice of the chain of title for the newly created parcel, stating the obligation to mitigate for the loss of Swainson's Hawk foraging habitat at the time of the building permit. Such notice shall be approved by county council prior to recordation."

Commission Action

That the Planning Commission:

1. **HOLD** a public hearing and receive comments;
2. **ADOPT** the Initial Study/Negative Declaration prepared for the proposed project in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines (**Attachment C**);
3. **ADOPT** the proposed Findings (**Attachment D**) for the project; and
4. **APPROVE** the Tentative Parcel Map (TPM #4965) (**Attachment A**) in accordance with the Conditions of Approval (Attachment E)

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

Yolo County Planning and Public Works Department

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ABSENT: None

Upon due consideration of the facts presented in the staff report and at the public hearing for Zone File #2008-064, the Planning Commission approves the proposed Tentative Parcel Map #4965. In support of this decision, the Planning Commission makes the following findings:
(A summary of the evidence to support each FINDING is shown in italics)

California Environmental Quality Act

That the proposed Negative Declaration and Initial Study prepared for the project is the appropriate environmental documentation in accordance with the California Environmental Quality Act (CEQA) and CEQA 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 CEQA Guidelines, an environmental evaluation (Initial Study) has been circulated for 20 days for public review and to Responsible Agencies having jurisdiction over the project, with no significant comments noted. The proposed Negative Declaration is the appropriate level of environmental review pursuant to Article 6, Section 15070 of the CEQA Guidelines (Attachment C).

Yolo County General Plan

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

The subject property is designated as Agriculture in the Yolo County General Plan. As conditioned, the Tentative Parcel Map is consistent with the policies, goals and objectives of the General Plan. Residential development is not proposed as part of this application.

Zoning Code

That the proposed Tentative Parcel Map is consistent with the applicable zoning standards.

The proposed project will result in the creation of three parcels of 200.6 acres, 126.5 acres, and 358 acres, respectively. The subject property is zoned Agricultural General (A-1), which has a minimum 20-acre lot size. The 200.6-acre parcel (Parcel 1) will retain its existing use as irrigated and dry land pasture, with irrigation provided by the adjacent Clover Canal. Parcel 2 (126.5 acres) is proposed to be planted in an olive orchard or vineyard, and will receive irrigation from the adjacent Adams Ditch. Parcel 3 (358 acres) contains the property's premier soils, and is intended to be planted in walnut trees or other permanent crop. Irrigation for the parcel would continue from the Adams Ditch. The resulting three parcels will meet all the requirements of the A-1 (Agricultural General) zone, whose purpose is to provide uses on lands best suited for agriculture. The Tentative Parcel Map meets the minimum parcel sizes, width to depth ratio, access, and general requirements of the Yolo County Code.

Subdivision Map Act

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

- a) That the proposed map is not consistent with applicable general and specific plans as

specified in Section 65451.

The subject property for the proposed Tentative Parcel Map is designated as Agriculture in the Yolo County General Plan. The property is currently farmed in seasonal row crops, and will continue as such after approval of the Parcel Map, with the addition of planting permanent crops, such as olives, vineyards, and/or walnuts, on two of the three resulting parcels. The proposed Parcel Map complies with the minimum parcel size and use in the A-1 (Agricultural General) zone and Agricultural General Plan land use designation.

- 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 agricultural use based on designations in the Yolo County General Plan. Current agricultural uses, i.e. irrigated and dry land pasture, will remain the same, with the addition of planting permanent crops on two of the three resulting parcels, upon approval of the Parcel Map. The Tentative Parcel Map is consistent with the requirements of the General Plan.

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

The proposed parcels comply with the minimum parcel size required by the A-1 (Agricultural General) zone and the Yolo County General Plan. The site is in agricultural production and will continue to be farmed in the future.

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

The proposed Tentative Parcel Map complies with the Yolo County Code and Improvement Standards adopted by the county. Residential development is not proposed as part of the application. The division of the parcel into three parcels of approximately 200.6 acres, 126.5 acres, and 358 acres is suitable for the continued use of irrigated and dry land pasture, and the planned permanent crops of olives, vineyards, and/or walnuts.

- 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 proposed creation of two new parcels (and one remaining parcel) will not cause environmental damage or substantially and avoidably injure fish and wildlife or their habitat. The project's Conditions of Approval address Swainson's hawk fees for the two additional parcels.

- 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 Map, issuance of Building Permit, and/or issuance of Final Occupancy Permit.

- k) 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 200.6-acre parcel (Parcel 1) will continue from County Road 19. The 126.5-acre parcel (Parcel 2) will be accessed from County Road 94B, County Road 19, and County Road 20. The 358-acre parcel (Parcel 3) will be accessed from County Road 20.

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.

- l) 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 100 acres in size, providing significant opportunities for future development to incorporate passive or natural heating and cooling features.

ON-GOING OR OPERATIONAL CONDITIONS OF APPROVAL:

Planning Division – PPW (530) 666-8808

1. The applicant shall be responsible for all costs associated with implementing the Conditions of Approval as approved by the Yolo County Planning Commission.
2. A Final 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 Final Parcel Map shall be recorded within two years from the date of approval by the Yolo County Planning Commission, 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 shall pay fees in the amount of \$2,043 (\$1,993 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.

County Council (530) 666-8172

4. 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.

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

PRIOR TO FINAL PARCEL MAP APPROVAL:

Planning Divison – PPW (530) 666-8808

6. The Parcel Map submitted for recordation shall have the Parcel Map Number (PM #4965) indelibly printed on it. PM #4965 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.
7. Prior to Final Map approval, the applicant shall record a notice in the chain of title for each newly-created parcel (Parcel 2 and Parcel 3), stating the obligation to mitigate for the loss of Swainson's hawk foraging habitat at the time of building permit. Parcel 2 shall require an in-lieu mitigation fee for 2.5 acres. Parcel 3 shall require an in-lieu mitigation fee for 2.5 acres. Fees collected shall be subject to those fees currently set at time of building permit. Such notice shall be approved by the County Counsel prior to recordation. The applicant shall be required to address the potential loss of Swainson's hawk habitat through participation in the Yolo County Habitat Conservation Plan (Yolo County Natural Heritage Program). The applicant shall pay a Swainson's hawk in-lieu mitigation fee for each newly created parcel, for a total of five acres. The fee is currently set at \$8,660 per acre, and shall be collected for the five acres (\$43,300 total) prior to the recording of the Final Parcel Map.

Public Works Divison - PPW (530) 666-8811

8. To provide a uniform right-of-way for County Road 94B and match the right-of-way on the east side of the road (see Official Record Book 1452, Pages 492 and 494), the applicant shall dedicate to the county a five-foot wide easement for road and utility purposes on the west side of the existing right-of-way for County Road 94B, where necessary, to create a total half-street easement of thirty feet along all County Road 94B frontage. The easement shall be shown on the Final Parcel Map.
9. To provide a uniform right-of-way for County Road 19 to match the sixty foot width approximately two miles to the west at Interstate 505, the applicant shall dedicate to the county a five-foot wide easement for road and utility purposes on the south side of the existing right-of-way for County Road 19, where necessary, to create a total half-street easement of thirty feet along all County Road 19 frontage. The easement shall be shown on the Final Parcel Map.

Yolo County Assessors Office – (530) 666-8135

10. The applicant shall prepare legal descriptions in accordance with the effective tax rate areas on each of the newly created parcels, for a total of two separate tax rate areas on each parcel.

PRIOR TO ISSUANCE OF ANY BUILDING PERMITS:

Building Division - PPW (530) 666-8775

11. 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 and Services Authorization (FSA) fees, and Environmental Health fees.
12. All building permit plans shall be submitted to the Planning and Public Works Department for review and approval in accordance with County Building Standards prior to the commencement of any construction.

Environmental Health Department (530) 666-8646

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

Chair Kimball called a five-minute recess.

- 7.5 **2008-063:** Amendment to an existing Use Permit (ZF 2007-003) to construct and operate a wireless telecommunications facility (APN: 025-460-04). The amendment will increase an existing 99 foot high monopole to 130 feet in height to provide increased coverage area and co-location opportunities. A Categorical Exemption has been prepared for this project. Owner/Applicant: Maddocks/Landmark Wireless

Craig Baracco, Associate Planner, presented the project and answered questions from the commission.

Vice-Chair Burton asked Mr. Morrison if staff has looked into the possibility of camouflage for the towers.

A short discussion followed regarding cell tower camouflage.

Chair Kimball opened the public hearing.

Mr. Maddock, applicant, came forward to answer questions from the commission.

Chair Kimball closed the public hearing.

Commissioner Winters stated that he is for this project.

Commissioner Merwin said he will also approve this amendment.

Commissioner Bertolero said that he supports staff recommendation for approval.

Commissioner Reed concurred with his fellow commissioners.

Vice-Chair Burton said that he is also in agreement to approve this project.

Chair Kimball concurred with her fellow commissioners and said that the tower is well camouflaged behind the trees.

Commission Action

That the Planning Commission:

1. **HOLD** a public hearing and receive comments;
2. **ADOPT** the Categorical Exemption as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**);
3. **ADOPT** the Findings (**Attachment D**); and
4. **APPROVE** the Use Permit Amendment subject to the Conditions of Approval (**Attachment E**).

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

FINDINGS

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File #2008-063, the Yolo County Planning Commission finds the following:

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

California Environmental Quality Act and Guidelines (CEQA)

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

The environmental document for the project, prepared pursuant to Section 15301(e)(i) of the CEQA Guidelines, provides the necessary proportionate level of analysis for the proposed project, and sufficient information to reasonably ascertain the project's potential environmental effects. Class I Categorical Exemption exempts existing facilities and limited additions to existing structures.

General Plan

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

The Yolo County General Plan designates the subject property as Agricultural (AG). The project is consistent with the following General Plan Policies:

Conservation Policy CON-7 Design and Site Development Standards: Yolo County shall apply design and site development standards to prevent unnecessary disruption of the terrain, vegetation, and significant resource areas. Application of the standards shall include mitigation of potential adverse environmental impacts.

Scenic Highway Policy SH-9 Towers and Lines: Yolo County shall recommend the establishment of electric towers, solar power facilities, wind power facilities, and electromagnetic frequency transmission towers and/or above ground lines outside of scenic highway corridors, where feasible.

Zoning

That the proposal is consistent with the Wireless Communication Facilities Ordinance (Section 8-2.2417 of the Yolo County Code) as follows:

The site is adequate for the development of the proposed wireless communication facility. *The subject property is approximately 180 acres in size and is utilized for farming. The site is set back from the main road. The site is considered adequate for the proposed project.*

Opportunities to collocate the subject facility on an existing facility have either been exhausted or are not available in the area.

There is currently limited reception and/or only intermediate reception in the project area. No appropriate structures with the required height were available for collocation in the general project area. The only wireless towers existing in the area are too far from the subject location.

The facility, as proposed, is necessary for the provision of an efficient wireless communication system.

Currently, a fairly large geographic area within the general area of the subject property does not receive adequate wireless communication signals under existing wireless communication services. There is no other tower located in the area where new equipment can be collocated, in order to provide adequate wireless signal coverage. Therefore, the applicant's proposal to provide the needed service to a significant portion of this uncovered area is considered necessary.

The development of the proposed wireless communication facility will not significantly affect the existing onsite topography and vegetation; or any designated public viewing area, scenic corridor or any identified environmentally sensitive area or resource.

Since the subject property is relatively flat, the proposed project would not require significant grading and thus would not impact the existing topography. The proposed lease are will disturb a minimal (6400 square feet) amount of ground. The surrounding row crops will remain undisturbed. The proposed project location is not within any designated public viewing area or scenic corridor.

The proposed wireless communication facility will not create a hazard for aircraft in flight and will not hinder aerial spraying operations.

The proposed facility is just over a mile away from the Watts-Woodland airport. The tower does not lie within the take-off or landing zones of the airport, nor is it located in the height-restriction zone outlined in the Watts-Woodland Airport Master Plan. The monopole will not create a hazard for

aircraft in flight. However, due to the proximity of the Monopole to the airport, the Watts-Woodland Airport has requested that the tower be fitted with lights so that it will be more visible to passing aircraft. In the interests of public safety, such lighting is recommended as a condition of approval.

The applicant agrees to accept proposals from future applicants to collocate at the approved site.

As a condition of project approval, the applicant is required to cooperate with the County and other providers in collocating on the subject tower.

That the proposal is consistent with findings required for approval of a Use Permit (Section 8-2.2804 of the Yolo County Code) as follows:

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

Pursuant to Section 8-2.604 (i), the proposed wireless communication facility is allowed within the Agriculture Preserve Zone through the Minor Conditional Use Permit review and approval process.

The request is essential or desirable to the public comfort and convenience.

Wireless communication is widely used as an efficient communication system for business and personal use and is recognized by the California Public Utilities Commission as a necessary public service that provides an additional notification service for emergency communications.

The requested land use will not impair the integrity or character of a neighborhood nor be detrimental to public health, safety or general welfare.

The proposed project will not create a significant effect on the character of the surrounding agricultural area. Wireless communication technology has been determined not to be detrimental to the public health safety or general welfare so long as the appropriate standards are implemented.

Therefore, the proposed project does not pose a detrimental effect to public health, safety or general welfare.

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

All necessary infrastructure and utilities will be required of the proposed project.

CONDITIONS OF APPROVAL

ON-GOING OR OPERATIONAL CONDITIONS OF APPROVAL

Planning Division (530) 666-8808

1. Development of the site, including construction and/or placement of structures, shall be as described in this staff report for this Use Permit (ZF #2008-063). Construction shall be limited to one 130-foot high wireless telecommunication monopole with twelve panel antennas and one microwave dishes, and a 6,400 sq. ft. fenced lease area, as shown on the approved Site Plans (**Attachment A**). Any minor modification or expansion of the proposed use shall be in keeping with the purpose and intent of this use permit, and shall be administered through Site Plan Review approved by the Director of the Planning and Public Works Department. The facility shall be operated in a manner consistent with the project's approval. Upon termination of the wireless communication system use, the project site shall be restored back to its original condition within 180 days.

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2. The use allowed under this Use Permit (ZF #2008-063) shall commence within one (1) year from the date of approval by the Yolo County Planning Commission, or said permit shall be deemed null and void without further action.
3. The applicant shall cooperate with County Staff in addressing shared usage of the facilities and/or site for future collocation on the communication tower and shall not be unreasonably opposed to sharing the site and facilities with other service providers.
3. The applicant shall keep the designated leasehold area (site) free from flammable brush, grass and weeds. Any structures on the leasehold area shall be adequately maintained and free from graffiti.
5. The monopole shall be fitted with lighting so as to be visible to passing aircraft.
6. The proposed monopole, accessory structures, perimeter fencing, and landscaping shall be designed, constructed and completed utilizing materials consistent with the surrounding environmental setting to the satisfaction of the Director of the Yolo County Planning and Public Works Department.
7. The applicant shall satisfy all requirements of the Federal Aviation Administration, including FAA form 7460-1, *Notice of Proposed Construction or Alteration*.

County Counsel (530) 666-8172

8. 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.
9. 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.

Building Division (530) 666-8775

10. The applicant shall obtain building permits for all structures prior to commencement of their construction. New construction shall meet State of California minimum code requirements for fire, life, and safety standards. All proposed structures shall be constructed in accordance with the California Building, California Plumbing, California Mechanical and California Electrical Codes.
11. The project shall be constructed and operated in compliance with all applicable federal and state laws, Yolo County Code regulations, and County Engineering Design Specifications and Standards.

Environmental Health Department (530) 666-8646

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12. Prior to the issuance of a building permits, the applicant shall submit a hazardous materials business plan and inventory for review and approval by Yolo County Environmental Health.
14. Failure to comply with the CONDITIONS OF APPROVAL as approved by the Planning Commission may result in the following actions:
 - **legal action;**
 - **non-issuance of future building permits.**

* * *

- 7.6 **2008-070:** Rezone a 50-acre parcel (043-120-08) from A-1 (General Agriculture) to A-P (Agricultural Preserve) and to place the parcel into a Williamson Act Contract.
Owner/Applicant: Brewer

Commissioner Merwin disclosed that he has an association with thee applicant and owner of this project, but that it was discussed with county council, and the determination was made that there is not a conflict of interest.

Craig Baracco, Associate Planner, presented the project and answered questions from the commission. He also distributed a short memo with an amendment regarding associated districts.

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

Commissioner Bertolero said that it is a good idea to put this in the Williamson Act.

Commissioner Reed stated that he strongly supports this project and thinks it is a terrific idea.

Vice-Chair Burton said that he is in support of this project, but expressed an overall concern about placing parcels into Williamson Act contracts for long term planning reasons, and feels that it can be overused and may stifle development in the long run. He explained that he is trying to understand the motivation behind acts and conservation easements and so forth.

Commissioner Winters said he is glad to see more property going into the Williamson Act, and he is in favor of anything they can do to help farmers reduce their cost.

Commissioner Merwin expressed his general support in enrolling agricultural land into the Williamson Act because it signifies, among other things, the intent of not developing non-agricultural projects with that property for at least ten years.

Chair Kimball concurred with her fellow commissioners, and said that although they are not sure what will happen in the future in regards to the Williamson Act, she is hoping that there will potentially be some legislation for changes in the future to help keep it going.

Commissioner Bertolero made a motion to adopt the recommended actions of staff and include the correction in the language to condition 5.

Commission Action

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

1. **HOLD** a public hearing and receive comments;

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2. **DETERMINE** that a categorical exemption is the appropriate level of environmental documentation in accordance with the California Environmental Quality Act (CEQA) and Guidelines (**Attachment C**)
3. **ADOPT** the Findings (**Attachment D**); and
4. **ADOPT** an Ordinance approving the rezoning (**Attachment F**) subject to the Conditions of Approval (**Attachment E**)
5. **APPROVE** the Williamson Act Contract (**Attachment G**)

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

7.7 **2004-037:** Planned Development amendment to reduce the size of the 43 remaining homes to be constructed, currently approved at 1,900 to 2,900 square feet to 1,300 to 2,400 square feet, within the approved White Subdivision (FSM#4708). The project site is zoned Single Family Residential / Planned Development (R-1/PD). The project site is bordered by the Colusa Basin Drain Canal and at the western end of 6th and 9th Streets in the Town of Knights Landing. A Categorical Exemption has been prepared for this project. Owner/Applicant: Castle Companies.

Donald Rust, Principal Planner distributed a revised copy of the amended Planned Development Ordinance to the commission, presented the project, and answered questions from the commission.

Commissioner Winters asked how many homes have already been built.

Mr. Rust replied that fourteen homes have been built.

Chair Kimball opened the public hearing.

Dan Boatwright with Castle Companies and applicant, came forward to provide more information on his reasons behind the amendment, and answer questions from the commission.

Wayne Green, Knights Landing Citizens' Advisory Committee chair, expressed his support for Mr. Boatwright and his project.

Chair Kimball closed the public hearing.

Commissioner Winters communicated his support of anything that Castle Companies thinks they need to do to make Knights Landing a viable community. He said he is hopeful that this will make a difference for Castle Companies, and they will be able to complete this project and build a nice neighborhood.

Commissioner Merwin said that he supports Castle Companies effort to make a go of it during these difficult times, and he is in support of this proposal.

Commissioner Bertolero stated that he was at the advisory meeting when they discussed this proposal, and the community is definitely in favor of single story homes, and in favor of helping Castle Companies with completing the project. He addressed the cost of flood insurance and the financial impact on the citizens. He said that he supports the staff recommendation with the amendment to Attachment C that limits the insurance requirements to only year for all units.

Commissioner Reed said that he is pleased to see the level of cooperation between Castle Companies and the community, and is satisfied that the scale of the new changes do not dramatically change the new homes from the current homes. He stated that he is comfortable with the change to the insurance.

Vice-Chair Burton said that although the economy has provided more affordable housing than what existed a few years ago, they still need to encourage affordable housing whenever they can. He stated that on the one-year flood insurance item, he is not one hundred percent in support of the efficacy of doing that, because it creates a mind set in people that they are taken care of, although he appreciates the developer trying to make an effort to do so.

Chair Kimball agreed with her fellow commissioners, but expressed her dissatisfaction on the reduction of the facade selection from three to two. She stated that she wants to ensure that future homeowners are well noticed on the flood insurance requirements.

Commissioner Winters made a motion to support the recommended actions of planning staff with the amendment to the flood insurance requirements from four years to one year on all units.

Commission Action

That the Planning Commission recommends that the Board of Supervisors take the following actions:

- 1. **HOLD** a public hearing and receive testimony on the proposed Planned Development (PD-58) amendment;
- 2. **ADOPT** the Categorical Exemption (**Attachment E**) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines; and
- 3. **ADOPT** an Ordinance amending the Planned Development (PD-58) ordinance (**Attachment C**)

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

WORKSHOP

7.8 Preliminary FEMA flood maps (D. Morrison)

David Morrison, Assistant Director of Planning, presented information on the preliminary FEMA flood maps, reviewed the public awareness-meeting schedule, and answered questions from the

commission.

RECOMMENDED ACTION

Receive a presentation by staff regarding the proposed changes to the 100-year floodplain, as determined by FEMA, and the outreach program to create public awareness of the issue.

WORKSHOP

7.9 **2007-080:** Proposed Wind Energy Systems ordinance to be added to Article 24 of Title 8, Chapter 2 of the Yolo County Code. The ordinance would set criteria for the issuance of building and use permits for the placement and construction of small wind energy turbines and other systems in the unincorporated area. Owner/Applicant: Yolo County

Eric Parfrey, Principal Planner, presented the proposed ordinance and answered questions from the commission.

A short discussion followed about the ordinance.

Vice-Chair Burton requested that Mr. Parfrey invite an expert to speak on wind energy systems to the next meeting.

Commission Action:

RECOMMENDED ACTION

- 1. **HOLD** a public workshop hearing, consider public comments, and give further direction to staff regarding the proposed amendments allowing small wind energy systems. **(Attachment A)**;
- 2. **DIRECT** staff to circulate the proposed zoning regulations for public review and comment, and prepare an appropriate environmental document; and
- 3. **RETURN** to the Commission for future consideration of the final zoning regulations.

REGULAR AGENDA

8. DISCUSSION ITEMS

Commissioner Bertolero made a motion to postpone discussion items 8.1 and 8.2.

Commission Action:

- 1. **POSTPONE** items 8.1 and 8.2 until the April, 2009 Planning Commission meeting.

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

8.1 Brown Act training.

8.2 Planning Commissioner orientation materials.

8.3 Update of the Citizens Advisory Committee Procedures subcommittee.

- David Morrison provided a quick review of the purpose of the ad hoc subcommittee.
- Commissioner Bertolero updated the commission on the progress of the ad hoc subcommittee.

8.4 Budget update.

- David Morrison provided information to the commission on the current budget status, and spoke about some of the ideas that stemmed from the two-day budget meeting with the Board of Supervisors and department managers.

8.5 General Plan update.

- Mr. Morrison explained that there is not much change on the status of the General Plan update. He, Heidi Tschudin, and Phillip Pogledich are still currently working on the EIR (environmental impact report.) He expressed his desire to continue with the original schedule to hear EIR comments at the April, 2009 meeting.

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. Board of Supervisors Agenda:

- The county proposed the discontinuance of road maintenance on several roads, and all where approved except for one located northeast of El Macero.
- The Crew Winery parcel map was approved.
- The new proposed technology fee was approved.
- The Board of Supervisors gave direction to staff to waive a portion of fees for the installation of solar panels and alternative energy systems.
- At a future Board of Supervisors meeting the Downtown Mixed Use (DMX) zone, and the in lieu mitigation fees for affordable housing will be heard.

B. Mr. Morrison acknowledged Commissioner Burton's request to have his Planning Commission packet delivered electronically.

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9. COMMISSION REPORTS

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

- A. Commissioner Bertolero reported that he had attended the Capay, Clarksburg, and two Knights Landing citizens' advisory committee meetings regarding the ad hoc sub-committee.
- B. Commissioner Reed said that he had spoken to Chair Kimball and Mr. Morrison.
- C. Vice-Chair Burton said that he had nothing to report at this time.
- D. Chair Kimball reported that she met with David Morrison regarding the process for becoming the Planning Commission chair; she also attended a conference with Mr. Parfrey regarding agricultural mitigation.
- E. Commissioner Merwin stated that he attended the Yolo County Farm Bureau meeting.
- F. Commissioner Winters had nothing to report.

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.

- Discussion regarding Swainson's Hawk fees

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 April 9, 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