MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of November 15, 2012

The regular meeting of the Solano County Planning Commission was called to order at 7:00 p.m. in the Board of Supervisors' Chambers, Fairfield, California.

PRESENT: Commissioners Boschee, Rhoads-Poston, Karah,

Cayler and Chairman Mahoney

EXCUSED:

STAFF PRESENT: Mike Yankovich, Planning Program Manager; Jim

Leland, Principal Planner; Karen Avery, Senior Planner; Eric Wilberg, Planning Technician; David Cliché, Building Official; Matt Tuggle, Engineering Manager; Jim Laughlin, Deputy County Counsel; and

Kristine Letterman, Planning Commission Clerk

Items from the floor - none

The Minutes of the regular meetings of October 18 and November 1, 2012 were approved as prepared.

1. **PUBLIC HEARING** to consider Lot Line Adjustment Application No. LLA-12-04 and Certificate of Compliance No. CC-12-04 of **Warren Farms** to reconfigure two adjacent parcels located at 5198 and 5202 Putah Creek Road, 6 miles northwest of the City of Dixon in an "A-40" Exclusive Agricultural Zoning District, APN's: 0103-250-080 and 090. Lot line adjustments are ministerial projects, and therefore are not held to the provisions and requirements of CEQA per CEQA Section 21080 (b)(1). (Project Planner: Eric Wilberg) **Staff Recommendation:** Approval

Eric Wilberg gave a brief presentation of the written staff report. The applicant proposes to reconfigure interior property lines between two existing lots where both parcels are under a single, active Williamson Act contract (No. 692). Staff recommended approval of the project.

Chairman Mahoney opened the public hearing. Since there were no speakers either for or against this matter, the public hearing was closed.

A motion was made by Commissioner Cayler and seconded by Commissioner Karah to approve Lot Line Adjustment Application No. LLA-12-04 and Certificate of Compliance No. CC-12-04 subject to the recommend conditions of approval. The motion passed unanimously. (Resolution No. 4589)

2. **PUBLIC HEARING** to consider Minor Revision No. 3 to Use Permit No. U-94-13 and Reclamation Plan No. RP-94-01 of **Asta Construction Company, Inc.** to remove 100,000

cubic yards of clay type soil for levee repairs. There will be no change to truck or barge haul routes. The property is located on Montezuma Hills Road 1 mile west of the City of Rio Vista in an "A-160" Exclusive Agricultural Zoning District, APN: 0049-320-030. The Planning Commission will also be considering adoption of a mitigated Negative Declaration of Environmental Impact as recommended by the Solano County Department of Resource Management. (Project Planner: Karen Avery) **Staff Recommendation:** Approval

Karen Avery gave a brief presentation of staff's written report. The applicant is requesting approval of a third revision to modify the existing use permit and reclamation plan to allow for the expansion of the existing project footprint by 6.7 acres to a footprint of approximately 38 acres combined. The request is to remove an additional 100,000 cubic yards (cy) of clay for levee repair throughout the Delta. Staff recommended approval of the project.

The applicant's representative appeared before the commission and stated that the applicant concurs with all the conditions of approval.

Chairman Mahoney opened the public hearing. Since there were no speakers either for or against this matter, the public hearing was closed.

A motion was made by Commissioner Boschee and seconded by Commissioner Cayler to adopt the Mitigated Negative Declaration and approve Minor Revision No. 3 to Use Permit No. U-94-13 and Reclamation Plan No. RP-94-01, subject to the recommended conditions of approval. The motion passed unanimously. (Resolution No. 4590)

3. **PUBLIC HEARING** to consider an appeal of the Zoning Administrator's approval of Minor Use Permit Application No. MU-12-07 of **Dave and Shashi Sharma** for the storage of trucks, trailers, automobiles and equipment, auto repair shop, SMOG station, hobby shop, and small car sales lot for surrounding neighborhoods. The property is located at 400 Benicia Road, .1 mile west of the City of Vallejo in an "R-TC-MU" Residential Traditional Community Mixed Use Zoning District, APN: 0059-113-330. This project is determined to be categorically exempt from the provisions of the California Environmental Quality Act. (Project Planner: Jim Leland) **Staff Recommendation:** Uphold Zoning Administrator's approval

Jim Leland provided a brief overview of the staff report. He stated that the commission is being asked to consider an appeal filed by Earl Trumbull of the Zoning Administrator's approval of the minor use permit to permit the storage of trucks, trailers, automobiles and equipment, auto repair shop, SMOG station, hobby shop, and small car sales lot at 400 Benicia Road in unincorporated Vallejo. The subject property is approximately 0.22 acres in size and is developed with a former service station and miscellaneous structures. Mr. Leland explained that Mr. Trumbull's main concerns are that several of the requested land uses are not permitted in the Residential Traditional Communities – Mixed Use zoning district. Mr. Leland reviewed staff's analysis of the conformity of individual land uses in the minor use permit. He made note that the Zoning Administrator added an additional condition of approval requiring a compliance review in March of 2013, and asked the commission to also include that condition if the project is approved.

Mr. Leland stated that prior to the current applicant owning the site there have been numerous code compliance issues. He noted that the county's building division has been working with the present owner to clean up what still remains on the property.

Staff recommended that the commission deny the appeal and uphold the Zoning Administrator's approval of the minor use permit.

David Cliché, Building Official, stated that staff received a complaint in June of 2012 that the owner was allowing a storage company to operate without permission from the county for storage of vehicles and other items. He stated that after investigation, staff found that the business did not have a business license or use permit. Mr. Cliché stated that the property owner was contacted and was very responsive by coming in and applying for a use permit. Staff is currently working with the property owner to abate any violations that exist on the property.

Commissioner Rhoads-Poston asked if there have been any code violations or complaints since the Sharma's acquired the property. Mr. Cliché stated that no other complaints have been received.

Commissioner Boschee voiced his concern with the number of uses being proposed. He wondered how the distinction will be made between the storage of vehicles versus automobiles for sale. He commented that it would also be difficult to sell vehicles if they are enclosed behind a fence and cannot be seen.

Mr. Leland stated that the applicant is asking for this series of uses so that in the future he would not have to come back and apply for a use permit each time a new tenant leases the property. He noted that all of the proposed uses would not be taking place on the property at the same time. He said the current tenant is the one who is storing vehicles and needs the security fence, but if a retail business were to open on the property the fence would no longer be needed.

Commissioner Rhoads-Poston inquired if there is a limit on the maximum number of trucks and trailers allowed. She also inquired about the dismantling of vehicles. Mr. Leland stated that there is no limit on the number of vehicles. He said the limit would be dictated by the square footage of pavement on the property. To address the concern of the dismantling of cars, Mr. Leland recommended that a condition be imposed to prohibit auto dismantling and the storage of inoperable vehicles.

The applicant, Dave Sharma, 4987 Ridgefield Circle, Fairfield, stated that he applied for the various types of uses to make it easier in the future when leasing the property.

The appellant, Earl Trumbull, 1256 Bush Avenue, Vallejo, stated that he owns property adjacent to the project site. He voiced his concern with the storage of trucks and the stacking of debris. He provided photos of the site to the commission. He said the photos were taken in the past 30 days and that the property looks like a junkyard. He read from the county code with regard to the residential traditional mixed use zoning district. He said the storage of truck trailers, automobiles and equipment is not appropriate and should not be allowed. He believed it would develop into a public nuisance. Mr. Trumbull also read the definition of junkyard as contained in the code. He said a small car sales lot is a commercial service use and allowed only in a

specific zoning district. He said commercial services are not allowed in a mixed use traditional community. Mr. Trumbull said that he does not have a problem with an auto repair or smog or hobby shop, as long as county guidelines are followed and the uses are operated in an enclosed area. He also stated that the General Plan is very specific to residential areas. He said the plan indicates for the county to insure that commercial and industrial development that occurs adjacent to a city is developed consistent with the development design standards of the adjacent city. Mr. Trumbull noted that he met with the City of Vallejo planning staff and they were not aware of this project. He requested that the commission prohibit the storage of trucks, trailers, automobiles and equipment, and car lot, as he did not believe these uses are allowed.

Chairman Mahoney opened the public hearing.

Michael Maddick (spelling of name not confirmed), 1131 Fulton Avenue, Vallejo, stated that he is the tenant who is operating the business on the property. He provided photos to the commission showing other properties in the area, as well as photos of the subject property. He stated that they removed the black paper in the fencing and replaced it with white slats. Mr. Maddick stated that his business is not a junkyard. He explained that they transport items from customers and there is an ebb and flow every day. He noted that everything is contained and put into either a truck or a trailer and moved and disposed of accordingly. Mr. Maddick's wife commented that she believes they have made a positive impact to the neighborhood, and they contribute locally to thrift stores, churches, and charities.

Commissioner Rhoads-Poston asked Mr. Maddick how he would describe his type of business. Mr. Maddick stated that he would describe it as a hauling company. He noted that all of their vehicles are operational and there is no dismantling of vehicles taking place. Mr. Maddick commented that they have a 1 year lease with an option for renewal.

Commissioner Boschee inquired about the storage container and building which is located on the property. He also wanted to know the number of vehicles being stored.

Mr. Maddick stated that the container is a trailer and is currently empty. He said that they keep everything contained and then separate the debris for recycling or disposal. Mr. Maddick stated that they have 7 trailers and 2 trucks. He said it is rare to have all of the vehicles and trailers on the property at the same time because they rent out the trailers. He noted that the building has an office.

In response to Commissioner Boschee's inquiry, Mr. Maddick stated that they have no desire to acquire additional vehicles.

In response to Commissioner Rhoads-Poston's request, Mr. Maddick identified the different businesses in the area on the location map. Mr. Cliché noted that some of the properties that were pointed out by the speaker are actually within city limits.

Commissioner Cayler inquired if Mr. and Mrs. Maddick have operated businesses in other areas of the county. Mr. Maddick stated that they have never run a business in Solano County. He said they moved to the county from San Ramon because their business had grown and they needed additional room.

Commissioner Boschee asked staff if the City of Vallejo was included in the public notice process. Mr. Leland stated that he was not sure if the notice went to the city itself unless they own property within the radius of the noticing requirements. He stated that this application was not proposing any improvements or new construction or remodeling, so there was no design review to refer to the city. He noted that the fence does not require a permit from the county or the city.

David Cliché mentioned that the fence could become a line of sight issue, but as far the building code is concerned, a fence 6 foot or less in height does not require a permit.

Commissioner Boschee stated that one of his concerns is the fence. He said that it blocks the view of someone traveling down Starr Street to the intersection. Mr. Cliché stated that as far as the building code and state law there is no law infraction.

Melissa Moore (spelling of name not confirmed), 408 Benicia Road, stated that she lives adjacent to the subject property and had no issues with the project. She said that the property looks a lot better now than when she initially moved to the area. She said that the material on the site is constantly moving and is not stored. She commented that this is a striving business and Mr. & Mrs. Maddick keep the property clean and organized.

The owner of the market at 408 Benicia Road stated that when the subject property was vacant it was misused and trespassed upon. He noted that since the property has been occupied the area has been very quiet. With regards to the fence, the speaker commented that there is a commercial business adjacent to his market that has a big fence and stores a gravel hauling truck. He believed that business is much more commercial than the one that is being proposed.

Alicia Moore (spelling of name not confirmed), 110 Fresno Street, Vallejo, addressed the issue of the fence and line of sight. She said that from a distance there is some visual impairment, but once you approach the stop sign the line of sight is perfectly clear. She said that she travels the route very often and it has never proven to be a hazard. Ms. Moore commented that the property looks a lot nicer now that the black plastic around the fence has been replaced with white slats.

Since there were no further speakers, Chairman Mahoney closed the public hearing.

Commissioner Boschee stated that he believes the tenant on the property is trying hard to keep a clean facility and comply with whatever requirements are necessary, but was not convinced that the storage of trucks is the best use for the property. He asked if there is some way the commission can allow the use to continue, but once the current tenant vacates the property, have the storage of trucks, trailers, and vehicles removed from the list of allowed uses. He commented that the white fence around the property is not attractive. He said that Benicia Road is not attractive and is in a blighted area, and he believed that property owners in the area would like to see improvements to Benicia Road. Mr. Boschee said at some point he would like to see the fence removed and something like a hobby or smog shop open up on the property.

Commissioner Boschee stated that he did not see the need to have the current tenant move off the property because he is trying hard to run a clean operation, but if his business continues to grow and expand he is not going to be able to operate in that location much longer. Mr. Leland stated that the commission could list truck storage as an interim use, a fixed term use for an 18 month period, and the rest would be indefinite uses under the use permit. He noted that the reason behind the 18 month time period is that Mr. Maddick has 6 months left on his lease plus an option for a 1 year renewal.

Commissioner Boschee wanted to know if the commission could allow the use to continue until the present tenant vacates the property instead of imposing a time limit. He said that he did not want to place Mr. Maddick in a position where he would have to come back and ask for more time.

Jim Laughlin, deputy county counsel, stated that the commission cannot make the use permit personal to a particular user. The county cannot say that it can be used for a specific use as long as the property owner is renting to a particular tenant, so the time limit is the best option available. He said that the commission can set a time limit with an option to allow the applicant to come back before the commission and ask for an extension.

Commissioner Karah inquired about the cost associated with the applicant having to come back before the commission. Mr. Yankovich stated that they would not have to incur any additional cost because it would be an existing condition of the use permit.

Commissioner Karah provided to Mr. Trumbull the photos that were submitted to the commission by Mr. Maddick.

Mr. Trumbull stated that the point of his presentation was the fact that this type of recycling junkyard business is not appropriate for the mixed use zoning. He questioned the validity of the use taking place in a traditional residential mixed use area. He felt that a recycle business is a more intensive use. Mr. Trumbull noted that he spoke with planning staff at the City of Vallejo and was told that this use would not be allowed in their zoning district. He said that the project adds to the already blighted area and is not appropriate or within the spirit of the county's 2008 General Plan. Mr. Trumbull stated that he felt the type of use that would fit the property would be a smog shop or retail center, and noted that the majority of the businesses on Benicia Road are retail centers.

A motion was made by Commissioner Boschee and seconded by Commissioner Cayler to deny the appeal and approve Minor Use Permit Application No. U-12-07 subject to the conditions of approval, including an additional condition that the time limit of the permit be for an 18 month period with a provision that an extension may be granted by the planning commission until the current tenant vacates the property, at which time the parking and storage of trucks, trailers, or vehicles would be prohibited.

Chairman Mahoney requested that the Zoning Administrator be allowed to extend the permit so that the applicant does not have to come back before the planning commission. Commissioner Boschee agreed with that amendment to the motion.

Jim Leland asked for clarification from the commission on the amount of time for the extension. Commissioner Boschee said that he would suggest the extension be for one additional term of 18 months.

Commissioner Cayler stated that she felt the additional time should be for 12 or 24 months.

Commissioner Boschee amended his motion to indicate one 12 month extension.

Commissioners Rhoads-Poston and Karah voiced their concern with having a limitation on the number of extensions because it would force the tenant to relocate his business.

Commissioner Cayler suggested that at the end of one 12 month extension allow a total of three additional extensions.

Commissioner Boschee stated that he would agree to that suggestion, but then wanted it to come back before the commission rather than the zoning administrator.

Commissioner Boschee restated his motion that the Planning Commission deny the appeal and approve Minor Use Permit Application No. U-12-07 subject to the recommended conditions of approval, including an additional condition to impose an 18 month initial fixed term on the truck, trailer and vehicle storage use, with the right of the applicant to file for an extension 1 year at a time for up to 3 years, which must be authorized by the Planning Commission and with no additional use permit fees. The motion was seconded by Commissioner Cayler.

Chairman Mahoney stated that he would not support the motion. He said that if this individual is making money and wants to stay in this location he would be forced out in 3 years, and he totally disagreed with that. Mr. Mahoney commented on the issue of the fence stating that he could see the reasoning behind it due to trespassing and security issues.

Commissioner Rhoads-Poston agreed with Chairman Mahoney. She stated that as a landlord herself she did not like the concept of limiting the tenant to 5 years, especially if he is following a 5 year business plan he would then have to work in the costs of relocating his business. Ms. Rhoads-Poston stated that she could not realistically see a hobby shop starting up on Benicia Road. She said that it is such a conundrum with being abutted next to a city and different enforcements are being made. She agreed that the county needs to start somewhere, but she was not comfortable with the limitation.

Commissioner Karah stated that she would like to see Benicia Road eventually as residential or commercial. Ms. Karah asked if Commissioner Boschee would amend the motion to allow the current business to continue until they relocate, and then impose the condition that storage of vehicles be prohibited.

Commissioner Boschee stated that he would rather have a time limit. He said the current motion would allow the business to operate as is for another 4 years. He said that he is looking for some type of a compromise, recognizing that it is not an ideal place for storing trucks and trailers. Mr. Boschee stated that he believed the tenant is going to find other pieces of property that are going to be more conducive to what he is doing, especially if he accumulates more trucks. He felt that Mr. Maddick is probably close to being at the limit to what he can do there, and would guess that he would probably leave sooner than the time allowed. When the tenant does leave, Mr. Boschee said that he would like to see the use of the property change to where it becomes some type of a commercial operation that complies with the ordinance and provides a benefit to the community. Mr. Boschee said that Mr. and Mrs. Maddick appear to be good

tenants who want to make a positive impact on the neighborhood but he did not see this operation as compatible to that location.

Commissioner Rhoads-Poston stated that fitting in is a hard thing especially with trying to get conformity between the county and the city. She said that she sees truck storage fitting right in with a tire business and junkyard in the area.

Commissioner Boschee commented that the current operation is not a retail facility, the tenant is storing vehicles and sorting material, and he believed that there is a better place for that type of operation than along a small retail commercial street mixed with residential.

Chairman Mahoney called for the vote. The motion passed 3-2 with Commissioners Rhoads-Poston and Mahoney dissenting. (Resolution 4591)

4. PUBLIC HEARING to consider 2012 Amendments to Chapter 28 of the County Code (Zoning Regulations) to include the following sections: Section 28.01 Definitions; Section 28.21 Exclusive Agricultural (A) Districts; Section 28.41 Commercial Districts; Section 28.42 Manufacturing Districts; Section 28.73.10 Recreation Uses; Section 28.73.20 Education Uses; Section 28.73.30 Public Assembly Uses; Section 28.74.10 Retail Uses; Section 28.74.20 Office Uses; Section 28.75.10 Agritourism; Section 28.75.20 Temporary Agritourism; Section 28.76.10 Agricultural Services; Section 28.76.20 Commercial Services; Section 28.77.10 Industrial, Manufacturing and Processing Uses; 28.77.20 Wholesale Uses; Section 28.78.10 Communication Uses; Section 28.78.20 Infrastructure Uses; Section 28.78.30 Public Service Uses; Section 28.78.40 Temporary Public Construction and Infrastructure Uses; Section 28.96 Sign Regulations; Section 28.101 Administrative Permit; Section 28.105 Plan Review; Section 28.106 Use Permit. (Project Planner: Jim Leland) Staff Recommendation: Recommend approval to the Board of Supervisors.

Jim Leland recommended that this item be continued to the meeting of February 21, 2013 to allow for staff to begin and continue to with work both the Farm Bureau and the Ag Advisory Committee on many of the changes that affect agricultural properties. He stated that staff has met with the Ag Advisory Committee and the Land Use and Transportation Committee and they also suggested to staff that this item be deferred so that stakeholder groups have time to review the changes.

A motion was made by Commissioner Boschee and seconded by Commissioner Cayler to continue this matter until February 21, 2013. The motion passed unanimously.

5. **UPDATE** on the Shiloh IV wind energy project presented by eDF Renewal Energy.

eDF staff provided a short video presentation showing the Dedication Ceremony for the Shiloh IV wind project.

6. ANNOUNCEMENTS and REPORTS

There were no announcements or reports.

7. Since there was no further business, the meeting was **adjourned**.