

MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of April 17, 2008

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 Moore, Barnes, Mahoney, McAndrew and Chairperson Barton

EXCUSED: _____

STAFF PRESENT: Mike Yankovich, Planning Program Manager; Jim Laughlin, Deputy County Counsel; Ken Solomon, Contract Planner; Kristine Letterman, Planning Commission Clerk

Items from the floor - none

The Minutes of the regular meeting of March 13, and March 20, 2008, were approved as prepared.

1. **CONTINUED PUBLIC HEARING** to consider Use Permit Application No. U-07-11, Lot Line Adjustment Application No. LLA-07-04 and Architectural Review Application No. AR-07-01 of **Tower Energy Group** to merge two parcels zoned Neighborhood Commercial and to demolish the existing market and gas station and build a new 6,000 square foot market and gas station on property located at the southwest corner of Suisun Valley and Rockville Roads, Suisun, APN's: 0027-141-380 and 040. The Planning Commission will also be considering adoption of a Negative Declaration of Environmental Impact as recommended by the Solano County Department of Resource Management. (Project Planner: Michael Profant) **Staff Recommendation:** Continue to the regular meeting of May 1, 2008

Mr. Yankovich stated that the applicant has requested an additional continuance of this item to allow the Most Likely Descendant (MLD), appointed by the Native American Heritage Commission, to be present at the hearing to address issues related to the treatment of remains and artifacts on the site. Staff supported the request.

A motion was made by Commissioner McAndrew and seconded by Commissioner Moore to continue this item to the next regular meeting of May 1, 2008. The motion passed unanimously.

2. **PUBLIC HEARING** to consider Use Permit Application No. U-07-13 of **T-Mobile (Corey Alvin)** to allow the construction and operation of a wireless telecommunication facility including a 105 foot tall monopole within a 15' x 25' lease area on a portion of property located at 5164 Fry Road, Vacaville, in an "A-40" Exclusive Agriculture Zoning District,

APN: 0136-090-130. The Planning Commission will also be considering adoption of a Negative Declaration of Environmental Impact as recommended by the Solano County Department of Resource Management. (Project Planner: Jim Leland) **Staff Recommendation:** Approval

Mr. Yankovich stated that the applicant has requested this item be continued to allow more time for staff and the applicant to explore alternative solutions for the proposed wireless communication facility.

A motion was made by Commissioner McAndrew and seconded by Commissioner Moore to continue this item to May 1, 2008. The motion passed unanimously.

- 3. PUBLIC HEARING** to consider County-initiated amendments to Chapter 28, Zoning Regulations, of the **Solano County Code** regarding the following: 1) Deletion of Section 28-24 - Residential Estate (R-E) Districts and replacement with Section 28-24 - Suburban Residential Districts; 2) Deletion of Section 28-25 - One Family Residential (R-S) Districts and replacement with Section 28-25 - Urban Residential Districts; 3) Repeal of Section 28-26 - Duplex Residence (R-D) Districts and Section 28-27 - Multiple Residence (R-M) Districts; and, 4) Amendment to Section 28-10 – Definitions, Section 28-14 - Public Notice-Requirements, Section 28-21 - Exclusive Agricultural (A) Districts, Section 28-23 - Rural Residential (R-R) Districts, Section 28-50 - General Provisions and Exceptions, Section 28-53 - Use Permits, Section 28-55 - Parking Requirements, and Section 28-65 - Enforcement of chapter. (Project Planner: Ken Solomon) **Staff Recommendation:** Recommend to the Board of Supervisors the certification of the Negative Declaration and approval of the proposed Zoning Regulation amendments

Ken Solomon stated that the goal of this update is to produce a uniform zoning code that is clear, concise, easier to understand, and reflective of the county's current needs. He noted that comment letters were received from Lesley Emmington Jones, June Guidotti and the Solano Land Trust, and were hereby incorporated by reference. Mr. Solomon briefly reviewed the proposed amendments by their individual sections.

Commissioner Moore referred to Section 28-14 regarding Public Notice Requirements and wanted to know if staff conducted an evaluation to determine what the extra footage would produce on a typical application. He commented that this is one of the biggest complaints received from property owners and he wondered whether the extra 2,000 feet is sufficient. Mr. Yankovich stated that particularly in the rural residential areas, it could involve 50 or more residences. Mr. Yankovich noted that one example used was the 7th Day Adventist Church project, where those residents who were outside of the current required 500 foot boundary would have been included with this new proposal.

Jim Laughlin stated that one thing for the commission to keep in mind is that the wider the distance for notification, the higher the cost to providing those notices. He indicated that the cost is borne by the applicant, so to the extent that the county is providing greater notice, it

is also driving up the cost of the application as well. He stated that staff has received complaints in the past about application fees being too high. Mr. Laughlin said that the county needs to strike a good balance point between the distance that notice should be given, but not too far that we drive up costs unnecessarily.

Commissioner McAndrew referred to page 8 of the staff report regarding Agricultural Homestay. She inquired about time constraints on lodging accommodations for particular lodgers, and if this is something that needs to be addressed. Mr. Solomon noted that this is addressed in part by the definition, which refers to transient accommodations. He stated that the county references in the transient occupancy tax code about what constitutes a transient stay which he believed to be 30 days.

Commissioner McAndrew referred to the section regarding Conservation Banks and inquired if the new code would provide a grandfathering clause, or will it only cover conservation banks from this point forward. Mike Yankovich stated that the county cannot retroactively impose a use permit on those banks that are already in existence, but anything new would require a use permit.

Commissioner McAndrew wanted to know who manages the mitigation banks, and if they would be something that the county would ever own. Mr. Solomon stated that the landowner would manage them. He said the banks are usually privately owned, but they are certified by a state or federal agency.

Commissioner Mahoney also addressed the discussion on page 8 with regard to mitigation banks, and wanted to know if there is any way the county can monitor these banks. He referred to a specific example of a mitigation bank off of Highway 113, noting that the grass has grown extremely high. He commented that other property owners in the county are required to put fire guards around their property, but noticed that there was no fire guard on this property. Mr. Mahoney inquired if there is a way to place requirements on these mitigation banks and to monitor them. Mr. Yankovich stated that it would be appropriate to address this concern in the use permit conditions of approval. He stated that one of the conditions could pertain to the maintenance of the bank, as well as a way of dealing with the issue of fire.

Jim Laughlin stated that fire breaks could be a requirement imposed by the fire district. He stated that this would be something that staff could look into.

Commissioner McAndrew spoke regarding the subject of nurseries and if they are something that would need to be attached to an existing farm. Mr. Yankovich stated that these would be parcels of property that have plants growing on them. He noted that there are existing nurseries in the county whereby retail activities are taking place and the county will be making these operations legal. He stated that staff is proceeding as far as possible under the existing General Plan, but there are restrictions of what can and cannot be done. Mr. Yankovich commented that if the new General Plan gets adopted, staff will come back

before the commission to further revise the zoning ordinance to include some of the activities that are contemplated to be allowed under the new General Plan vs. the existing General Plan.

Commissioner Moore referred to Section 28-21, Exclusive Agricultural Districts and stated that he feels very uneasy with the county making requirements that will control the lives of agricultural property owners. With regard to wineries, he inquired as to why there is a restriction on the amount of locally produced product. Mr. Yankovich stated that the idea is to keep the property in commercial agricultural production.

Commissioner Moore stated that if a landowner has a winery on their property and are growing grapes, but need more grapes, why would the farmer be required to obtain a use permit because less than 25% of those grapes are coming from the property which make that winery profitable. He stated that he was led to believe that the county would like to promote profitable agricultural activities. Mr. Yankovich stated that the county also wants to keep agricultural property in commercial agriculture. He explained that the Agricultural Advisory Committee surveyed several wineries and the committee believed this was a reasonable request. Commissioner Moore stated that if staff can convince him that there is an economical and competitive aspect to this, then he could agree, but unless there is a good reason for the county to impose this kind of a restriction, why have it?

Commissioner Mahoney speculated that the reason for the 25% restriction is that there have been several companies which have moved into the Napa Valley and are importing cheaper grapes from other regions and claiming their wine as a Napa Valley wine. He added that the quality of the wine is definitely not the same. Mr. Mahoney said that maybe the 25% figure is what made the farmers feel comfortable to be the amount that should be grown in Suisun Valley, and they could import whatever else is needed to finish off the product.

Commissioner McAndrew stated that her concern would be if a farmer had a bad year and could not meet that 25%, therefore losing money because they cannot produce their end product. She proposed having the 25% over a span of time such as 5 years, as opposed to per year, so that if there happens to be a bad year, good years can make up for that loss of crop that they then have to import from other sources.

Commissioner Moore agreed that this would be a better approach and supported the 5 year time period. Commissioner Mahoney also agreed with the recommendation.

Mike Yankovich stated that the basis for this is that the county is trying to keep locally grown crops local, whether it be 25% or another figure that the commission recommends. He stated that if the commission wants to leave an out for those producers that may not want to have 25% grown on-site, maybe they want 85% or 95% coming from off-site, the question is whether the commission wants to allow this through the use permit process.

Ken Solomon noted that under the existing standard, if a grower brings essentially one grape off site they would have to go through the use permit process.

Jim Laughlin explained that under this proposal 3 types of wineries are defined: large wineries which are based strictly on gallonage and are allowed with a conditional use permit; small wineries which are allowed as long as 25% of the crop comes from on-site; but the proposed zoning code does not address small wineries that take less than 25% from on-site and by implication they are prohibited by this proposal. Mr. Laughlin stated that this third scenario is one that is not currently addressed by the proposed code. He stated that those wineries are currently not allowed by right under this language so one alternative to be considered is whether the commission wants to allow small wineries that take less than 25% from on-site to operate as long as they apply for a use permit.

Commissioner Mahoney stated that if the county were to allow this then any landowner could operate a warehouse winery and import grapes from anywhere, and as long as the operation is located in Suisun Valley, the wine could be sold as Suisun Valley wine. He did not feel that this would be protecting Suisun Valley. He suggested requiring a use permit.

The commission unanimously agreed.

Commissioner Moore spoke with regard to the criteria for roadside stands. He wanted to know if staff has taken a look at the roadside stands currently operating in the county and determined how many of those operations will be put out of business with this proposal. Mike Yankovich stated that a survey was conducted of existing stands and some were larger than 1,000 square feet, which will be allowed to continue, but for the most part 1,000 square feet seemed to be the largest.

Chairperson Barton opened the public hearing.

June Guidotti, 3703 Scally Road, Suisun, referred to page 33 of the staff report, which she said states that the county has amended the section by deleting the use of products from off-site and has taken away her long term agricultural rights from her livelihood. She said this is a taking of the value of vested property rights for which she should be compensated, and requested to "reserve this designation to the original written description." She requested a wording correction on page 20 of the staff report, Section I, Evaluation and Recommendation, which states that the proposed project could not have a significant effect on the environment and requires that the negative declaration be prepared, which she disagrees with. She mentioned that a decision by Judge Beeman clearly stated that there was a definite impact on the environment especially regarding the air, methane gas, sewer, water, and other unhealthy substances. She wanted an EIR prepared to evaluate the full potential significant changes and detrimental impacts to the environment. According to Ms. Guidotti, "This area is important to the county, to the Bay and to the State", and she requested "back to her zoning classification and the vested certification from the California Government Code."

John Murphy, P.O. Box 1258, Dixon, commented about his agricultural property on Batavia Road, inquiring if it was commercial agricultural and stating that he was told by the Building Official that if his home burnt down, he can not rebuild it. He mentioned that a retirement villa was proposed on an adjacent 99 acres, and that an EIR was underway, and there are water issues out there, and he was concerned about flooding, and that he had a statement from the Dixon Regional Watershed Joint Powers Authority, that they would like to work with the County on the EIR.

Mr. Murphy then commented about mitigation banks, whether they were owned by the Solano Land Trust, and whether the changes were voluntary or required, which was an issue for him. He commented on other concerns he had that included a mention about his lawyers and a suggestion that he is being forced into a situation where his land is being taken, which were unrelated to the agenda item.

Chairperson Barton informed Mr. Murphy that this would be something he would need to discuss with staff at a later time since it is not part of tonight's agenda.

A motion was made by Commissioner Barnes and seconded by Commissioner McAndrew to recommend Board adoption of the negative declaration and adoption of the 2008 Amendments to Chapter 28 (Zoning Regulations). The motion passed unanimously. (Resolution No. 4494)

4. **ANNOUNCEMENTS and REPORTS**

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