## MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

## Meeting of November 18, 2010

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 Barnes, Boschee, Rhoads-Poston, Karah and

Chairman Mahoney

EXCUSED:

STAFF PRESENT: Mike Yankovich, Planning Program Manager; Jim Laughlin,

Deputy County Counsel; Ned Ferrario, Senior Planner; Stan Schram, County Surveyor; Jeff Bell, Senior Environmental Health Specialist; and Kristine Letterman, Planning

Commission Clerk

Items from the floor - none

1. **PUBLIC HEARING** to consider Use Permit Application No. U-05-26 of **Joetta Griffin** to operate an 81 stall public horse stable which includes breeding, riding classes, horse day camp and agricultural education classes. Horse shows are not proposed. The project is located at 7680 Pleasants Valley Road 5 miles north of the City of Vacaville in an "A-20" Exclusive Agricultural Zoning District, APN's: 0102-030-230 & 170. 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: Nedzlene Ferrario) **Staff Recommendation:** Approval

Ned Ferrario gave a brief presentation of the written staff report which included a revised project description as well as site and background information. Ms. Ferrario also reviewed General Plan and Zoning consistency and provided staff's analysis.

Commissioner Barnes inquired if a turn lane will be installed on Pleasants Valley Road. Stan Schram stated that a turn lane was not warranted because of the small amount of traffic. He stated that the driveway is very wide and has a good line of site, and he did not anticipate there would be any turning radius problems.

Chairman Mahoney wanted to know the necessity of the Public Announcement (PA) system. Ms. Ferrario stated that the system would be used for the day care, horse day camp, and the outdoor agricultural education classes.

Chairman Mahoney inquired about the discing of the property and also the status of fire guards. Mr. Yankovich stated that the Vacaville Fire Protection District would be the primary contact with regard to fire protection. He commented that the Department of Fish and Game (DFG) had concern relating to discing taking place within the riparian areas where special status species habitat are, or have a potential to be. Mr. Yankovich commented that the fire

district and DFG would need to get together to make sure that fire protection is addressed, but still avoid as much as possible the areas of concern to the DFG.

Chairman Mahoney stated that fire guards are very important and he hoped that both those agencies come together so that they do not put the property owner in a situation where they are going to violate one requirement or the other. Mr. Yankovich explained that planning staff would make sure that the fire district and DFG are in agreement with regard to what needs to be done to maintain fire suppression, as well as recognize the issues regarding special status species. He stated that planning staff would initiate a site inspection with both agency personnel.

In response to Chairman Mahoney's inquiry about horseback riding, Ms. Ferrario stated that according to the applicant there will not be any horse trails or horseback riding beyond the existing already disturbed area. She said this will assure that there will not be any trampling of potential special status species. Ms. Ferrario noted that a condition was added to the permit that states if there is any horseback riding it should not occur within 100 feet of the top of a bank of a watercourse because the assumption is that the special status species will be within 100 feet of that riparian corridor. She noted that it could be defined clearer through the mitigation plan if necessary.

Chairman Mahoney wanted to know what will happen if one of the campers rides their horse in that prohibited area. He stated that he is having a hard time understanding the concept of allowing this horse stable and then telling the operator that there is a potential that a plant might grow in a certain area so horses are prohibited in those areas. Ms. Ferrario stated that what staff is trying to do is avoid a taking of a threatened or endangered species.

Mr. Yankovich stated that the DFG acts on the fact that the property has a habitat for the species and could support special status species, but it does not necessarily mean even though there is not a special status species evident at this point in time, that they could not be there in the future. He suggested that the areas could be marked to show hikers and riders where not to encroach.

Chairman Mahoney questioned the sprinkler requirement for the metal barn. Mr. Yankovich explained that sprinklers are not required at this time but starting January 1, 2011 the building code will require them. Ms. Ferrario noted that the stables, horses, and riding arena will be housed in the metal barn.

Chairman Mahoney commented that in his experience in living on a ranch he has often come across this issue, and he did not agree with the requirement. He said that it is just an added expense. He said it would cost more for the applicant to put in a sprinkler system than it would to build new corrals if they were to burn down.

Mr. Yankovich stated that the sprinklers are required by state code. He said the county building official is obligated by state law. Chairman Mahoney wanted to know if there is anyway that the county can protest this requirement to the state because it just does not make sense. He stated that if Solano is an agricultural county and if we are not trying to lead the way to help our agricultural businesses, then there is no one who is going to help. He wanted to know if there is any kind of a process that the county can launch. Mr.

Mahoney stated that he understood that with regard to this project the commission does not have a choice, but there is going to be more projects in the future and when a metal barn is proposed and a sprinkler system is required it just does not make sense.

Jim Laughlin stated that for building codes in general there is a procedure where an entity can exempt themselves or write a new building standard based on local geology or local conditions where the building would not make sense to the local conditions. He said this does not seem to be the case here. Mr. Laughlin stated that there is nothing unique about Solano County as far as sprinklers not being needed due to some local geographic conditions. He said that even though there is a way to get around some building codes, it does not seem to be available in this case and is more a political decision.

Chairman Mahoney wanted to know if there is any way that the county can voice the irony of this requirement. He said there are going to be more proposals and staff is going to have to look these applicants in the eye and tell them if they are proposing a metal building they are going to have to put in a sprinkler system.

Jim Laughlin stated that the state codes are adopted by the State Building Standards Commission and the county could get involved in that process when the commission is considering new codes.

Mr. Yankovich commented that the county's building official was a part of that process and actually voiced some of the concerns with regards to these types of issues, and even though it was stated that it would put an excessive burden on the agricultural industry, the standards were still adopted. Mr. Yankovich believed that some of the fires that took place down in Southern California in the last couple of years added to the zest to increase the standards with regard to fire suppression.

Commissioner Boschee spoke about traffic. He stated that Pleasants Valley Road is also an access to Lake Berryessa and so there is a fair amount of traffic that travels up and down that road that is not associated with people living in the area. He wanted to know if any studies were done with regard to traffic.

Stan Schram stated that the county has tracked traffic counts for the past 30 years on Pleasants Valley Road. He said the latest traffic counts were approximately 686 vehicles per day on average. Mr. Schram stated that the count increases to approximately 1,000 vehicles on weekends, which is still well below the threshold.

Commissioner Rhoads-Poston wanted it clarified where the PA system will be used. Ms. Ferrario stated that the PA system would be used in the indoor arena. She said there would also be outdoor classes associated with the horse day camp and the ag education classes, which could take place on other areas of the property. She said the PA could also be used in those situations.

Tom Phillippi, Phillippi Engineering, 425 Merchant Street, Vacaville spoke on behalf of the applicant. He stated that they have been working on this project for a long time. He stated that the applicant is in agreement with all of the conditions of approval as proposed. He noted that there has been one plant identified on the property as special status species

which is a large elderberry bush. He noted that the applicant is proposing to put a fence around the bush to keep it protected. With regard to the PA system, Mr. Phillippi stated that the system will be used inside the large metal barn for classes. He said there is no intent to have speakers outside of that confined area. He indicated that there will be some horseback riding on the property and that they will be working with the DFG and the Army Corps of Engineers to address any issues that come up with regard to riparian habitat. He noted that cattle currently graze the property for fire protection so there is not really a fire issue. He also noted that the cattle will continue to graze the property. Mr. Phillippi stated that they will be conducting a biological survey in conjunction with those aforementioned public agencies and are prepared to move forward with the project. He stated that the 10 p.m. hour is intended for those folks who come out to groom their horses. He said it is not intended for there to be a lot of heavy activity at that hour.

Commissioner Barnes inquired if the outside riding arena will shine lights until 10 p.m. Mr. Phillippi stated that the outside arena will be limited to cattle use only as a part of a farming operation and so there will be no lights.

Commissioner Rhoads-Poston spoke with regard to the protected species and wanted to know if there will be some type of markings along the trails in order to protect the property owner from violations. Mr. Phillippi said that this is part of what they will be working out with the Army Corps of Engineers and DFG, and that they will be applying for some of the after-the-fact permits. He said that some work was has already been done on the property, mostly erosion control to prevent water erosion. Mr. Phillippi stated that as part of that permitting process they will be conducting a biological analysis over the entire property and identify any of those areas in question. He stated that areas that are identified will then have some kind of protection.

Chairman Mahoney addressed Mr. Phillippi's comment about fire suppression. Mr. Mahoney stated that while grazing helps, the threat of fire still exists. He commented that when a fire starts coming over the hill and the north wind is blowing behind it, it is going to burn that area up. He stated that the fire guard issue is huge.

Since there were no further questions, Chairman Mahoney opened the public hearing.

Barbara Comfort, Vacaville, appeared before the commission and spoke in opposition to the project. She stated that her property is located across from the northeast corner of the subject property. She stated that they are already impacted by traffic and lights from this operation. She spoke to the importance of fire suppression stating that Chairman Mahoney's concerns about fire are justified and well founded, and she hoped that the commission takes that into account in making their decision. She stated that even though the building may be constructed of metal there are fire hazards out there at all times. Ms. Comfort stated that what she is most concerned about is zoning. She stated that this area is zoned agriculture and the proposed project is a commercial venture for the entertainment of the public. She stated that as far as she is able to tell there is no food or fiber being produced on the property. Ms. Comfort wanted clarification as to the exact location of where the activities will take place, because if the events are to spill over to the west side of the applicant's property, the horses would have to cross over Pleasants Valley Road. Ms. Comfort stated that there would be a significant increase in traffic particularly on the

weekends and Pleasants Valley Road can be very busy on summer weekends. She stated that she is concerned about the applicant's non compliance with the already existing operation. Ms. Comfort spoke about the welfare of the animals on the property and stated that she has observed some of the animals confined in tiny pens and have seen them suffer in the summer months with no shelter from excess of over 100 degrees heat, and in the winter in mud.

Toni Traill, 7536 Pleasants Valley Road, Vacaville, stated that she is a neighboring property owner and is in favor of the project. She said one good thing about the project is that it will be a benefit to children. Ms. Traill commented that she did not believe that traffic is going to be any more a problem than it already is.

Frank DeMello, 7685 Pleasants Valley Road, Vacaville, stated that he lives across the street from the applicant and they hear little if any noise coming from the property and they do not experience odor or have problems with flies. Mr. DeMello commented that the applicants always takes care and maintains their property very nicely.

Rusty Milliken, 7680 Pleasants Valley Road, Vacaville, stated that he lives on the property and is the son of the applicant. He stated that the improvements that were made on the site were for erosion control. He stated that he is an engineer and he built everything on the property including the drainage. He said that if anything, he over compensated in the improvements. With regard to fire suppression, Mr. Milliken stated that he has had many discussions with Tim Walton and Chief Woods from the Vacaville fire district. He commented that the district is very happy with the way they keep the property mowed and maintained for fire suppression. Mr. Milliken noted that cattle roam the back 60 acres of the property and horses roam the front. He said the animals are rotated so as not to overgraze. Mr. Milliken stated that he has talked with fire personnel about the sprinkler issue and they felt the same way that it did not seem warranted because of how tall the building is and that the structure has a dirt floor.

Mr. Milliken stated that the activities on site will benefit local area children who want to get involved in high school rodeo. He stated that he knows Barbara Comfort's brother who has stated to him that he has no problem with the operation and wished that he could have been present at this hearing to speak. Mr. Milliken noted that Barbara's brother actually helped with the grading of the property which he believed showed his support for the project. Mr. Milliken stated that the outdoor arena is for cattle use only and that no activities would be taking place late at night. He said that the lighting in the big barn will be pointed in a downward fashion to keep the lighting within the building. He also noted that they have a 2,500 gallon water truck on the property that is always full and ready to go. He said the truck has front and back sprayers and a hose. With regard to riding trails, Mr. Milliken stated that the waterway areas are pretty much fenced off already.

Barbara Schuyler, 7792 Olivas Lane, Vacaville, stated that she has known the applicants for 15 years. With regard to animal welfare, Ms. Schuyler stated that the animals always have clean hay, clean water, and access to everything, and there is shade on the property. She said that there was a comment made about this county being an agricultural county and the applicant not having a tangible product. Ms. Schuyler stated that it is her understanding that the applicants have proposed to offer agricultural education classes at their facility to teach

children and adults agricultural practices and how to take care of the animals. She believed that this is an important aspect in this day and age. She said that it is time to realize that the future of our agriculture is going to come from our children.

Ellyn Davis, Davis Environmental Consulting, 3414 Oyster Bay Ave, Davis, stated that she was hired by the applicant to do the biological resources surveys out at the property. She said that she did a thorough wetlands survey last April and had the Army Corps of Engineers out on the property with her as they verified the extent of jurisdictional wetlands on the site. She said they also looked at some of the areas that had been inadvertently filled or altered for erosion control. She said the applicants did not know that these areas were subject to regulatory jurisdiction. She indicated that the project applicant has agreed to work through her with the Army Corps of Engineers and the DFG to develop a compensatory mitigation plan to offset the impacts to those jurisdictional wetland areas. She explained that they will be developing a compensatory mitigation on site which will probably entail doing some erosion control and native plant restoration in some of the swales that are eroding and causing sedimentation into Pleasants Creek. Ms. Davis stated that in the long run she believed that it will improve the habitat in the creek from naturally occurring erosion and would help maintain the soil on the site.

Chairman Mahoney inquired about the native plant restoration. He wanted to know if the plants are out there already and if any plants will be brought in that are not currently there because at one time they might have grown there. Ms. Davis noted that there are some native plants on the site. She stated that they will probably be bringing in native riparian species. She said that there are other riparian species that are wildlife life habitat that they will be using to compensate for the loss of the wildlife habitat that occurred as part of the inadvertent fill of the wetlands on the project site. With regard to the concerns by the DFG, Ms. Davis stated that they have agreed to thoroughly survey the areas that are going to be creating the compensatory mitigation for endangered species.

Chairman Mahoney questioned where the species will come from and was concerned if an endangered species that might be located in another area such as Southern California could be planted here. He questioned how it is known that they are endangered, such as with the elderberry bush for example. He stated that the first thing he thought of when he heard that the elderberry was endangered is the development in Green Valley and how elderberry bushes were growing on top of the plateau. He stated that when talking about an endangered species he was concerned about the possibility of setting up the landowner because we are going to plant a species and now say that it is endangered and now it has to be protected.

Ms. Davis noted that the elderberry plant is not an endangered species. She explained that it is the host plant for an endangered beetle called the Valley Elderberry Long-horn Beetle and is protected under the Federal Endangered Species Act. She commented that it requires a lot of scientific evidence in order to get a species listed. She said that it equally requires a lot of scientific expertise to get it delisted and she believed that is why the bush is still listed as an endangered species. Ms. Davis stated that when she looked at the evidence to determine whether the elderberry bush located on the subject property is an actively used plant she had to identify whether or not there are exit holes on the leaves. She stated that she did observe 2 exit holes so it could potentially be occupied. She explained

that the bush is located in an area on the site that is not going to be a part of the riding facilities, and the applicants have stated that they will place a fence around it.

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

Commissioner Boschee asked staff to address Barbara Comfort's question regarding the location of the activities. Ms. Ferrario stated that all of the activities will take place on the property located on the east side of Pleasants Valley Road. She stated that the 150 acres also includes the piece of property on the west side and because the applicant legally owns all three parcels, all the property is required to be included as part of the project description.

Commissioner Boschee stated that his concern relates to traffic. He stated that he was a little disappointed that there was not more effort made to describe in the Negative Declaration the traffic along Pleasants Valley Road. He stated that it is a well travelled country road and there are a lot of vehicles riding up and down that road and going to and from Lake Berryessa. He felt there should have been more attention paid to the numbers of vehicles that are travelling up and down that road.

A motion was made by Commissioner Boschee and seconded by Commissioner Rhoads-Poston to adopt the Mitigated Negative Declaration, revised project description, and Mitigation Monitoring Plan. The motion passed unanimously. (Resolution No. 4544)

A motion was made by Commissioner Boschee and seconded by Commissioner Rhoads-Poston to approve Use Permit Application No. U-05-26, subject to the findings and recommended conditions of approval. The motion passed unanimously. (Resolution No. 4544)

## 2. ANNOUNCEMENTS and REPORTS

Mike Yankovich informed the commission that there will be an item scheduled on their agenda for the December 16<sup>th</sup> meeting.

Mr. Yankovich stated that due to some of the budgetary issues that the state has been experiencing, the state has, for the last couple of years, stopped subvention payments. He stated that those are the payments that the county gets in return for the lost revenue for landowners who are participating in the Williamson Act. He explained that a recent bill (AB 863) approved by the Legislature was passed in order to get some of the revenue back for counties because counties are experiencing a big decline with regards to the Williamson Act subvention payments. He said that it figures out a way for the county to basically get back at least 10% of the lost payments. Mr. Yankovich indicated that this has to be done soon so the county will be sending out a notice to all property owners under Williamson Act contract informing them of a public hearing by the Board of Supervisors on December 7<sup>th</sup> with regard to this issue.

Commissioner Barnes announced that he has submitted his resignation from the planning commission. He said that he has enjoyed his many years on the commission and he plans to travel in the future. He noted that he would stay on board until another commissioner is appointed.

Chairman Mahoney stated that Commissioner Barnes has brought a wealth of knowledge and history to the commission and has been a major attribute especially in his research on individual items. He applauded Mr. Barnes' many years of service.

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