

MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of July 16, 2009

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 Mahoney, McAndrew, Barton, Boschee and Chairman Barnes

EXCUSED: _____

STAFF PRESENT: Jim Leland, Principal Planner; Jim Laughlin, Deputy County Counsel; Michael Profant, Assistant Planner; Eric Wilberg, Planning Technician; Ken Solomon, Contract Planner; and Kristine Letterman, Planning Commission Clerk

Items from the floor - none

The Minutes of the regular meeting of June 18, 2009 were approved as prepared.

1. **PUBLIC HEARING** to consider Lot Line Adjustment Application No. LLA-08-09 and Certificate of Compliance No. CC-08-12 of **Robert and Wendy Chadbourne** for a lot line adjustment of property located in an "AL-80" Limited Agricultural Zoning District, 2 miles south of the City of Fairfield, APN's: 0046-060-160; 0046-320-060, 070. This project is determined to be categorically exempt from the provisions of the California Environmental Quality Act. (Project Planner: Eric Wilberg) **Staff Recommendation:** Approval

Jim Leland stated that although a staff report was prepared for this item, staff is now recommending the item be deferred to a date uncertain. Mr. Leland explained that staff has just learned that the County Administrator's Office is asking the Board of Supervisors to defer its consideration of the companion Williamson Act Contract, which is scheduled for next Tuesday, in order for the CAO's office and the Department of Resource Management to do some work on Williamson Act contracts in light of the state budget situation. He stated that the issue may be deferred by the Board for some time for possible policy considerations, and the commission is asked to defer this item until it is clear what the Board is going to do with Williamson Act contracts in general.

In response to Commissioner Mahoney's inquiry, Mr. Leland stated that all of the properties involved are under Williamson Act contract. Commissioner Mahoney questioned what difference it will make since this proposal is only for an adjustment of the property line, and both properties are still going to remain under contract. Mr. Leland explained that staff is not clear what action the Board may take with respect to its policies on Williamson Act contracts, so it is unknown if it will make a difference or not. He stated that under the current policies it would not make a difference.

Commissioner Mahoney commented that the Williamson Act matter is not an issue the commission can address, and that the commission can move this application along since it is a simple request for a lot line adjustment. Mr. Leland stated that the commission can choose to move this along to

the Board with a condition that it is not effective unless the Board makes the companion decision to modify the ag. preserve and the associated Williamson Act contract.

The applicant, Robert Chadbourne, stated that both parcels are owned by him and his wife and are both under Williamson Act contract. He explained that the proposal is to move the lot line into the lower parcel. He said the property will remain as is, and that they are not planning on developing the land. Mr. Chadbourne voiced his frustration with the process, stating that they submitted this application last November.

Commissioner McAndrew referred to the analysis section in the staff report under Williamson Act. She did not understand why the commission could not move forward with this tonight because their decision would have been made prior to the Board hearing the Williamson Act mater any how.

Jim Laughlin explained that because of the configuration of this property, the Board will need to rescind the old contracts and enter into new contracts for the newly configured parcels. He stated that in the past the county has used a standard form contract, and so there has been no question about what the new contract would look like, however, due to what is occurring at the state level, there is a possibility the Board might want to amend the terms of the contract for all new contracts moving forward. Mr. Laughlin stated that to leave the greatest options possible for the Board, staff thought it might be better to defer the lot line adjustment itself until it is known what the Board wants to do as far as the language in the new contracts.

Mr. Laughlin explained that under these Williamson Act contracts the property owner receives a tax break, and as a partial reimbursement for the tax revenue the county loses for entering into these contracts the county gets subvention payments from the state. He said there is talk at the state level of doing away with the subventions, so the contracts themselves cause the county to lose tax revenue, and the loss of subvention payments would mean that the county would lose even more revenue.

Commissioner McAndrew inquired if the county is trying to protect itself from further loses by delaying this. Mr. Laughlin stated that the CAO's concern is they want to present the issue to the Board and let the Board decide what it wants to do from this point forward, and so to give the Board the greatest range of options possible it might be best to hold off.

Commissioner McAndrew stated that she still did not understand how if both parcels are currently under Williamson Act contract, and there is just an adjustment in the parcels, how that would affect contracts coming forward.

Mr. Laughlin stated that because of the change in the property line it is required that the county enter into new contracts, and that the new contract may be different than the old contract and there might be different provisions that may not be acceptable to the land owner.

Commissioner McAndrew stated that she personally has not heard any compelling reason to delay this item. She noted for the record that there is a discrepancy in the report with regard to the total number of acres and asked staff to make sure to clarify the correct acreage.

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

Commissioner Boschee asked if the action the commission is taking tonight is a recommendation to the Board or is the commission's action all that is necessary. Mr. Leland explained that the commission is the approving authority for a lot line adjustment, however, the applicant cannot proceed with the lot line adjustment even if the commission approves it this evening until such a time the Board makes a decision with regard to amending the Williamson Act contract. Mr. Leland stated that the Williamson Act contract must match the boundaries of the property, and if that does not happen because the Board and the landowner cannot reach an agreement, the commission's approval would not be useful.

Commissioner Boschee inquired about the Board's action on Tuesday. Mr. Leland explained that it is being recommended to the Board by the CAO that something different happen, and staff does not know what that is going to be yet, and out of deference to the Board, the CAO suggested that the Planning Commission defer this and let the Board hear what they need to hear from the CAO and make whatever decision they might make. Mr. Leland stated that is his understanding that the CAO is asking for a 90-day deferral on the Williamson Act contracts in order to conduct a study and present the information to the Board. Staff does not know what the outcome of the policy may be after that. He stated that staff's request on behalf of the CAO is more one of form, deferring this so that the Board does not have an approval that just occurred even though they are considering some other options.

Commissioner Barton stated that as a courtesy to the Board the commission may want to think about this request for deferral.

Commissioner Mahoney wanted to know if this request was made by the Board of Supervisors. Mr. Leland explained that it is the CAO that is asking staff to ask the commission to defer this hearing until the Board has had a chance to weigh in on the CAO's recommendation.

In response to Commissioner Mahoney's inquiry, Mr. Leland stated that if the commission defers this application and the Board ultimately decides that they are going to move ahead with the same operating rules for Williamson Act contracts, the applicant would have to come back before the commission for approval.

A motion was made by Commissioner McAndrew and seconded by Commissioner Mahoney to adopt the resolution for the lot line adjustment. The motion passed 3-2 with Commissioners Boschee and Barnes dissenting. (Resolution No. 4522)

2. **PUBLIC HEARING** to consider Use Permit Application No. U-09-01 of **Verizon Wireless** for a tree pole telecommunication site located at 6410 Silveyville Road in an "A-40" Exclusive Agricultural Zoning District, .05 miles north of the City of Dixon, APN: 0108-110-010. 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:** Approval

Mr. Profant gave a brief presentation of the written staff report. He stated that the applicant is proposing to construct a 70 foot tall monopole for wireless communication purposes. Initially, nine antennas, three antenna mounts, and one microwave dish will be attached to the monopole. The monopole will be designed to resemble a pine tree. The monopole will be located within a lease

area measuring 33 feet by 33 feet surrounded by an 8 foot high CMU wall. The lease area will contain an equipment shelter and 60 Kilowatt diesel generator that will allow the facility to continue operating in the event of a power failure. The applicant has informed the County that the proposed monopole would be capable of accommodating co-location by two other carriers, depending on their frequency of operation and separation requirements. After an initial construction period of 45 days, the project site will be maintained on a monthly basis by a maintenance technician.

Mr. Profant noted that the applicant requested a modification of Condition No. 14 to read: The monopole shall be painted a flat, dark brown color. The paint applied to the portion of the pole not covered by artificial limbs shall be textured to more closely resemble tree bark. The applicant also requested that staff strike the reference to the Environmental Protection Agency in Condition No. 2. Staff agreed with the recommended modifications.

The applicant's representative, Alan Heine appeared before the commission. He stated that the applicant has spent a lot of time searching areas for this project, and this site was chosen because it had the least visual impact. He noted that the surrounding area of the site will be painted in earth tones and the tree will have a high branch count. He commented that the treescapes that are being used are considered one of the best.

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

Chairman Barnes stated that he was happy to see the use of a tree pole instead of the usual standard monopole.

A motion was made by Commissioner Mahoney and seconded by Commissioner Barton to adopt the Negative Declaration and recommended findings and approve Use Permit Application No. U-09-01 subject to the recommended conditions of approval, including the modification to Condition Nos. 2 and 14. The motion passed unanimously (Resolution No. 4523)

3. **PRESENTATION** regarding the **Solano Wind Project (Phase 3)** to permit and construct up to 84 wind turbine generators in the Collinsville-Montezuma Hills Wind Resource Area in the southern portion of Solano County. The purpose of the project is to expand the use of the wind resource in the WRA to generate and deliver renewable resource energy to the Pacific Gas and Electric Company/California Independent System Operator power grid.

Lonn Maier, SMUD, 6201 "S" Street, Sacramento, provided a PowerPoint presentation to the Commission. He also distributed to the commission a hard copy of the material, including a project overview and a computer disk containing the draft environmental impact report, the first final environmental report, site study, and Federal Aviation Administration (FAA) determinations on the project.

Commissioner McAndrew inquired as to what areas are served by the energy that is generated from these projects. Mr. Maier stated that it will serve the SMUD service area which includes Sacramento County, a portion of Placer County, and a very small portion of Yolo County.

Commissioner Barton asked if SMUD has had further conversations with representatives from Travis AFB. Mr. Maier stated that they met with air force representatives one week prior to filing the

application and showed them the locations of the turbines. He commented that the FAA notified all the offices pertinent within their process which included air force representatives. Mr. Maier stated that Travis representatives reviewed the project material and provided back a favorable report. He noted that another meeting has not taken place with Travis since May.

Commissioner Barton inquired if Travis AFB still wanted SMUD to delay the project. Mr. Maier explained that the conversations they have had to date is that Travis prefers that SMUD wait on the installation of the turbines until their full evaluation of the ASR-11 is complete, however, the process for SMUD is to go through the FAA. He stated that the FAA makes the determination as to the adequacy of the location of the wind turbines and radar effects, and that determination being made has given SMUD the information they are using to move forward.

Chairman Barnes wanted to know how many miles of transmission lines will be aboveground and how many underground. Mr. Maier stated that all of the collector lines were initially proposed to be overhead because the thought was that it made economical sense because it would be easier to repair and access the lines, but after discussions with planning staff and the Department of Fish and Game, SMUD made the determination that it is best for all the collection lines to be underground.

Chairman Barnes spoke with regard to the subject of weather and stated that near a windmill when there is light rain the weather radar shows it as moderate to heavy rain. He voiced his concern with these bad radar signals.

Mr. Maier stated that SMUD has prepared a Line of Sight study which was a screening tool they used to observe how far the turbines stick out. He explained that they also performed the 3 screening criteria that the FAA offers; one being for long range radar, another for military operations, and the last one for weather. He stated that each of those screening criteria tools that were used showed that the project would not effect those operations, and the FAA concurred with that because they consulted with the entity that is in control of weather radar, and apparently they did not have concerns.

Lt. Col. Brian Lindsey, Operations Officer, 60th Operational Support Squadron, Travis AFB, addressed the FAA determination of no hazard that was issued. He stated that the FAA obstruction evaluation process does not adequately capture Travis' concern with regard to radar interference caused by wind turbines. He said that this is evident in three primary areas: first, until recently, Travis' new DASR was not included in the FAA's National Airspace Resource database, second, the FAA Joint Order 7400.2G titled Procedures for Handling Airspace Matters provides specific guidance regarding how the evaluation of the impact of proposed construction on airport surveillance radar should be conducted. He stated that in practice, the FAA uses a 5 nautical mile rule, outside of which objects that exist are screened automatically as needing no further review. Third, the tools currently in use do not incorporate the effects of wind turbines. He quoted a recent Air Force Institute of Technology study stating that there are no available programs with sufficient fidelity to evaluate current and future turbine siting.

Lt. Col. Lindsey stated that it is their view that these issues were confirmed during a telecon held on July 2nd with the manager of the Obstruction Evaluation Services for the FAA, which has overview of the process that determines the hazard or no hazard. He stated that their DASR has since been added to the FAA data base. Lt. Col. Lindsey stated that the FAA have an internal set of criteria that

prohibits them from considering impacts outside of 5 nautical miles, and given that most of the proposed construction for turbines in the wind resource area are more than 5 nautical miles away from their new radar they automatically are not considered during that process.

With regard to the Line of Site study that was made mentioned of, Lt. Col. Lindsey stated that while they applaud SMUD's initiative in conducting this study, it is their opinion the effort was not an effective evaluation. He stated that the study consisted of two separate analysis, the first was a visual and site study, and the second was the result of evaluating each turbine using the DOD preliminary screening tool that is available on the FAA's website. He stated the study does not capture the more complicated physics involved in wind turbines and radar interference. Screening caused by traditional obstacles like terrain or buildings is almost continuous along the line of site. This is the assumption in the SMUD study, however, due to defraction scattering and depolarization, this masking effect caused by wind turbines does not follow the same physics. It is variable and typically extends behind a turbine for only several hundred meters. As mentioned previously, he stated that the programs that are used to screen this do not incorporate these effects, and the programs that would be still in development.

Lt. Col. Lindsey stated that unfortunately the SMUD study chose to use an optimistic orientation assuming that the wind turbines were face onto the base radar. He stated that the greatest interference is generated when the blades are oriented perpendicular to the radar not face on. With regard to the DOD preliminary screening tool, this is a useful tool for what it does, but it only accounts for long range radar, military airspace, and weather radar, and while that may sound like it captures everything, unfortunately ATC radars like the Travis radar are not included in that data base since they are not captured by that screen. Lt. Col. Lindsey stated that they have continuing concerns about the impact of future wind turbine development, and since no real predictive capability and no tools have yet been developed, they will continue to comment on proposed development.

Commissioner McAndrew referred to smaller planes that fly through this airspace that use transponders or other kinds of mechanisms, and inquired if there is any way that kind of system can be placed on these wind turbines so that they are marked on the radar screen.

Lt. Col. Lindsey stated that this effort has been identified as a possibility, but unfortunately what that will do is show where the overwhelming signal that comes off a wind turbine is located. It will not allow a differentiation between the strong signal coming off the wind turbine and the smaller signal being generated by a light aircraft that is overhead a wind turbine. He explained that the signal of a small plane will get drowned out so even though one would know where the turbine is, putting a beacon on it would not allow identification of the small plane, and that is why the target gets dropped. He stated that when a plane flies over an area that is populated by wind turbines, the primary radar return is lost off of that target and drops from the scope, and will be picked back up again as the aircraft exists. Lt. Col. Lindsey stated that it is during that interim when the target cannot be seen that normal traffic service advisory cannot be provided.

In response to Commissioner Mahoney's inquiry, Lt. Col. Lindsey stated the DASR-11 was operational and signed for by the air force on February 10, 2009, and has been operating since that time. He stated that there have been no operational issues, however, they are still experiencing drop targets and false target generation at the scope on a daily basis. He stated that the current state of radar technology does not allow for this sort of situation to be completely alleviated.

Commissioner Barton wanted to know if there were some discussions taking place about moving the radar and if this is an option. Lt. Col. Lindsey stated that the only way to potentially mitigate the scenario is with a different radar location or perhaps a second radar positioned in a manner that terrain masks the area over the wind turbine area. He stated that to his knowledge a siting study to do that has not been conducted, and due to budget constraints the air force has not pursued this. Lt. Col. Lindsey indicated that it has taken 8 years to get the DASR that they currently have at the cost of over 8 million dollars, and there is not a strong interest in moving it from its current location.

Commissioner Barton referred to the problems that have been brought up in the past few years with other projects, and wanted to know if the air force has seen additional problems. Lt. Col. Lindsey stated that it would have made for a great case study if when the Shiloh II Wind project was installed there were good before and after data, but unfortunately this did not happen.

Richard Brann, 455 South Front Street, Rio Vista, stated that as a former member of the Solano County Board of Supervisors he is proud to have been one of the forerunners in the early days of advocating wind power in Solano County. He stated that the SMUD's existing project is an abomination to the serenity of the Montezuma Hills. He stated that he would hope there would be enforcement in the future to require gathering lines be put underground. Mr. Brann stated that it was his understanding that a solar panel farm may be proposed for the area, and he would be opposed to the idea of solar panels in the Montezuma Hills. He said that that area is agricultural and solar panels would destroy one's ability farm.

Cliff Grand, NextEra Energy Resources, formerly FPLE, stated that Nextra has been developing wind power in the Montezuma Hills since 2005. He stated that they were in a similar situation as with SMUD and enXco with their Montezuma Wind Project which is currently ready for Final EIR certification. Mr. Grand stated that when Travis AFB representatives brought up their concerns with the Montezuma Wind Project, the project was put on hold and has been on hold for close to 3 years.

Mr. Grand stated that his company has recently hired qualified experts to join their staff to help evaluate what the real issues are. He stated that there is no doubt that wind turbines do affect radar. He explained that representatives from Travis AFB voiced concerns regarding downwind and visual patterns to the runway south near the Montezuma Hills area, not seeing the traffic through that area, and not being able to call out to the pilots. Mr. Grand noted that the planes are flying below the minimum vector altitude, which is the altitude the radar can actually see airplanes regardless of whether turbines are there or not. He stated that the planes are flying at 1,600 feet and the MVA is 2,200 feet. Mr. Grand stated that the FAA has placed a restriction on Travis AFB that they are not allowed to use their radar on aircraft without transponders. He stated that the air force has already been informed that the radar is not usable in this area for what they want to do for VFR separations.

Mr. Grand stated that another issue discussed was that the air force were concerned about airplanes flying in and out of Rio Vista airport because the planes turn south and fly close to their airspace. He explained that Rio Vista sits in a Mode C Vail for San Francisco, which means any airplane within 30 miles from San Francisco must have a transponder, and therefore, the radar is not interrupted. Another area of concern was a Rio Vista training area which again is a VFR training area which pilots are outside controlled airspace and are on their own to visually see and avoid. Mr.

Grand stated that what is very important to understand is that airplanes with transponders are not affected, so Travis AFB personnel can see all their airplanes at all times. With regard to civilian general aircraft, such as small light airplanes, he noted that AOPA has published on their website that less than 16 percent of airplanes in the United States do not have transponders. He stated that everything Travis representatives have said about the ASR-11 not being in their 3 mile range is true, but when they sat down and met with air force base representatives, it was stated that it has already gotten as bad as it can get. Mr. Grand stated that NextEra is moving forward and have filed application with the FAA. Mr. Grand stated that as a former air force officer and pilot, if he believed there was a safety issue he would walk away from the project.

4. **ANNOUNCEMENTS and REPORTS**

There were no announcements and reports.

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