

MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of November 3, 2011

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; Nedzlene Ferrario, Senior Planner; Eric Wilberg, Planning Technician; David Cliché, Building Official; Jim Laughlin, Deputy County Counsel; and Kristine Letterman, Planning Commission Clerk

Items from the floor - none

1. **CONTINUED PUBLIC HEARING** to consider Minor Revision No. 2 to Use Permit No. U-96-31 of **Superior Farms-Foundation Windpower** to construct and operate a 1 MW non-commercial wind turbine generator at the Superior Farms processing facility to supply onsite wind energy; height to the tip of the blade is 326 feet. The project is located at 7390 Highway 113, 1 mile south of the City of Dixon in an "A-40" Exclusive Agricultural Zoning District, APN: 0112-040-220. 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

Nedzlene Ferrario stated that this item was continued previously due to the fact that the applicant had to address several concerns that were raised during the public review comment period of the environmental document. Ms. Ferrario gave an overview of the written staff report. The report indicated that during the public review comment period, several concerns were raised including safety setbacks in the event of a rare occurrence of a blade throw and impacts to groundwater table relative to excavation around the ponds. To address neighborhood concerns, the applicant has agreed to downsize the turbine height from 326.5 feet to 280 feet, prepared a blade throw analysis and is actively pursuing an alternate location which addresses such concerns. The Central Valley Regional Water Board preferred a location off the wastewater ponds and according to the submitted blade throw analysis, while a blade throw is rare, a throw distance of 374 feet could occur if the turbine experiences mechanical failure when operating at nominal speed. Therefore, staff recommends that the safety setback from property lines shall be a minimum of 374 feet. Based upon this information, an alternate location is proposed. This location is off the wastewater ponds, 680 feet from the southern property lines, 390 feet from the eastern property line and 250 feet from the northern property line. The

alternate location assumes a setback waiver from the property owner to the north, consistent with Zoning Code regulations pertaining to non-commercial wind turbines.

Additionally, the approval of the project allows for a turbine to be constructed as originally proposed by the applicant. Approval of this location would require compliance with the Central Valley Regional Water Board Waste Discharge Requirement regulations and mitigation measures. The proposed location is 523 feet from the northern property line, 409 feet from the southern and eastern property lines. This location would not require a setback waiver and is approximately 35 -149 feet beyond the potential blade throw distance. Approval of this location will allow the applicant flexibility to construct in the event an agreement cannot be achieved with the property owner to the north.

In addition, the adjacent business owner of Happy Paws Kennel expressed opposition to the proposal and cited concerns relative to human health, safety distances in the event of a blade throw, audible and non-audible noise impacting his client dogs; thereby, effecting his business, property values and wildlife. Additional letters of opposition were received from landowners to the south, Richard Leroy Bello at 6699 Midway Road, and Cheryl and Jesse Folsom, 6659 Midway Road. Letters of concern and supporting information are attached to the staff report. Staff recommended approval of the project.

The applicant, John Pimentel, Foundation Windpower, gave a presentation describing the details of the project and provided an overview of the company's project history.

Joe Rosa, Superior Farms, provided some background on the company. He stated that the slaughter facility has been in business since the late 1920's, and since then it has grown to support 170 employees. Mr. Rosa stated that they purchase their product mainly in the Solano County area to help support local growers. Mr. Rosa stated that it is becoming more difficult for a company like theirs to stay in California because of the competition, and he commented that they definitely want to stay located in California. He said that this project is a green project and is a great way for them save money and to help support and stay in the community.

Commissioner Rhoads-Poston inquired about solar power and asked if the applicant looked at that option. Clark Peterson, Plan Engineer, stated that they did consider solar power. He stated that one of the big things that make solar power reasonable is federal tax credits. He explained that they are an employee owned company and so their federal tax appetite is quite small. He stated that in looking at solar they found that they could produce about 10% of their power. He said they would have to use the pastures that are in the surrounding barn area that currently house sheep and so that land would be lost. Mr. Peterson stated that going solar is a huge investment and would just not be cost effective for them.

Commissioner Boschee wanted to know how much power would be generated by the wind turbine. Mr. Peterson responded that it was originally approximately 50%, but in order to mitigate some of the concerns from neighboring property owners, the turbine height was reduced and so some of that anticipated efficiency would also be reduced.

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

Jean Terry, 6677 Midway Road, Dixon, stated that her parents built the kennel that is located in the center of the property which is depicted at the bottom of the area map. She stated that her parents are quite elderly and are very upset by this, and she is concerned that this will impact their health in a very negative way. Ms. Terry referred to the issue of infra-sound. She commented that there is a lot of literature available on the subject and it indicates that thousands of people all around the world are finding significant issues with this. She stated that infra-sound is a sub-sonic vibration and anyone who lives or spends much time within a mile and a half of a large turbine can experience impacts which can interrupt sleep patterns, cause huge amounts of anxiety, and ringing in the ears. She said that it is figured that 15% of the population has profound health effects from this impact. Ms. Terry stated that this is a very significant problem and one that has not been addressed.

Ms. Terry stated that the proposed location for the turbine is 600 feet from their dog boarding kennel. Ms. Terry voiced her concerns on how this turbine will affect their dogs, noting that a dog's hearing is very sensitive. Ms. Terry stated that this will degrade property values in the area. She also noted that the decibels are much higher and the location at a less distance than what was required for the turbines in the Montezuma Hills area. She also noted that the high school is located less than a mile from this project. Ms. Terry urged the commission to take a strong look at this and the damage it could cause to the people in the surrounding area.

Ken Odom, 6677 Midway Road, Dixon, stated that Superior Farms is the second company that has operated this facility. He noted that the facility used to be called Stovens (spelling unknown). Mr. Odom stated that the ponds located on the property are non-compliant with zoning. He explained that under the new zoning the ponds are required to be 500 feet away from any property line. He said that in looking at the diagram the ponds are 83 feet from the property line, 400+ feet from his kennel property, and 200+ feet from the back property line. Mr. Odom stated that this is important because the permit Superior Farms is currently operating under is going to expire in 2016, and there are plans to expand the plant. Mr. Odom stated that the ponds are also a migratory bird habitat. He stated that the mitigation for this is for the applicant to obtain a Take permit. He explained that a take permit means to either shoot or harass the animals off the area and it typically means to shoot because it is normally the most expedient method; the applicant then mitigates this by buying other land elsewhere to establish habitat which does nothing for the animals that are onsite other than wiping them out.

Mr. Odom stated that originally the turbine was proposed to be only 409 feet from their dog kennel. Mr. Odom explained that they are a small business but their business is growing at 25% per year. He commented about a past rendering plant that used to be located in the area. He stated that when the county approved the project they said the plant would not smell. Mr. Odom stated that it stunk every single day that it operated. He noted that the plant eventually burned down. Mr. Odom spoke to the issue of wastewater. He referred to a study that was done by Superior Farms that showed saltwater intrusion from the ponds. He said the footing for the windmill is actually on old pond land. He said the ponds have high salt content and there is a salt cloud that has permeated into the groundwater. Mr. Odom noted that this is clay soil and once that soil is punctured there is a chance for contamination.

Mr. Odom mentioned that this project is being sought under a Negative Declaration because of the expense of preparing an Environmental Impact Report. He stated that the Montezuma and

Shiloh wind projects are two of the biggest projects that have been approved by the county and those projects required and EIR. Mr. Odom noted that in the Shiloh wind project EIR the initial recommendation by the consultant was that windmills should not be placed within 6,000 feet of any residence. He said that this recommendation was later changed to 1,000 feet as long as an encroachment easement was purchased, so obviously staff and the developer are aware of sound and hazard problems. Mr. Odom stated that the blade throw analysis was conducted for turbines operating at a nominal speed. He said that the blades do not fail at nominal speeds, they fail at over speeds. Mr. Odom referred to a study that was prepared by the Collaborative Wind Institute that clearly showed that a safe distance for a windmill is three times the height. He also referred to numerous failures that were documented and noted that those turbines fell down in 5 to 10 mph winds because of break failure. Mr. Odom commented that while the applicant has been nice in agreeing to move the turbine back 680 feet, the problem still exists and property values will still be decreased. Mr. Odom stated that if this project moves forward the neighboring property owners will petition the county for a reduction in each of their property values and assessments.

Michael Smith, 590 Corte Cala, Vacaville, spoke in favor of the project. He stated that he works in the electrical construction industry and has served on the Dixon City Council, and has helped author the Energy Strategic Plan. He stated that wind turbines are a better option than solar because more energy is obtained for the footprint that is consumed. Mr. Smith stated that according to studies done by the county this area is considered a wind resource area. He noted that during the county's general plan update he worked with the county to try to get the resource area extended. He said one reason is for a lot of businesses and small farms it is a good risk avoidance mechanism. He said putting in a turbine locks in that known cost for energy for 20+ years and at a better rate than using solar. Mr. Smith stated that he would like to see it get to the point where turbines would be a permitted use when they fit inside of a certain design criteria. He commented that no matter where they are constructed there will also be a "not in my backyard" objection. Mr. Smith noted that Europe has benefitted tremendously from their wind turbine energy projects. He noted that turbine projects are being proposed in various locations throughout Solano County such as at the Budweiser plant, Solano Community College, the Maritime Academy, and several near Benicia High School. He noted that these projects are all being embraced. Mr. Smith said it is a good symbol to the community in support of sustainability. He stated that if the turbines go away a huge sector of the agricultural economy which cannot be outsourced will be displaced.

Janice Bello, 6699 Midway Road, Dixon, voiced her opposition to the project. She cited her concerns with regard to the reduction in property values, visual impacts, and groundwater contamination. She stated that the excavating for the turbine will take place in an area where the original ponds were once located. She stated that she believed more studies need to be done and the studies should be done by independent companies in order to help protect property owners and future generations. Ms. Bello stated that this project is not only environmentally bad, but it is bad for the entire community. She noted that there was a wind turbine that existed in the City of Suisun similar to this one, but it has since been removed due to mechanical problems. She was concerned if there were problems with this wind turbine in the future if there are a means for its removal. She noted that Foundation Windpower has only been in operation since 2008.

Richard Bello, 6699 Midway Road, Dixon, stated that he is concerned about the location of the turbine. He said the turbine is shown as outside the pond area, but he noted that 40 years ago the proposed location was the sediment pond area. He said that at that time the soil was contaminated and it is still contaminated because it had never been cleaned up. Mr. Bello stated that the groundwater level in the area is extremely shallow and voiced his concern with the possible contamination of his drinking water. Mr. Bello also noted his concern with regard to wildlife. He stated that he enjoys the geese and hawks in the area and he did not find it acceptable in having an agreement stating that those animals are no longer needed. Mr. Bello stated that he believed that this project will decrease the value of properties in the area. He noted that approximately 25 years ago there was a study done by the City of Dixon and all of the area to the north and directly to the east was going to be developed as a country club and golf course. He said that putting up this turbine would guarantee that that project would never materialize and it would be a great injustice for the city.

Mr. Bello spoke with regard to the non-commercial status of the turbine. He stated that everything is governed by the public utilities commission which is a commercial entity. He said that producing electricity and selling it back to the utility company in his opinion is a commercial endeavor. He stated that it was mentioned that there was no place to put solar panels except for the pasture land. He commented that the pasture land is useless because it is contaminated. Mr. Bello mentioned that he was a building inspector and plans examiner for the City of Sacramento for several years. He noted that Sacramento has invested in solar power which has been very efficient and cost effective. Mr. Bello stated that while the applicant has agreed to downsize the unit he has not been provided with any information with regard to the new unit. He said he believed the blades are supposed to be smaller but will turn faster and he felt that this would create more sound. He said that if there is going to be excessive noise there should be some kind of an agreement which is overseen by the county that if the noise level is exceeded the unit will be shut down and removed.

Jim Folsom, 6659 Midway Road, Dixon, stated that his parents live on property in the project area. He stated that he is staying on the property temporarily while his parents are out of state. He said his parents are retired and plan to live out their retirement years on that property. He said if the negative impacts require the need for his parents to sell their property, a decrease in property values would make it difficult for them to relocate. Mr. Folsom noted that his parents submitted a letter to staff opposing the project due to the possibility of decreased property values and noise impact concerns. Mr. Folsom stated that he understands the applicant's desire to put up the wind turbine, but he said it is a bad location because it is just too close to area landowners.

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

In response to Commissioner Rhoads-Poston's inquiry, Ms. Ferrario depicted on the area map the location of the kennel and the Bello's and Folsom's family properties.

Commissioner Rhoads-Poston spoke with regard to the study that was provided that focused on the decrease in property values by 30% to 50%. She wanted to know if those compilations that were given involved properties that were specifically sheep slaughtering facilities. Ms. Ferrario stated that the studies that were submitted studied the property values in the Midwest. She said

that it was a different situation altogether since it focused on major commercial wind farms that were located nearby residential development.

Commissioner Rhoads-Poston referred to the mention of a difference in standards and wanted to know if the standards for non-commercial windmills are the same throughout the county or have they been changed specifically for this project. Mike Yankovich stated that the standards are only different for commercial vs. non-commercial windmills. He said the non-commercial standards have not been changed. He noted that the standards for commercial windmills are different because the facilities much are larger.

Commissioner Rhoads-Poston inquired about the Take permit and wanted to know if the animal is shot and killed and then credit is bought elsewhere or is the animal just tranquilized. Ms. Ferrario stated that the Take permit is a permit that the Department of Fish and Game required of the applicant in the event that a Swainson Hawk or White Tail Kite is taken by the windmill. She said the permit is limited to those two specific birds. Ms. Ferrario explained that the mitigation credit is applied to the Swainson Hawk for the loss of foraging habitat. She explained that Dixon is very well known for Swainson Hawk habitat and habitat has been documented just south of the property. With regard to the Red Fox, Ms. Ferrario stated that that particular species has not been listed as a special species of concern, and is not on the official list. She noted that the Department of Fish and Game is funding a study with UC Davis to study the habits and the habitat of the Red Fox and whether or not that species can actually become a candidate.

Commissioner Cayler wanted to know if there has been cooperation in working with the water quality board. Ms. Ferrario stated that the alternate site information was reviewed by the wastewater board staff and they did not indicate any opposition to the location. She said they indicated that they preferred the site rather than placing the turbine around the ponds themselves.

Commissioner Boschee commented that he is a big supporter of wind turbines and believes it is a great alternative that should be explored. He stated that his concern with this project is the uncertainty of where the turbine will be located. He said if this project is approved by the commission it is with the idea that the turbine will be located at the alternative site with the understanding that permission is first obtained from the property owner to the north. If that permission is not obtained, then the unit goes back to the original proposed location. Mr. Boschee stated that he was not comfortable with that approach. He said he would be more inclined to vote in support of the project if in fact it was known that the turbine would be located at the alternative site rather than closer to the private property owners. With regard to noise, Mr. Boschee stated that again he was uncomfortable because based on the information received the turbine will reach close to the acceptable decibel level and in not knowing the exact location it could be increased. He commented that these turbine units are really nice when they are brand new but over time the equipment may begin to degrade and make more noise and increase noise levels. Mr. Boschee inquired if the manufacturer supplied any information that showed what the noise level would be after an extended period of operating time.

Mr. Yankovich stated that staff did not receive any such information.

Chairman Mahoney commented on his experiences in being around windmills. He stated that he lives in the Montezuma Hills area and has windmills close to his home. He said the proposed turbine would be located downwind from the prevailing wind and the wind will blow sound in that direction. Mr. Mahoney stated that some of the windmills that were put up in the Montezuma Hills in the late 1980's may have projected some sound, but that the modern windmills really do not make much noise. He said that in fact the lack of sound is amazing. Mr. Mahoney spoke to the mention of the removal of a windmill by an earlier speaker. He believed that the speaker was referring to the windmill at Red Top Road. He commented that that windmill was an old PG&E experiment and it was very loud and very inefficient, noting that the technology was pretty new then. With regard to injury and/or damage from windmills, Mr. Mahoney stated that he has never heard of any damage being done by a windmill or has known of any person who has moved away from the Montezuma Hills due to the windmills.

Commissioner Boschee stated that he would like to support this wind turbine project because he believes it is a great idea, but he did not believe the commission has adequate information due to the uncertainty of the location of the turbine which he believed is a critical point in approving the project. Commissioner Roads-Poston voiced her agreement with Commissioner Boschee.

A motion was made by Commissioner Cayler and seconded by Commissioner Karah to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approve Minor Revision No. 2 to Use Permit No. U-96-31 subject to the recommended conditions of approval. The motion passed 3-2 with Commissioners Boschee and Rhoads-Poston dissenting. (Resolution No. 4560)

2. **PUBLIC HEARING** to consider Lot Line Adjustment Application No. LLA-11-07 & Certificate of Compliance No. CC-11-10 of **Robert Chadbourne** to reconfigure property lines between three contiguous legal parcels, where all parcels are under active Williamson Act contract. The property is located at 3475 Chadbourne Road .5 miles south of the City of Fairfield in an "AL-80" Exclusive Agricultural Zoning District, APN's: 0046-320-140, 150, & 050. Lot line adjustments are ministerial projects, and therefore are not held to the provisions and requirements of CEQA. (Project Planner: Eric Wilberg) **Staff Recommendation:** Approval

Mr. Wilberg gave a brief presentation of the written staff report. The staff report indicated that the proposal will reconfigure interior property lines between three adjacent parcels under common ownership. The three existing lots are comprised of multiple Assessors' Parcel Nos. due to various Tax Assessment Lines. All three lots are under active Williamson Act contract (Nos. 492 and 1363), thus requiring Planning Commission approval. No changes to the Williamson Act Contracts or to the Agricultural Preserve are proposed or required as a result of the lot line adjustment. No outer boundaries of any of the contracts are being affected and no land will be taken out of contract. The current provisions for potable water and sewage disposal will not change as a result of this lot line adjustment. The site is provided water by the City of Fairfield and sewage disposal is handled by private septic. Staff recommended approval of the project.

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

A motion was made by Commissioner Boschee and seconded by Commissioner Rhoads-Poston to adopt the findings and approve Lot Line Adjustment Application No. LLA-11-07 and Certificate of Compliance No. CC-11-10, subject to the recommended conditions of approval. The motion passed unanimously. (Resolution No. 4561)

3. **ANNOUNCEMENTS and REPORTS**

Mike Yankovich stated that there are no items scheduled for the next two planning commission meetings.

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