

## Lower Yolo Bypass Planning Forum—County Ordinance Presentation

*Yolo County's Regulatory Framework*  
September 24, 2006

### Caveat:

This is a very brief snapshot of the current permitting requirements that might apply to habitat creation projects in the lower Bypass. It's clear that there are things happening now with the potential to affect such proposals and this process that aren't represented in the Forum. For example, while Met, Westlands, and Wildlands are developing specific project proposals, there are an unknown number of "properties in play" in the Bypass, and it's quite possible that not all of that property is represented in the Forum. In addition, BDCP is releasing proposals with considerable potential impacts to agriculture and existing habitat in the Bypass and the state is launching preparation of the Central Valley Flood Protection Plan, and neither of those have been examined in this forum. Therefore, participants don't have a complete picture of what's proposed in the Bypass and this makes it hard to deliver a clear picture of what County regulation would come into play. Thus this information is offered with absolutely no guarantee that it is either complete or necessarily the most pertinent information that might be required.

1. Grading Permits—projects that involve a significant amount of soil excavation and other earthwork will require a grading permit. These are ministerial permits.

*Application process:* To apply for a grading permit, you need to:

- Complete a short application form
- Submit a grading plan that shows the existing and finished grades.
- Submit a soils report prepared by a registered design professional.
- In certain areas you'll need a liquefaction study.

Please note that all building permits may be appealed to the Planning Commission by either the applicant or a member of the public.

The Building Division will conduct at least two inspections during and after the grading process to ensure compliance.

2. Flood Hazard Development Permits - Flood Hazard Development Permits are discretionary.

If the project site is located within a special flood hazard area (as indicated on floodplain maps prepared by FEMA), a Flood Hazard Development Permit is required. Note that in Yolo County FEMA is currently pursuing their "map

modernization” program, which seems likely to map substantial portions of the County into the 100 year floodplain. Such projects also will likely require other federal and state approvals. It is possible to avoid the need for such federal and state approvals by demonstrating that the proposed work will not increase the level and/or extent of the “base flood,” in which case a grading permit would be required. All projects outside of special flood hazard areas require a grading permit.

*Application process:* To apply for a Flood Hazard Development Permit, you need to do the following:

- Complete a short application form
- Provide the elevation of the lowest floor of any proposed structures; all appropriate certifications; a description of the extent to which watercourses will be relocated or altered; and other information as required in order to comply with the ordinance; and
- Provide any additional information that may be required by the County to complete the CEQA process or otherwise evaluate the application.

Various findings must be made by the Floodplain Administrator in approving a Flood Hazard Development Permit, including the following:

- The requirements of the Flood Damage Prevention Ordinance have been satisfied; and
- All other required state and federal permits have been obtained; and
- The site is reasonably safe from flooding; and
- That CEQA review has been completed; and
- The proposal does not adversely affect the carrying capacity of the area. An adverse effect is defined as where the cumulative effects of the proposal and all other existing and anticipated development will not increase the base flood elevation by more than one foot at any one location.

3. Agricultural Surface Mining Permits - The County’s Agricultural Surface Mining Ordinance requires any person or entity proposing to mine soil from one parcel and use it on another non-contiguous parcel to obtain a permit, file a reclamation plan, and provide financial assurances (performance bond, etc.). Agricultural surface mining permits are discretionary, and compliance with CEQA is therefore part of the review process.

*Application process:* To apply for an agricultural surface mining permit, you need to do the following:

- Complete a short application form that describes the property, the project, and the proposed use and related facilities. A site plan must be included, as well as other information relating to the project and its potential environmental effects. Finally, the application must propose a plan for reclamation of the mined site indicating how it will continue to be farmed, as well as an estimate of the financial assurances (i.e., bonds) to be provided by the applicant in connection with the reclamation plan.
- Provide any additional information that may be required by the County to complete the CEQA process or otherwise evaluate the application; and
- Attend one or more public hearings before the Planning Commission.
- The application may be appealed to the Board of Supervisors, where it will be heard in one or more public hearings.

Various findings must be made by the Planning Commission in approving an agricultural surface mining permit, including the following:

- The mined site will “not be detrimental to the public health and safety,” both during and after mining and reclamation activities;
- That the permit and reclamation plan are consistent with the General Plan and zoning (i.e., tend to ensure that the site can continue to be used for agriculture or related purposes);
- That the proposed mining site is physically suitable for mining and reclamation, taking into consideration soil conditions, groundwater conditions, flood protection, drainage, aesthetics, and wildlife habitat;
- That CEQA review has been completed; and
- That the proposed mine is consistent with provisions of the Williamson Act regarding compatible uses, which generally require that activities on contracted land not significantly interfere with agricultural operations and long-term productivity.

The Planning Commission can add conditions in approving a permit, and may adopt mitigation measures that are necessary to reduce or eliminate the environmental impacts of a project.

4. Williamson Act—Habitat projects that affect property covered by a Williamson Act contract will require additional review to determine whether the proposed habitat restoration or creation is “compatible” with and “incidental” to the agricultural, recreation, or open space use of the property. The Williamson Act requires the County to implement the local Williamson Act program in a manner that protects contracted lands—by legal action, if necessary—from the introduction of incompatible uses.

The County strongly encourages those considering projects in the lower Bypass to consult with the Planning and Public Works Department and the County Counsel if a Williamson Act contract covers some or all of the lands under consideration. Determinations are made on a case-by-case basis that takes the unique facts of each project and property into account. As a general rule, habitat projects that preclude continued agricultural use of more than *one-half* the acreage of a parcel or parcels subject to a Williamson Act contract will likely be considered inappropriate on contracted lands. The establishment of inconsistent uses on land covered by a Williamson Act contract may result in court action by the County and/or other property owners to enforce the terms of the contract. The County is very unlikely to cancel a Williamson Act contract to allow a habitat project to proceed; the County has cancelled only two contracts in more than 40 years.

5. Recreational Uses and Related Facilities—Public or private recreational activities, such as boating, hiking, or hunting, are generally allowed in County agricultural zones without prior County review approval so long as no permanent structures are involved. If permanent facilities are required), approval of a major or minor conditional use permit, depending on the zoning, is required. Such approvals are discretionary, and compliance with CEQA is therefore required.

*Application process:* To apply for a conditional use permit, you need to do the following:

- Complete a short application form that describes the property, the project, and the proposed use and related facilities. Additional documents, such as a plot plan or similar graphic representation of the proposal, may also be required;
- Provide any additional information that may be required by the County to complete the CEQA process or otherwise evaluate the application; and
- One or more public hearings either before the Zoning Administrator or the Planning Commission may be required depending on the zoning.

- If either the applicant or any member of the public is dissatisfied with the decision of the Zoning Administrator or the Planning Commission, the application may be appealed to the Planning Commission and the Board of Supervisors.

*Review and approval process:* As with agricultural surface mining permits and other discretionary approvals, the County may deny a use permit for any sound reason. The required findings include:

- General plan and zoning consistency;
- The requested use is essential or desirable to the public comfort or convenience; and
- The requested use will not impair the integrity of the neighborhood or be detrimental to public health, safety, or welfare;

Conditions may be added to a use permit to help ensure public health, safety, and welfare, and mitigation measures may also be adopted to reduce or eliminate the environmental effects of the project.

There are other considerations, possibly not explicitly mentioned in this description of permits that may need to be addressed for whatever these projects turn out to be. A couple of examples might be: a major grading project might require prior improvements or subsequent repairs to access roads; providing public access facilities might require providing emergency response capacity or proof of long term o and m funding, in lieu tax payments, or other responses to ancillary project impacts.

In closing, consultation with County staff early and often is recommended for any of these permitting processes.

