



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: 12/4/12
Placement: Departmental
Estimated Tme: 45 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell, Ph.D, Director of Planning and Development
Director(s) 568-2085
Contact Info: Jeffrey S. Hunt, AICP, Deputy Director, Long Range Planning,
568-2072
SUBJECT: Orcutt Community Plan 2012 Amendments:
11GPA-00000-00001 and 11GPA-00000-00002, Fourth Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: No

Recommended Actions: On December 4, 2012, your Board should consider final recommendations and related resolutions for adoption of the Orcutt Community Plan 2012 Amendments, as follows:

1. Make the required findings, including CEQA findings for adoption of the Orcutt Community Plan 2012 Amendments (Attachment 1);
2. Determine that the material in Attachment 2, Exhibit 2A is not significant new information requiring recirculation of the Final Supplemental EIR, accept staff's recommended revisions to the Final Supplemental EIR in Attachment 2, Exhibit 2A and certify the Final Supplemental EIR (09EIR-00000-00004) (Attachment 2) in compliance with CEQA Guidelines Section 15090;
3. Adopt a resolution approving specific text and map amendments to the Land Use Element (Attachment 3) of the Santa Barbara County Comprehensive Plan by adoption of the Orcutt Community Plan 2012 Amendments;
4. Adopt a resolution approving specific text amendments to the Circulation Element (Attachment 4) of the Santa Barbara County Comprehensive Plan by adoption of the Orcutt Community Plan 2012 Amendments; and,
5. In compliance with a court order issued in *Adam Bros. Farming Inc. v. County of Santa Barbara* (Super. Ct. Santa Barbara County, 2004, No. 1007452), strike that portion of the appendices to the OCP EIR (95-EIR-1) titled *Vernal Wetlands and Orcutt Creek Wetland Delineation* prepared by Katherine Rindlaub Biological Consulting and bearing the date of September 1, 1995 and any conclusions based in whole or in part on said delineation (Attachment 5).

Summary

The project involves the following three amendments to the Orcutt Community Plan (OCP) and minor additions and changes to OCP FEIR (95-EIR-01) recommended by the Planning Commission for approval by the Board of Supervisors.

1. **Regional Basins Policy Amendment.** This amendment replaces the OCP regional basins program requirements with new policies consistent with current County flood control and surface water pollution prevention standards. Existing OCP Policy FLD-O-4, Action FLD-O-4.1, and development standard Dev Std-O-4.2 will be deleted and replaced with new Policy FLD-O-4 and development standard Dev Std FLD-O-4.1 that require compliance with the County's water quality and flood control ordinances.
2. **Key Site 22 Wetlands Delineation Removal.** This amendment complies with the court's direction in *Adam Brothers Farming, Inc. v. County of Santa Barbara, et al.* (Super. Ct. Santa Barbara County, 2004, No. 1007452) requiring that all references to the wetland delineation for Key Site 22 be removed from the OCP and OCP FEIR.
3. **Clark Avenue Level of Service Reduction.** This amendment lowers the level of service (LOS) standard for the roadway segments and intersections along Clark Avenue in Old Town Orcutt between Blosser Road and Foxenwood Lane from LOS C to LOS D. The amendment responds to updated traffic volume data which reflects existing network conditions and future traffic volumes for projected buildout of OCP land uses.

Proposed OCP policy amendments are detailed in the resolutions in Attachments 3 and 4. Proposed FEIR text and map amendments are detailed in Attachment 5. The Planning Commission August 8, 2012 action letter recommending approval of the 2012 Amendments and the Planning Commission staff report are included in Attachments 6 and 7.

Planning Commission Review

The project was reviewed by the County Planning Commission on August 8, 2012. The Planning Commission voted 5-0 to recommend that the Board of Supervisors: approve the Key Site #22 Wetlands Delineation Removal and the Clark Avenue Level of Service Reduction amendments, and by a vote of 4-1, with Commissioner Blough dissenting, to approve the Regional Basins Policy Amendment.

Background

Regional Basins Policy. Existing OCP Policy FLD-O-4 directs the use of regional basins, where feasible, to address flood control impacts related to construction of Plan Area land uses. FLD-O-4 requires all development to contribute a proportionate share toward the implementation and cost of maintenance of a regional basin.

Since OCP adoption, implementation of the regional basins program has been completed to the extent feasible with two regional basins constructed and in use. Further implementation of the program has proven infeasible due to several factors, including the cost to the County of constructing and maintaining the system and requirements for facilities to cross property under private ownership that requires condemnation in some cases.

Key Site 22 Wetlands Delineation Removal. In 2000, Adam Brothers Farming Inc. and a related company filed a lawsuit in Santa Barbara Superior Court against the County and individuals involved in preparing the Key Site 22 wetlands delineation as a part of the OCP. In 2004, the court ordered the County to remove all references to the wetlands delineation and strike or modify any maps incorporating the wetlands delineation in the OCP and OCP FEIR. The jury awarded monetary damages to the plaintiff. The decision was appealed to the California Court of Appeal, who affirmed the decision to strike the wetlands delineation but dismissed the damage award. The plaintiff then sought recovery in the United States District Court which dismissed the case on the ground the plaintiff failed to demonstrate it sought and was denied just compensation under state law. The plaintiff appealed the decision to the Ninth Circuit Court which affirmed the District Court dismissal on the ground the claim was barred by the application of res judicata based on the prior state court decision.

Removal of the wetlands delineation from the OCP and OCP FEIR does not remove legal requirements for property owners to comply with wetlands regulations in the federal Clean Water Act or federal and state regulations protecting special status species.

Clark Avenue Level of Service Reduction. The *Old Town Orcutt Traffic, Circulation, and Parking Study*, Penfield & Smith, 2008 (Traffic Study)¹ identified the potential for roadway and intersection LOS along Clark Avenue between Blosser Road and Foxenwood Lane to exceed the existing LOS C standard at buildout. The study recommended changing the level of service from LOS C to LOS D to accommodate future traffic volumes for projected buildout of OCP land uses.

OCP Policy CIRC O-3 (Attachment 4) will be amended to establish a minimum LOS D for Clark Avenue roadway segments and intersections between Blosser Road and Foxenwood Lane (Attachment 7, Page 6, Figure 2). The LOS reduction reflects OCP policy preference to calm traffic and contribute to a pedestrian friendly downtown rather than install signalized intersection improvements to keep traffic moving at higher speeds to maintain operations at LOS C. By reducing the level of service standard on Clark Avenue to LOS D, the County is seeking to reduce the incidence of high-speed through-traffic trips in Old Town Orcutt and accommodate increased destination trips by people who enter Old Town and are looking to park and patronize Old Town Orcutt businesses.

Environmental Review

A Final Supplemental Environmental Impact Report (SEIR) (Attachment 2) was prepared for the OCP 2012 Amendments. State CEQA Guidelines Section 15163 allows preparation of a SEIR when new information of substantial importance is available, which was not known at the time the previous EIR was prepared, and only minor additions or changes would be necessary to make the previously certified OCP EIR (95-EIR-1) adequately apply to the current project.

The SEIR (09EIR-00000-00004) makes minor additions and changes to the OCP FEIR impacts discussion to include analysis of the OCP 2012 Amendments. The new analysis supports the findings in Attachment 1 that the OCP 2012 Amendments would not result in new significant environmental effects requiring additional mitigation measures, or cause a substantial increase in the severity of previously identified significant impacts that require major revisions to the previously certified OCP EIR. The Final SEIR in Attachment 2 consists of the SEIR Revision Document (RV-1), the SEIR and Exhibit 2A: Final SEIR Minor Revisions Memorandum. Please refer to the Planning Commission staff report (Attachment 7) for detailed information on the environmental review conducted for the proposed project.

Policy Consistency

An analysis of the proposed OCP 2012 Amendments consistency with the Santa Barbara County Comprehensive Plan, OCP policies and CEQA was conducted and provide substantial evidence to support consistency and the findings for project approval in Attachment 1. The Planning Commission staff report (Attachment 7, Page 8) and the SEIR include the consistency analysis.

Performance Measure:

N/A

Fiscal and Facilities Impacts:

Budgeted: Yes.

Funding for the Comprehensive Plan amendments work effort is budgeted in the Planning and Development Department's Long Range Planning Division on page D-138 of the fiscal year 2012/2013 budget book. There are no facilities impacts.

¹ The traffic study is available for review at the Planning and Development Department offices located at 123 East Anapamu Street, Santa Barbara, CA and 624 West Foster Road, Santa Maria, CA and online at <http://longrange.sbcountyplanning.org/planareas/orcutt/documents/Old%20Town%20Orcutt/Old%20Town%20Orcutt%20Report.pdf>

Fiscal Analysis:

Funding Sources	Current FY Cost:	Annualized On-going Cost:	Total One-Time Project Cost
General Fund	\$ 17,912.55		\$ 154,786.07
Other:			
Total	\$ 17,912.55		\$ 154,786.07

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing scheduled for December 4, 2012. The notice shall appear in the Santa Maria Times. The Clerk of the Board shall fulfill noticing requirements of Government Code Section 65094. A minute order of the hearing, signed Board Resolutions and two copies of the notice and proof of publication shall be returned to the Planning and Development Department, attention: Bret McNulty and David Villalobos.

Attachments: Findings

2. Orcutt Community Plan 2012 Amendments: Final Supplemental EIR (Copy available at: <http://longrange.sbcountyplanning.org/planareas/orcutt/orcutt.php>)
 - a. Exhibit 2A: Final Supplemental EIR Minor Revisions Memorandum
3. Resolution – Comprehensive Plan Land Use Element Amendment
 - a. Exhibit A: Amended Regional Basins Map – Figure 31, page 207
 - b. Exhibit B: Amended Map of Orcutt Significant Vegetation Map
Amends OCP Figure 24, page 188
 - c. Exhibit C: Amended Biological Habitat Map – West Half
Amends OCP Figure 25, page 189
 - d. Exhibit D: Amended Key Site 22 Map
Amends OCP Figure KS22-2, page KS22.12
 - e. Exhibit E: Key Site #22 OCP Text Amendments
4. Resolution – Comprehensive Plan Circulation Element Amendment
5. Orcutt Community Plan FEIR (95-EIR-01) Amendments
 - a. Exhibit A: Amended Map of Orcutt Significant Vegetation Map
Amends OCP FEIR Figure 5.2-1, page 5.2-3
 - b. Exhibit B: Amended Key Site 22 Map
Amends OCP FEIR Figure KS22-3, page 22-6
 - c. Exhibit C: Key Site #22 OCP FEIR Text Amendments, including
 - i. Exhibit C.1: *To be removed from OCP FEIR:* Appendix D: Vernal Wetlands and Orcutt Creek Wetlands Delineation, K. Rindlaub Biological Consulting, September 1, 1995. (Document available in Attachment 6: Planning Commission Action Letter and for viewing and download at: <http://longrange.sbcountyplanning.org/planareas/orcutt/orcutt.php>)
6. Planning Commission Action Letter – dated August 8, 2012
7. Planning Commission Staff Report – dated July 20, 2012

Authored by:

Bret McNulty, Planner, 884-8060

G:\GROUP\COMP\Planning Areas\ORCUTT\Orcutt Community Plan\2011 Amendments\Public Hearings\BOS_12_4_12_Hearing\0.BOS Agenda Letter.doc