



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: September 11, 2007
Placement: Administrative
Estimated Tme: 2 hr on 9/25/07
Continued Item: Yes
If Yes, date from: 02/13/07
Vote Required: Majority

TO: Board of Supervisors

FROM: Department John Baker, Planning & Development, 568-2000
Director(s) John McInnes, Office of Long Range Planning, 568-3552
Contact Info: David Matson, Deputy Director, 568-2068

SUBJECT: **Uniform Rules Update Project**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

That the Board of Supervisors set a hearing for September 25, 2007 to consider amendments to the Uniform Rules for Agricultural Preserves and Farmland Security Zones.

Staff recommends that the Board of Supervisors:

1. Adopt the Findings and Statement of Overriding Considerations for approval of the amended Uniform Rules (Attachment A);
2. Certify the Final Environmental Impact Report (04-EIR-08) (Attachment B) and Mitigation Monitoring and Reporting Plan (Attachment A); and
3. Adopt a Resolution to amend the *Uniform Rules for Agricultural Preserves and Farmland Security Zones, Santa Barbara County, September 2007* (Attachment C).

Summary Text:

The Board of Supervisors is the decision making body for administrative actions implementing the County's agricultural preserve program. The Uniform Rules implement the Williamson Act by defining eligibility requirements and compatible uses that each participating landowner must adhere to in order to receive a reduced tax assessment. The Uniform Rules do not authorize any development on agricultural land that is not otherwise permitted by the applicable zone district. Often the Rules are more restrictive than the underlying agricultural zoning requirements. The Rules neither supersede the County's land use requirements contained in the Comprehensive Plan and zoning ordinances, nor does participation in the program obviate the need for permits. The Agricultural Preserve Advisory Committee (APAC) is responsible for reviewing a land use application for

consistency with the Uniform Rules and the Williamson Act, but have no land use permitting authority. The land use permit must be reviewed and approved by the appropriate decision-maker in the permit process.

The Uniform Rules Update Project proposes changes to several aspects of the Uniform Rules in order to meet the following objectives:

- 1) Bring the Uniform Rules into conformance with recent legislative amendments to the Williamson Act;
- 2) Address discrepancies in the Uniform Rules that were identified in a 2001 audit of the County's Agricultural Preserve Program by the California Department of Conservation;
- 3) Ensure the continued integrity of the Agricultural Preserve Program; and
- 4) Increase the clarity and flexibility of the Uniform rules to ensure continued and expanded participation in the County's Agricultural Preserve Program.

Staff recommends the Board of Supervisors adopt the amended Uniform Rules included as Attachment C.

Background:

Hearings before the Board of Supervisors on the proposed Uniform Rules Update were held on December 5th and December 19th, 2006. Several of the public comments on December 5th focused on the cumulative impact analysis in the Uniform Rules Proposed Final EIR and the relationship to various policy initiatives affecting rural lands that have arisen since the Draft EIR was originally released to the public for comment in August 2004. Several members of the public stated that the cumulative effects of the recent rural area policy initiatives should be analyzed in conjunction with the environmental analysis for the Uniform Rules Update, and that this information should be made available to the public and the Board prior to taking final action on the Uniform Rules Update.

On February 13, 2007, the County Executive Office of Long Range Planning presented a status report to the Board of Supervisors regarding the intent to update and revise, as necessary, the cumulative impact analysis sections within the Uniform Rules Environmental Impact Report. The Board of Supervisors directed staff to return to the Board at the completion of the cumulative impact analysis (vote 4-0).

A Revised Cumulative Impact Analysis for the Uniform Rules Environmental Impact Report was prepared and circulated for public review on July 20, 2007. A noticed hearing to receive public comments was held on August 15, 2007, and the 45-day public review period closed on September 4, 2007. Comments on the Revised Cumulative Impact Analysis were received from several members of the public during the 45 comment period and staff responses to comments are included in the Uniform Rules Final EIR (Attachment B).

Memorandum to Board of Supervisors – December 19, 2006

At the December 19, 2006 Board of Supervisors hearing, staff provided information to questions received at the December 5, 2006 hearing on the Uniform Rules in the form of a memorandum to the Board of Supervisors. Several of the public comments pertain directly to requested amendments to the Uniform Rules and have been re-published below along with staff's response for consideration by the Board of Supervisors.

1. *Department of Conservation comments on the proposed Uniform Rule amendments*

Several comments received at the December 5, 2006 Board hearing referenced issues raised by the Department of Conservation in their draft EIR comment letter dated October 27, 2005.

Staff met with Department of Conservation representatives on July 24, 2006 to discuss their original concerns regarding the Uniform Rules update. Based on comments received at the meeting, the APAC revised the proposed Uniform Rules for small-scale guest ranches (Rule 2-4) and additional principal dwellings (Rule 1-

4.1.C.1). The Department of Conservation has reviewed these changes and confirmed in a letter to the Board of Supervisors (Attachment D) that their original concerns have been addressed through revisions incorporated in the September 25, 2007 proposed Uniform Rules.

2. *Amend Uniform Rules to allow discontinuous winery development envelopes to enable winery support facilities to be remotely sited from the winery.*

A member of the public requested that the Board of Supervisors amend proposed Uniform Rule 2.-2.1.B.3 (Processing of Wine Grapes) to enable winery support facilities to be remotely sited on the winery parcel. Staff has provided the Board of Supervisors with suggested language (see below) to facilitate the requested amendment which is supported by staff. The Board of Supervisors should consider the suggested text change below as part of the motion to adopt the Uniform Rules.

Uniform Rule 2-2.1

B. Processing of Wine Grapes.

Due to the unique qualities and desirability of processing premium table wines near the vineyard, wineries are deemed compatible within contracted land, provided that all of the following criteria are met:

1. A vineyard(s) has been planted on the parcel for which the winery is proposed prior to County approval of the winery;
2. At least 51% of the winery case production shall be from grapes grown on the premises and/or from other contracted land under the same ownership in Santa Barbara County. At least 20% of the case production shall be from grapes grown on the parcel with the winery. Additional vineyard planting may be required on the premises to ensure compliance with the commercial production requirements in Rule1-2.3;
3. For premises 500 acres or less, that such uses do not occupy land exceeding 10% of the premises or 5 acres, whichever is less. Premises greater than 500 acres are permitted 1 additional acre for a winery site for each additional 100 acres above 500 under contract, not to exceed 20 acres. Included within this site are roads serving these uses¹, all parking and storage areas, landscaping, loading areas, all attached and detached supportive structures and any other related improvements. Wastewater treatment systems are included within this site limitation if they take land out of agricultural production. Winery support facilities, including wastewater facilities and tasting rooms, may be remotely sited from the winery as long as the total area occupied by these uses, when added to the winery development envelope, does not exceed the permitted envelope allowance as set forth in this section. All such uses shall be confined to a single parcel (excepting the access roads and wastewater facilities) within the premises and sited in a manner that minimizes, to the extent feasible, the land area taken out of agricultural production.
4. The acreage allowances identified above are maximums and will only be permitted upon a demonstrated need to support the agricultural operation.
5. All such uses are subject to all zoning requirements, including a conditional use permit, when applicable, and its conditions and standards that are found necessary to maintain compatible agricultural land uses.

¹ For dual-use roads, only that portion of the road which is required to serve the facility by extending it beyond the agricultural road will count towards the site acreage limitation. In addition, if widening a dual-use road to meet County standards takes land out of agricultural production, then the extra width will count towards the site acreage limitation.

3. *Amend proposed Rule 2-5 (Recreation) to delete “sports fields” as an example of a non-compatible recreational use.*

Several members of the public requested the Board of Supervisors amend proposed Rule 2-5 to delete the specific reference to “sports fields” as an example of a non-compatible recreational use on contracted lands. Inclusion of playing fields as a compatible use in agricultural preserves was considered by the Agricultural Preserve Advisory Committee (APAC) as directed by the Board of Supervisors. Over a period of 22 months the APAC explored options with the Department of Conservation for allowing playing fields in agricultural preserves. Ultimately, the APAC concluded that playing fields should not be included in the Uniform Rules as a compatible use.

The Department of Conservation actively participated in the enactment of SB985 (Johnston: ch1081 Statutes of 1999) that narrowed the definition of compatible recreational uses on contracted land. Since 1999, DOC “...has consistently advised local agencies and landowners that a variety of dedicated recreational uses, including soccer fields, playing fields and golf courses are incompatible uses on Williamson Act land when they require alteration from the “natural or agricultural state” of the land (Government Code §51201(n)).”

In a letter to the Agricultural Commissioner dated March 15, 2005, the Department of Conservation offered the following tests for consistency with the Williamson Act for playing fields alone or in conjunction with an agricultural operation:

- If the County determines the primary use of the land, or a significant fraction, is for recreation rather than agriculture, it must consider the Act’s restrictions on compatible recreation.
 - Soccer and other playing fields are inconsistent with the Williamson Act when they require alteration of the land from the “natural or agricultural state”.
- If no physical alteration of the land is required for the recreational use, the impact of the use and related facilities must be evaluated against other Williamson Act provisions intended to support long-term restricted agricultural uses.
 - If the contracted land to be played upon is in an agricultural state, it would be the County’s burden to demonstrate compatibility with that commercial agricultural operation and crop. Issues to address would include timing of the recreational use in relation to planting, harvesting and other agricultural practices necessary to successfully produce and sell the crop on a commercial basis, and whether or not the agricultural enterprise is a bona fide commercial operation or whether the “crop” is primarily for the “... convenience of and intended to justify a primary recreational purpose (DOC, 2005).”
- For either situation above:
 - The activity would need to be found consistent with the Williamson Act principles of compatibility (Government Code 51238.1) that, among other things, state uses shall not (1) significantly compromise the long-term productive agricultural capability of the contracted land or adjacent contracted land; (2) significantly displace or impair current or future agricultural operations on the contracted land or adjacent contracted land;
 - The use shall not hinder or impair agriculture by increasing the temporary non-agricultural population in agricultural areas (Government Code 51220.5). Such an increase could have secondary implications for traffic safety and road degradation, or pose conflicts with right-to-farm protection of agricultural operations.

- Additionally, the County would have health and safety concerns for youth playing in an area that could expose them to pesticide residues, attractive nuisances or other potential hazards.

The Department of Conservation concluded that land uses and recreational activities that result in the significant interference with, or cessation of, agricultural pursuits on contracted land or adjacent agricultural land “clearly undermines the [Williamson Act] program’s integrity and should not be allowed on contracted parcels (DOC, 2005).” Even if no physical alteration of the land is required for the recreational use, the potential conflicts posed by temporary increases in the non-agricultural population, potential for nuisance complaints against agricultural operations, potential for exposure to pesticide drift and other agriculturally-related hazards, have the potential to result in significant interference with and/or cessation of commercial agricultural pursuits on the land or surrounding agricultural area.

Staff has provided the Board of Supervisors with suggested language (see below) to facilitate the requested amendment. The Board of Supervisors should consider the suggested text change as part of the motion to adopt the Uniform Rules. If this change is implemented, individual projects would be evaluated on a case-by-case basis to determine if they meet the Williamson Act definition for compatible recreational use (Govt. Code §51201(n)) and Principles of Compatibility (Govt. Code §51238.1).

Uniform Rule 2-5 – Recreation

Recreational uses, such as walking, hiking, picnicking, wilderness camping, scenic viewing, swimming, boating, fishing, hunting, and horseback riding, are deemed compatible uses on contracted land. Examples of non compatible uses are: motor vehicle use which is detrimental to the productivity of the land, ~~sport fields~~, and golf courses. Uses which are compatible shall meet all of the following requirements:

- A. The use is limited to land in its agricultural or natural state;
- B. The use is consistent with the compatibility guidelines set forth in section 2-1 of this Rule and with any restrictions imposed by the applicable zone district in the Santa Barbara County Code Chapter 35, Zoning;
- C. Any facilities or structures necessary to support such uses, and which are not principally used as part of the agricultural operation, must be included within the acreage allowed for the development envelope on the premises and be sited in a manner that minimizes impacts to agriculture;
- D. Only incidental low-intensity motorized activities shall be allowed.

Contracted land that is used solely for recreation, where no agriculture is taking place, shall adhere to the requirements set forth in Rule 4.

4. *Amend the Uniform Rules to add commercial storage of water well drilling equipment as a compatible use on contracted land.*

Two members of the public requested that the Board of Supervisors amend the proposed Uniform Rules to include commercial storage of water well drilling equipment as a compatible use on contracted land was not included in the Uniform Rules update.

In order to maintain consistency between the Uniform Rules and County land use requirements, the proposed Uniform Rules recommended by the Agricultural Preserve Advisory Committee do not include changes which would require amendments to the County's zoning ordinance. The APAC did not recommend including commercial storage of water well drilling equipment as a compatible use since the use is not currently allowed under agricultural zoning.

Small-Scale Processing

Staff is recommending the Board of Supervisors delete proposed Uniform Rule 2-2.1.C, *Small-Scale Processing Beyond the Raw State*, since this use is not currently allowed under agricultural zoning. The Santa Barbara County Land Use and Development Code (LUDC), as well as the current Uniform Rules, prohibits processing on agriculturally zoned land for all agricultural products with the exception of wine grapes².

The proposed Rule received support from the agricultural community, the APAC, and staff and was intended to allow very small-scale processing of crops grown on the premises to help support local growers. After further review and careful reconsideration by staff and County Counsel, it was determined that the Rule could not be found consistent with existing agricultural zoning ordinance requirements as originally envisioned (Chapter LUDC Chapter 35.21.030.E – "...accessory structures and uses that are customarily incidental to the primary use.).

In considering proposed amendments to the Uniform Rules, the APAC has recommended changes which would not require amendments to the County's zoning ordinance. Staff supports this position and recommends that the Board delete proposed Uniform Rule 2-2.1.C, and requests the Board provide guidance to staff if small-scale processing should be considered in a future Planning and Development work program to amend the LUDC.

Agricultural Preserve Advisory Committee Recommendations

The Agricultural Preserve Advisory Committee (APAC) voted unanimously to recommend the Board of Supervisors approve the amended Uniform Rules. In addition to the initial recommendation, the Agricultural Commissioner's Office submitted a letter to the Board on November 13, 2006, on behalf of the APAC, recommending the Board of Supervisors approve additional minor text changes which were unanimously approved at the November 3, 2006 APAC meeting (Please refer to Memorandum to the Board of Supervisors, December 19, 2006 - Attachment 2). These minor text changes are supported by staff and are incorporated in the amended Uniform Rules, September 18, 2007 (Attachment C) for the Board's consideration.

Performance Measure: The County's Agricultural Preserve Program has maintained a high level of participation, with approximately 1,200 contracts covering approximately 550,000 acres. This represents 73% of agricultural land in the County. The amended Uniform Rules will strengthen the integrity of the County's Agricultural Preserve Program and help ensure the continuation of agriculture as a viable industry in Santa Barbara County.

² Processing beyond the raw state is allowed within an Agricultural Industry Overlay (AIO) on AG-II zoned land.

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund	\$ 12,551.00		
State			
Federal			
Fees			
Other:			\$ 12,000.00
Total	\$ 12,551.00	\$ -	\$ 12,000.00

One-time project cost for consultant preparation of Uniform Rules Update EIR - Revised Cumulative Impact Analysis.

Staffing Impacts:

Legal Positions:
N/A

FTEs:
N/A

Special Instructions:

Clerk of the Board shall post legal notice in the Santa Barbara News Press and Santa Maria Times at least 10 calendar days before the hearing.

Attachments:

- A. Findings and Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan. (To be docketed with Board letter on September 13, 2007).
- B. Final Environmental Impact Report (To be docketed with Board letter on September 13, 2007).
- C. Resolution to amend the *Uniform Rules for Agricultural Preserves and Farmland Security Zones, Santa Barbara County, September 2007*. (To be docketed with Board letter on September 13, 2007).
- D. Department of Conservation letters, December 12, 2006 and December 14, 2006. (To be docketed with Board letter on September 13, 2007).

Authored by:

David Matson, Deputy Director, 568-2068

cc:

OLRP Chron File