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**SANTA BARBARA COUNTY
AGRICULTURAL ADVISORY COMMITTEE**

June 13, 2008

On June 4, 2008, the Santa Barbara County Agricultural Advisory Committee (AAC) conducted a public hearing. The purpose of this letter is to make certain recommendations to the Board of Supervisors concerning the proposed adoption of a revised Fire Code, based upon the State-adopted 2007 Fire Code (CFC).



The Committee had an excellent discussion with Fire Marshal Chris Hahn, who explained that the implementing ordinance and the fact that it clarifies California law as it applies to these issues, provides flexibility when allowed by law. Based upon its hearing, the AAC makes the following recommendations:

Administrative Procedures

1. The AAC recommends that the Board of Supervisors, not just the Fire Chief, adopts the local Fire Department Development Standards after a noticed public hearing.

The current process and as proposed in the Fire Code implementing ordinance:

- a. The Fire Chief writes, approves and implements "Development Standards."
- b. There is no review by Board of Supervisors.
- c. There are no public hearings, public input or public notice.
- d. The first time that a property owner learns of the effect of the Development Standards on his/her project is during design review.
- e. Because the Development Standards are not part of the County's published ordinances, property buyers conducting due diligence are unaware of the impact of the Standards on their planned use of the property.
- f. The Development Standards are posted on the Fire Department website.
- g. The 2007 Fire Code is silent on the issue of locally-adopted Development Standards.

The AAC recommends that the County's implementing ordinance explicitly authorize the Board of Supervisors to adopt a resolution enacting "Development Standards" after a public hearing and upon recommendation by the Fire Chief. The Development Standards should be an addendum to the County's Fire Code.

The reasons for the AAC's recommendation are:

1. All other land use regulations (zoning amendments, general plan amendments, community plans) are adopted by the Board of Supervisors. Why should the Fire Department's land use development standards be treated differently?
 2. The public is entitled to be aware of, and participate in, the development of land use rules. If the public is involved in formulating these policies, the product is likely to better serve the public need and be respected and followed. By including the standards in the published County Fire Code, property buyers will be alerted to potentially important restrictions that could affect their decision to purchase a particular property.
 3. Creating sound and sensible land use policy requires striking a balance of various interests. Certainly, fire safety is a compelling public purpose. At the same time, there are other important public objectives, including avoiding environmental damage and allowing reasonable use of private property. The Board is in the best position to strike the appropriate balance among goals that may not always be easily reconciled.
 4. There is no provision of the code that explicitly authorizes the Fire Chief to promulgate legislative policy, and the Board of Supervisors lacks authority to delegate such power to the Fire Chief.
2. **The AAC recommends that the Board of Supervisors hear administrative appeals from Fire Department interpretation and application of the Fire Code and Development Standards.**

Under the County's current process:

There is a five member Board of Appeals but their scope of authority is limited to enforcement actions.

Decisions may be appealed to the Board of Supervisors, whose decisions are final. (County Code, Ch. 15, § 15-9).

Jurisdiction: To determine suitability of alternate materials
To determine suitability of types of construction
To provide reasonable interpretations of the code

The proposed Code:

- : Eliminates appeals to Board of Supervisors. Property owners dissatisfied with Board of Appeals decisions must file litigation.

Jurisdiction: No change from present process.

The AAC recommends that the Board reinstate appeals to the Board of Supervisors.

The reasons for the AAC's recommendation are:

1. The County's elected leaders should have ultimate authority over decisions that could result in County liability and impacts on the County treasury.
2. The Board is in the best position to give appropriate weight to various considerations in deciding an appeal. The Fire Board of Appeal may be inclined (due to background and experience) to give too little weight to considerations other than fire safety, issues such as neighborhood compatibility, special needs of agricultural operations, and environmental protection.
3. An appeal pertaining to an interpretation of the Fire Code could have a dramatic impact on the use of someone's private property.
4. All other major land use permitting decisions are appealable to the Board of Supervisors.
5. The Fire Department requirements are conditions imposed upon the project. Appeal of the conditions occurs during the project appeal so all of the integrated project issues can be heard together.

The AAC also recommends that the Code explicitly provide that road design issues (size, grade, surface) may be appealed to the Board of Supervisors as follows:

Ordinance § A101 (which addresses the Appeals Board and its role) should be amended to read (new language underscored):

"A101.1. Scope. To determine the suitability of alternative materials and types of construction (including the grade and surface materials of roads and driveways) and to provide reasonable interpretations of the provisions of this code, there shall be and hereby is created a board of appeals, consisting of five members who are qualified by experience and training to pass judgment upon pertinent matters."

The reasons for the AAC's recommendation are:

1. The existing language can be interpreted to allow an appeal of this type of issue, but it is not as clear as it could be. It is better to clarify the language now and avoid legal disputes later over the meaning of the provision.
2. A decision by the Fire Chief regarding road requirements can result in a denial of all reasonable use of property, or other significantly damaging impacts.

Substantive Issues

1. Ambiguities in the New Code Must Be Clarified

Because the 2007 CFC was written primarily to apply in urban settings, it includes significant ambiguities when applied to Santa Barbara County with its extensive rural agricultural land and native habitat. We suggest the following to resolve these ambiguities.

The AAC concurs with the Fire Department's proposed change in sections 304.1.1 and 304.1.2 to insert the words "When determined to be a fire hazard." This will avoid the implication that farmers' and ranchers' hay, straw, vegetation, etc. is prohibited from being accumulated and stored in buildings, open areas, and similar settings, or that the vegetation that provides forage and habitat must be cut down and removed.

2. Clarify that the definition of "Fire Apparatus Access Road" (CFC § 502.1) does not apply to driveways serving five (5) or fewer parcels. The design of these driveways should be governed by the Fire Department's Development Standards.

3. Clarify that CFC Chapter 10 ("Means of Egress") does not apply to agricultural accessory buildings such as barns, stables, animal shelters, feed storage buildings, and similar buildings.

The reasons for the AAC's recommendation are:

1. Agricultural operations prefer, and it has been a normal practice for decades, to store accumulations of hay and straw in a structure to protect them from the elements. Rural land owners accumulate wood as fuel. On agricultural lands, "weeds and combustible waste" is actually forage. Likewise, "vegetation capable of being ignited" includes rangeland and native habitat. The Fire Code policies on these matters may be appropriate in an urban setting, but create unintended and undesirable consequences when applied to native habitat and agricultural lands such as requiring mowing of grazing land ten feet past the fence line adjacent to a roadway. Specific provisions pertaining to clearing flammable vegetation around structures are found elsewhere in the Code and apply to agricultural structures.

2. The Code has very specific width, parking, and other provisions that are appropriate for a "Fire Apparatus Access Road" that serves multiple parcels. Application of these requirements to driveways will result in excessive and unnecessary grading and environmental damage, in addition to degrading the ambiance of semi-rural and rural neighborhoods by requiring more paving than needed for public safety.

3. Chapter 10 incorporates a broad range of exit requirements, including panic hardware, lighted exit signs, balanced doors, handrails, ramps, etc. that are

inappropriate in agricultural accessory buildings that are neither used nor intended for congregation of large numbers of people.

4. Brush Clearance

As Proposed in the New Fire Code Chapter 47: Requires the owner of a parcel to allow an adjacent property owner to clear brush (Reduced Fuel Zone) within 100 feet of any building, where the building is located on a neighbor's property, without providing the parcel owner protection against liability, personal injury, or property damage if the structure owner either causes damage or injury or incurs injury while conducting the clearing. Farmers and ranchers own thousands of acres of flammable vegetation and cannot control where neighboring property owners site their buildings. Essentially, this regulation imposes on agricultural landowners the duty to provide a setback/buffer that the owner of the structure on another parcel should be providing onsite.

The AAC recommends that the Board revise Chapter 47 to read:

§ 4714.4.1. Any person owning, leasing, controlling, operating or maintaining any building in, upon, or adjoining any mountainous areas, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with combustible material, and any person owning, leasing, or controlling any parcel adjacent to such buildings, shall at all times:

(a) Maintain around and adjacent to the building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side of the building or structure or to the property line, whichever is nearer, all flammable material or other combustible growth. No property owner shall be responsible for providing a 30-foot firebreak around structures not located on that property owner's land.

(b) Maintain around and adjacent to the building or structure a Reduced Fuel Zone made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the building or structure or to the property line, whichever is nearer, or at a greater distance if required by the Fire Chief." No property owner shall be responsible for removing brush, flammable vegetation, or combustible growth around structures not located on that property owner's land.

§ 4714.4.2 Any person owning, leasing or controlling any parcel that is located within 100 feet, or a greater distance if required by the Fire Chief, of a building or structure on an adjacent parcel owned by that person shall, when required by the Fire Chief, remove as directed all brush, flammable vegetation, or combustible growth from their property to obtain an adequate Reduced Fuel Zone for said building. . No property owner shall be responsible for removing brush, flammable vegetation, or combustible growth around structures not located on that property owner's land.

The reasons for the AAC's recommendation are:

- (a) The liability involved in allowing third parties and their employees to enter property and cut vegetation (which usually involves equipment such as chain saws, gas powered clippers, and other hazardous equipment) is significant.
- (b) Workers removing vegetation can be overly enthusiastic or can deliberately or even inadvertently destroy sensitive habitat, valuable forage, unique and valuable trees such as valley oaks, or other desirable vegetation.
- (c) The Fire Department's concept is workable if the County Code provides appropriate protection for the landowner upon whose property the vegetation is located or requires the landowner's prior consent.
- (d) In the alternative, the language proposed by the AAC transfers the duty of protection onto the owner of the land upon which the structure is located, which is where it truly belongs. If that owner works cooperatively with his/her neighbor, additional fuel removal can occur across the property line, but with the affected landowner having some control over the manner in which the clearance occurs.

5. Cooler Facilities

As Proposed in the New Fire Code Chapter 9: Santa Barbara Fire Code would be more restrictive than the 2007 State Fire Code by requiring automatic fire sprinklers in "all new buildings and structures (including prefabricated or relocated structures)...outside of the "Urban Limit Line." This would "capture" vegetable cooling facilities, which have a very low potential of a fire capable of starting from inside a cold room. The requirement would also cause an undue financial hardship to an industry already under intense pressure from high fuel prices and other operating expenses.

The AAC recommends, regarding Chapter 9 as it applies to agricultural coolers:

By formal motion, the AAC voted to request that the Board of Supervisors direct the Fire Department to work with the vegetable growers and other agricultural producers who depend upon coolers to develop standards that would allow Cold Rooms without sprinklers.

6. Sprinkler Requirements Generally

The AAC concurs with the Fire Department's proposal to add an exemption from the fire sprinkler requirement for agricultural accessory buildings and with the addition of the exercise of the Fire Chief's discretion to exempt certain residential structures, on a case by case basis where circumstances justify the exemption.

Reasons:

1. This would provide consistency with the Building Code.
2. Requiring fire sprinklers in agricultural buildings would make them economically prohibitive to construct and maintain.
3. Many agricultural buildings have no practical access to a water supply.
4. Many agricultural buildings are remote with little human usage.
5. Many agricultural residences are sited in areas such as farmland which create fire breaks and no chance for the spread of fire to adjacent areas.

7. Fire Flow and Water Storage Requirements:

Fire Flow and Water Storage Requirements have been based upon Appendix B of the Fire Code resulting in significant water storage requirements for wineries, cooler facilities, and other agriculturally-related development located in rural areas. However, the 2007 State Fire Code provides several alternatives to strict adherence to Appendix B for fire flow/water storage requirements in rural areas, as follows:

Section 508.3 states: "Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method *or Appendix B*" (italics added in the code).

Appendix B, Section B103.1 of Appendix B Modifications specifically allows for decreases in fire flow requirements as suggested in Appendix B "for isolated buildings or a group of buildings in rural areas or small communities where development of full fire-flow requirements is impractical."

Appendix B, Section B103.3 specifically references NFPA 1142 may be used to determine water supplies for fire-fighting purposes in rural and suburban areas.

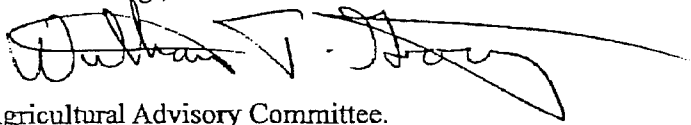
Suggested Remedy: Water flow/water storage requirements for uses and activities in rural areas and suburban areas should be based upon the same alternatives as provided for in the 2007 Fire Code.

Reason:

1. This would provide consistent fire flow/water storage requirements commensurate with the 2007 State Fire Code.
2. Many agricultural operations have large wells and reservoirs with booster pumps which could provide large volumes of water without requiring additional storage.

Sincerely,

William Giorgi, Chairman

A handwritten signature in black ink, appearing to read "William Giorgi". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Agricultural Advisory Committee.