

From: [Kathryn Lohmeyer Rohrer](#)
To: [sbcob](#)
Subject: PUBLIC COMMENT Dec. 10, 2024: Departmental Agenda Item 3. Ag Enterprise Ordinance
Date: Sunday, December 8, 2024 11:48:17 AM

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Please forward/circulate (with active hyperlinks) to the Supervisors the following:

1. Dec. 3, 2024 Op-Ed re AEO “[Good Ordinances Make Good Neighbors](#)”
2. Excerpt re EIR recirculation -- from public comment submitted prior to Nov. 5, 2024 hearing on AEO.
3. My public comment submitted prior to Nov. 5 2024 hearing on AEO.

Good Ordinances Make Good Neighbors

While Lowering Barriers for Struggling Farmers, the Agricultural Enterprise Ordinance Raises Concerns for Unintended Consequences

— By **Kathryn Lohmeyer Rohrer**
Tue Dec 03, 2024 | 3:48pm

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Based on the notion that agritourism can be beneficial, the Agricultural Enterprise Ordinance (AEO) will change the zoning for each and every unincorporated parcel zoned Agricultural (AG-II) in Santa Barbara County. AG-II zoning is intended “to preserve these lands for long-term agricultural use.”

At first blush, the ordinance lowers the barriers for struggling Santa Barbara County farmers and ranchers looking for ways to generate supplemental income. There is no doubt that this is a good idea. However, a closer read raises some concerns about unintended consequences that might flow from the Agricultural Enterprise Ordinance when implemented if the ordinance is not revised to reflect consideration of neighborhood compatibility.

WHAT: “Exempt uses” under the ordinance are land uses that will be allowed on any and every AG-II parcel without any mechanism for review, monitoring, or enforcement.

Some exempt Agricultural Enterprise Ordinance uses are more closely related to agriculture (e.g., farm stands, firewood processing). For example, parcels as small as 40 acres may, as a matter of right, begin the mechanical processing of fruits and nuts harvested on that farm and any trucked in from Ventura and SLO counties. Other Agricultural Enterprise Ordinance exempt uses are commercial uses; they include the following hospitality and entertainment activities:

- events (e.g., weddings, farm-to-table meals, bicycle and horse races);
- educational experiences (e.g., classes, workshops, tours); and
- incidental food service (e.g., food trucks, catering).

“Exempt” means skipping the long and tedious permitting process, but it also means that the Planning Department will be “exempt”: exempt from offering any monitoring or enforcement mechanisms to curb abuses and foster neighborhood compatibility.

WHO: The Agricultural Enterprise Ordinance’s exempt uses will not be available solely to struggling, local farmers and ranchers. The ordinance is written to apply so that any owner of an AG-II parcel — including hospitality companies and investment groups — can bring the above exempt agritourism uses onto agricultural land without ever being subject to any form of review, monitoring, or enforcement. It does not matter whether the investors live in the county, and the ordinance includes no mechanism to monitor whether an AG-II parcel continues in long-term agricultural use.

WHERE & WHEN: Although an [early study](#) recognized “neighborhood compatibility issues at or near the urban/rural interface” as an “area of known controversy,” the Agricultural Enterprise Ordinance is written to apply to any and every AG-II parcel without regard to location or neighboring land uses. The same ordinance uses allowed on huge remote parcels will also be allowed on smaller AG-II parcels that share the urban-ag boundary with residences. It is no secret that ag parcels and residential parcels share boundary lines: “[\[g\]enerally, extensive agricultural lands border, or are in proximity to, the Santa Ynez Valley’s cities and rural townships.](#)”

It seems as if some of the unintended consequences that have flowed from the county’s enactment of the Cannabis Ordinance can serve as both something of a cautionary tale and a template for options to hone the Agricultural Enterprise Ordinance. Despite requiring a [permit for cultivation on lots located in or adjacent to an Existing Developed Residential Neighborhood or the Urban-Rural boundary](#), the Cannabis Ordinance continues to give rise to conflicts with [neighbor pitted against neighbor](#) because of their [incompatible land uses](#).

This summer, the Planning Commission [crafted a limited “overlay” that will require](#)

review and permitting in order to introduce any of the Agricultural Enterprise Ordinance's rural recreational uses near row crops, but no such overlay or other enforcement mechanism was considered or adopted for neighboring residences. As a result, when amplified music goes all night for parties that far exceed the ordinance's size limits, or parking or trash spills onto a neighbor's property, or a tiny road or shared driveway is jammed with cars of guests or with trucks from neighboring counties, the only recourse neighboring residents will have is law enforcement's non-emergency number.

Interestingly, the ordinance's "blindness" to location and neighborhood compatibility leaves the many vast, remote AG-II parcels throughout North County with rather limited options under the Agricultural Enterprise Ordinance, imposing limits and buffers that are largely irrelevant when the "neighborhood" consists of open grazing land.

WHY: The idea behind the Agricultural Enterprise Ordinance seems good, and it seems consistent with the preservation of AG-II land for long-term agricultural use. There are, however, a few ways in which the dots are not yet connected in support of such sweeping legislation.

An early study explained that "[w]hen sited and scaled appropriately," various ordinance uses "have the potential to promote the preservation of agricultural land and operations thereby preserving the character of the agricultural lands while contributing to economic development and employment opportunities."

At present, the ordinance applies to every AG-II parcel, regardless of location, type of land, or nature of the farming or ranching taking place. In fact, instead of showing that some or all of the agricultural sector is struggling or failing in Santa Barbara County, early research concluded that "[d]espite pressures from urbanization and imports, agriculture continues to thrive."

Accepting for the sake of argument that at least some types of farms and ranches in some parts of the county are struggling and need support, it does not follow that (a) all farmers and ranchers are unable to make a profit from agricultural uses of ag land, or (b) that all farmers and ranchers would turn a profit if they invested in the introduction of some or all of the Agricultural Enterprise Ordinance agritourism uses on their land. Unfortunately, the ordinance neither identifies any particular sectors (*e.g.*, berry farms, cattle ranches, vineyards) that are unable to make a profit from farming their land, nor indicates whether farmers of prime agricultural soil are affected similarly to ranchers of vast grazing land.

In sum, it appears that there is no data to support that the many hospitality and entertainment activities the ordinance will usher onto AG-II land (the majority of our

County) will actually protect or promote some or all of Santa Barbara County's agricultural land or agriculturalists.

A majority of supervisors are expected to approve the Agricultural Enterprise Ordinance on Tuesday, December 10. The matter remains open for public comment.

Kathryn Lohmeyer Rohrer is a Los Olivos resident, parent, attorney, and farmer.

EXCERPT RE EIR RECIRCULATION

Here, October 2024 revisions (Revision Document ("RV01")) to the EIR (23EIR-0003) for the AEO project introduce both of the foregoing circumstances, but the revisions in RV01 were not circulated to the public for consideration or comment. Such re-circulation is necessary and required.

A. Substantial Adverse Environmental Effect

First, RV01 reflects an increase in the allowances for AEO campgrounds, farmstays, and daily attendees of small-scale events on all AG-II parcels in unincorporated Santa Barbara County. In February 2024, the EIR found that the environmental impacts from the increased traffic generated by the level of AEO activities allowed under the program limits that existed in February 2024 would be significant and unavoidable.

Now, the RV01 shows that the "revised intensity levels" for AEO campgrounds, farmstays, and daily attendees of small-scale events will result in an estimated 12.3% increase in traffic (referred to as "vehicle miles traveled" or "VMT") over and above the increase already determined to be "significant and unavoidable" in the February 2024 EIR, and:

[O]perational mobile-source air pollutant emissions and operational greenhouse gas (GHG) emissions would proportionally increase by 12.3 percent across all pollutants, including nitrogen oxides (NOx), reactive organic carbon (ROC), carbon dioxide equivalents (CO₂e), among others.

The original, February 2024 EIR for the AEO expressly admits that all of the foregoing polluting impacts are "significant and unavoidable," and the CEQA Guidelines require recirculation whenever a significant increase in environmental effects arises in a revision to the previously circulated EIR.

Notwithstanding the CEQA Guidelines, RV01 takes the position that recirculation is not required because "[n]o new significant impacts or substantive changes in the severity of the impacts would occur as a result of the proposed revisions to the intensity of campgrounds, farmstays, and small-scale events" and the increase would simply "remain significant and unavoidable and similar to the impacts described under . . . the Final [February 2024] EIR."

That is not an accurate statement of the law or the underlying public policy. Here, there has unquestionably been a significant increase in a significant environmental effect – and the CEQA Guidelines require recirculation – because they do not contain a carve out excepting recirculation when a statement of overriding consideration is

being made. The purpose of CEQA is to provide the public, other agencies, and the Board with information; and failure to recirculate as mandated deprives everyone of such information and the ability to comment. If the law were as RV01 for the AEO assumes, once a detrimental environmental impact was determined to be significant and unavoidable by a staff member or consultant, an agency would have a blank check to continue altering program limits – permitting environmental impacts to grow ever more dangerous and detrimental – without ever giving the public another opportunity to weigh in on when enough is enough.

Instead, under CEQA, recirculation is required because the public must have a meaningful opportunity to comment before substantial environmental impacts are introduced into their communities. This is why, where, as here, a change is made to the project prior to certification – including the introduction of additional data or other information – the updated EIR must be recirculated to provide to allow the public an opportunity to review and comment on “a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect.” Cal. Code of Regs. § 15088.5(a).

B. Feasible Mitigation Measure or Project Alternative

Second, RV01 briefly introduces and explains the newly created Limited Agricultural Enterprise (“LAE”) Overlay Zone, which will be applied to “historic row/food crop growing regions located east and west of the cities of Santa Maria and Lompoc” to ensure that AEO hospitality uses “do[] not conflict with or result in significant impacts to the surrounding row/food crop agriculture.”

These LEA Overlay zones represent a new and previously unconsidered mitigation measure. While the mitigation measure in and of itself might be beneficial, it opens up questions as to why these specific areas and crops, and not others, were selected for protection. For example, there appears to be no evidence in the administrative record that such LAE Overlay Zones were considered for other historic crops such as flowers, grape vines, and orchards. Moreover, there is no justification for which locations are included and excluded.

This type of new mitigation measure is expressly identified as an example of “[s]ignificant new information” that triggers the recirculation requirement:

A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the proponents decline to adopt it.

Cal. Code of Regs. § 15088.5(a)(3).

Here, the public has not had an opportunity to comment on the applicability of this newly devised mitigation measure (LEA Overlay Zones) to other areas and crops for which an overlay zone has not been adopted.

Recirculation is required because the public must have a meaningful opportunity to comment both on the above-referenced substantial environmental impacts and these newly introduced, substantially different mitigation measures.

MY PUBLIC COMMENT SUBMITTED PRIOR TO NOV. 5 2024 HEARING ON AEO

From: Kathryn Lohmeyer Rohrer <lohrohrer@gmail.com>

Date: Mon, Nov 4, 2024 at 10:07 AM

Subject: WRITTEN PUBLIC COMMENT: BOS 11/5/24 Agenda Item 7. Ag Enterprise Ordinance

To: sbcob <sbcob@countyofsb.org>

Honorable Supervisors:

I have been following the development of the Ag Enterprise Ordinance (AEO) since it was in its much more modest form: a farmstay ordinance. See [Jan. 21, 2021 Workshop materials](#) (describing the ordinance as "proposing to revise the zoning ordinance to allow farmstays in Agricultural II zones throughout the unincorporated area beside the Gaviota Coast Planning Area").

I write today based purely on my own observations and my own interest in the preservation and promotion of agriculture, and of our rural and semi-rural communities, in beautiful Santa Barbara County.

Clearly, this legislation has ballooned in size and scope since 2021. Also since 2021, we've already seen an expansion of unpermitted and unregulated campgrounds, farmstays (masquerading as "short-term rentals") and event venues on both AG and non-AG land throughout the County. Speaking just about the community in which my family lives, I can attest that the local roads and highways, township parking, and public services and utilities in the Santa Ynez Valley's Inner-Rural area are already overtaxed.

It would, at this point, be wholly naïve to proceed as if we do not have outside investors and developers champing at the bit to exploit every loophole (many of which are glaring) in the AEO.

If the Board wishes to support rural farming and ranching in Santa Barbara County, I ask that you enact legislation directed at the relevant population. They are both: (a) rural and (b) actual farmers and ranchers. This is easily done by ensuring that:

1. the AEO applies only on: lands zoned AG-II-100 or larger within the Rural Area as shown on the Comprehensive Plan maps; and
2. the AEO's key terms are unambiguously defined to require that the pursuit of active, actual farming or ranching must remain the primary use of the rural AG-II-100+ parcels wishing to take advantage of the AEO's provisions. The statutory definitions of "primary" and "secondary" will need to be clearly tied to (and measurable in relationship to) geographic footprint, income, or capital investment. To truly achieve its stated goal, the AEO would also require that some or all of the "secondary" revenue stream be reinvested into (i.e. actually support) the primary agricultural use(s) of the land.

Once the above proves successful, it would make sense to consider whether smaller or additional AG-II parcels throughout unincorporated Santa Barbara County should be added to the program.

Thank you,
Kathryn Lohmeyer Rohrer
Los Olivos farmer, resident, and parent

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Kathryn Lohmeyer Rohrer



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Good Ordinances Make Good Neighbors

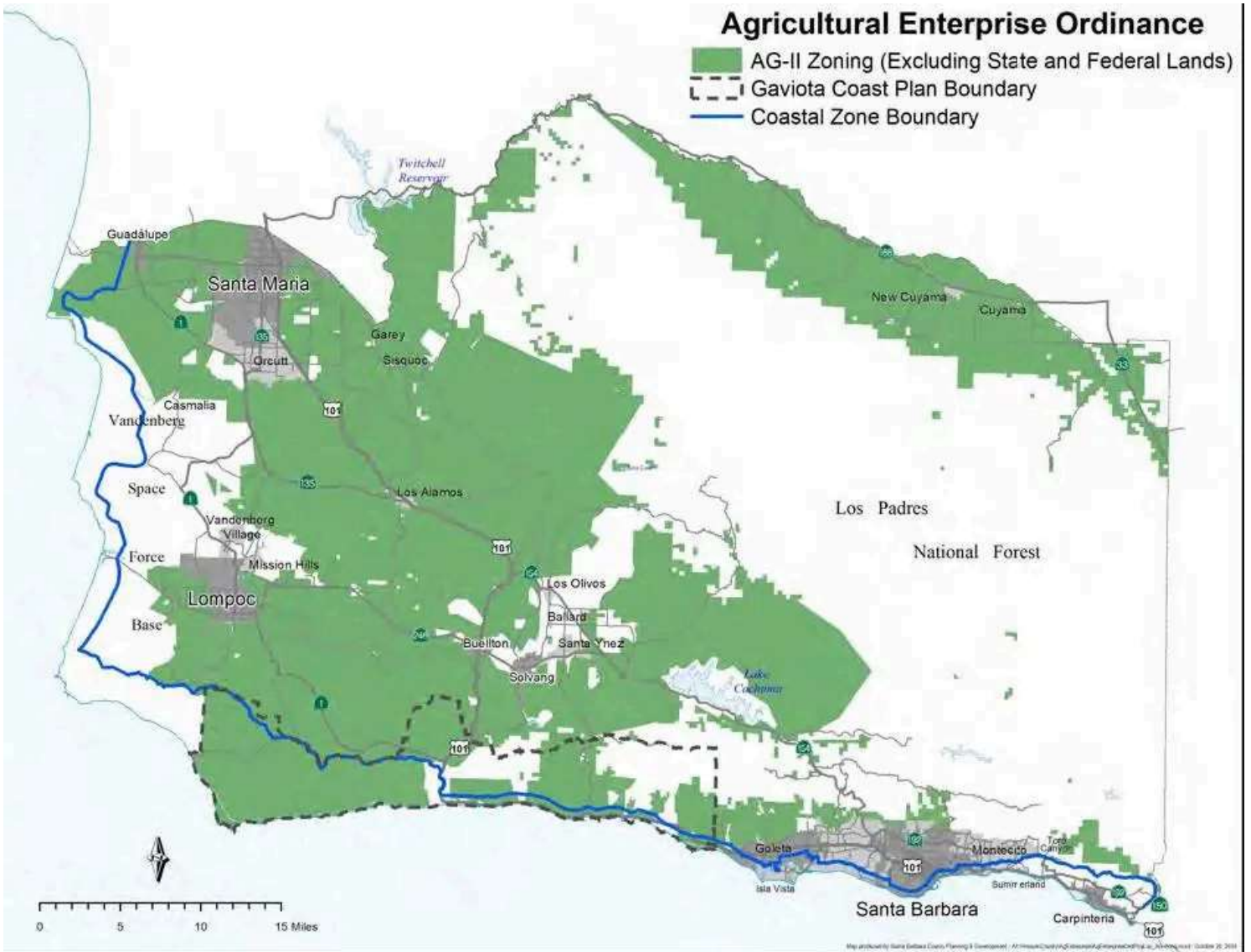
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Kathryn Lohmeyer Rohrer is a Los Olivos resident, parent, attorney, and farmer.

Mon Dec 09, 2024 | 18:21pm

<https://www.independent.com/2024/12/03/good-ordinances-make-good-neighbors/>

