

SANTA BARBARA COUNTY BOARD AGENDA LETTER



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

Agenda Number:

Prepared on: July 14, 2005
Department Name: Planning & Development
Department No.: 053
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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning & Development

STAFF CONTACT: Adam Baughman, Planner III (x6263)
Larry Appel, Supervising Planner (x6261)

SUBJECT: Addamo Winery/Diamante Estates General Plan Amendment, Rezone, Tract Map, Development Plan, and Conditional Use Permit. Case Nos. 02GPA-00012, 02RZN-00007, 02TRM-00010, 02DVP-00019, & 02CUP-00083.

Recommendations:

- A. Consider whether the applicant has provided sufficient evidence to comply with Development Standard WAT-O-2.2.
- B. If the Board finds the applicant complies with A above, take the following actions:
 1. Adopt the required findings for the project, including CEQA findings. (Planning Commission Action Letter, Attachment C)
 2. Accept the Negative Declaration and the mitigation monitoring program (Planning Commission Staff Report, Attachment D)
 3. Adopt the resolution approving Comprehensive Plan Amendment 02GPA-00000-00012, changing the Land Use Designation for a portion of the subject parcel (proposed Lots 6-7) from Rural Ranchette-10 to Agriculture A-I-20. (Attachment A)

4. Adopt the ordinance approving Rezone 02RZN-00000-00007 rezoning a portion of the subject parcel (proposed Lots 6-7) from RR-10 to AG-I-20. (Attachment B)
5. Approve the project subject to the Conditions of Approval as revised at the April 13, 2005 Planning Commission hearing (Planning Commission Action Letter Attachment C)

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Issue Discussion:

Planning Commission Action:

At the April 13, 2005 hearing, the Planning Commission voted 5-0 on a motion recommending that your Board approve the entire application as revised at the hearing. The project consists of a seven lot Tract Map, a General Plan Amendment and a Rezoning of two of the parcels from RR-10 to AG-I-20, and a 33,000 s.f. winery. (A full discussion of the project is contained in the Planning Commission Staff Report, Attachment D) In discussion, the Planning Commission noted that the Board of Supervisors, not the Planning Commission, should address compliance with Development Standard (DevStd) WAT-O-2.2. In order to approve the project, your Board must find that the applicant has satisfied the requirements of Dev STD WAT-O-2.2.

Orcutt Community Plan (OCP), Policy WAT-O-2 states:

In order to be found consistent with Land Use Development Policy No. 4 (LUDP#4), the water demand of new discretionary development must be offset by long-term supplemental** water supplies that do not result in further overdraft of the local groundwater basin and that are adequate to meet the project's net water demand as determined by the County considering appropriate reliability factors as determined by County Water Agency. To demonstrate an adequate long-term supplemental water supply, projects must comply with the following development standards:*

For the purposes of this policy, "long-term" means a permanent source of water for development. Likewise, "supplemental" water means a source of water other than groundwater, unless: 1. the groundwater basin has been determined to be no longer in overdraft, or 2. The use of groundwater is consistent with the final water rights judgement entered in the Santa Maria Groundwater Basin adjudication (*Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.*, Santa Clara County Superior Court Case No. CV 770214).

This policy requires that all new discretionary projects within the Community Plan Area obtain supplemental water (i.e. water from a source other than the Santa Maria Groundwater Basin) in order to protect the groundwater resources of the basin currently in overdraft. The applicant has

purchased nine acre-feet per year (AFY) of State Water Project (SWP) water from Cal Cities Water purveyor as indicated in a “Can and Will Serve” letter dated October 30, 2003. However, as discussed below, the County has not formally recognized this 9 AFY allocation as available, as it is not among the 426.3 AFY recognized by the County (using the State water reliability factor of 75%).

Cal Cities purchased an entitlement to the SWP of 500 AFY. Based upon the current California Department of Water Resources analysis of the reliability of SWP supplies, this 500 AFY of entitlement provides an estimated long-term average annual yield of 413 AFY. This supply has been fully allocated to a series of development projects as indicated in the chart below.

CURRENT WATER SUPPLY STATUS OCP Development Projects

Project Name	Permit Status	Water Demand (AFY)	Cal Cities SWP Allocation ¹ (AFY)	Remaining demand (Supp. Water requirement) (AFY)	Supp. Supply obtained (Y/N)
<i>Projects with adequate water supply:</i>					
Oak Knolls South	Approved	4.10	4.10	--	--
Mesa Verde	Approved	45.80	33.00	12.80	Y ²
Orthodox Church	Approved	1.60	1.60	--	--
Jensen's Crossing	Approved	58.52	--	58.52	Y ²
Fundamental Baptist	Approved	0.60	0.60	--	--
Shared Senior Housing	Approved	4.52	--	4.52	Y ²
Eskridge TPM	Approved	0.98	--	0.98	Y ²
Rice Ranch	Approved	350.0	350.0	--	--
Orcutt Marketplace	Pending	Under Review	37.00	?	?
Total:			426.30		

¹ The applicants purchased supplemental supplies (SWP yield) from the City of Santa Maria.

As a matter of background, in the fall of 2002, the Department of Water Resources announced that the SWP reliability factor was reduced from 79.4% to 75%. Cal Cities SWP yield was therefore lowered from the previous estimate of 437 to 413AFY. However, Cal Cities had already entered into contracts that committed 426.3 AFY based on the original 437 AFY yield estimate. Thus, as stated above, the resulting 13.30 AFY deficit (426.30 – 413 = 13.30 AFY) was the result of the revised analysis by the State, and was already committed to the several approved and pending projects identified in the chart above as of April 8, 2003, at the time of the

approval of the Harp Springs Project. This deficit amount was considered to be within the range of error on the estimated water demand of those projects. Therefore, the Board of Supervisors recognized 426.3AFY as the reliable yield estimate and took the position at that time that the Cal Cities supplemental supply had been fully committed with none remaining to serve additional development in the Orcutt area. Thus, a potential policy inconsistency exists.

Dev Std WAT-O-2.2 requires that a draft supplemental water supply and delivery contract be submitted to the decision-maker before discretionary action on new development. Therefore, approval of this project pursuant to the Planning Commission's recommendation must await submission of a draft contract. If your Board agrees that Cal Cities' supplemental supply has been fully committed, following the submission of an adequate draft supplemental water supply and delivery contract, your Board may approve the project as recommended by the Planning Commission, which included the following additional condition:

“The applicant shall provide a Water Supply and Delivery Agreement (a final contract) that assures the long-term delivery of supplemental water supplies sufficient to serve the proposed project. **Plan Requirements and Timing:** A final executed copy of the agreement shall be provided to the Planning and Development Department and the County Counsel's Office for review and approval prior to map recordation, or LUP for the winery, which ever comes first.”

The applicant and Cal Cities assert that the 9 AFY sold to the project should be acknowledged as it was sold to the project during the time in which the State Water Reliability Factor for State Water was 79.4%, not the current 75%.

Recent Litigation:

The WAT-O-2 policy remains in effect and will be carried forward in the Judgment the Court will enter for stipulating parties in the Santa Maria Groundwater litigation. Thus, the Addamo project needs a contract for supplemental water unless the Board determines that its water demand is within Cal Cities's State Water Project (SWP) available supply of supplemental water. This option, which requires a new determination of the amount of reliable SWP water available to Cal Cities by the Board, is problematic. The County's water availability policy relies on the State Department of Water Resources' SWP reliability factor and projection.

Board Decision:

If the Board determines that the water demand is not within Cal Cities's SWP available supply, then the project must return to the Board prior to project approval with a draft contract for supplemental water in order to comply with DevStd WAT-O-2.

Mandates and Service Levels:

No change in programs or service levels are anticipated.

The Comprehensive Plan Amendment is being considered by the Board of Supervisor's based upon the California Government Code (Planning and Zoning Law), Title 7, Division 1, Chapter 3, Article 6, Section 65358, which states: *"If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan."*

The Planning Commission has made a recommendation that your Board approve the request consistent with Title 7, Division 1, Chapter 3, Article 6, Section 65354, which states: *"The Planning Commission shall make a written recommendation on the adoption or amendment of a general plan. A recommendation of approval shall be made by the affirmative vote of not less than a majority of the total membership of the Commission. The Planning Commission shall send its recommendation to the legislative body."*

The Rezone is being considered by the Board of Supervisor's based upon County Code Chapter 35, Article III (Inland Zoning Ordinance), Section 35-325.4.3.b, which states: *"Upon receipt of the recommendation of the Planning Commission, the Board of Supervisors shall hold a public hearing..."* and Section 35-325.4.3.c which states: *"The Board of Supervisors may approve, modify, or disapprove the recommendation of the Planning Commission; provided that any modification of the proposed amendment by the Board of Supervisors not previously considered by the Planning Commission during its hearing, shall first be referred to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing thereon. Failure of the Planning Commission to report within 40 days after the reference, or such longer period as may be designated by the Board of Supervisors, shall be deemed to be approval of the proposed modification."*

Multiple Projects: Section 35-292d of Article III states that when two or more applications are submitted that relate to the same development project and would be under the separate jurisdiction of more than one decision-maker, all applications for the project shall be under the jurisdiction of the decision-maker with the highest jurisdiction. Therefore, the final decision-maker for all applications will be the Board of Supervisors.

Pursuant to Government Code Sections 65355 and 65090, a notice shall be published in at least one newspaper of general circulation. Mailed notice required to property owners within 1,000 feet of the project, including the real property owners, project applicant, and agencies expected to provide essential services shall be done at least 10 days prior to the hearing (Government Code Section 65091).

Fiscal and Facilities Impacts:

There are no fiscal impacts associated with this request. All costs of permit processing are reimbursed by the project applicant. Funding for this work is budgeted in the Permitting and Compliance program of the Development Review North division on page D-292 of the adopted 05/06 fiscal year budget.

Special Instructions:

The Clerk of the Board shall forward a copy of the Minute Order to Planning & Development, Attention: Cintia Mendoza, Hearing Support.

Planning & Development will prepare all final action letters and notify all interested parties of the Board of Supervisors final action.

Concurrence: County Counsel

ATTACHMENTS:

- A. Resolution to Amend the General Plan, 02GPA-00000-00012
- B. Ordinance to Rezone, 02RZN-00000-00007
- C. Planning Commission Action Letter including Findings and Conditions of Approval, dated May 20, 2005.
- D. Staff Report to the Planning Commission dated April 13, 2005 including the Negative Declaration 05NGD-00000-00008.