



COUNTY EXECUTIVE OFFICE

OFFICE OF LONG RANGE PLANNING

COMPREHENSIVE PLANNING DIVISION

MEMORANDUM

DATE: December 19, 2006

TO: Hon. Joni Gray, Chair and Members of the Board of Supervisors

FROM: John McInnes, Director of Long Range Planning

SUBJECT: Uniform Rules update memorandum

Staff has provided the following information to questions received at the December 5, 2006 Board of Supervisors hearing on the Uniform Rules update:

1. *Adequacy of cumulative impact analysis in the Uniform Rules Proposed Final Environmental Impact Report.*

The public comment period on the Uniform Rules Draft EIR ("EIR") started August 1, 2005 and concluded on October 31, 2005. Of the 28 EIR comment letters, not a single letter raised a concern over the adequacy of the cumulative projects list analyzed as part of the cumulative impact analysis. All EIR comments received have been fully responded to in the Uniform Rules Proposed Final EIR which was released on August 24, 2006. However, some questions regarding general application of the California Environmental Quality Act (CEQA) process for projects affecting rural lands within Santa Barbara County were made at the Planning Commission briefing on October 4, 2006 and at the Board of Supervisors hearing on December 5, 2006. This memorandum, as provided for under **Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County**, 52 Cal. 3d 553, 569 (1990), is responding to those comments made *after* the close of the properly noticed comment period for the EIR.

The EIR fully considered and analyzed the cumulative impacts of the proposed project and all other programs that were sufficiently defined to enable appropriate CEQA impact analysis. Most of the projects or programs referred to in the comments made at the briefing and hearing are not projects considered "proposed" under CEQA or are projects that have been revised continually and are expected to be revised extensively again. Assessment of possible cumulative impacts for projects that are not foreseeable or that are merely contemplated is not required by CEQA. The environmental analysis of unspecified and uncertain developments that might be approved in the future would be speculative and of little value to decision makers and the public reading the EIR. It was determined during development of the Uniform Rules Draft EIR that, due to the speculative nature of other programs that might affect rural lands throughout Santa Barbara County, that the Uniform Rules Draft EIR was not the proper location for a programmatic review of these other rural land policy initiatives.

For instance, it was determined during development of the EIR that both the Housing Element project description and the Santa Ynez Valley Community Plan project description; two programs purported to be reasonably foreseeable projects by the Environmental Defense Center, were not sufficiently defined to provide meaningful analysis in the draft EIR since both project descriptions were in a state of flux and continually being revised. In fact the Santa Ynez Valley Community Plan was not initiated by the Board of Supervisors for purposes of environmental review until September 26, 2006; and the Housing Element project description was not formally established until the Notice of Preparation release on November 14, 2006.

It was also determined, at various stages of preparation of the EIR, that the other contemplated projects mentioned during the briefing and hearing were still not proposed and thus were not sufficiently defined for analysis in the EIR. In fact during development of the Uniform Rules Draft EIR, it was determined that the Housing Element EIR, once the Housing Element itself became sufficiently defined, would be the appropriate CEQA vehicle for a more meaningful analysis of other county-wide programs affecting the rural areas and their cumulative affects. At that point, appropriate cumulative analysis will be conducted and such analysis will include assessment of all other reasonably foreseeable projects as is required by CEQA.

2. *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 1) that their original concerns have been addressed through revisions incorporated in the December 5, 2006 proposed Uniform Rules.

3. *Do the proposed Uniform Rules amendments restrict current compatible uses?*

The proposed amendments clarify and expand compatible uses rather than restrict legal uses allowed for under the Williamson Act. Golf courses and sanitary landfills have been removed as compatible uses based on direction from the Department of Conservation in their 2001 audit of Santa Barbara County's Uniform Rules. On prime lands, the agricultural production eligibility requirement has been increased slightly; however, this change is intended to further the primary intent of the Williamson act to promote commercial agricultural production.

4. *Amend Uniform Rules to exclude all dual-use roads from development envelope allowances on larger acreage contracts.*

Ms. Beltranena requested the Uniform Rules be amended to exclude all dual-use roads (used for both agricultural and residential purposes) from development envelope area calculations on

larger contracts; even if road widening is required to accommodate a non-agricultural use (i.e. road widening to meet fire department requirements).

The existing Uniform Rules and proposed Uniform Rules explicitly state that dual-use agricultural roads are not counted towards development envelope calculations. Roads and driveways for residential purposes only are counted toward development envelope calculations. The APAC has recommended retain the existing Rule to limit conversion of agricultural soils for non-agricultural purposes.

Staff recommends that no change to the development envelope calculations be addressed in this current Uniform Rules update. Rather, the Board of Supervisors could direct the Agricultural Preserve Advisory Committee to continue public discussion of this issue at a future APAC meeting and return to the Board for a minor text amendment if deemed appropriate.

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

Ms. Beltranena 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.

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.
6. *Amend Uniform Rules to include winery development envelope requirements outlined in the Uniform Rules EIR – Alternative 3.*

Ms. Beltranena requested that the Board of Supervisors amend proposed Uniform Rule 2-2.1.B.3 to include winery development envelope requirements outlined in the Uniform Rules EIR – Alternative 3. The APAC recommendation would allow winery development envelopes to increase by 1-acre (beyond the existing 5-acre envelope cap) for every 100 acres above a 500 acre premises, up to a maximum of 20 acres total. Under Alternative 3, the facility envelope expansion would apply to premises greater or equal to 200 acres and would increase at a similar rate up to the same 20-acre cap. Table 1 below provides a comparison of the potential facility acreage differences between the APAC recommendation and Alternative 3.

The APAC did not recommend Alternative 3 since it would likely result in greater impacts to agricultural resources; primarily resulting from inefficient use of agricultural soils for these facilities and a greater disparity between the winery size and the percentage of grapes grown on the premises.

For a typical vineyard operation to warrant a winery development area larger than 5 acres, it needs to produce approximately 200,000 cases of wine, which equates to 667 acres worth of vineyards. The APAC was not provided with evidence to demonstrate that many vineyards on premises between 200 and 500 acres have sufficient grape production to warrant a winery development area larger than 5 acres.

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.

Table 1
 Comparison of Winery Facility Envelope Allowances

Premises Size (acres)	APAC Recommended Facility Envelope (acres)	Alternative 3 Facility Envelope (acres)
100	5	5
200	5	6
300	5	7
400	5	8
500	5	9
600	6	10
700	7	11
800	8	12
900	9	13
1,000	10	14
1,100	11	15
1,200	12	16
1,300	13	17
1,400	14	18
1,500	15	19
1,600	16	20
1,700	17	20
1,800	18	20
1,900	19	20
2,000	20	20

7. *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 that 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.

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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

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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. 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.

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

Mr. Eric Hvolboll and Mr. Glen Parks 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.

9. *Agricultural Preserve Advisory Committee Recommendations*

The Agricultural Preserve Advisory Committee (APAC) voted unanimously to recommend the Board of Supervisors approve the amended Uniform Rules which are included as Attachment C in the Board staff report for the December 5, 2006 hearing. In addition to the initial recommendation, the Agricultural Commissioner's Office submitted a letter to the Board on November 13, 2006 (Attachment 2) 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.

The Board of Supervisors should consider these minor text changes as part of the motion to adopt the Uniform Rules. The minor text changes are supported by staff.

10. *Findings and Statement of Overriding Considerations*

Staff recommends the Board of Supervisors adopt the revised Findings and Statement of Overriding Considerations (December 19, 2006) in Attachment 3 as part of the motion to approve the Uniform Rules amendments. Minor text changes include: 1) amending the approval date from December 5, 2006 to December 19, 2006, and 2) adding an additional CEQA finding regarding cumulative impacts (see Attachment 3, Section IV.J).

11. *Uniform Rules Update Public Noticing*

A copy of all noticing and courtesy mailing that has taken place since the Uniform Rules update project began has been submitted into the public record and is available for public review at the Clerk of the Board. The extensive public noticing demonstrates the numerous opportunities afforded to the public to formally participate in the Uniform Rules update process either through written comment, testimony at meetings, public workshops, administrative briefings, and hearings. In fact, the December 19, 2006 Board of Supervisors hearing will be the 48th such opportunity for the public to participate in the Uniform Rules update process.

12. *Public Noticing - Other Policy Initiatives*

A copy of all noticing and courtesy mailing associated with policy initiatives that have reached the project stage (as discussed during the Uniform Rules Board presentation on December 5, 2006) has been submitted into the public record and is available for public review at the Clerk of the Board. The extensive public outreach noted in the record further demonstrates the County's continuing commitment to providing extraordinary opportunity for public participation in all substantive policy matters.

Attachments:

1. Department of Conservation letters, December 12th and 14th, 2006
2. Agricultural Commissioner's Office letter, November 13, 2006
3. Revised Findings and Statement of Overriding Considerations, - December 19, 2006

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