

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:

Prepared on: January 27, 2000
Department Name: County Counsel, Planning & Development
Department No.: 013, 053
Agenda Date: February 8, 2000
Placement: Departmental
Estimate Time: 45 min
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Stephen Shane Stark, County Counsel
John Patton, Director of Planning and Development

STAFF CONTACT: Paula Frantz, Deputy County Counsel x2950
Dev Vrat, Supervising Planner x2022

SUBJECT: Orcutt Advisory Group v. County—Memorandum of Understanding

Recommendation:

That the Board of Supervisors:

Review and consider executing the attached Memorandum of Understanding (Attachment 1), to resolve the pending litigation brought by the Orcutt Area Advisory Group.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with actions required by routine business necessity.

Executive Summary and Discussion:

In July 1997, the Board of Supervisors adopted the Orcutt Community Plan. In October 1997, the Orcutt Area Advisory Group ("OAAG") filed a Petition for Writ of Mandate, challenging the Plan's adoption. McCadden Development and the Orcutt Union School District later intervened in the lawsuit to support the County's adoption of the OCP.

The Petition's first cause of action alleged that the EIR prepared for the Plan was inadequate. The petition alleged, among other things, that the EIR contained an inadequate analysis of the potential impacts of providing a long term water supply for the project, failed to analyze feasible mitigation measures to address

traffic and other impacts, and failed to adequately analyze the impacts of a TDC program. The second cause of action alleged that the OCP was inconsistent with other elements of the County's General Plan, including the Land Use, Circulation, Agricultural and Open Space elements. The petition also contained a cause of action alleging that the County's entire General Plan was inadequate; that claim was dismissed on demurrer as barred by the statute of limitations.

The Petitioners and Intervenors in the OAAG lawsuit have agreed to support the attached MOU (Attachment 1) to settle the lawsuit brought to challenge the adoption of the Orcutt Community Plan. The MOU is structured as follows:

I. If the MOU is executed, and the proposed OCP amendments identified in Exhibits A and B to that MOU are initiated for County review, the Petitioners will dismiss without prejudice the pending litigation.

II. The MOU tolls the statute of limitations on the lawsuit for the period that the County is reviewing the proposed amendments.

III. If the Board adopts OCP amendments in a form substantially consistent with those proposed in Exhibit A, Petitioners waive all claims to reactivate the litigation. If the Board disapproves the OCP amendments in Exhibit A, the Petitioners have the right to reactivate the litigation. In addition, if the Board fails to reach a decision on those amendments within a reasonable period (within 8 months unless there is a delay beyond the control of the County), the Petitioners may reactivate the lawsuit.

IV. If the Board initiates and considers the OCP amendments contained in Exhibit B the Board satisfies its obligations under the MOU, regardless of the final decision on the policies. Petitioners and intervenors acknowledge that the amendments proposed in Exhibit B, (changes to Key Site 22 policies and a water supply reporting requirement) may be controversial. Failure to adopt these policies, or ones substantially similar, is not a basis for reactivation of the lawsuit.

A chart comparing the current OCP provisions to those proposed, and giving a brief explanation of the intended effect of the proposed changes, is attached. (Attachment 2).

Mandates and Service Levels:

Not mandated.

Fiscal and Facilities Impacts:

Execution of the MOU would require the Board to initiate and consider amendments to the OCP. Processing OCP amendments for consideration by the Board would require a significant amount of County staff and hearing time. Implementing the MOU would require staff analysis by several County Departments (including P&D, Public Works and Parks), CEQA review, 2-3 Planning Commission hearings, 1-2 Board adoption hearings and associated administrative costs (public information, printing, noticing).

The level of public controversy associated with the amendments is unknown. P&D estimates total County costs to affected County departments between \$50,000 – 100,000 without associated revenue. Within P&D,

amending the OCP may affect the timing of other Comprehensive Division work programs. These will be considered in the *Comprehensive Planning Division Five-Year Work Program* on February 22.

Special Instructions:

Not applicable.

Concurrence:

Not applicable.