

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building		(2) MEETING DATE February 28, 2006		(3) CONTACT/PHONE Kim Murry, Division Manager (805) 805 781-5623	
(4) SUBJECT Study session to discuss, gather input, and give staff direction for possible amendments to the Growth Management Ordinance, Title 26 of the County Code.					
(5) SUMMARY OF REQUEST					
<ol style="list-style-type: none"> 1. Redefine/refine the categories listed in the Growth Management Ordinance (i.e. single family vs multi-family/planned development). 2. Revise percentages reserved for each category to reflect current trends. 3. Increase the percent allowed to any one developer for projects that meet certain criteria, such as smart growth, green build, etc. 4. For Nipomo Mesa Area, allow additional units to be allocated between the 1.8% and the 2.3% growth rate for projects that meet the criteria listed above. 5. For areas with waiting time for allotment selection of more than 24 months, allow application for an allotment once the land use permit is approved/subdivision is recorded rather than requiring full working drawings to be developed and submitted prior to application for an allotment. 6. Clarify Growth Management ordinance to include requirement of approval of any applicable land use permit in addition to full construction permit application in order to apply for allotment. 					
Supervisory District No. All					
(6) RECOMMENDED ACTION Conduct a study session to gather input and consider possible options for future amendments to the Growth Management Ordinance, Title 26 of the County Code. Direct staff to return in May 2006 with the proposed ordinance amendments and associated environmental review.					
(7) FUNDING SOURCE(S) Current Budget		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): Notice of the study session was given to advisory groups and applicants indicating interest.					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 1 st , 2 nd , 3 rd , 4 th , 5 th , All <input checked="" type="checkbox"/>			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (45 min) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(16) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input checked="" type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A			(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		

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(2/28/06)

(19) ADMINISTRATIVE OFFICE REVIEW	OK Leslie Brown
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SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

DATE: FEBRUARY 28, 2006

TO: BOARD OF SUPERVISORS

FROM: KIM MURRY, DIVISION MANAGER *KM*

VIA: PAT BECK, ASST DIRECTOR OF PLANNING AND BUILDING *PB*

SUMMARY: STUDY SESSION TO DISCUSS, GATHER INPUT, AND GIVE STAFF DIRECTION FOR POSSIBLE AMENDMENTS TO THE GROWTH MANAGEMENT ORDINANCE, TITLE 26 OF THE COUNTY CODE.

RECOMMENDATION

Conduct a study session to gather input and consider possible options for future amendments to the Growth Management Ordinance, Title 26 of the County Code. Direct staff to return in May 2006 with the proposed ordinance amendments and associated environmental review.

BACKGROUND

Over the years, changes to the Growth Management Ordinance have been made to address concerns with the way the Growth Management Ordinance has been implemented and how it affects growth in our county. Recent changes in the Nipomo Mesa Area growth rate and resultant waiting list for multi-family units, differing types of development proposals, and changes in available land for development have resulted in a need to review the ordinance more closely and update requirements for more than just the growth rate numbers this year. The purpose of the study session is to gather input; allow for discussion of potential changes and the consequences of those changes; and provide staff direction for the course of the amendments that will come forward in May so that the appropriate environmental review may be completed.

The following list of topics was generated after several months of discussions with applicants and staff:

1. Redefine/refine the categories listed in the Growth Management Ordinance (i.e. single family vs multi-family/planned development).

2. Revise percentages reserved for each category to reflect current trends.
3. Increase the percent allowed to any one developer for projects that meet certain criteria, such as smart growth, green build, etc.
4. For Nipomo Mesa Area, allow additional units to be allocated between the 1.8% and the 2.3% growth rate for projects that meet the criteria listed above.
5. For areas with waiting time for allotment selection of more than 24 months, allow application for an allotment once the land use permit is approved/subdivision is recorded rather than requiring full working drawings to be developed and submitted prior to application for an allotment.
6. Clarify Growth Management ordinance to include requirement of approval of any applicable land use permit in addition to full construction permit application in order to apply for allotment.

DISCUSSION

Should we redefine/refine the categories listed in the Growth Management Ordinance?

Currently, the Residential Multi-family/Planned development category includes all cluster developments (including Agricultural clusters and other rural clusters), the residential component of mixed use-projects (although this is not specifically called out), phased projects, and more traditional multi-family apartments/condos on RMF-zoned property.

The definitions of allocations/allotments assigned to the two primary categories: single family "mom and pop" house-builders and the multi-family/planned developments: adequately addressed the trends being experienced in the early 1990's when the definitions were established. Since that time, however, trends and development proposals have changed to reflect market demand and land availability and these categories are no longer aligned with the types of development we are seeing proposed now. Most subdivisions in areas with any environmental concerns (i.e. slopes, trees, endangered species, grading, etc.) are required to cluster lots in less sensitive areas of the site being developed. What this means is that a rural residential subdivision where a traditional layout would have resulted in square-shaped 5 acre lots, for example, is now being approved with the same density, but with a layout of clustered smaller lots/building areas. These types of developments are not consistent with what most would consider multi-family/planned developments, but administratively, since they are clustered lots, the subsequent development has been allocated from the multi-family/planned development category rather than the residential single family category due to the definition of "Planned Development" that is listed in Title 26, the Growth Management Ordinance.



Section 26.10.050(b)(7) of Title 26 defines Planned Development as: “ A project based on a comprehensive, unified site design that will include a phasing schedule specifying the time period over which the project will be built and the number of dwelling units to be built in each phase, and meeting the following criteria: each phase will provide the necessary services and infrastructure so as to be both self-supporting as well as integrated into the whole project, including specifying the standards for land use and related improvements (i.e. streets, utilities, public and private open space, buffers, etc.) plus responsibilities for their installation, ownership and maintenance; the overall project is characterized by creative and innovative design features and a variety of housing types. Such projects are to be approved as cluster divisions or agricultural cluster projects under the provisions of Title 22 or 23 of the County Code, approved through a development plan, approved through a Specific Plan adopted by the County in accordance with the California Government Code, or covered by a development agreement approved by the Board of Supervisors.”

Most of the subdivisions considered in the recent past that include cluster arrangements have done so to accommodate specific site concerns and do not fit the intent of the definition of “planned development”: they are generally proposed as a single-phase development; include standard services and amenities; and do not propose more than a single housing type. An ordinance amendment to Title 26 will help clarify the definition of the type of development that was envisioned for this category. Staff is looking for Board acknowledgement and direction to address cluster developments in two areas: inside the urban/village reserve lines and outside urban/village reserve lines.

Outside the urban/village reserve lines, staff is recommending that residential and agricultural cluster subdivision developments should not be considered a multi-family/planned development allotment purely based upon the fact that the project is clustered. With this direction, staff can immediately adjust the allotment lists to reflect a more accurate placement of these types of allotment requests.

Within urban and village reserve lines, staff is recommending that the definition for multi-family/ planned development be re-defined to specifically include the residential part of mixed use projects in addition to clarifying that the category includes projects involving multiple units on a single site (or one proposed for subdivision as a PUD or condo project) on property zoned RMF, CR, or OP.

Recommendation: Direct staff to redefine/refine the categories listed in the Growth Management Ordinance for the Multi-family/planned development category. The definition is to specifically include the residential part of mixed use projects in addition to clarifying that the category includes projects involving multiple units on a single site (or one proposed for subdivision as a PUD or condo project) on property zoned RMF, CR, or OP and does not include

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Agricultural or other cluster subdivisions outside of the urban/village reserve lines.

Should we revise percentages reserved for each category to reflect current trends?

The current distribution of percentages guaranteed for each category is 20% for multi-family/planned development and 80% for single family development. The following chart shows the demand for allotments over the last 5 years for the County and for the Nipomo Mesa. The numbers listed for the Nipomo Mesa are subsets of the total county year's allotments. For example, the 89 allotments listed as used for the Nipomo Mesa in 2006 to date are part of the 459 county allotments used and are not in addition to those numbers. The percentages listed reflect the allotments requested in each category out of the number of allotments used, not a percent of the total allotments available for the year.

	Area	Single Family #	Single Family %	Multi-Family #	Multi-Family %	Total # Used	Total # Avail
2006 to date ¹	County	268	58%	191	42%	459	1101
	Nipomo Mesa	58	65%	31	35%	89	122
2005	County	495	75%	161	25%	656	1098
	Nipomo Mesa ²	87	54%	73	46%	160	160
2004	County	842	76%	260	24%	1102	1454
	Nipomo Mesa	82	46%	96	54%	178	203
2003	County	609	75%	200	25%	809	1454
	Nipomo Mesa	51	38%	83	62%	134	203
2002	County	589	62%	358	38%	947	947
	Nipomo Mesa	82	65%	45	35%	127	127

While the County-wide percentage has topped out at 76% for single family allotments (of allotments used), the Nipomo Mesa percentage for single family hasn't been above 65% and has averaged around 54%. While staff is able to administratively move allotments between categories, it would be more efficient if

¹ It should be noted that there is a waiting list for Multi-Family allotments of approximately 115 dwelling units. If the remaining un-allocated units from single family were to be transferred to multi-family, the percentage at the end of the year would be 52% single family and 48% multi-family for FY 2006 for the Nipomo Mesa Area.

² Does not include the Woodlands, which has a separate allocation of 165 units per year.

the starting percentages more accurately reflected the state of the demand for allotments.

Part of this demand is based upon the current definition of the categories as discussed in the prior section, and part is a reflection of the changing nature of the type of development that is being proposed in response to available land and market demand. Staff is looking for input on these percentages but could recommend a change to 65% for single family and 35% for multi-family as a starting point.

Recommendation: Direct staff to propose changing the percentages initially reserved for the two categories of allotments to reflect 65% for single family projects and 35% for multi-family/planned development projects.

Should we increase the percent allowed to any one developer for projects that meet certain criteria.

Currently, only 5% of the total allotments are available to any one person/entity on a county-wide basis. For 2006, this means any one person/developer can get up to 63 units in the county-wide area. In the Nipomo Mesa Area, the percentage was raised to 10% to address the limited numbers of allotments available for this area. Even at this rate, 10% of 122 units for the Nipomo Mesa Area means there are only 12 allotments available per year to any one project or developer. The limited numbers of allotments available to any one project/developer has created problems for some mixed use or larger multi-family developments in the Nipomo Mesa Area: Developers are not able to obtain sufficient allotments at one time to build the projects in a timely manner; and project applicants have identified that since they must accumulate allotments over a period of so many years, the projects become financially infeasible.

An option would be to identify types of projects that the community wants to encourage and that make sense from a resource standpoint such as mixed use, smart growth, or green build projects. These types could be allowed to garner a higher percentage of the allotments so that the projects could be built in a timely manner. The projects that are currently waiting for selection on the Multi-family list for the Nipomo Mesa have anywhere from 1 to 36 units each. For the projects that are 36 units in size, a developer would have to accumulate 3 years worth of allotments in order to build a project. Not only did these owners have to obtain their discretionary approval (a process that can take a year or more), but they then had to develop construction drawings in order to request allotments and get on the waiting list. For many developers, this means that they have invested a great deal of money and time in the discretionary review process only to be told that the first third of their development will not be selected for another 4-5 years and the last third of their allotments for another 6-7 years. Most developers indicate they cannot afford to develop projects in a piecemeal fashion

and must wait until they have accumulated all of their allotments in order to build the project in one phase. This may mean a six year wait after discretionary approval.

An option to consider would be to allow at least 20% of the yearly allotments to any one developer/project if the project was identified as a smart growth, mixed use, or LEED-certified green build project. This would allow these projects to more quickly accumulate the numbers of allotments they need in order to go forward with building plans since more allotments can be assigned to the project in any one year.

Recommendation: Direct staff to propose changes to the limits to any one project/developer in the Nipomo Mesa Area to 20% of the annual allotments for projects that meet criteria of smart growth, mixed use, or LEED certified green build.

For Nipomo Mesa Area, should we allow additional units to be allocated between the 1.8% and the 2.3% growth rate for projects that meet certain criteria?

The growth rate for the Nipomo Mesa Area was lowered last year to formally recognize the resource constraints being experienced in the area. The impact of this lower growth rate (it reduced from 160 units in 2004-2005 to 122 units available for 2005-2006) has been to further delay timing of the projects that fit into the multi-family category. Since any one developer can only obtain 10% of the allotments for the area, this means that only 12 units per year may be accumulated for a development.

The county recently approved several projects that meet the smart growth goals in the community and will substantially benefit circulation improvements for the community (including several mixed-use and live-work projects). The project applicants have indicated that unless these projects are somehow given the ability to accumulate more allotments per year, there is a distinct possibility that these projects will never get built. The financial costs of the land use/subdivision process along with the holding costs of the land after approval for 4-6 years until a developer has amassed enough allotments to be able to build the project make it infeasible for most developers to proceed. However, giving priority to these identified projects within the existing limited supply of allotments means that other projects on the list will be delayed.

An option would be to "capture" some of the previously unused allotments to make up the difference between the 1.8% and the 2.3% to encourage these desirable projects without affecting the rest of the builders in the community.

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Staff would need to evaluate options to increase numbers of allotments in light of the RMS levels that are in place in Nipomo. There are several actions coming up that may affect this review: The general plan amendments for the South County Area Plan to require water conservation measures will be considered by the Planning Commission in March and will be coming to your Board in May. In addition, the Growth Management EIR that addresses the 180 exempted pipeline units will be considered by Your Board in April. Part of this EIR evaluated "capturing" some percentage of unused allotments/allocations countywide and this information will be helpful in your Board's consideration of options. There are also efforts afoot to address traffic issues and solutions in the Nipomo area that will be considered in the near future including infrastructure planning for Willow Road; and a traffic study for the Nipomo area.

Recommendation: Direct staff to evaluate and propose capturing a percentage of previous year's unused allotments for projects that meet smart growth; mixed use, and LEED certified green build criteria for the Nipomo Mesa Area.

For areas with waiting time for allotment selection of more than 24 months, should we allow application for an allotment once the land use permit is approved/subdivision is recorded rather than requiring full working drawings to be developed and submitted prior to application for an allotment?

Some developers in the Nipomo Mesa Area have indicated frustration with the recent changes to the Growth Management Ordinance that require full sets of construction drawings in order to apply for an allotment. In the Nipomo Mesa Area, where a waiting list of up to 5 years exists for multi-family/planned development projects, having to develop full sets of working drawings before being able to even get on the waiting list seems onerous and inconsistent with the intent of the ordinance changes. The ordinance amendment was adopted so that applicants would not speculate on development timing and take up allotments from those who were ready and able to build immediately. This amendment has provided a substantial improvement for the countywide program and has resulted in timely building permit processing for those applicants who are ready and able to build. However, the recent experience for the Nipomo Mesa Area is that there is a substantial waiting list for the multi-family/planned development category. The cost of preparation of a full set of working drawings in order to request an allotment for this category has created an unforeseen consequence of this recent ordinance change. There is a distinct possibility that building codes will change and the applicant's discretionary approval may expire before an allotment for the multi-family/planned development category can be selected. With this possibility, some applicants have requested that they be able to apply for allotments at the point where they have obtained discretionary approval of a use permit or recordation of a subdivision without development of



full construction drawings in situations where there is a projected waiting time for allotment selection of 2 years or more.

Recommendation: Direct staff to propose amendments to the ordinance to allow application for an allotment at the point where discretionary approval of a use permit or recordation of a subdivision has been obtained without development of full construction drawings in situations where there is a projected waiting time for allotment selection of 2 years or more.

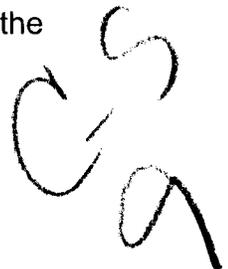
Should the Growth Management Ordinance be amended to include the requirement of an approved land use permit in addition to a complete application for construction permits and full building plans when applying for an allotment?

In 2003, the Growth Management ordinance was amended to require a full and complete construction permit application (including full building plans) in order to apply for an allotment. The intent of this amendment was to prevent speculators from taking allotment spaces from those applicants who were ready and able to build. While section 19.04.030 of Title 19, The Construction Ordinance, requires that any required land use permits be approved prior to submittal of construction permits, the language in Title 26 only requires that full building plans be submitted in order to apply for an allotment. The lack of consistent cross-reference has created opportunities for confusion and having this clarified in Title 26 will hopefully resolve any inconsistencies between the two sections of these ordinances.

Recommendation: Direct staff to propose amendments to clarify the Growth Management ordinance section pertaining to filing of requests for allotments to include requirement of approval of any applicable land use permit in addition to full construction application and drawings prior to submittal of allotment requests.

Other items proposed to be discussed in the May 2006 hearing:

- Set the County-wide growth rate at 2.3%?
- Set the Nipomo Mesa Area growth rate at 1.8%?
- Consider any other requests/input from community advisory groups, developers and citizens.
- Consider recent changes to the North Coast Area Plan update where the Planning Commission's recommendation is to not allow further applications for allocations under the County's Growth Management Ordinance for Cambria to be carried over until the current moratorium is lifted. If the North Coast Area Plan is updated to include this provision, the Growth Management Ordinance should be amended to maintain consistency between the documents.



- Until timing for the Los Osos sewer, groundwater, and habitat conservation plan is resolved, staff will not be making a recommendation for changes to the Growth Management ordinance to allow selection of allocations in Los Osos for FY 06-07.

OTHER AGENCY INVOLVEMENT

Notice of this study session was published in the paper, given to all advisory groups, the Home Builders Association and others who have requested notice. Once staff has additional direction from Your Board, the proposed wording will be reviewed with the same interested parties in addition to the NCSD, Public Works and anyone else who expresses interest at this hearing.

FINANCIAL CONSIDERATIONS

None.

INTENDED RESULTS

Give staff direction for updates to review and include as part of the May 23, 2006 hearing before the Board of Supervisors to complete the annual Growth Management Ordinance review and adopt proposed changes.

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