

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development

BOARD AGENDA # 6:45 p.m.

Urgent

Routine

AGENDA DATE December 18, 2007

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Public Hearing to Consider General Plan Amendment #2007-01 and the Introduction, Waiving of the Reading and Adoption of Ordinance Amendment #2007-02 - Agricultural Element Update of the Stanislaus County General Plan; and, Stanislaus County Williamson Act Uniform Rules Update

PLANNING COMMISSION RECOMMENDATIONS:

Following a public hearing on December 6, 2007, the Planning Commission, by a 8-0 vote, recommended the Board approve the project as follows:

1. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgement and analysis;

(Continued on page 2)

FISCAL IMPACT:

There are no fiscal impacts associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2007-1015

On motion of Supervisor Grover, Seconded by Supervisor DeMartini

and approved by the following vote,

Ayes: Supervisors: Mayfield, Grover, DeMartini

Noes: Supervisors: Monteith and Chairman O'Brien

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended INTRODUCED, WAIVED THE READING AND ADOPTED ORDINANCE C.S. 1020
- 4) Other:

MOTION: Based upon the staff report, all comments and testimony received during the public hearing, and all materials that were provided to the Board, the Board approved Recommendations Nos.1 through 6, as amended as follows: adopted the Negative Declaration pursuant to CEQA Guidelines §15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received,

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

MOTION CONTINUED ON PAGE 1-a

File No. ORD-55-E-1

Public Hearing to Consider General Plan Amendment #2007-01 and the Introduction, Waiving of the Reading and Adoption of Ordinance Amendment #2007-02 – Agricultural Element Update of the Stanislaus County General Plan; and, Stanislaus County Williamson Act Uniform Rules Update

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MOTION CONTINUED FROM PAGE 1

that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis; ordered the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code §21152 and CEQA Guidelines §15075; finds the project is consistent with the overall goals and policies of the Stanislaus County General Plan; approved GPA #2007-01, Agricultural Element Update of the Stanislaus County General Plan with the following amendments: (1) change the mitigation requirement of 1 to 1 to apply only to residential properties and direct staff to make all appropriate changes in the draft Agricultural Element including Appendices; (2) direct staff to reconsider the 1 to 1 ratio on non-residential land to be considered by the Board at a future date; and (3) direct staff to review these changes and how they impact Enterprise Zone 40, and to meet with appropriate parties on this matter, including the State Department of Housing and Community Development and other interested parties; and introduced, waived the reading and adopted Ordinance C.S. 1020 (Ordinance Amendment #2007-02) Agricultural Element Update to the Stanislaus County Zoning Ordinance; and, approved the proposed update to the Stanislaus County Williamson Act Uniform Rules

PLANNING COMMISSION RECOMMENDATION CONTINUED:

2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075;
3. Find the project is consistent with the overall goals and policies of the Stanislaus County General Plan; and
4. Approve General Plan Amendment No. 2007-01 - Agricultural Element Update of the Stanislaus County General Plan; and
5. Introduce, waive the reading and adopt Ordinance Amendment No. 2007-02 - Agricultural Element Update to the Stanislaus County Zoning Ordinance; and
6. Approve the proposed update to the Stanislaus County Williamson Act Uniform Rules.

DISCUSSION:

This project includes the following three components:

- 1) Update to the Agricultural Element of the Stanislaus County General Plan.
- 2) Ordinance Amendment to Chapters 21.12 - Definitions, 21.20 A-2 (General Agriculture), and 21.100 - Staff Approval Permits of the Stanislaus County Zoning Ordinance. The primary purpose of the Ordinance Amendment is to implement the proposed Agricultural Element Update. The Ordinance Amendment also addresses the permitting process for single-family dwellings on antiquated subdivision parcels, the criteria for placement of a 2nd dwelling, and list of permitted Tier One uses in the A-2 zoning district.
- 3) Update of the Stanislaus County Williamson Act Uniform Rules.

The Board of Supervisors was originally presented with the update to the Agricultural Element of the Stanislaus County General Plan on April 17, 2007. After closing the April 17th public hearing, the Board of Supervisors returned the project to the Planning Staff and the Agricultural Advisory Board to address the following items: **1)** development of buffer design and maintenance guidelines, **2)** comprehensive update of Williamson Act Uniform Rules, **3)** review and update of A-2 (General Agriculture) zoning district, **4)** development and adoption of guidelines for mitigating the loss of agricultural lands, and, **5)** review issues relating to viability of farming operations; and, directed Planning Staff to return the project to the Board of Supervisors for consideration.

The attached December 6, 2007 Planning Commission memo provides a detailed background and discussion on the efforts taken to address the items identified by the Board of Supervisors on April 17th. The December 6th memo refers to the Agricultural Element update proposed for adoption on April 17th as the 'original' update and the revised version being considered for adoption at this time as the 'revised' update.

The following is a summary of how the Agricultural Element Update subcommittee of the Agricultural Advisory Board has addressed the items identified by the Board of Supervisors:

- 1) Buffer and Setback Guidelines have been drafted. The guidelines are included as Appendix "A" of the 'revised update' (see Exhibit "A"). Implementation measures for Policy 1.10 of the proposed Updated Agricultural Element document have been revised to reflect the drafted guidelines. Policy 1.13 and the related implementation measure have been stricken from the document, since the setback provision has now been incorporated into the implementation measure for Policy 1.10.
- 2) An update of the Stanislaus County Williamson Act Uniform Rules has been drafted and added as a component of the overall Agricultural Element Update project (see Exhibit "F"). The draft reflects the revisions and modifications which have been identified as part of the Agricultural Element Update process.
- 3) An Ordinance Amendment to Chapters 21.12 - Definitions, 21.20 - A-2 (General Agriculture), and 21.100 - Staff Approval Permits of the Stanislaus County Zoning Ordinance has been drafted and added as a component of the overall Agricultural Element Update project (see Exhibit "G"). The amendments to the Ordinance serve to implement the policies and Implementation Measures of the 'revised' update. In addition to the amendments needed for implementation of the Updated Agricultural Element, the amendments also address the permitting process for single-family dwellings on antiquated subdivision parcels located in the A-2-40 and -160 (General Agriculture) zoning districts, amend the criteria for placement of a 2nd dwelling in the A-2 (General Agriculture) zoning district, and add 'shelling' to the list of permitted Tier One uses in the A-2 zoning district.
- 4) Farmland Mitigation Program Guidelines have been drafted and added as a component of the overall Agricultural Element Update project (see Exhibit "A"). The guidelines are included as Appendix "B" of the 'revised' update. Implementation Measure No. 1 for Policy 2.15 of the proposed Updated Agricultural Element document has been revised to reflect the drafted guidelines.
- 5) The introduction to Goal Two of the proposed Updated Agricultural Element, along with the Policies and Implementation Measures of Goal Two, have been revised to address issues relating to viability of farming operations. The revised discussion moves away from establishing a means for determining viability and focuses on the need to ensure parcels created in the agricultural area are being created for 'agricultural purpose' and not 'residential purpose'.

As discussed in some of the items above, the efforts of the Agricultural Element Update subcommittee included various revisions to the 'original' update to reflect the draft guidelines, ordinance amendments and updated uniform rules being proposed for adoption. Additional revisions have also been made in an effort to enhance and ensure consistency throughout the document. A summary outlining all the revisions reflected in the 'revised' update being considered for approval is provided on pages 2-3 of the attached December 6, 2007 Planning Commission memo.

The December 6th memo identifies one issue raised by staff for the Planning Commission to consider modifying. As proposed to the Planning Commission, the Buffer and Setback Guidelines identify the need for a 6-foot high solid wall (fence) of uniform construction to be installed in addition to a vegetative screen as part of the buffer. The purpose for requiring a wall is to provide a physical barrier to discourage trespassing onto adjoining farmland. However, with respect to aiding in the reduction of pesticide drift exposure, the dense nature of a solid wall may result in a less than desirable deflection of spray drift away from the vegetative screening. The modified language provided by staff for Planning Commission consideration proposed changing the height of the fence from 6-feet to 8-feet and removing the requirement for a solid wall. A complete discussion of the Buffer and Setback Guidelines, including the suggested modified language, is included on pages 4-6 of the December 6th memo.

Numerous e-mail petitions and letters from the Building Industry Association of Central California expressing concern with the farmland mitigation component of the Agricultural Element Update were received by the Planning Department prior to the December 6th Planning Commission hearing. E-mailed petitions were forwarded electronically to the individual Planning Commission members and hard copies of all correspondence received by the Planning Department, including the e-mailed petitions, were provided to the Planning Commission members at the start of the December 6th hearing. Hard copies were also made available to members of the public attending the hearing. Attachment "3" consists of all the correspondence provided to the Planning Commission.

Following staff's presentation to the Planning Commission, Commissioner Assali asked for clarification regarding the applicability of buffers to church and schools and the developers responsibility to place and maintain buffers. Staff clarified buffers would be required for all new or expanding non-agricultural uses approved by discretionary permit in the A-2 zoning district. In the case of public schools, the school districts by a 2/3rds vote of the school board are not required to obtain County approval (Government Code Section 53094) and, as such, will not be required to comply with County buffer and setback guidelines. The County guidelines required buffers to be located on the parcel for which a discretionary permit is sought and requires the property owner(s) to maintain the buffer and setback areas.

Commissioner Mataka asked how the "no build" restriction identified in Implementation Measure No. 1 of Policy 2.8 would have applied to a parcel map approved to create 71 parcel of 40-acres each in the A-2-40 zoning district. (PM 2003-45 - Lake Grizzly Ranch) In the case of Lake Grizzly Ranch, the entire project site was planted in an almond orchard and served by a drip irrigation system at the time the map was approved. With easements and maintenance agreements in place to provide for a shared off-site irrigation system, the project could be approved without any building restriction. Commissioner Mataka also asked if the Agricultural Element Subcommittee had considered subregion buffer requirements. An example of a subregion requirement would be to allow walking trails within the overall buffer area, but requiring the trail be setback within the buffer area as a means of keeping it away from the outer edge of the buffer where the greatest potential for impact exists. Staff explained the subcommittee had not addressed subregions specifically.

Commission Assali asked if the subcommittee had an opportunity to review the modified language being proposed for the buffer fencing requirement. Staff explained that the inconsistency was identified after the subcommittee had last meet and had not been discussed. Commissioner Mataka asked for clarification regarding the easement stacking provisions included in the proposed Farmland Mitigation Program (FMP) guidelines. Commissioner Gammon asked if the

subcommittee had discussed 2:1 mitigation. Staff explained the subcommittee had not directly explored a 2:1 mitigation options. Commissioner Mataka expressed concerns with the diminished value of in-lieu fees and how 2:1 mitigation would be an improvement. Staff explained that the subcommittee fully understood 1:1 mitigation is not full mitigation, but rather only partial mitigation.

The following is an overview of the public comments provided by those in opposition to the project at the December 6, 2007 Planning Commission hearing:

- Pat Storer, 60-year resident of Stanislaus County, inquired as to the impact the proposed project will have on her ability to develop property on Dusty Lane. Based on information provided at the public hearing, and staff's knowledge of her desired project on Dusty Lane, the issues are her ability to construct more than one dwelling on a 3 1/2 acre parcel located in the A-2-40 (General Agriculture) zoning district and the permitting process required for construction of a dwelling. In terms of the number of dwellings allowed, the proposed project will not allow for more than the one dwelling which may currently be permitted with approval of a Use Permit. Currently a Use Permit is required for construction of a single-family dwelling due to the parcel creation prior to March 4, 1972. The proposed ordinance amendment would change the permit requirement from a Use Permit, which must be approved by the Planning Commission, to a Staff Approval Permit, which may be approved by planning staff without the need for a public hearing. Ms. Storer expressed concern staff may deny her request. If the staff approval permit request were to be denied, Ms. Storer would still have the option to appeal staff's determination to the Planning Commission.
- Kevin Stone, representative of the Building Industry Association of Central California, spoke regarding the concerns the BIA has with the proposed Farmland Mitigation Program component of the project. The concerns expressed by Mr. Stone are included in the December 5, 2007 letter from the BIA provided to the Planning Commission. (See Attachment "3") Mr. Stone referenced the 2006 crop report for Stanislaus County which shows an increase of 41,500 acres of harvested lands and an increase in total crop income. Mr. Stone requested that ad hoc task force be brought together to address the issue of farmland mitigation. As a primary stakeholder, the building industry, feel they have not had an opportunity to vent concerns. Mr. Stone expressed the concern of the Farmland Mitigation Program (FMP) addressing a crises which lacks a crises.

Commissioner Assali asked Mr. Stone if the BIA had been given an opportunity to work with the Agricultural Element Update Subcommittee. Mr. Stone did state that the BIA was invited to one meeting and that many of their concerns had been addressed. Commissioner Layman asked Mr. Stone if he knew the percentage of unincorporated land consumed for building versus the percentage of incorporated land consumed for building. Mr. Stone did not access to the information needed to address the question, but did comment the updated Agricultural Element includes language encouraging local cities to incorporate similar agricultural conservation policies. In response to Commissioner Mataka, Mr. Stone clarified the Central California chapter of the BIA represents Stanislaus and Merced Counties. Commissioner Mataka asked if the BIA totally opposes the 35 percent provision applied to the In-Lieu fee provision of the FMP or opposed 'frozen fees'. Mr. Stone responded by stating the BIA believes there is evidence to support an In-Lieu fee.

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- Keith Schneider, Keystone Pacific Business Park, spoke in opposition to the 1:1 mitigation and the negative impact it would have on affordable housing and job growth.
- Gus Oberthier, farmer/property owner, stated that he was not necessarily speaking in objection to the project, but expressed having difficulty continuing to farm in what he termed as a 'buffer zone' located outside the City of Waterford's LAFCO-adopted Sphere of Influence. He expressed concerns with lands being removed from the Williamson Act for development and how foothill land is being placed into the Williamson Act after contracts are cancelled on the valley floor. He expressed concern with the Agricultural Element telling property owners what they can do with their property.

Commissioner Layman asked Mr. Oberthier if he was opposed to any specifics of the project. Mr. Oberthier expressed frustration with being able to do nothing (with his property) but continue to farm despite the fact the city surrounds his property.

The following is an overview of the public comments provided by those in favor of the project at the December 6, 2007 Planning Commission hearing:

- Wayne Zipser, Manager of the Stanislaus County Farm Bureau and chair of the Stanislaus County Agricultural Advisory Board, in response to an earlier question raised by Commissioner Gammon explained how the Agricultural Element Update subcommittee had discussed more than a 1:1 farmland mitigation ratio, understanding that 1:1 only provides fifty percent mitigation, but stayed with a 1:1 ratio as a means of getting a mitigation program started. Mr. Zipser explained how the review period built into the Agricultural Element would be used address issued not considered during this update process, such as westside farmers availability to water/lost water rights. (The Agricultural Element calls for a 5-yr review period and not a 2-yr review period as was mentioned in error by Mr. Zipser) In response to Mr. Stone's earlier comment regarding increased farmland acreage, Mr. Zipser responded by stating the increase is due to foothill land which has less ability to produce a diversity of crops. Mr. Zipser pointed out how foothill land is contributing to increases in crop value, but is limited to 2-3 crops and relies on drip irrigation which provides no groundwater recharge. Mr. Zipser ended by pointing out how farm output reflects the innovation of farmers.
- Brad Baker, representative of the Sierra Club, spoke regarding the need for a long-term vision for saving farmland and how the central valley offers the best farmland in terms of diversity. Mr. Baker expressed the belief the Agricultural Element can accomplish what it sets out to accomplish. He stated how development is directed away from most productive land, yet most development occurs on prime farmland and how Stanislaus County has the worst record in of all central valley counties for developing prime farmland. Mr. Baker also spoke regarding food security and the need to defend the number one industry.
- Nathan Rosasco, property owner, expressed concern about having never directly received notification of the Agricultural Element update. Spoke regarding the Furtado Parcel Map approval and how within two months of approval neighboring property was up for sale and being advertised as 'splitable'. (PM 2006-02 - Furtado Family Trust - request to create 13-80 acre parcels, 1- 70 acre parcel, and 1- 117 acre remainder parcel in the A-2-40 zoning district located off Tim Bell Road) Mr. Rosasco expressed his belief the agricultural zoning

is not being adhered to by allowing the creation of ranchettes and how the 'revised' draft of the Agricultural Element was better. With respect for farmland mitigation, Mr. Rosasco expressed the need to compensate those folks on the edge of development who serve as buffers and are being forced out of business. Mr. Rosasco expressed concern with grazing ground being lost to orchards and how cattle cannot compete with cost of land for orchards. Mr. Rosasco ended by stating how the costs associated with grazing lands are limited, since they require no services.

- Mike Darnell, California Policy Director for the American Farmland Trust (AFT), discussed a new document released by the AFT in November of 2007 outlining the following as key issues in protecting farmland: 1) direct growth away from high quality farmland, 2) develop efficiently, and 3) avoid rural ranchette development. Attachment "5" consists of the November, 2007 document titled "Paving Paradise: A New Perspective on California Farmland Conversion".

Commissioner Gammon stated that she had viewed the November AFT document. Commissioner Layman asked how much of the 81% of development had occurred in unincorporated areas as opposed to cities. The response was that most of the development had occurred in cities. Commissioner Layman pointed out how LAFCO is the agency responsible for changing Spheres of Influence (SOI) and the Agricultural Element has no impact on SOI land.

- Bill Martin, Executive Director of the Central Valley Farmland Trust (CVFT), read into the record a letter dated December 6, 2007 from the CVFT presented to the Planning Commission at the start of the public hearing. (See Attachment "4") The letter includes recommendations for some technical revisions to the FMP guidelines. A redline copy of the guidelines showing the CVFT's proposed revisions was attached to the December 6th letter. Commission Mataka asked for clarification regarding the requested 5% fee to insure it was to address administration and to in addition to the 35% identified in the FMP guidelines. Commissioner Layman expressed concern with the timing of the suggested revisions and a desire to have had the Agricultural Element Subcommittee review the revisions.
- Tim Byrd, Chair of the Central Valley Farmland Trust, spoke regarding the revisions proposed by CVFT and explained how they were clarifications and not substantive. Mr. Byrd explained having spoken to planning staff regarding the proposed revisions prior to the hearing. Mr. Byrd when on to say how mitigation is nothing new for major projects and referenced the following projects: Salida Community Plan update, Modesto Kaiser hospital and the adjoining development, Keyes Community Plan update, and Lake Grizzly Ranch Parcel Map. He stated how during the development of the Keystone Business Park project he discussed with the developers representative the possibility for contributing farmland mitigation fees. The developers representative responded with the need for a general policy to be developed as a means of insuring mitigation is applied equally to all development. In response to Mr. Stones comment regarding a mitigation crises, Mr. Byrd expressed the need to plan before the crises. Mr. Byrd stated the county has the power to impose mitigation and, with respect to the California Environmental Quality Act, there is no substantial evidence to show an impact associated with farmland mitigation exists.

- Denny Jackman, citizen and former City of Modesto council member, spoke about local community development history and expressed the importance of establishing solid long term land use policy to complement other policies.

The following is an overview of the comments made and questions asked by individual Planning Commissioners following the close of the public hearing:

- Commissioner Poore asked staff when the 5-yr review period for the Agricultural Element starts. Staff responded by stating there is no specifically identified start time for the review period. The Agricultural Element states that adoption of the document includes a commitment to reviewing it every five years. Reviews are to be conducted by the Agricultural Advisory Board with assistance from both the County Agricultural Commissioners Office and the Planning Department. Commissioner Poore expressed general support for the Agricultural Element update project. In response to comments made by the BIA regarding the recent unprecedented housing boom, Commissioner Poore pointed out the same type of boom having occurred in the 70's and the 80's and the need to start a program before the next boom occurs. Commissioner Poore expressed not being in favor of making changes to the project presented to the Planning Commission, since it would not be fair to the Agricultural Element Subcommittee and the BIA may find the changes to be substantive.
- Commissioner Layman asked Jack Doering, County Counsel, if he had an opportunity to review the revisions proposed by the Central Valley Farmland Trust (CVFT). After taking an opportunity to review the revisions, Mr. Doering responded by stating the revisions were not substantive; with the exception to revision to item No. 6 of the Legal Instruments for Encumbering Agricultural Mitigation Land section of the FMP guidelines. Mr. Doering felt this revision could be viewed as substantive, however there is no binding impact if the Land Trust has no interest in the property. Commissioner asked staff to clarify the farmland mitigation language only applies to land not annexed into a city. Upon clarification, he stated a precedence for cities to follow county policy remains to be seen. Based on figures provided on the bottom of page 12 of the December 6, 2007 Planning Commission memo, Commissioner Layman pointed out how only 145 acres would have been impacted by farmland mitigation requirements in the last 6-yrs minus one 200- acre plus project. Commissioner Layman expressed a concern with raising the buffer fencing requirement from 6-feet to 8-feet due to the need to obtain a building permit for any fence over 6-feet and the increase in fencing costs.
- Commissioner Souza expressed the desire to have every member of the Agricultural Element Update subcommittee should have an opportunity to review the revisions proposed by the CVFT. With respect to comments being made regarding the impacts to person on the edge of a buffer, Commissioner Souza responded by pointing out there will always be someone on an edge. Commissioner Souza expressed the preferred desire to protect agricultural land by means of economic incentive and not government regulations. In terms of the Agricultural Element, Commissioner Souza expressed the downside that everyone will lose property rights, but it will strengthen farmers property rights for the greater good of the community.

- Commissioner Shores pointed out the Planning Commission could make a recommendation regarding the CVFT revisions without necessarily voting on a change. Commissioner Shores discussed county policy to direct growth into cities and how all lands were once county. With respect to farmland mitigation, Commissioner Shores identified it as one of the most important features of the Agricultural Element and stated that at some point there will be nothing left to protect.
- Commissioner Assali pointed out how agriculture is a leading industry generating in excess of three million dollars annually into the local economy. Commissioner Assali expressed concern with how increasing development equals increased farming in the foothills which results in decreasing underground water. Commissioner Assali expressed support for buffer and setbacks between incompatible uses and support for 1:1 farmland mitigation as a means of protecting farmland and the agricultural industry.
- Commissioner Mataka responded to the BIA's concerns regarding the impact of farmland mitigation on the ability to provide affordable housing by identifying the percentage of affordable housing built in the last couple of years as dismal. Commissioner Mataka expressed concern with allowing in-lieu fees to be paid for farmland mitigation, since there is a risk of the money sitting in the bank and providing 'less bank for the buck'. Commissioner Mataka expressed support for buffers.
- Commissioner Gammon expressed support for farmland mitigation and hope the cities will adopt similar agricultural mitigation. Commissioner Poore also expressed support for buffers.

The Planning Commission voted unanimously (8-0) to recommend the Board of Supervisors approve the project as outlined in the December 6, 2007 Planning Commission memo without recommending any revisions.

POLICY ISSUES:

The policy question here is whether to approve an update to the Agricultural Element of the Stanislaus County General Plan, an Ordinance Amendment to the Stanislaus County Zoning Ordinance, and an update of the Stanislaus County Williamson Act Uniform Rules. The general plan is a policy documents which helps guide land use patterns and development for the future of the community. The zoning ordinance is the primary means of implementing the general plan. The Williamson Act Uniform Rules serve to clearly identify the contract terms for agricultural land within the agricultural preserve. Staff believes this project will not conflict with the Board's priorities: a safe community; a healthy community; a strong local economy; effective partnerships; a strong agricultural economy / heritage; a well planned infrastructure system. The Board priority of 'A Strong Agricultural Economy/Heritage' identifies an update of the Agricultural Element of the General Plan as a measure under the goal of protecting agricultural resources.

STAFFING IMPACT:

There are no staffing impacts associated with item.

ATTACHMENTS:

1. Planning Commission Memo, December 6, 2007
 - Exhibit A: Draft 'Revised' Proposed Updated Agricultural Element with Appendix "A" - Buffer and Setback Guidelines and Appendix "B" - Farmland and Mitigation Program Guidelines
 - Exhibit B: Draft of the Proposed Updated Agricultural Element. 'Original' version presented to the Board of Supervisors on April 17, 2007
 - Exhibit C: Current Agricultural Element adopted 1992
 - Exhibit D: April 17, 2007 Board of Supervisors Report without attachments
All attachments are available for viewing at the Stanislaus County Planning Department or may be viewed online by accessing the 6:55 p.m. scheduled matter on the April 17, 2007 Board agenda:
<http://www.co.stanislaus.ca.us/bos/agenda/2007/Ag04-17-07.pdf>
 - Exhibit E: April 5, 2007 - Memo to the Planning Commission without exhibits.
All exhibits are included as attachments of the April 17, 2005 Board of Supervisors Report — See Exhibit D of this memo.
 - Exhibit F: Draft Stanislaus County Williamson Act Uniform Rules Update
 - Exhibit G: Draft Ordinance Amendments to the Stanislaus County Zoning Ordinance:
"G-1": Chapter 21.12 - Definitions
"G-2": Chapter 21.20 - General Agriculture District (A-2)
"G-3": Chapter 21.100 - Staff Approval Permits
 - Exhibit H: Drift Filtration by Natural and Artificial Collectors: A Literature Review, October, 2001
 - Exhibit I: Resolution 83-74 - adopted by the Stanislaus County Board of Supervisors on January 11, 1983
 - Exhibit J: Correspondence presented to the Board of Supervisors on April 17, 2007:
"J-1": Petition from large landowners in Stanislaus County
"J-2": Letter from Dennis E. Wilson, Horizon Consulting dated April 12, 2007
"J-3" Letter from Building Industry Association of Central California
 - Exhibit K: Letters from the Building Industry Association of Central California dated July 26, 2007
 - Exhibit L: Letter from the Building Industry Association of Central California dated September 28, 2007
 - Exhibit M: Initial Study & Negative Declaration
 - Exhibit N: Referral Response dated November 21, 2007 from the California State Department of Conservation
2. Planning Commission Minutes, December 6, 2007
3. Correspondence submitted by the Building Industry Association of Central California and E-mail petitions received by the Planning Department
4. Letter from Central Valley Farmland Trust dated December 6, 2007
5. "Paving Paradise: A New Perspective on California Farmland Conversion", published November, 2007 by the American Farmland Trust

ORDINANCE NO. C.S. 1020

**AN ORDINANCE RELATING TO THE UPDATE TO THE AGRICULTURAL ELEMENT
OF THE STANISLAUS COUNTY GENERAL PLAN**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. Section 21.12.020 of the Stanislaus County Code is amended to read as follows:

“ "Agriculture" means the tilling of the soil, the raising of crops, horticulture, viticulture, small livestock farming, dairying, aquaculture, or animal husbandry, including all uses customarily incidental thereto but not including slaughterhouses, fertilizer yards, bone yards or plants for the reduction of animal matter or any other industrial use which is similarly objectionable because of noise, odor, smoke, dust or fumes.”

Section 2. Section 21.12.030 of the Stanislaus County Code is amended to read as follows:

“ "Agricultural service establishment" means a business engaging in activities designed to aid production agriculture. Service does not include the provision of tangible goods except those sold directly to farmers and used specifically to aid in production of farm animals or crops. Nor does service include any business which has the primary function of manufacturing products.”

Section 3. Section 21.12.495 of the Stanislaus County Code is added to read as follows:

“21.12.495 PRODUCTION AGRICULTURE

“Production Agriculture” means agriculture for the purpose of producing any and all plant and animal commodities for commercial purposes.”

Section 4. Subsection B of Section 21.20.020 of the Stanislaus County Code is amended to read as follows:

“Single-family dwelling(s) on parcels meeting the following criteria:

1. Parcels less than 20 acres in size and zoned A-2-3, -5, -10, or -20 - One-single family dwelling is permitted on all parcels that meet or exceed the minimum building site area requirements of this chapter.

2. Parcels less than 20 acres in size and zoned A-2-40, or -160 - One-single family dwelling is permitted with approval of a Staff Approval Permit in accordance with Section 21.100.050(C) of the Zoning Ordinance.

3. Parcels of 20 acres or more in size - Two-single family dwellings may be constructed on a parcel, regardless of the minimum parcel size zoning requirement. The second dwelling shall be placed to take maximum advantage of existing facilities including utilities and driveways. New driveways may be authorized by the County Public Works Department when it can be shown public safety will not be degraded, now or in the future, based on both existing traffic conditions and future traffic projected in the County General Plan.

Any parcel created with a 'no build' restriction shall meet the criteria specified in Section 21.20.050 prior to the construction of any dwelling. Any parcel enrolled in the Williamson Act, and not subject to a 'no build' restriction, shall be in agricultural use prior to the construction of any dwelling."

Section 5. Subsection A (1.) of Section 21.20.030 of the Stanislaus County Code is amended to read as follows:

"1. Stationary installations such as alfalfa and feed dehydrators; commercial viners; fuel alcohol stills designed to serve a localized area; nut hulling, shelling, and drying; agricultural experiment stations; warehouses for storage of grain and other farm produce; weighing, loading and grading stations; wholesale nurseries and landscape contractors when conducted in conjunction with a wholesale nursery; agricultural backhoe services; sale of firewood; and similar agricultural facilities;"

Section 6. Subsection E of Section 21.20.030 of the Stanislaus County Code is repealed.

Section 7. Section 21.20.050 of the Stanislaus County Code is amended to read as follows:

"All divisions of land on property zoned A-2 (General Agriculture) shall conform to the minimum parcel designation exhibited on the county's sectional district maps. The subdivision of agricultural land consisting of unirrigated farmland, unirrigated grazing land, or land enrolled under the Williamson Act, into parcels of less than 160-acres in size shall be allowed provided a "no build" restriction on the construction of any residential development on newly created parcel(s) is observed until one or both of the following criteria is met:

A. 90% or more of the parcel shall be in production agriculture use with its own on-site irrigation infrastructure and water rights to independently irrigate. For land which is not irrigated by surface water, on-site irrigation infrastructure

may include a self-contained drip or sprinkler irrigation system. Shared off-site infrastructure for drip or sprinkler irrigation systems, such as well pumps and filters, may be allowed provided recorded long-term maintenance agreements and irrevocable access easements to the infrastructure are in place.

- B. Use of the parcel includes a confined animal facility (such as a commercial dairy, cattle feedlot, or poultry operation) or a commercial aquaculture operation.”

Section 8. Subsections B (1.) and B (2.) of Section 21.20.060 of the Stanislaus County Code are repealed.

Section 9. Subsection C of Section 21.20.060 of the Stanislaus County Code is repealed.

Section 10. Subsection E of Section 21.20.060 of the Stanislaus County Code is amended to read as follows:

“E. Parcels created by a lot line adjustment between two or more adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, where the integrity and purpose of Section 21.20.010 is maintained, where one of the parcels is already below the minimum lot area of the zone in which it is located, where a greater number of nonconforming parcels, in terms of parcel size and permitted dwelling(s), is not thereby created and the following criteria can be met:

- A. Parcels greater than 10-acres in size shall not be adjusted to a size smaller than 10-acres, unless the adjustment is needed to address a building site area or correct for a physical improvement which is found to encroach upon a property line. In no case shall a parcel enrolled in the Williamson Act be reduced to a size smaller than 10-acres; and
- B. Parcels less than 10-acres in size may be adjusted to a larger size, 10 acres or greater in size if enrolled in the Williamson Act, or reduced, if not enrolled in the Williamson Act, as needed to address a building site area or correct for a physical improvement which is found to encroach upon a property line.”

Section 11. Subsection C of Section 21.100.050 of the Stanislaus County Code is amended to read as follows:

- “C. One single-family dwelling on a parcel legally created that is less than twenty acres in size and located in the A-2-40 or -160 (General Agriculture) zoning district.

The following findings must be made in addition to the findings required pursuant to Section 21.100.030:

1. The dwelling would be consistent with the County's General Plan;
2. The dwelling would not likely create a concentration of residential uses in the vicinity or induce other similarly situated parcels to become developed with single-family dwellings; and
3. The dwelling will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity."


Section 12. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor Grover, seconded by Supervisor DeMartini, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the 18th day of December 2007, by the following called vote:

AYES: Supervisors: Mayfield, Grover and DeMartini

NOES: Supervisors: Monteith and Chairman O'Brien

ABSENT: Supervisors: None

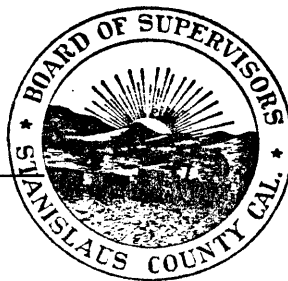


 William O'Brien
 Chairman of the Board of Supervisors of
 the County of Stanislaus, State of
 California


ATTEST:
Christine Ferraro Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California



 By: Elizabeth King, Deputy Clerk



APPROVED AS TO FORM:
Michael H. Krausnick
County Counsel



 By: John P. Doering, Assistant County Counsel

December 18, 2007

Rec'd at
BOS meeting
12/18/07
6:45 pm

Matt Innes

5637 Arnerich Court

Riverbank, CA. 95367

209-869-0489

TO: Stanislaus County Board of Supervisors

RE: Proposed Agricultural mitigation ordinance

Dear Board of Supervisors,

I am here tonight representing the interests of the Franklin Family trust. The trust owns fifty plus or minus acres located at 4267 Beckwith Road in Modesto, CA.

This parcel has been in our family for three generations now and in that time it has been farmed continuously from before the great depression to present day.

While we applaud the board at looking at an agricultural element that will protect our farmland now and in the future, we very strenuously object to the wholesale taking of our property rights in this manner. As we have paid taxes for over three generations to the county and the state and paid off the bank over the course of two generations we feel that this is our land. If we decide to keep it in farming we can avail ourselves to the use of the Williamson Act.

We may never sell this land to a development interest – in fact, many members of the family want to keep this parcel in agriculture. What the trust does agree with is that requiring us to buy another fifty acres of land if we sell and then place them in a permanent easement for farming seems to be an unreasonable burden.

Why does it fall to us to purchase and additional amount of acreage and place it in permanent trust? Is the county willing to reimburse us for the reduced value as this will now be a requirement for whoever buys the land? That is, doesn't our land decrease in value because of this requirement? Why doesn't the ag mitigation measure require each homeowner in the county to pay for the loss of farmland through a one time charge to their taxes to buy agricultural land proportional to their lot size?

Sadly we see this as but another unfunded government mandate that penalizes landowners and forces them to shoulder the burden for a well meaning but misguided policy. As this measure is currently fashioned we strongly oppose it and reserve any and all of our rights to future challenge should this measure be enacted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Innes', with a long horizontal flourish extending to the right.

Matt Innes



BUILDING INDUSTRY ASSOCIATION
OF CENTRAL CALIFORNIA

BOARD OF SUPERVISORS



2007 DEC 17 P 1:41 ✓

6:45pm

December 14, 2007

The Honorable William O'Brien
Chairman
Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, California 95354

Re: **GENERAL PLAN AMENDMENT APPLICATION NO. 2007-01 AND
ORDINANCE AMENDMENT APPLICATION 2007-02 -
AGRICULTURAL ELEMENT UPDATE AND WILLIAMSON ACT
UNIFORM RULES UPDATE**

Dear Supervisor O'Brien:

The Building Industry Association of Central California (BIACC) is a trade association representing hundreds of businesses and thousands of employees involved in one of the most important segments of our local economy.

On December 18 your Board will discuss the above captioned item, a matter of considerable importance to members of this association, to taxpayers and to owners of private property. For purposes of populating the record to preserve the right of the association to challenge this matter under the California Environmental Quality Act ("CEQA"), we ask that you incorporate this and the attached correspondence into the record for the public hearing.

On April 17, 2007 your Board considered a previous iteration of the proposed amendment to the Agricultural Element. As you know, this association and others objected to several aspects of the document. The Board sent the process back to the Agricultural Advisory Board in an effort to both rehabilitate the language in several areas and to provide better definition of certain requirements.

We wish to recognize the effort to the Agricultural Advisory Board to cure some of the deficiencies in the original submittal, but we must also continue to object to several areas of the revised language and the potential impacts we will discuss.

Our concerns surround the issues of clarity, the issues of practicality and the attempt to promote a significant change to the land use regime in Stanislaus County without the involvement of stakeholders or any effort to define the impact of such decisions as they relate to the environment. In short, the proposed Agricultural Amendment erodes private property rights and removes the freedom of property owners to control the use of their land.

Please consider the following points:

1. BIACC staff has reviewed the application submitted by Stanislaus County and the Cities of Ceres, Modesto and Turlock to the State of California for designation of a California Enterprise Zone (zone). The application seeks to equalize economic disparity in the zone through access to various tax credits for hiring of employees and expansion of plant and business. The initial project boundary and subsequent updates include some 55,000 acres of economically depressed census tracts, many of which are zoned for agricultural use. The Environmental Impact Report required for the application contemplates the conversion of some agricultural zoning to industrial and manufacturing uses as a "significant but unavoidable impact." The Enterprise Zone EIR provided that mitigation for farmland conversion was infeasible, but today the County is proposing to adopt farmland mitigation and impose it on lands designated for economic development. Both of these things cannot be true, and imposition of farmland mitigation in the Enterprise Zone would be inconsistent with the message delivered to the State about these areas, their development, and the County's commitment to economic development.
2. Proposed policies in the Agricultural Element require extensive study of parcels that may convert from an agricultural use to urban use. Ironically, there was no such analysis conducted on the impact of the proposed requirements before your board for consideration. For example, how business development activities or the Enterprise Zone may be impacted; the impact of reduced transportation infrastructure funding due to facility fee waiver for agricultural uses; the constraint of mitigation upon the production of affordable and market rate housing in Stanislaus County or the additional cost for right-of-way acquisition associated with increasing agricultural land values that will surely result from this policy.
3. The BIACC requested stakeholder participation in the review of the final draft of the Agricultural Element prior to the matter being forwarded to the Planning

Commission. It is clear other stakeholders were not afforded any opportunity to review final language except during the Planning Commission Hearing. Past practice in this community has been to circulate the Agricultural Element through the Modesto Chamber of Commerce Land Use and Transportation Committee. In this instance, BIACC suggested a more extensive group to include Chambers of Commerce, the Farm Bureau, the Agricultural Commissioner and others. Had this request been honored, it is likely the Board of Supervisors would have been presented with more of a consensus package to review.

4. The rush to adopt the Agricultural Element amendment undercuts the public policy implications of voters participating in growth and land use policy through two ballot measures in the February 2008 election. Indeed, the adoption of any new language by your Board undercuts the very measure submitted by the Board of Supervisors mandating a process to update the General Plan which will include consideration of this and many other land use issues. The County would also be obligated to produce a Master Environmental Impact Report to complement the General Plan Update, which would likely address many of the issues we and others raise regarding the Agricultural Element.

We will confine our most strenuous objection of the Agricultural Element update to the issue of farmland mitigation. If the Board is determined to move the adoption of the updated Agricultural Element forward, we respectfully request that you consider either the removal or revision of the following sections found in 12-6-2007 Planning Commission Memo Exhibit B: Draft 'Original' Proposed Updated Agricultural Element:

Policy 2.2 Objective 2.2 Paragraph 4

The language regarding soil classifications does not harmonize with other portions of the document.

Policy 2.10 Conversion Considerations

The definition employs the use of soil classifications, yet elsewhere in the document¹ the definition of agricultural viability is nebulous and definition of "farmland" and "agricultural land" removes classification of land by soils.

Policy 2.15 and 2.16

¹ See also Section 2.2, paragraph 4 and Page 37, Definitions

The implementation measures are superfluous. LAFCO policies and standards are bound by the Cortese-Knox-Hertzberg Act. An effort to promulgate enforcement of agricultural land mitigation might make for an interesting discussion, but has no practical or legal effect on LAFCO.

Policy 2.17

Likewise, the efforts by the county to have companion city ordinances adopted to complement the county's mitigation requirement might be an interesting strategy, but this requirement legally cannot become a condition of LAFCO approval for boundary changes.

Policy 2.19

The County has not considered the input of those most impacted by this requirement. There has been no study to determine the impact of this requirement on economic development, housing, transportation infrastructure and other environmental issues.

Business rules that will be employed under this implementation have not been described. Fees have not been justified and there is no nexus to new development. If the issue is of importance to the entire County, the means and methods to pay for mitigation can be explored in the General Plan Update contemplated by the **Stanislaus County Responsible Planning and Growth Control Measure**.

There is no need to rush to the adoption of this measure. As testified to at the Planning Commission, only 147 acres of agricultural land has been converted by the County over the last six years, while concurrently hundreds in acres of production have been added. This speaks to the Board's commitment to agricultural land preservation and the strength of the agricultural economy.

The County of Stanislaus enjoys a high level of participation of land owners in Williamson Act contracts, potentially the highest in the State of California. Ordinances protecting the right of farmers to work the land and regional land planning polices have all coincided to provide the continued growth and viability of agriculture in Stanislaus County. The legislative history of the Williamson Act program describes the finite period of time parcels remain under contract. The legislation contemplated that economics and other conditions may change and provided flexibility for land owners to

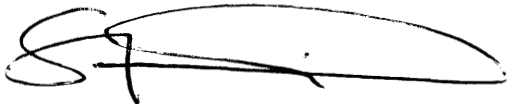
exit contracts. No such wisdom is found in the Farmland Mitigation program, which requires perpetual mitigation and provides no safeguard against future challenges.

Hardly a day has gone by in the past several weeks where the broadcast and print media have not covered stories of businesses closing due to the changing housing market. The types of businesses struggling in this economy are across every sector including retail sales, services and financial. Sales revenue that was once circulated to a variety of local businesses (and ultimately government) has deteriorated drastically.

Adoption of this measure provides no economic stimulus to business. It is alarming that at a time when businesses are suffering, the Board of Supervisors would promulgate a policy that would redistribute wealth to a select few land owners at the expense of countless others.

We urge the Board of Supervisors to embrace the electoral process in guiding their decision on this matter and to defer adoption of the Update to the Agricultural Element of the General Plan.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen D. Madison", written over a horizontal line.

Stephen D. Madison
Executive Vice President

attachments

Board of Supervisors

BOARD OF SUPERVISORS

PLANS FOR AGRICULTURE

12/18/07
2007 DEC 18 A.M. 201

I am Vance Kennedy and live at 5052 Tully Road, Modesto. I am 84 years old and have seen a lot of things happen in that period that weren't even conceived of when I was a child. But the one thing that hasn't changed in all that time was the need for food and water by humans. You are the custodians of the means of providing that food and water for many generations yet to come, long after you are gone. It is imperative that you treat that responsibility with the respect that it demands. I see little evidence that the really long term view (50 to 100 years or more) is getting any serious consideration in the present political climate. When you evaluate the Ag element of County plans it should not be whether it will help the interests of the present power brokers, but with how well your great grandchildren will view your actions. We have seen what reliance on foreign oil can cause. Reliance on foreign food would be far worse. But, of course you won't be around to see it. You, like me, will be gone, but you can be farsighted.

It is no secret that selfish and greedy developers will cover all of the best farmland in the Central Valley with pavement if they are permitted to do so. The constant mantra is economic development, at any price. Who is going to protect future generations, if not you? Certainly they can't vote. Measure E on the February ballot is intended to help on that protection and simply requires that the preservation of farmland be controlled by the public that has to live with the negative result of mindless paving of prime farmland. The Board's continuing effort to defeat measure E is truly disappointing, to say the least.

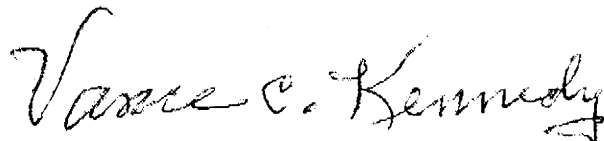
The major economic factor in the Valley is farming. I see very little help in the way of research help for farming compared with attempts to bring in industry that will ultimately wipe out our descendants food source. In fact, the Agriculture Extension Service is being slowly eliminated by financial strangulation. Yet it is greatly helpful to agriculture and deserves expansion.

While I have the pulpit, I'd like to correct a serious, widely stated, misunderstanding about the use of water by agriculture.. A common statement is that agriculture uses 80 to 90 percent of the water in the Valley. That view is simplistic in the extreme. The fact is that perhaps 30 or more percent of that "used" water ends up in ground water and is stored until pumped out by adjacent cities. A recent U.S Geological Survey report estimates that about 60 percent of recharge to groundwater is due to farmers flood irrigating. In other words, the farmer pays for water which is free to the cities. So, farmland not only provides food, but also water, to the cities that are rapidly covering that farmland. Keep in mind that when you cover farmland that is flood irrigated you cut off a recharge to groundwater but also put a drain on existing groundwater. It's a double whammy. If global warming is a reality, society will have to be much more concerned about using ground water storage.

I'd like to express my appreciation to Ron Freitas and Angela Freitas, as well as the many others who put so much effort into producing the Ag element. They deserve a lot of praise, especially for including the mitigation of developed farmland in the proposed Ag element.

P.S. I had planned to present the above statement orally, but unexpected events prevent my being at the meeting. I sincerely hope that my concern with the long term will not simply be shrugged off as the rambling of an old man.

CC: Planning



6:45 pm

BOARD OF SUPERVISORS



American Farmland Trust
SAVING THE LAND THAT SUSTAINS US

001 DEC 17 P 3:01

December 14, 2007

Supervisor William O'Brien
Stanislaus County Board of Supervisor
1010 10th Street, Suite 6500
Modesto, CA 95354

Dear Supervisor O'Brien,

My name is Mike Darnell, California Policy Director of the American Farmland Trust. AFT is a national non-profit organization working to protect the best farmland, helping to reform state and local government farm policy and planning for the future of agriculture.

I work in the California office in the Central Valley. AFT provides the most up-to-date information to county decision makers and the public regarding farmland conversion and protection. We strongly believe farmland in the Central Valley is the most productive as well as the most threatened agricultural land in the United States.

We recently released a report available on our web site at www.farmland.org/California that highlights what is happening with high quality farmland being converted to urban uses. We believe that to conserve this high quality farmland, California local governments must do three things:

1) Direct growth away from the highest quality farmland toward less productive land

In Stanislaus County, between 1990 and 2004, 83% of the land developed was on high quality farmland. By far, the highest percentage in the state.

2) Develop land as efficiently as possible

During the same period, Stanislaus County developed at the rate of 10.8 people per acre, which is actually good compared to most counties in the SJV. But at the current level, there will be still be over 55,000 acres

developed by 2050. AFT recommends developing an annual report that tracks efficiency of development.

3) Avoid rural ranchette development

The Department of Conservation recently did a study of ranchettes in San Joaquin, Stanislaus, Merced and Madera Counties. It showed that ranchettes were responsible for 25% of all land in non-farm developed areas. What is concerning is that they only housed 1.5% of the total population of these counties.

I grew up in San Joaquin County north of Lodi. I have personally seen the effects of growth in San Joaquin County and how some of the largest farms have been replaced by ranchettes and housing developments.

The challenge being faced in Stanislaus County is to assure that the best farmland remains available for agriculture and that urban development doesn't convert any more land than is truly necessary to accommodate its expanding population and economy. This challenge is made more difficult by the fact that most of the state's cities, where more than 90% of the population lives, are located in the midst of California's most productive farmland.

I have had the privilege of working with the Stanislaus County Ag Element subcommittee for the past seven months. The committee really dug into all aspects of the Ag element. They have painstakingly gone through each and every word.

The Ag Element being presented is a great step towards a strong agricultural protection policy. I think you will find it very balanced, with the intention of protecting Agriculture in Stanislaus County.

I hope you will support the Agricultural Element being presented on Tuesday night.

Sincerely,



Mike Darnell
California Policy Director
American Farmland Trust
mdarnell@farmland.org

6:45pm

Robert Frobose
4333 Claus Road
Modesto, CA 95357

BOARD OF SUPERVISORS

2007 DEC 17 P 4:44 ✓

December 17, 2007

Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, California 95354

Regarding: **Agricultural Land Use**

Dear Chairman O'Brien and Members of the Board of Supervisors:

I am a farmer in Stanislaus County and I currently have property situated in the path of future development. I want to leave all of my options open, but I intend to farm the land for as long as it is feasible to do so.

I have closely followed the issue in Stanislaus County of updating the agricultural rules that will affect land use. Even though I am supportive of agriculture, I worry when the government decides to make decisions about how others can use their property. I also worry about the use of easements, because then people with police powers can come onto another person's property without permission. This distracts from the purpose of the easement and creates other issues.

As a property rights person, I have taken an interest in the measure sponsored by Californians for Property Rights Protection. As I understand the information provided to me, the measure (co-sponsored by the California Farm Federation) would limit the rights of government to decide how private agricultural property is used.

I urge the Board to not to adopt any new rules at this time. If the property rights measure passes in June 2008, it may well have an affect on the County's rules.

Sincerely,



Robert Frobose



Californians for Property Rights Protection

FACT SHEET:

The California Property Owners & Farmland Protection Act. California Constitutional Amendment.

Protect property rights for all Californians.

Californians for Property Rights Protection is a coalition of homeowners, family farmers, small business owners, and other property owners (small and large) led by the Howard Jarvis Taxpayers Association, California Farm Bureau Federation, and The California Alliance to Protect Private Property Rights. Together, this powerful coalition has filed the California Property Owners and Farmland Protection Act (CPOFPA), a statewide ballot initiative. The CPOFPA is a constitutional amendment. Changes to the constitution made by this initiative can only be made by a majority of voters in the state, not the State Legislature. The initiative will appear on the June 2008 ballot.

Summary of key provisions in the initiative:

- Private property may not be taken by eminent domain for private use under any circumstances (i.e. to build a shopping center, auto mall or industrial park).
- Property may be taken by eminent domain only for public use (i.e. freeway construction, parks, schools).
- Property may not be taken by government and used for the same purposes (i.e. residential housing cannot be used for government housing).
- Family farms and open space are protected from seizures by government for the purpose of selling the natural resources.
- If a public agency takes property under false pretenses, or abandons its plans, the property must be offered for sale to the original owner at the original price and the property tax would be assessed at the value of the property when it was originally condemned.
- If farmers or business owners are evicted by eminent domain, they would be entitled to compensation for temporary business losses, relocation expenses, business reestablishment costs and other reasonable expenses.
- Government may not set the price at which property owners sell or lease their property. However, tenants who live in rent-regulated communities will continue to receive the benefit of those regulations as long as they live in their apartments or mobile homes.

Key Issues:

- The Constitution of the State of California provides that "All people by nature are free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing and protecting property . . ." CPOPA reaffirms and strengthens the private property protections set forth in our state constitution.
- Property rights are a fundamental, core value among California voters. Statewide survey research shows more than 67% support for an eminent domain reform ballot initiative – Republicans, Democrats, independents, seniors and baby boomers all support the initiative.
- Enhanced farmland protections provided in this amendment increase support for this measure among environmentally concerned voters. Prohibiting sale or lease price regulations protects property owners when they sell or lease their property to others. At the same time, the Act protects current tenants from unanticipated increases in their rents.
- Nothing in this proposed ballot measure would prohibit or limit legitimate land use decisions, zoning, work place laws, or environmental protections. Nor would it expose public agencies to costly litigation.

Comparison of proposed “CA Property Owners and Farmland Protection Act” and the proposed “Homeowners and Private Property Protection Act”

PROVISIONS	PROPOSED 2008 “CALIFORNIA PROPERTY OWNERS AND FARMLAND PROTECTION ACT” (BALLOT MEASURE #07-0015)	PROPOSED 2008 “HOMEOWNERS AND PRIVATE PROPERTY PROTECTION ACT” (BALLOT MEASURE #07-0018)
OVERVIEW	This is a statewide ballot measure co-sponsored by the Howard Jarvis Taxpayers Association, California Farm Bureau Federation and the California Alliance to Protect Private Property Rights. Will require signature gathering to be placed on June 2008 ballot.	This is a statewide ballot measure submitted by the League of California Cities, California State Association of Counties and the California Redevelopment Association. Will require signature gathering to be placed on the June 2008 ballot.
STATUS	Title & Summary issued on June 25, 2007. Proponents are collecting signatures for qualification and are required to submit 694,354 valid signatures by November 2007 to qualify this measure.	Title & Summary issued on July 5, 2007. Proponents have begun limited signature gathering and are required to submit 694,354 valid signatures by December 2007 to qualify this measure.
“KELO” PROPERTY PROTECTIONS	Provides absolute “Kelo” protections <u>for ALL property</u> – prohibits government from seizing property from unwilling sellers and giving it to another private owner, a common practice among public agencies seeking greater property tax and sales tax revenue.	<u>Would not provide absolute “Kelo” protections for private property.</u> The Legislative Analyst’s Office analysis of this measure from June 19, 2007 stated that it “is not likely to significantly alter current government land acquisition practices.”
HOMEOWNER PROTECTIONS	Prohibits government’s ability to seize private property, including homes, for private purposes.	Protections only apply to owner-occupied homes that have been the primary residence for a minimum of 1 year. (See “incidental” private uses for more loopholes)
SMALL BUSINESS PROTECTIONS	All businesses, no matter the size, are protected from being taken for transfer to another private owner.	<u>No business protections.</u>
FARMLAND PROTECTIONS	Prohibits government’s ability to seize private property, including farmland, for private purposes or same use.	<u>No farmland protections.</u>
PROTECTIONS FOR PLACES OF WORSHIP	Prohibits government’s ability to seize private property for private purposes. This protection includes places of worship.	<u>No protections for places of worship.</u>
DEFINITION OF “BLIGHT”	Measure prohibits private to private takings, without prohibiting public agencies ability to abate public nuisances or close down sites of criminal activity.	Does not redefine the term blight, which often includes conditions such as “lack of parking,” “adjacent or nearby uses that are incompatible with each other,” or “existence of subdivided lots of irregular form or shape,” allowing modest homes and businesses to be seized by eminent domain.

SAME USE – “Conaway Ranch Provision”	To address situations like Conaway Ranch in Yolo County, this measure specifies that property may not be taken by a public agency for the same use as the existing owner (Sec. 3(b)(4)(ii)). For example, an apartment complex cannot be seized to provide affordable housing.	No such provisions in this measure. For details on Yolo County’s plan to seize Conaway Ranch, read Dan Weintraub’s column in the July 28, 2005 <i>Sacramento Bee</i> .
QUICK TAKE PROTECTION	Should a public agency exercise a “quick take” (a procedure where the agency takes immediate possession of the property), the owner is entitled to prompt release of the money offered while keeping the right to challenge the sufficiency of this amount (Sec. 3(b)(7)).	No such provisions in this measure to protect individuals with limited means, who may rely on the money provided at the time of the taking and as a result, lose the right to seek greater compensation.
ABANDONMENT CLAUSE	To address abuses like those of <u>Cal-Trans in Orange County</u> , this measure provides that if the stated purpose for the property is ever abandoned, the property will be offered to the original owner at the price at which it was taken. It will also be taxed at the pre-condemnation value (Sec. 3(e)).	No such provisions in this measure.
JUST COMPENSATION	Defines just compensation as fair market value as determined by a jury. A property owner is also entitled to reasonable costs and attorney fees if a court ruling determines the value to be more than the amount offered. Owner is also entitled to compensation for temporary business losses, relocation expenses and other reasonable expenses incurred by the owner as a result of eminent domain action (Sec. 3(b)(6)).	This measure does not change the current definition of just compensation. As such, an owner would not be entitled to reimbursement for expenses (legal or otherwise) incurred as a result of eminent domain action. Additional reimbursement would be at the discretion of the condemning agency (Sec. 3-4).
“INCIDENTAL” PRIVATE USES	Defines public use as “use and ownership” by a public agency or public utility. Does not extend the use of property taken by eminent domain to any private individual except for “leasing limited space for private uses incidental to the stated public use” (Sec. 3(b)(3)). An example of such a permitted use would be the operation of a cafeteria inside a public building.	Allows private property to be taken and transferred to another private owner for any amount of use the agency deems incidental to, or necessary for, the public improvement to be feasible. For example, a city could take twice as much land as it needs to build a sports arena, and transfer the excess to private retail developers because the revenue is “necessary” to finance the construction of the arena.
POISON PILL	No such provision	This measure contains a controversial poison pill provision (Sec.9), intended to deprive Californians of additional property rights protections, even if those additional protections are approved by a majority of California voters.

PRICE CONTROLS ON PRIVATE TRANSACTIONS	This measure will limit government's ability to decide the amount a property owner can charge to sell or lease his property, but it will not affect any existing rental agreements. This measure allows property owners to reassess rent at the time the unit is vacated and the existing agreement is terminated. Nothing in this measure prevents government from providing other options for affordable housing. (Sec. 6).	This measure does not include provisions to protect a property owner from government's ability to regulate the price he or she can sell or lease real property.
COSTS TO TAXPAYERS	According to the State Legislative Analyst's Office, the fiscal effect on state and local governments "probably would not be significant."	The Legislative Analyst's Office concludes that this measure "would likely not have a significant fiscal impact on state or local governments."
HEALTH AND PUBLIC SAFETY	Public agencies maintain the ability to abate public nuisances and close down sites of criminal activity. There is nothing in this measure that restricts government's ability to regulate property in ways that protect the general public. Additionally, this measure will not restrict the power of the Governor to take property under a declared state of emergency.	Contains a far broader exception allowing the use of eminent domain "for the purpose of protecting public health and safety."
VOTER AUTHORITY	Would not limit voters from enacting local land use or planning decisions unless such decisions were intended to strip property owners of their rights by transferring property from one private owner to another.	Would not limit voters from enacting local land use or planning decisions. However, the lack of true protections for all properties would put many in danger of losing their property as a result of these local decisions.
"REGULATORY TAKINGS"	Do not contain any "regulatory taking" provisions, as seen in Prop. 90	
LIMITS ON THE USE OF EMINENT DOMAIN FOR PUBLIC PROJECTS	None. Would not limit the use of eminent domain for public projects. Without Prop. 90's costly "regulatory taking" provisions, the cost of land use decisions and public projects will not place any additional burden on taxpayers.	
ENVIRONMENT	Will not affect governments' ability to implement reasonable land-use planning or zoning restrictions that protect the environment.	
WORK PLACE REGULATIONS	Do not include regulatory provisions that invite frivolous lawsuits against labor or work place regulations.	

6:45pm

BOARD OF SUPERVISORS ✓

2007 DEC 17 P 4:44

Robert Ford & Assoc., Inc.

Real Estate Appraisers & Consultants

December 17, 2007

The Honorable William O'Brien
Chairman
Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, California 95354

Subject: Adoption of Agricultural Element

Dear Supervisor O'Brien and Members of the Board:

I am concerned about the proposed adoption of the update to the agricultural amendment that is being considered by the Board. My office routinely conducts real estate appraisals for the valuation of agricultural land and the placement of easements. The matter is complex and will become even more difficult if certain aspects of the language proposed in the update are adopted. Here are just some of my observations about the language:

- The language to "declassify" soil descriptions might be useful in theory, but doing so places the broadest possible context on the definition of agricultural land. Would mitigating fallow pasture land serve a better public policy purpose than for example constructing a trauma center?
- The processes to mitigate "like soils" will likely result in subjective judgment by lay persons empowered to make legislative decisions to approve mitigation requirements.
- The processes to mitigate land will result in increasing the cost of development projects and inherent delays associated with satisfying the definition of "like soils" to meet due diligence requirements
- The idea of using a home owners association to maintain buffer zones is the least favorable option. A taxing or benefit assessment instrument is a much better solution.
- The maintenance cost of the buffer zone should be equitably divided between those whom benefit, which includes the agricultural enterprise and the general public.

- Locking-in an easement in perpetuity has some very serious consequences on future economic and environmental decisions. There needs to be a better mechanism for the management of the easements and a way to terminate the easement in the event of compelling future changes.
- Rights-of-way and utility easement costs will increase because of mitigation requirements driving-up the cost of land. I am concerned about further upward pressure on the prices that will be paid for agricultural mitigation land that will make farming even more uneconomic.

I'm sure that those who crafted the language have good intentions about what it is they are trying to accomplish. It is clear, however, there is a lack of participation of land use experts in crafting the language. The overriding policy reaches a conclusion that mitigation must be forced upon others. Similar land use policies, particularly in Oregon and Southern California has resulted in a tremendous amount of litigation. Further erosion of property rights has a detrimental impact on our society as a whole.

Finally, while reviewing these issues with others I found the attached policy brief to be more factual and less emotional than some of the arguments I have heard in association with the proposed agricultural land use changes. The article *Farmland Conversion: Perceptions and Realities* is the work of the University of California Agricultural Issues Center. Such impeccable information and data is sorely missing from the discussion.

Very truly yours,
Robert Ford & Assoc., Inc.

Charles P. Wells by KM

Charles P. Wells, MAI, President

Farmland Conversion: Perceptions and Realities

Nicolai V. Kuminoff, Alvin D. Sokolow and Daniel A. Sumner¹

Converting farmland into homes and other urban uses is a public issue in every agricultural region experiencing rapid urbanization. In California, the nation's leading farm state, the issue is complicated by widely varying numbers about the extent of conversion and contrasting opinions about the causes and consequences of farmland loss.

How extensive is farmland conversion in California and what are the consequences? Is farmland all-too rapidly disappearing as new homes, shopping centers, and office buildings move out into the countryside, threatening the continued viability of the state's agriculture? Or are there so many acres devoted to agriculture—especially in the vast Central Valley—that the present pace of urban development can continue for decades without seriously affecting farm production?

In this Issues Brief, we examine both the numbers that measure farmland conversions and the related public perceptions about the causes and consequences of conversion—the basis of arguments about the seriousness of the problem and its policy solutions. Our analysis draws from the most reliable sources of information about farmland trends and the economics of agriculture in California.

Measuring Farmland Conversion

California has 100 million acres of land, split almost evenly between public and private ownership. About half of the private land is used for agriculture (27 million acres²) and about one third of the public land is in grazing allotments (16 million acres)—mostly extensive rangeland in the desert and mountains. In total, about 43 million acres³ (43%) of the state's lands are in agriculture, compared to about 5.5 million acres in urban use.

We estimate that about 497,000 acres of California farmland were urbanized in the 1988-98 decade, or about 49,700 acres a year (Table 1). Our estimate is based largely on the numbers provided by the source of information that most closely tracks statewide agricultural land conversion trends. This is the Farmland Mapping and Monitoring Program (FMMP) of the State Department of Conservation, which since the mid 1980s has been measuring urban conversions and other land use changes at two-year intervals. The FMMP maps these changes statewide and for individual counties, using aerial photography and modern soil surveys.

¹Nicolai V. Kuminoff is a staff research associate at the UC Agricultural Issues Center. Alvin D. Sokolow is an extension specialist in the Department of Human and Community Development, UC Davis, and an associate director of the UC Agricultural Issues Center. Daniel A. Sumner is the Frank H. Buck, Jr. Professor in the Department of Agricultural and Resource Economics, UC Davis, and director of the UC Agricultural Issues Center.

²This estimate is based on our adjustments to Farmland Mapping and Monitoring Program data. The *Census of Agriculture* reports a smaller total of about 26 million acres. Surprisingly, the amount of privately owned agricultural land is an unsettled question.

³This estimate, based on 1997 data, may seem large to those familiar with agricultural land use figures. Our calculations are explained in Appendix 1 to the online version of this Brief, available on the AIC web page, <http://aic.ucdavis.edu/oa/briefs.html>

Table 1: California Agricultural Acres Converted to Urban and Built-up Uses, 1988-1998 (AIC Calculations based on FMMP data)

	Cropland	Grazing Land	Other Land	Total Conversion
1988-90	50,043	47,029	60,371	157,443
1990-92	51,446	19,685	47,358	118,489
1992-94	25,324	11,981	21,109	58,414
1994-96	29,592	14,588	19,861	64,041
1996-98	42,985	18,637	36,150	98,224
Total	199,389	111,921	184,848	496,610

To generate an estimate of total California farmland that was urbanized in 1988-98 we begin with the 420,000 acres measured by FMMP as converted from agricultural and “other”⁴ land to urban uses. However, FMMP’s measure does not include urban development on parcels smaller than 10 acres that are surrounded by farmland, and certain types of low-density residential development. In addition, FMMP does not map about 10% of the state’s private land. To develop our estimate of almost 497,000 acres, we added to the FMMP total another 77,000 acres to account for these conversions.⁵

Much larger conversion numbers are reported by other sources. For example, the *National Resources Inventory* (NRI), a program of the USDA Natural Resources Conservation Service, reported for 1992-97 an increase in California’s “developed acres” of about 112,000 acres a year—more than double the annual average implied by our calculations. In place of the state’s comprehensive aerial mapping system, the NRI uses sample landscape points to estimate land use changes.

Competing perceptions: “Urban growth is paving over California farmland” versus “We have sufficient farmland—there is no conversion problem.”

⁴We include “other” in the calculation of total urban conversions because in the development process, farmland is often taken out of production and reclassified as “other” by the FMMP for several years before actual building occurs.

⁵Our calculations are explained in more detail in Appendix 2 to the online version of this Brief, <http://aic.ucdavis.edu/oa/briefs.html>

Either the “paving over” or the “sufficient farmland” perception can be supported by our estimate of recent conversion acreage, depending on context and personal values. The conversion of more than a half million acres over ten years—or 49,700 per year—is a substantial amount that

many Californians see as an immediate and very serious environmental threat to their rural landscape. Turning that much farmland into developed acres is roughly equivalent to creating three new cities the geographic size of Modesto every year.

Yet the conversion numbers seem small when compared to California’s supply of privately owned farmland, about 27 million acres as of 1997. The 497,000 acres converted in 1988-98 were only 1.8 percent of this agricultural land base in 1988, amounting to an annual rate of less than two-tenths of one percent (0.18%). At that rate, others have suggested, the present pace of urban development could continue for decades without severely affecting the total production of California agriculture.

In fact California agriculture prospered economically in the last half of the 20th Century, a period of rapid and extensive urbanization. During these 50 years the state’s agricultural landscape was substantially changed as urban and suburban development cut sharply into the agricultural production of coastal areas, particularly in the Los Angeles and San Francisco Bay regions. Yet California’s farm production and market value increased greatly during this period, with agricultural cash receipts almost doubling from \$13 billion in 1950 to \$25 billion in

1997 and net farm income increasing from \$4.8 billion to \$6.1 billion (both in constant 1996 dollars). Several developments made this possible: (1) Expanded fruit, vegetable, nut and vine production in the Central Valley, (2) Increased water supplies from federal and state reservoirs and canals for agricultural use in the Central Valley, leading particularly to new plantings on the Valley's west side, and (3) Improvements in farm technology that increased per acre productivity.

Future prospects

If we base future projections on FMMP data for the past ten years, it is easy to assume that urbanization will not seriously threaten California's enormous farmland base for many years to come. The Central Valley, with its horizon-to-horizon agricultural landscape, seems to contain an almost inexhaustible supply of productive farmland—currently about 6.7 million cropland acres and another 6.9 million devoted to grazing. This is a major point made by opponents of strong farmland protection and growth control measures.

But a number of uncertainties complicate the picture and suggest that farmland conversion is a more serious matter than implied by the FMMP numbers. Here are several factors that should be considered in any comprehensive deliberation about California's farmland base:

(1) Most significantly, direct urbanization is only one form of farmland loss. Agricultural acres are also converted to environmental uses or, for economic reasons, are left idle for long periods or permanently taken out of production. The FMMP does not count such changes as direct urbanization, but includes them in the broad "other land" category. Agricultural to "other" conversions can include land converted to wetlands and wildlife habitat, land temporarily idled before eventual development (at least 4 years), and land taken out of production because of higher prices for inputs, such as water, or lower crop prices. According to our calculations based on FMMP data, farmland transferred to the "other" category in 1988-98 totaled about 167,000 net acres—about half of

the direct agricultural-urban conversion total of 311,000 acres. During the 1996-98 period, agricultural to "other" transfers sharply increased, rising to 74,000 acres from 40,500 in 1994-96.

It is likely that the retirement of farmland for these environmental and water-related reasons will increase in the near future, especially in the Central Valley, exceeding urbanization as the principal contributor to conversions. Several indications point in this direction, including the steady expansion of the habitat and wetlands restoration programs of federal and state governments and nonprofit organizations, the transfer of water from agricultural to environmental uses through the CalFed process, and the increasing retirement of farmland on the west side of the San Joaquin Valley due to the buildup of salts and the lack of effective drainage. In the last few months the Westlands Water District, in response to water and drainage problems, announced plans to seek a federal/state buyout of 200,000 farmland acres—an amount equal to four years of statewide urban conversions.

(2) Statewide numbers mask local variations. What most stimulates public concern about conversions is the sight of farm fields giving way to new residential subdivisions and shopping centers, and office buildings accompanied by vast parking lots. These signs of conversion are vivid around rapidly expanding cities in agricultural areas such as Tracy, Bakersfield, Stockton, Brentwood, Manteca, and Morgan Hill. Conversion activity in such locations is immediately visible to urban and suburban people, while most of California's agricultural acres are in more remote areas where relatively little urbanization occurs.

(3) The best cropland is more likely to be converted to urban uses. Between 1988 and 1998, prime cropland accounted for about 30 percent of farmland acres converted, although it represented only 18 percent of the state's total agricultural land. Similarly, other cropland constituted 36 percent of conversions and 25 percent of the agricultural land base. In contrast, grazing acreage accounted for only 34 percent of the converted acres, but 57 percent of the agricultural land base (FMMP). The greater share of

prime cropland converted is largely due to its suitability for development and its proximity to existing development. Grazing land tends to be more remote from urban areas or located on harder-to-develop hillsides.

(4) The future rate of farmland-to-urban conversion is uncertain and could increase as previous development makes urban infrastructure more available. Development density and population growth are additional sources of uncertainty. Between 1988 and 1998 California's population grew by about 19%, or 5.4 million, (California Department of Finance) while, by our estimate, about 497,000 acres of the state's farmland were converted to urban uses. This translates to an average development density of about 0.1 acres of converted farmland per new resident. The California Department of Finance projects that California's population will grow to 58.7 million by 2040. If we assume a continuation of the 0.1 development density, this population increase would correspond to about 2.5 million acres of farmland converted. A lower development density or higher-than-projected population growth would imply even more conversion.

Perceptions about the Causes of Farmland Conversions

“High prices or revenue through government support can slow or stop farmland conversion”

Some argue that slowing farmland conversion can be accomplished by giving farmers higher prices for their commodities through increased federal government farm subsidies. In theory this could be true. Farmers, like other business people, balance the profit they get from their investment in land across various uses. Therefore more total money in farming may reduce land transfers out of farming. However, the relative

prices involved make it very implausible that government payments will keep much land from shifting out of farming.

The difference in the price per acre for land in agricultural production and agricultural land for development is typically large. In urbanizing areas, bare ground sold for development regularly exceeds \$40,000 per acre, considerably more if urban improvements are in place. Meanwhile, the average agricultural land prices in California are much smaller—\$1,050 for grazing land and \$5,500 for fruit, tree-nut and vegetable areas (National Agricultural Statistics Service).⁶ Further, the differences between urban and agricultural land prices are largest for those crops that have had government subsidy programs—generally field crops such as grains and cotton. This difference is so large that raising commodity prices high enough to effectively outbid developers would require such massive per unit crop subsidies that budget costs would be prohibitive. For example, if it took \$30,000 per acre to keep cotton land from being developed, price supports would have to be about \$2.87 per pound, compared to market prices of roughly \$0.75.⁷ Even for high value crops such as wine grapes or fresh vegetables, farmland values do not approach the value of the land for urban uses. And these crops have not been the subject of farm price policy.

Naturally, we might expect more farmland conversion during times of lower prices or when government payments are not available. In these cases, cash flow problems may encourage the sale now, rather than in a few years. Of course, some landowners like to farm and will keep their land in farming if they can earn a minimum return. For them, agricultural earnings do not have to compete with the sale price of land for urban development. However, farmland owners who want to continue to farm often can sell acreage in an urbanized location and shift their farming operations to a more remote area. Indeed, this move has allowed

⁶In extreme cases, farmland can be more expensive. Napa County vineyards, for example, have sold for as much as \$90,000 per acre (American Society of Farm Managers and Rural Appraisers).

⁷This assumes the per acre price of cotton land is about \$3,000, which we infer to be conservatively large given land prices for field crops listed in *Trends in Agricultural Land and Lease Values*. We also assume the discount rate is 12%, reflecting farmers' uncertainty about the specifics of the program's future.

many farmers access to capital to expand their operation and solidify their future in farming.

“Scratch a farmer and you find a developer”

This popular expression has its basis in the speculative value of land that is being used to grow commodities, a value much greater for urban development than for continued farming as the numbers cited above indicate. This land value is the principal financial asset for most farmland owners, representing economic security for retirement income, bequests, or other uses.

However, the likelihood of an individual farmer becoming a developer is limited. Few farmland owners actually have the immediate or foreseeable opportunity to sell, simply because their parcels are not in the right place—as dictated by local land markets and city and county government growth policies. Thus, opportunities for turning rural land into residential and other urban uses are generally confined to the fringes of expanding cities and other urban areas. Most California farmland, particularly in the Central Valley, North Coast and desert valleys, is located far from the urbanizing fringes.

Patterns of concentrated urbanization in California are partly the result of county planning and land use policies—frequently in cooperation with city governments—that limit new development in agricultural areas, and instead direct it toward cities. This limits cash-out opportunities to a relatively small number of landowners, and also produces more compact development, thus decreasing the volume of farm acres converted to urban uses. Not all California counties follow such a city-oriented growth strategy, but it is the prevalent land use policy in such agricultural counties as Fresno, Tulare, Merced, Yolo, Napa and Solano.

Even many landowners with agricultural properties in the shadow of urban areas prefer to continue farming. Perhaps the path of urbanization is not moving in their direction, but personal and economic factors also are at work. Most farmers generally enjoy their occupation and would like to continue, assuming they can ride out price fluctuations, weather and pests, and are able

to provide adequately for their families. Of course, this attitude varies according to circumstances, with resistance to selling fortified by such factors as family tradition, personal attachment to the land, the farm parcel serving also as a home site, and the direct involvement of the landowner in the farm operation.

Perceptions about the Effects of Farmland Conversion

“Continued urbanization will prevent California from feeding itself”

Food security and self-sufficiency is one common argument for strong farmland protection programs. Two misconceptions are implicit in this argument. One is that California produces most of its own food and would have shortages if its farmland was developed for urban use. In fact, most food consumed by Californians is brought in from other states and countries, while most California farm production is shipped out-of-state. Californians buy meat, grains, and even some fruits and vegetables from out of state sources, while the state produces more than half the fruit, nut, and vegetable crops consumed in the rest of the United States. For many commodities California is the leading producer and supplier to the rest of the nation. If these trade patterns did not hold, many foods would be much more expensive than they are now.

However, large-scale farmland conversions that reduce the production of certain commodities could affect local and even international food markets. For example, if a large share of California avocado, artichoke or almond land was converted, market prices would be significantly affected, at least while adjustment took place, because California is the dominant producer of these crops. But these are not the crops people typically mean when they refer to “food security.” Also, prices would rise for all consumers, not just those in California.

The second misconception is that gradual decreases in farmland necessarily lead to actual declines in overall food production. This has certainly not been the case up to now in California where agricultural productivity has increased much faster than the agricultural land

base has declined. The real value of average agricultural production per acre (in constant 1996 dollars) increased from \$422 in 1964 to \$928 in 1997, while the relative price of food declined.⁸ With a couple of exceptions, production quantities of California crops have increased dramatically since mid-century. For example, while average harvested acres of wheat decreased slightly between 1950-54 and 1995-99, production increased by 350%, outpacing the state's population growth. Other major commodities whose production increases outpaced population growth include rice, lettuce, processing tomatoes and walnuts.

While farmland conversion does not threaten California's food security, it is certainly true that if a large part of the Central Valley were converted the state's agricultural production would decrease. Even if farms were to relocate elsewhere in California, there are no other large areas in the state comparable to the Central Valley in soil quality, water availability and other favorable growing conditions. Thus, it would not be possible to repeat the relocation scenario of the 1950-80 period when production of horticultural crops expanded in the Central Valley while farmland was being urbanized in coastal regions.

“Farmland conversion generates public sector costs”

Studies conducted by the American Farmland Trust and other organizations usually support the generalization that when taxes and other public revenues are balanced against public expenditures, farmland produces a net gain for local jurisdictions while urban land use results in financial costs. However, the type of urban development tends to dictate whether farmland conversion generates a net financial gain or loss for local governments.

Much of the fiscal gain for local communities from urban development is short-run, generated by initial development and construction activities. In the long run, it is far more costly for local governments to provide public services and facilities to urban than to agricultural areas. The critical distinction is how

different forms of development affect the balance of local revenues and expenditures. Under California's local public revenue system, new housing, factories, and stores do not pay their own way in local tax terms because of limitations on the property tax. However, retail development often generates a net gain for local governments because of sales tax receipts. This is why local governments often aggressively compete for stores but accept residential development with less enthusiasm.

“Farmland conversion hurts local economies because of agriculture's economic multiplier effects”

Each dollar earned by agriculture or any other business stimulates additional indirect economic activity in the input and processing sectors in the form of jobs, income and output. The combined direct and indirect economic impacts of farming accounted for about 6.6 percent of California's income and 7.4 percent of its jobs in 1998. The proportions are much higher where local economies are dominated by agriculture. In the San Joaquin Valley, for example, agriculture accounts for 31.7 percent of local income and 36.9 percent of all jobs.

Nevertheless, communities and regions generally gain in overall economic terms when farmland conversions occur, through economic diversification, new jobs and higher incomes. As in the impacts on public sector finances, much depends on the mix of residential, commercial, industrial and other urban development that replaces farmland. Higher income jobs, for example, are more associated with certain kinds of industrial and office development than with retail stores. The jobs/housing balance of new development also helps determine how urbanization will affect the local economy. Overall, the economic return in income and jobs from urban land use is usually greater on a per acre basis than the return from farming.

Another misleading aspect of this perception is the emphasis on “lost” farm production that results from the conversion of particular parcels. In California's large and flexible agricultural industry, particular

⁸Calculated as the ratio of the Food Retail Price Index to the Consumer Price Index, the relative price declined from 1.1 to 1.0.

conversions do not generally bring about a net decrease in statewide or regional production, since the lost output can be replaced by shifting to other locations.

“Agricultural land provides open space, environmental, and social amenities”

Agricultural acres are a major form of open space, leading to one of the most powerful arguments on behalf of farmland protection. The aspect of the farmland conversion issue that most engages urban and suburban residents is the strong belief that nearby agriculture improves a community’s quality of life through its visual and other aesthetic properties, habitat uses, and contrast with urban congestion. Further, access to locally grown products at farmers’ markets and other outlets is appealing to many.

To the extent that farmland provides aesthetic or other non-market values to urban and suburban residents, it becomes a socially valuable public good, having value separate from the economic benefit of producing marketable commodities. A natural policy response would be to provide public funds reflecting the amenity value of farmland to compensate landowners for maintaining their acreage in agriculture.

In California, land use policies are now moving in this direction. State and local governments have long sought to preserve farmland from urbanization through regulatory and planning measures, including agricultural zoning, controls on city expansion, environmental review, and general plans. The current policy shift is to a greater emphasis on market-based compensatory measures for protecting farmland, particularly the purchase of development rights from landowners in the form of conservation easements, and a new version of the Williamson Act that grants a larger property tax cut to farmland owners with longer contracts. Primarily in the form of nonprofit land trusts, local conservation easement programs focused on farmland are rapidly expanding in California, muted somewhat by limited revenue sources and uncertainties on the part of landowners.

Conclusions

Many in California and elsewhere readily support the preservation of farmland in the face of urbanization. Evidence for this is seen in public opinion poll results, newspaper editorials and letters-to-the editor, as well as public support for policies that promote farmland preservation. Yet both the continuing public debate about the conversion issue and informed public policy require numbers and arguments that do not exaggerate the extent of the problem or misinterpret its causes and consequences.

Farmland conversion is a serious issue in California. The evidence shows that its effects are more long-term than immediate, more visible in particular localities than statewide, and involve more than direct agriculture-to-urban changes. In the future, more land may be taken out of production because of limited water supply and for habitat restoration than because of urban expansion. Whatever the scenario, the numbers reflecting recent and current conversion rates should not be a cause for either complacency or panic.

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6:45 pm

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December 17, 2007

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Honorable Bill O'Brien, Chairman
Stanislaus County Board of Supervisors
1010 10th Street.
Modesto, California 95354

Chairman O'Brien and Members of the Board of Supervisors:

The Modesto Chamber of Commerce requests the vote to amend to the Agriculture Element to the General Plan of Stanislaus County be delayed for appropriate consideration of stakeholders that will be affected by the amendment.

In the past Stanislaus County has provided language and updates to legislation that significantly impacts stakeholders like the Chamber's diverse membership for input before it comes to a vote of the Board of Supervisors. We are asking for the same consideration.

Past instances of the County providing an opportunity for stakeholder involvement include the last update of the Agriculture Element of the General Plan in 1992. Our archives show that a task force was appointed by the Chamber of several stakeholders to study the language, offer suggestions and provide support for the Ag Element. Since the proposed amendment was presented and accepted by the Planning Commission on December 6, 2007, two past chairman and the current chairman of the Land Use and Transportation Committee of the Modesto Chamber of Commerce have contacted me and asked why stakeholder input was not requested in advance of the Planning Commission meeting. I have not a sufficient answer. In April, the Chamber faced the same lack of stakeholder input when the proposed amendment went before the Board of Supervisors, but was wisely sent back for review. To catch up on the issue we held two informational sessions presented by Wayne Zipser of the drafting committee and Supervisor Monteith. We have not heard from the County since that time.

The County also provided the Chamber's Land Use and Transportation Committee ample opportunity to discuss Measure L and provided staff members to answer questions as the proposal was being drafted.

The Modesto Chamber represents over 1,400 members, many in agribusiness. We would welcome the same courtesy provided to the



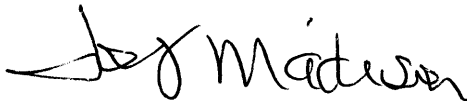
Chamber by being able to move the proposed amendment to the Ag Element to a task force for discussion. But 11 days between the Planning Commission and Board of Supervisors vote does not allow us the time to study, ask questions and provide an opinion on the proposed amendment. We question why the vote is so accelerated.

The Modesto Chamber would commit to immediately assembling a task force to provide input on the issue. We would do that separately from the January 2008 Land Use and Transportation meeting where we are co-hosting an informational session with the Alliance about the expanded Enterprise Zone – which may very much be affected by the proposed Ag Element amendment. Ag land mitigation, questions of property rights erosion and the cost and collection to oversee perpetual easements are some of the issues the Chamber will want to thoroughly discuss.

The Chamber has appreciated how Stanislaus County has customarily provided stakeholders reasonable time and the opportunity to weigh in on public policy of significance. Considering the massive amount of time and knowledge the drafters of the proposed amendment have dedicated, it would be respectful of their efforts to solicit input from the diverse stakeholders that would be affected.

The Chamber thanks Stanislaus County for its attention to the matter at hand and urges the Board of Supervisors to postpone the vote on the proposed amendment to the Agriculture element for stakeholder input.

Sincerely,

A handwritten signature in black ink, appearing to read "Joy Madison". The signature is fluid and cursive, with a large initial "J" and "M".

Joy Madison, President and CEO

Cc:

Honorable Thomas Mayfield, Vice-Chairman
Honorable Jeff Grover, Supervisor
Honorable Jim DeMartini
Honorable Dick Monteith, Supervisor
Mr. Rick Robinson, CEO Stanislaus County Chief Executive Office
Ms. Christine Ferraro Tallman, Clerk of the Board of Supervisors

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
OFFICE OF THE DIRECTOR**

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December 17, 2007

The Honorable William O'Brien
Chairman
Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, California 95354
VIA ELECTRONIC MAIL

Re: Agricultural Land Mitigation Policy

Dear Chairman O'Brien:

The Department has recently been informed of the new Agricultural Land Mitigation Policy that Stanislaus County is considering adopting on Tuesday, December 18, 2007.

I apologize for not contacting you sooner, but only recently received notice about this major policy adoption.

I would like to take this opportunity to congratulate you on the comprehensive and innovative land use policies the county is proposing, including higher density development in urban cores, and efficient use of all natural resources. Both of these policies will benefit the local and regional economies, the environment and all of Stanislaus County residents.

Whenever a significant new local land use policy is adopted, it should be reviewed and considered for consistency with State and local housing goals. As you know, the State of California lacks an adequate supply of housing affordable to its residents. It is of extreme importance that all of us work together to ensure that our population has access to safe and affordable housing.

Prior to adoption, the County should analyze the Agricultural Land Mitigation Policy in relationship to the County's housing element and State housing element law, to among other things examine its potential impact as a governmental constraint to meeting local housing goals. In particular, the County should be analyzing the nexus of mitigation replacement fees on housing production in accordance with AB1600. In addition, should the County adopt such a policy, the County's housing element would require immediate amendment to incorporate the analysis of the potential constraining impact of the fee. The revision of the element would be necessary to maintain compliance with housing element law.

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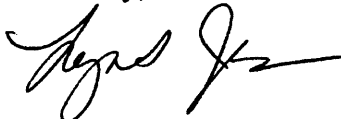
The Honorable William O'Brien
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The Department heartily concurs with your policy declarations emphasizing the economic development importance of agriculture to your county. As Stanislaus County is one of the select jurisdictions designated as an enterprise zone, it is also critical the Department have the opportunity to review the enterprise zone's economic incentives to make sure that there are no conflicts with this new policy, its land designations, and the current enterprise zone.

As a result, I request you postpone action on the fee adoption for 30 days, to ensure the County has completed the necessary analyses noted above and to permit the Department adequate time to review this new policy in light of your Enterprise Zone designation and obligations. Cathy Creswell, our Deputy Director in charge of Housing Policy, would be happy to provide assistance in completing the critical analyses and its relationship to the County's housing element. In addition, please contact Deputy Director, Chris Westlake, of our Division of Financial Assistance regarding the impact of the proposed policy on the Enterprise Zone. Although your staff may have a better idea of the time needed to do a thorough analysis, I believe that a postponement of action for 30 days would provide sufficient time for the Department and County to cooperatively address these critical issues.

Thank you for your attention to this request. I look forward to working with you and your fellow Board members to increase economic development and housing opportunities in Stanislaus County.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn L. Jacobs", written in a cursive style.

Lynn L. Jacobs
Director



ALLIANCE

10TH STREET PLACE
P.O. Box 3091
MODESTO, CA. 95353

P 209.567.4985
F 209.567.4944
STANALLIANCE.COM

6:45pm

December 17, 2007

Stanislaus County Board of Supervisors
1010 10th Street
Modesto California 95354

BOARD OF SUPERVISORS
2007 DEC 18 A 10 32

Dear Supervisors,

As the designated agency for economic and workforce development in the county, the Alliance has been reviewing the proposed Agricultural Element over the past two weeks with great interest. While there was no solicitation of input from the Alliance over the months of work on this document, we concur with the purpose, goals and direction of the Agricultural Element update. Preserving agricultural production capacity in the county is essential. Supervisor Jim DeMartini, County Planning Staff and the Agricultural Advisory Board are to be congratulated on an outstanding effort.

The Alliance endorses passage of the Agricultural Element Update as long as there is refinement and clarification of those portions of the document that relate to mitigation.

The Alliance was aware of the on-going effort at the county over the past two years to develop an agricultural mitigation policy. It was however only recently that we discovered that the mitigation requirement included conversions for other than residential housing. As we have rushed to review the policy over the past few days, we have identified some concerns about how this policy will affect the expansion and location of employers in the county by increasing their cost of doing business..

Stanislaus County Farmland Mitigation Program (FMP) Guidelines located in Appendix B are ambiguous and lacking in sufficient detail to enable us to predict actual costs to businesses seeking to expand or locate in the county. Companies considering Stanislaus County for a business presence need to have firm figures on the costs associated with a potential operation here. Once the numbers are in hand, our community is compared with other potential sites for a final decision. As the cost of doing business in the county increases, fewer and fewer companies will elect to operate here. With an already deficient jobs-to-housing ratio, the problems of unemployment will be exacerbated.

Policy 2.15 and the FMP Guidelines also introduce additional layers of bureaucracy at a time when a streamlining of the governmental approval process for industrial, commercial and

business park projects is badly needed. The salient points of our concerns and some general questions are as follows:

- There is no formula for calculating the administrative fee or what the fee will be used for.
- The policy calls for in-lieu fees to be no less than 35% of the average cost per acre for five comparable land sales in the county. Are these sales comparables based on agricultural land sales of any type of soil or "equal" to that, which is being converted? Since the in-lieu fee is calculated to be no less than 35% of the average cost per acre, can one assume that is the "going rate" for an easement purchase or credit purchase as well? The estimate of this additional cost will be something businesses will need to know and along with hefty impact fees will likely lessen interest in the county for business.
- Was any consideration given to exempting job-generating projects from mitigation requirements? We have a serious imbalance in our jobs to housing ratio and now we see yet another cost barrier being placed in front of businesses considering an operation in the county. We are very rapidly losing any "cost of doing business" advantages we may have had, making it increasingly difficult to sell the county to prospects.
- Was any consideration given to exempting land that is rezoned but utilized for public uses such as roads, storm drainage discharge, waste water discharge, parks and open space? Of special concern is the North County Corridor project, much of which will be located in county areas not covered by cities' spheres of influence. The additional costs for mitigation, if not waived, will place additional costs on an already expensive project. Does the county pay to mitigate this project? If any right of way is bordered by easements, land needed for expansions can only be obtained by using eminent domain, escalating the costs significantly.

Because of the uncertainties of the proposed mitigation policy as written, we would respectfully ask that when you deliberate on the Agricultural Element on December 18, you set aside the section on mitigation and work with the various stakeholders to clarify and refine the language. As stated before, we would certainly endorse the implementation of the balance of the policy.

If you have any questions, please feel free to contact me.

Sincerely,



William Bassitt
CEO

6:45pm

Thanks!...to All at Thurs [12/13] KMPH 'Mayors Show' for brief discussion of major 'Points'...Stanco "Ag Element, revision" subjects.

For further reference, here's the 'web link' I found that outlines further what was brought up during the radio show by Supv. DeMartini and prompts by Carmen:

<http://www.stancounty.com/planning/pl/tmp-proj/ag-update/ag-update.shtm>

As counties seek more and more revenues through 'bureaucratic Agendas', I was waiting to hear what the 'Ag Elements' Rules Report would be hinting or describing about controlling excess Taxes and Fees [..another word for 'Tax'] on Agricultural land owners? These Stanislaus County 'growers' of Meat and Plant foodstuffs are weary of every rising TAXES, and County programs that 'rule' their daily lives of farming or ranching. A couple of scenarios, or Questions related to above:

1. Many in the County just paid their semi-annual Real Estate TAXES. It appeared on Tax Bill of Modesto city dwellers a significant increase of Taxes to Pay due to several 'School Bond' Tax increases. My question is, do County residences...and especially Farmers & Ranchers, living inside or outside cities have to pay these 'school bond tax increases' where the 'tax revenues' are used strictly for City Schools? If so, what justifies assessing Farmers & Ranchers with these city school bond taxes?

2. Last year, my spouse and I visited one of our tree crop ranchers, and bought significant amounts of local, not likely soon perishable, Nuts and dried fruits representing the rich heritage of crops from Stanislaus county, to give as Christmas Gifts to our out of State, and in-State relatives.

The ranchers wife happened to mention, among a lot of other 'chit-chat' that '...'the County was always at her premises with inspections, new agendas with fees, or government programs burdening her business. It almost sounded like she was getting very wary of all the County bureaucracy affecting her bottom line, and causing her to raise prices to where earnings from 'old time Customers' and new customers were significantly diminishing. She mentioned 'they might have to sell some land to support the County' desire to pay for all the imposed County programs affecting Agriculture. HOW ABOUT LOOKING AT & DETERMINING IF ALL THE "OLD" & NEW COUNTY PROGRAMS ARE REALLY NECESSARY, AND IN THE OVERALL LONG RUN GOING TO HELP SUSTAIN AGRICULTURE IN STANISLAUS COUNTY?

3. I grew up in Santa Clara-CA County in the '50's when it was a leading County for California Agriculture. At my 50th High School Reunion, I was anxious to see the 30 acre Future Farmers of America Farm located in 50's across from the High School ... it was gone, and fully asphalt paved as a parking lot for all the Teachers and students. At before the TOUR of school Orientation, I asked the Vice Principal, "Did you sell the Farm?" His answer, "Agriculture is NOT taught, any more, in any Santa Clara County

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BOARD OF SUPERVISORS

High School!" His remark made my heart sink, and wonder if this will be a similar future legacy of the Agriculture in Central Valley, someday?

Does our Stanislaus County really support, YEAR AROUND, the Agricultural Programs needed to Support Agriculture Teaching & Growing, Protect the Farmers, Ranchers, and Ag Processors & Ag Businesses from 'excess County bureaucracy including fees & taxes'?

We met in the gigantic building called "The Media Center" filled with over a hundred Computers. How can we ALL prevent from what has caused Santa Clara County from happening to Stanislaus County?

Great radio show, this 12/13 day! ...but, may I suggest we need, AT LEAST, 4 days a month ...if not more...about Details and Successes of Farming & Ranching in Stanislaus County. Give the Farming/Ranching Community a County Wide Forum and chance to speak about what they really want to improve our tri-counties [span the radius of KMPH radio signal] Agriculture!

Danny Gottlieb

Agriculturalist, Food Technologist

B.Sc.-Agriculture '62 -- Cal Poly/SLO

6:45 pm



SUPPORT A STRONG LOCAL ECONOMY
PROMOTE THE COMMUNITY
PROVIDE NETWORKING OPPORTUNITIES
REPRESENT THE INTERESTS OF BUSINESS WITH GOVERNMENT
ENGAGE IN POLITICAL ACTION

December 13, 2007

The Honorable William O'Brien
Chairman
Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, California 95354

2007 DEC 18 P 3:03
BOARD OF SUPERVISORS

Re: AGRICLUTURAL ELEMENT UPDATE AND WILLIAMSON ACT UNIFORM RULES UPDATE

Dear Supervisor O'Brien:

On behalf of the Turlock Chamber of Commerce, I would like to take this opportunity to thank the Stanislaus County Board of Supervisors for their dedication to the agricultural industry in this county. Agricultural commerce is a fundamental component of our membership and the overall economic picture here in the central valley.

The Turlock Chamber of Commerce represents hundreds of Stanislaus County taxpayers, businesses and agricultural operations throughout Stanislaus County. We appreciate the role we play in sustaining the viability of the businesses we represent by participating in the government process through advocacy and education.

It has come to the attention of our Board of Directors that the Stanislaus County Board of Supervisors will be considering the adoption of a revised Agricultural Element on December 18th, 2007. After a somewhat brief analysis of the document, it is clear to us that there are policies included in the proposed element update, primarily the "Farmland Mitigation Program", that have the potential to adversely affect the interests of our members.

As an organization committed to political accountability and oversight, we respectfully request that you defer consideration of the proposed "Farmland Mitigation Program" to allow for a stakeholder process to take place. The Turlock Chamber of Commerce would appreciate the opportunity to participate in the proposed deliberations and would be pleased to provide a forum or other possible resources to facilitate these necessary discussions.

Thank you for taking the time to consider the request of the Turlock Chamber, its members, and the citizens of Stanislaus County.

Sincerely,

Sharon Silva
President & CEO
Turlock Chamber of Commerce

ORDINANCE NO. C.S. 1020
AN ORDINANCE RELATING TO THE UPDATE
TO THE AGRICULTURAL ELEMENT OF THE
STANISLAUS COUNTY GENERAL PLAN
THE BOARD OF SUPERVISORS OF THE COUNTY
OF STANISLAUS, STATE OF CALIFORNIA,
ORDAINS AS FOLLOWS:

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO**, County of **STANISLAUS**, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed a printed copy, has been published in each issue there of on the following dates, to wit:

DECEMBER 27, 2007

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at **MODESTO, California** on

DECEMBER 27, 2007


(Signature)

Section 1. Section 21.12.020 of the Stanislaus County Code is amended to read as follows:
" 'Agriculture' means the tilling of the soil, the raising of crops, horticulture, viticulture, small livestock farming, dairying, aquaculture, or animal husbandry, including all uses customarily incidental thereto but not including slaughterhouses, fertilizer yards, bone yards or plants for the reduction of animal matter or any other industrial use which is similarly objectionable because of noise, odor, smoke, dust or fumes."

Section 2. Section 21.12.030 of the Stanislaus County Code is amended to read as follows: " 'Agricultural service establishment' means a business engaging in activities designed to aid production agriculture. Service does not include the provision of tangible goods except those sold directly to farmers and used specifically to aid in production of farm animals or crops. Nor does service include any business which has the primary function of manufacturing products."

Section 3. Section 21.12.495 of the Stanislaus County Code is added to read as follows:
"21.12.495 PRODUCTION AGRICULTURE
"Production Agriculture" means agriculture for the purpose of producing any and all plant and animal commodities for commercial purposes."

Section 4. Subsection B of Section 21.20.020 of the Stanislaus County Code is amended to read as follows:

"Single-family dwelling(s) on parcels meeting the following criteria:

1. Parcels less than 20 acres in size and zoned A-2-3, -5, -10, or -20 - One-single family dwelling is permitted on all parcels that meet or exceed the minimum building site area requirements of this chapter.

2. Parcels less than 20 acres in size and zoned A-2-40, or -160 - One-single family dwelling is permitted with approval of a Staff Approval Permit in accordance with Section 21.100.050(C) of the Zoning Ordinance.

3. Parcels of 20 acres or more in size - Two-single family dwellings may be constructed on a parcel, regardless of the minimum parcel size zoning requirement. The second dwelling shall be placed to take maximum advantage of existing facilities including utilities and driveways. New driveways may be authorized by the County Public Works Department when it can be shown public safety will not be degraded, now or in the future, based on both existing traffic conditions and future traffic projected in the County General Plan.

Any parcel created with a 'no build' restriction shall meet the criteria specified in Section 21.20.050 prior to the construction of any dwelling. Any parcel enrolled in the Williamson Act, and not subject to a 'no build' restriction, shall be in agricultural use prior to the construction of any dwelling."

Section 5. Subsection A (1.) of Section 21.20.030 of the Stanislaus County Code is amended to read as follows:

"1. Stationary installations such as alfalfa and feed dehydrators; commercial viners; fuel alcohol stills designed to serve a localized area; nut hulling, shelling, and drying; agricultural experiment stations; warehouses for storage of grain and other farm produce; weighing, loading and grading stations; wholesale nurseries and landscape contractors when conducted in conjunction with a wholesale nursery; agricultural backhoe services; sale of firewood; and similar agricultural facilities;"

Section 6. Subsection E of Section 21.20.030 of the Stanislaus County Code is repealed.

Section 7. Section 21.20.050 of the Stanislaus County Code is amended to read as follows:

"All divisions of land on property zoned A-2 (General Agriculture) shall conform to the minimum parcel designation exhibited on the county's sectional district maps. The subdivision of agricultural land consisting of unirrigated farmland, unirrigated grazing land, or land enrolled under the Williamson Act, into parcels of less than 160-acres in size shall be allowed provided a "no build" restriction on the construction of any residential development on newly created parcel(s) is observed until one or both of the following criteria is met:

A. 90% or more of the parcel shall be in production agriculture use with its own on-site irrigation infrastructure and water rights to independently irrigate. For land which is not irrigated by surface water, on-site irrigation infrastructure may include a self-contained drip or sprinkler irrigation system. Shared off-site infrastructure for drip or sprinkler irrigation systems, such as well pumps and filters, may be allowed provided recorded long-term maintenance agreements and irrevocable access easements to the infrastructure are in place.

B. Use of the parcel includes a confined animal facility (such as a commercial dairy, cattle feedlot, or poultry operation) or a commercial aquaculture operation."

Section 8. Subsections B (1.) and B (2.) of Section 21.20.060 of the Stanislaus County Code are repealed.

Section 9. Subsection C of Section 21.20.060 of the Stanislaus County Code is repealed.

Section 10. Subsection E of Section 21.20.060 of the Stanislaus County Code is amended to read as follows:

lows:

"E. Parcels created by a lot line adjustment between two or more adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, where the integrity and purpose of Section 21.20.010 is maintained, where one of the parcels is already below the minimum lot area of the zone in which it is located, where a greater number of nonconforming parcels, in terms of parcel size and permitted dwelling(s), is not thereby created and the following criteria can be met:

A. Parcels greater than 10-acres in size shall not be adjusted to a size smaller than 10-acres, unless the adjustment is needed to address a building site area or correct for a physical improvement which is found to encroach upon a property line. In no case shall a parcel enrolled in the Williamson Act be reduced to a size smaller than 10-acres; and

B. Parcels less than 10-acres in size may be adjusted to a larger size, 10 acres or greater in size if enrolled in the Williamson Act, or reduced, if not enrolled in the Williamson Act, as needed to address a building site area or correct for a physical improvement which is found to encroach upon a property line."

Section 11. Subsection C of Section 21.100.050 of the Stanislaus County Code is amended to read as follows:

"C. One single-family dwelling on a parcel legally created that is less than twenty acres in size and located in the A-2-40 or -160 (General Agriculture) zoning district.

The following findings must be made in addition to the findings required pursuant to Section 21.100.030:

1. The dwelling would be consistent with the County's General Plan;

2. The dwelling would not likely create a concentration of residential uses in the vicinity or induce other similarly situated parcels to become developed with single-family dwellings; and

3. The dwelling will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity."

Section 12. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor Grover, seconded by Supervisor DeMartini, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the 18th day of December 2007, by the following called vote:

AYES: Supervisors: Mayfield, Grover, and DeMartini

NOES: Supervisors: Monteith and Chairman O'Brien

ABSENT: Supervisors: None
William O'Brien

Chairman of the Board of Supervisors of the County of Stanislaus, State of California

ATTEST:
Christine Ferraro Tallman

Clerk of the Board of Supervisors of the County of Stanislaus, State of California

By: Elizabeth King, Assistant Clerk

APPROVED AS TO FORM: Michael H. Krausnick
County Counsel

By: John P. Doering, Assistant County Counsel
DECEMBER 27, 2007