

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

DEPT: County Counsel

BOARD AGENDA # *E-1

Urgent Routine

AGENDA DATE March 18, 2008

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Introduce, Waive the Reading and Adopt an Ordinance Implementing the Thirty-Year Land Use Restriction Initiative (Measure E)

STAFF RECOMMENDATIONS:

1. Find that the subject ordinance is not subject to the California Environmental Quality Act (Public Resources Code sections 21000 et seq.); and
2. Introduce, waive the reading and adopt an ordinance attached as Attachment 1 to implement the provisions of the Thirty-Year Land Use Restriction Initiative (Measure E) approved by the voters of Stanislaus County on February 5, 2008.

FISCAL IMPACT:

This action will not result in an impact to the general fund.

BOARD ACTION AS FOLLOWS:

No. 2008-186

On motion of Supervisor Monteith, Seconded by Supervisor DeMartini

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION: **INTRODUCED, WAIVED THE READING AND ADOPTED ORDINANCE C.S. 1032**

ATTEST: Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

Approval to Introduce, Waive the Reading and Adopt an Ordinance Implementing the Thirty-Year Land Use Restriction Initiative (Measure E)

Page 2

DISCUSSION:

On February 5, 2008, the voters of Stanislaus County approved the Thirty-Year Land Use Restriction Initiative (Measure E). The ordinance attached as Attachment 1 is a formal ordinance to implement the Measure E initiative. The ordinance also adds section 20.04.080 of the County Subdivision Ordinance and adds a new Chapter 21.118 to the County Zoning Ordinance to ensure conformance with the provisions of Measure E.

Staff recommends that the Board of Supervisors introduce, waive the reading and adopt the proposed ordinance to implement the provisions of Measure E.

POLICY ISSUES:

The Board should consider whether adoption of the proposed ordinance implements the decision of the voters of Stanislaus County to approve Measure E in support of the Board's priority to strengthen the County's agricultural economy and heritage.

STAFFING:

There is no staffing impact associated with this request.

**AN ORDINANCE TO IMPLEMENT THE THIRTY-YEAR
LAND USE RESTRICTION INITIATIVE**

WHEREAS, on July 18, 2006, pursuant to Elections Code section 9118, the Board of Supervisors accepted the certification of the County Clerk that sufficient signatures were obtained by the proponents of the proposed Thirty-Year Land Use Restriction Initiative; and

WHEREAS, on July 25, 2006, pursuant to Elections Code section 9111, the Board of Supervisors ordered, a report on the impacts of the Initiative; and

WHEREAS, on August 15, 2006, pursuant to Elections Code section 9118, the Board of Supervisors considered a report on the impacts of the Initiative, ordered an election, and directed the County Elections Official to place the measure on the ballot for the next statewide election occurring not less than 88 days after the date of the order of election; and

WHEREAS, the voters of Stanislaus County considered and approved the Initiative measure on the February 5, 2008 ballot; and

WHEREAS, on March 4, 2008, the Board of Supervisors declared the vote for the February 5, 2008 ballot;

NOW, THEREFORE, the Board of Supervisors takes the following action to implement the Initiative.

THE PEOPLE OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAIN AS FOLLOWS:

Section 1. Goal Six and Policy Twenty-five is added to the Stanislaus County General Plan Land Use Element at page 1-16 of the General Plan Land-Use Element, immediately following Goal Five to read as follows:

GOAL SIX

Provide for direct citizen participation in land-use decisions involving the expansion of residential uses into agricultural and open-space areas in order to encourage compact urban form and to preserve agricultural land.

POLICY TWENTY-FIVE

A. Any decision by the Board of Supervisors of the County of Stanislaus to approve the redesignation or rezoning of land from an agricultural or open space use to a residential use shall require, and be contingent upon, approval by a majority vote of the County voters at a general or special local election. In the event the Board approves the redesignation or rezoning of such land for a residential use, such approval shall not take effect unless and until that decision is approved by an affirmative majority vote of the voters of the County voting on the proposal.

B. The requirement set forth in paragraph (A) shall apply to all such decisions affecting land that is designated for agricultural or open space use on the Land Use Map of the County's General Plan as of the effective date of this policy, even if the affected land is, after the effective date, redesignated or rezoned to a use other than an agricultural or open space use. The intent of this paragraph is to ensure that a developer does not "launder" land by obtaining County approval for a non-residential use (e.g., an industrial or commercial use), and then subsequently obtain County approval for a residential use.

C. The Board's decision to approve the redesignation or rezoning of land from an agricultural or open space use to a residential use constitutes the "approval" of a "project" for purposes of CEQA. For this reason, the County shall comply with CEQA prior to the Board's decision to approve the redesignation or rezoning, notwithstanding the requirement that the voters approve such redesignation or rezoning.

D. Once the voters have approved a land use map designation or land use entitlement for a property, additional voter approval shall not be required for: (1) subsequent entitlement requests that are consistent with the overall approved development project or land-use designation and zoning; and (2) any requested modification to a land-use or zoning designation that does not decrease the number of permitted dwellings, as specified in the exhibits and plans approved by the voters.

E. Exemptions. The requirement for voter approval set forth in this policy shall not apply to any of the following:

1. After notice and hearing as required by state law and after compliance with CEQA, the Board of Supervisors may, without a vote of the electorate of the County, approve residential development on land designated for agricultural or open space uses if the Board finds, based on substantial evidence in the record, and HCD certifies in writing, that all of the following circumstances exist: (a) the approval is necessary and required to meet the County's legal fair share housing requirement; and (b) there is no other land in the County or the cities in the County already designated for urban use that can accommodate the County's legal fair share housing requirement. The Board shall not redesignate more than ten (10) acres per year for residential use under this paragraph.

2. Additional acreage may be designated for residential use if the Board finds, and HCD certifies in writing, that the additional acreage is necessary to meet the Board's legal fair share obligation based on maximum multi-family densities. Any proposal approved under this subsection shall be required to have all housing units permanently affordable to persons or families of moderate, low and very low income. The intent of this exemption is to provide sufficient land for housing to accommodate moderate, low and very low income housing, as may be necessary over time under State law.

3. Any development project that has obtained a vested right pursuant to state law prior to the effective date of this policy.

4. Any development project consisting entirely of farm worker housing.

F. Definitions.

The following definitions apply to this policy:

1. "Residential use" means any land-use designation, zoning district or other legislative entitlement authorizing, allowing, or consistent with residential development at a density greater than one (1) dwelling unit per ten (10) gross acres. Such density shall not include (a) caretaker housing or other residential uses incidental to the primary use, or (b) farm worker housing. "Residential use" includes the following land-use designations set forth in the General Plan (1994), all land-use designations that may be adopted by the County in the future that are comparable to such designations, and all zoning districts compatible with such designations: Estate Residential, Low-Density Residential, Medium-Density Residential, Medium High-Density Residential, Planned Development, and Specific Plan.

2. "Agricultural or open space use" means any land-use designation or zoning district authorizing, allowing, or consistent with residential development at a density of equal to or less than one (1) dwelling unit per ten (10) gross acres. "Agricultural or open space use" includes the following land-use designations set forth in the General Plan (1994), all land-use designations that may be adopted by the County in the future that are comparable to such designations, and all zoning districts compatible with such designations: Agriculture, Urban Transition, Mineral Resources.

3. "General Plan" means the Stanislaus County General Plan adopted in or about October 1994, as amended through the effective date.

4. "Effective date" means the effective date of the Citizen's Right to Vote on Expansion of Residential Areas initiative measure, as established by the California Elections Code.

5. "Board" or "Board of Supervisors" means the Stanislaus County Board of Supervisors.

6. "County" means Stanislaus County.

7. "CEQA" means the California Environmental Quality Act.

8. "HCD" means the California Department of Housing and Community Development.

G. Duration; Amendment. Goal Six and Policy Twenty-five, shall remain in effect until December 31, 2036, and may be amended or repealed only by the voters of the County at an election held in accordance with State law.

Section 2. Section 20.04.080 is added to the Stanislaus County Code to read as follows:

"20.04.080 Thirty-year Land Use Restriction Initiative

Any approval pursuant to this Title 20 of a residential use of property shall comply with the Thirty-year Land Use Restriction Initiative adopted by the voters of Stanislaus County on February 5, 2008."

Section 3. Chapter 21.118 is added to the Stanislaus County Code to read as set forth in Exhibit A attached to this ordinance.

Section 4. Pursuant to Elections Code section 9122, this ordinance shall go into effect ten (10) days from and after the date the vote is declared by the Board of Supervisors.

Upon motion of Supervisor _____, seconded by Supervisor _____, 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 _____ day of _____, 2008, by the following called vote:

AYES: Supervisors:

NOES: Supervisors:


ABSENT: Supervisors:

Thomas W. Mayfield, Chair 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 _____
Deputy

APPROVED AS TO FORM:
Michael H. Krausnick
County Counsel

By 
John P. Doering
Assistant County Counsel

**TITLE 21
SUBDIVISIONS**

**CHAPTER 21.118
30-YEAR LAND USE RESTRICTION**

SECTIONS:

- 21.118.010 Introduction**
- 21.118.020 Voter Approval Requirement**
- 21.118.030 Cost of Election**

Section 21.118.010 Introduction

The voters of Stanislaus County approved the Thirty-Year Land Use Restriction Initiative on February 5, 2008, which added a goal and policy to the to the Stanislaus County General Plan. The provisions of this Chapter are intended to implement the requirements of the Thirty-Year Land Use Restriction Initiative.

Section 21.118.020 Voter Approval Requirement

Notwithstanding any other provision in Title 20 of the Stanislaus County Code related to approval of any tentative or final subdivision map or parcel map, including any provision related to vested rights, any decision by the Board of Supervisors of the County of Stanislaus to approve the redesignation or rezoning of land from an agricultural or open space use to a residential use shall require, and be contingent upon, approval by a majority vote of the County voters at a general or special local election. In the event the Board approves the redesignation or rezoning of such land for a residential use, such approval shall not take effect unless and until that decision is approved by an affirmative majority vote of the voters of the County voting on the proposal.

Section 21.118.030 Cost of Election

A. Any direct or indirect costs to the County caused by the elections mandated by the Thirty-Year Land Use Restriction Initiative shall be borne by the applicants of the amendment of the General Plan land-use map designation or other development proposal requiring the election, unless otherwise prohibited by State law. Elections mandated by Thirty-Year Land Use Restriction Initiative shall be consolidated with other elections, whenever feasible. Different proposals may appear on the same ballot at the same election provided that each separate proposal affecting a discrete property or development project shall be submitted to the voters as a separate measure.

B. This section shall remain in effect until December 31, 2036, and may be amended or repealed only by the voters of the County at an election held in accordance with State law.

“Exhibit A”

ORDINANCE NO. C.S. 1032

**AN ORDINANCE TO IMPLEMENT THE THIRTY-YEAR
LAND USE RESTRICTION INITIATIVE**

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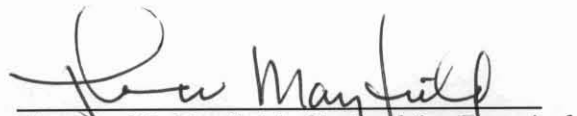
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Section 4. Pursuant to Elections Code section 9122, this ordinance shall go into effect ten (10) days from and after the date the vote is declared by the Board of Supervisors.

Upon motion of Supervisor Monteith, 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 March, 2008, by the following called vote:

AYES: Supervisors: O'Brien, Grover, Monteith, DeMartini and
Chairman Mayfield
NOES: Supervisors: None
ABSENT: Supervisors: None


Thomas W. Mayfield, Chair 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 
Deputy

APPROVED AS TO FORM:
Michael H. Krausnick
County Counsel

By 
John P. Doering
Assistant County Counsel



**TITLE 21
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B. This section shall remain in effect until December 31, 2036, and may be amended or repealed only by the voters of the County at an election held in accordance with State law.

ORDINANCE C.S. 1032

Upon motion of Supervisor Monteith, seconded by Supervisor DeMartini, Ordinance C.S. 1032 was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 18th day of March 2008, by the following called vote:

AYES: SUPERVISORS: O'Brien, Grover, Monteith, DeMartini and Chairman Mayfield
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None
ABSTAINING: SUPERVISORS: None

Ordinance C.S. 1032 implements the provisions of the Thirty-Year Land Use Restriction Initiative (Measure E) approved by the voters of Stanislaus County on February 5, 2008.

A full copy of Ordinance C.S. 1032 is available online at <http://www.co.stanislaus.ca.us/bos/agenda/2008/20080318/E01.pdf> and is available for review at the Clerk of the Board's Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, call the Stanislaus County Counsel's Office at 525-6376.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: March 18, 2008

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
of the Board of Supervisors
of the County of Stanislaus,
State of California



BY: Elizabeth A. King
Elizabeth A. King, Assistant Clerk of the Board

**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 is
a printed copy, has been published in each issue
there of on the following dates, to wit:

MARCH 27, 2008

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

MARCH 27, 2008


(Signature)

ORDINANCE C.S. 1032
Upon motion of Supervisor Monteith, seconded by
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passed and adopted at a regular meeting of the
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**AYES: SUPERVISORS: O'Brien, Grover, Mon-
teith, DeMartini and Chairman Mayfield**
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None
ABSTAINING: SUPERVISORS: None
Ordinance C.S. 1032 implements the provisions of
the Thirty-Year Land Use Restriction Initiative
(Measure E) approved by the voters of Stanislaus
County on February 5, 2008.
A full copy of Ordinance C.S. 1032 is available online
at and is available for review at the Clerk of the
Board's Office, 1010 10th Street, Suite 6700, Modesto,
CA. For further information, call the Stanislaus
County Counsel's Office at 525-6376.
BY ORDER OF THE BOARD OF SUPERVISORS
DATED: March 18, 2008
ATTEST: CHRISTINE FERRARO TALLMAN,
Clerkof the Board of Supervisors of the County of
Stanislaus, State of California
BY: Elizabeth A. King, Assistant Clerk of the Board
MARCH 27, 2008

ORA-55-6a-6e